

## Fetuses, Orphans, and a Famous Violinist: On the Ethics and Politics of Abortion

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**Abstract:** In this paper, I urge feminists to re-center fetal moral status in their theorizing about abortion. I argue that fundamental feminist normative commitments are at odds with efforts to de-emphasize fetal moral status: The feminist commitment to ensuring care for dependents supports surprising conclusions with regard to the ethics of abortion, and the feminist commitment to politicizing the personal has surprising conclusions regarding the *politics* of abortion. But these feminist insights also support the conclusion that, conditional on fetal moral status, care for unwanted fetuses would be a *social* obligation that only derivatively falls to women who are unwillingly pregnant.

**Keywords:** Thomson, abortion, moral status

Women have a strong and morally important interest in reproductive freedom, including protections for access to abortion. In order to achieve full equality in workplaces, politics, and intimate relationships, women must be able to decide whether and when to have children; and in order to secure their bodily integrity, women must be able to end pregnancies they do not want to continue. Many feminists regard the ethics of abortion as fairly decisively settled in favor of protecting these morally important interests, even as the issue remains fiercely contested among the population at large.<sup>1</sup> The feminist near-consensus behind the *politics* of abortion is stronger still: If we want to protect these fundamental interests of women, then we should be wary about relegating authority over reproductive choices to a legal system whose track record in protecting women's interests is bleak.<sup>2</sup>

1. In her discussion of the feminist stance on abortion, Samantha Brennan identifies “what most feminists take to be the right answer on the question of abortion—that the decision is rightfully the pregnant woman’s to make” (Brennan 1999: 889). Further illustration of the feminist consensus on abortion can be found in the 2015 special issue in *Journal of Social Philosophy*: “Miscarriage, Reproductive Loss, and Fetal Death,” in which reconciling the loss central to some miscarriages with a liberal ethics of abortion is a central concern. In their introduction to the issue, the editors offer an explanation for the philosophical silence on miscarriage: “addressing . . . miscarriage may risk undermining some central principles of reproductive freedom. As feminist philosophers, we are certainly sympathetic to such concerns” (Cahill, Norlock, and Stoyles 2015: 1).
2. For examples, see Jagger 1974 and 1997, Sherwin 1991, and Varden 2012. At the 1974

My aim in this paper is to raise questions about what, precisely, women's interest in access to abortion establishes. I argue that that interest—though deeply morally important—settles neither the ethics nor the politics of abortion. Determining the moral status of the fetus is of paramount importance. To make my case, I *assume for the sake of argument* that the fetus has full moral status. Conditional on that assumption, I argue that gestating unwanted fetuses can be morally obligatory, and that reducing the incidence of abortion can be a legitimate aim of social policy. Along the way, I invoke two fundamental feminist normative commitments to make my case: the commitment to ensuring care for dependents, and the commitment to regarding the personal as political when personal choices are implicated in systemic vulnerabilities.

One goal of my project is to show that theorists who have minimized the importance of determining fetal moral significance have been wrong to do so. I do not know what moral status fetuses have, if any.<sup>3</sup> As we will see, some theorists argue that women's interest is sufficiently strong to render the question of fetal moral significance more or less inconsequential. I think this is a mistake, and one goal of this project is to re-center the question of fetal moral status.

A second goal is to argue that, conditional on fetal moral significance, the moral obligation to gestate is a *shared, social* obligation, which falls to the unwillingly pregnant woman only contingently, because she is uniquely capable of discharging it. I make this case in the first section, on the *ethics* of abortion. I consider how strongly that shared obligation can morally obligate the unwillingly pregnant woman, and what costs she can be morally required to incur to discharge it. In the second section, on the *politics* of abortion, I consider the implications of my ethical argument for social policy, asking in particular about the permissibility of policy aimed at encouraging compliance with the moral obligation to gestate.

Because the argument is conditional on fetal moral status, the paper will offer little of interest to those convinced that fetuses have no moral status. I assume, too, that societies incur some obligation to care for their dependents, and that political arrangements for discharging those obligations can at least sometimes be legitimate. This I assume because I believe it to be true, but like the fetal moral status assumption (which I make only for the sake of argument), it limits the reach of the project. In particular, the second part of the paper will offer little of interest to those convinced of certain versions of libertarianism. My intended audience, then, consists of non-libertarians who think that abor-

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National Organization for Women's National Conference, Karen DeCrow, then president of the organization, stated, "I don't think you can be a feminist and be against the right of a woman to choose abortion" (Ziegler 2013).

3. Because I *merely assume* fetal moral significance, my arguments will be compatible with some quite permissive views on the ethics of abortion (such as Harmon's "very liberal view" [1999]) if that assumption is false.

tion is morally permissible in many cases, and should be only very minimally restricted (if at all), *even if* fetuses have moral status.

I invoke feminist commitments as premises to support an apparently *anti*-feminist conclusion. For this reason, the argument may be thought of as an in-camp argument among feminists. But I take the feminist commitments I invoke to capture genuine moral and political insights. Those who have drawn our attention to the normative importance of caregiving and who have urged us to regard the personal as political have been right to do so. In using these insights to challenge the traditional feminist stance on abortion, I do not aim to reveal an inconsistency in the moral commitments of feminism. Indeed, there is no theoretical inconsistency, as no feminist I know of claims that the interests of women are *always* of overriding moral importance. But I do aim to show that these theoretical commitments of feminism bear on the ethics and politics of abortion in surprising ways that have not fully been appreciated. And because I think the feminist commitments are *true*, I think their implications for the ethics and politics of abortion matter irrespective of one's interest in feminist theory.

I restrict my attention to unwanted pregnancies that do not threaten the long-term health or life of the pregnant woman and that do not result from rape. The applicability of the arguments given here to cases outside of this scope of inquiry is a question for another day.

## I. The Ethics of Abortion

In her seminal defense of abortion, Judith Thomson asks us to assume, for the sake of argument, that the fetus is a person with a right to life.<sup>4</sup> Still, she argues, this does not suffice to show that abortion *violates* that right. A person's having a right to life does not establish that he is morally entitled to whatever he requires to stay alive; nor does it establish that it is always impermissible to kill him. To illustrate this point, Thomson asks us to consider a now-famous thought experiment: Imagine you wake up in the morning and find yourself back-to-back in bed with another person: a famous violinist with a fatal kidney ailment. To save his life, his fans have kidnapped you and plugged his circulatory system into yours. Your kidneys are now extracting poisons from his blood, and if you unplug yourself, he will die. But the affliction is a strange one: In nine months, the violinist will have recovered, and you can safely unplug.<sup>5</sup> Thomson asks: Is it morally incumbent on you to accede to this situation? The answer is supposed to be obvious: Of course we are not morally required to stay plugged in.

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4. Thomson 1971.

5. Thomson 1971: 48–49.

From this case, we are meant to draw conclusions about the implications of fetal moral status.<sup>6</sup> Thomson conducts her discussion in terms of rights. I want to discuss the ethical question of abortion in terms of moral obligations and morally significant interests, so some translating is in order: Because he is a fully morally considerable person—one with moral status such that his interests matter morally just as much as the like interests of you or me<sup>7</sup>—the violinist’s interest in using your kidneys to stay alive is a morally significant interest. But *your* morally significant interest (in not staying hooked up, say, or in doing other things that require that you not stay hooked up, or in exercising your bodily autonomy by unplugging) trumps the violinist’s.<sup>8</sup> Similarly, if the fetus is a person, then its interest in using the woman’s body to sustain its life is morally significant. But according to Thomson, that interest is, in many cases, decisively outweighed by the interest of the woman whose body it is.

If your interest in unplugging trumps the fetus’s interest in staying plugged in, then, in Thomson’s terms, unplugging does not violate the fetus’s right to life. But Thomson also wants to allow for things that it would be morally valuable for us to do, but that nobody has a right against us that we do. In some cases, these morally valuable things might involve supererogation: going above and beyond what we are obligated to do. But in at least some such cases, Thomson seem to think that the morally valuable act in question is *not* supererogatory; *neglecting* to do it can be “self-centered and callous, indecent in fact.”<sup>9</sup> Imagine that you can aid someone in dire need. Depending on the cost to you of providing that aid, providing it may constitute *good* Samaritanism, or only *minimally decent* Samaritanism.<sup>10</sup> Thomson does not explicitly call even minimally decent Samaritanism “obligatory.” But she does maintain that you “ought” to provide aid in such cases; that it is “a standard we must not fall below”;<sup>11</sup> and that failing to be a minimally decent Samaritan is “no less grave” than failing to respect a right.<sup>12</sup>

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6. We are also meant to draw conclusions about the permissibility of abortion in the case of rape, but I have excluded such abortions from the scope of my inquiry. It may seem odd that I structure my argument as a response to this case, given that I have set aside pregnancies resulting from rape. I do so because of the role the case plays in Thomson’s broader argument. Moreover, I think the reasons for which pregnancies resulting from rape require a different analysis are not the reasons the violinist case suggests. See footnote 35.

7. This term is due to Goodpaster (1978). I will hereafter use the term “morally considerable” to mean *fully* morally considerable in the sense defined here.

8. Maybe your interest trumps because it is a *stronger* interest, or maybe it trumps because it is *more morally significant* (though equally strong in some other sense). I don’t think Thomson settles this issue.

9. Thomson 1971: 61.

10. Thomson 1971: 62.

11. Thomson 1971: 65.

12. Thomson 1971: 61.

Taking care with the mapping of moral obligations onto Thomson's language of rights and oughts, then, we might take her to be arguing that there can be no *decisive moral obligation* to provide care in the absence of a *right* to that care (although it might on occasion be a very good but technically not obligatory thing to do);<sup>13</sup> alternatively, we might take her to think that we *can* have decisive moral obligations to provide care even when nobody has a right to it, but that this diagnosis does not apply to the standard range of abortion cases. In those cases, letting the fetus use your body is the *non-obligatory* kind of Samaritanism.

Either way, Thomson's argument offers hope of a way out of the seeming intractability of arguments over fetal moral status. Unlike those who argue that abortion is permissible *because fetuses lack moral status*,<sup>14</sup> Thomson argues that abortion is permissible *whether or not* fetuses are morally considerable. I follow Thomson's dialectical maneuver of setting aside fetal moral status by assuming that the fetus is morally considerable. My opponents are those, like Thomson, who think that the very strong interests of women can outweigh even substantially morally important interests of fetuses, such that fetal moral status is largely beside the point in the debate over the ethics of abortion.<sup>15</sup> My view is that, if fetuses are morally considerable, fetal care can be morally obligatory care in a far broader range of cases than Thomson and others have thought. Perhaps letting the fetus stay plugged in is still a version of Samaritanism, in that this fetal care is assistance that nobody has a *right* to. But it is *morally obligatory* Samaritanism.

Critics of Thomson have invoked allegedly morally significant differences between abortion and the violinist case in order to resist Thomson's argument.<sup>16</sup> My response to Thomson is different. I want to challenge the re-

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13. She definitely thinks there can be an "ought" in the absence of a right; the question is whether such "oughts" are decisive moral obligations, or something weaker.
  14. See, for example, Tooley 1972, Warren 1973, and Singer 2011. Contrast theorists who ascribe inviolable moral status to fetuses from the moment of conception, for example, Finnis 1973 and Lee and George 2005.
  15. For other arguments to the effect that abortion is permissible because the very strong interests of women can override any rights the fetus may have, see Rothbard 1982, Harrison 1983, English 1975, and McDonagh 1996. See Kamm 1992 and Porter 2015 for discussions of grounds on which to establish the permissibility of abortion without denying fetal personhood.
  16. For example, differences in the relationship between the two relevant people across cases (Schwarz 1990, McMahan 2002); differences between killing and letting die (Schwarz 1990, Lee 1996, McMahan 2002); or differences in the extent of responsibility for the dependency in question (Warren 1973, McMahan 2002). I am not persuaded that these differences are morally significant. I agree with Thomson that we must regard pregnancies as non-voluntary even when they result from consensual sex, assuming that the woman was trying not to become pregnant (Thomson 1971: 58–59). In this, I depart from those who maintain that women are responsible for the fetus's dependence when pregnancy results from voluntary intercourse (Beckwith 1992, Hall 2004).

liability of the intuition she invokes: that the sacrifice necessary to save the violinist's life is a sacrifice we are not morally obligated to make. Thomson is right that the fetus's being morally considerable is not sufficient to establish the impermissibility of abortion; the ethics of abortion will depend on how to resolve conflicts of morally significant interests. Thomson expects us to share her intuition that the violinist's interest—and the fetus's, in many cases—is decisively outweighed by the interests of the host on whose body it relies. She appeals to the fact that the host did not *give permission* to the violinist to use her kidneys; nor, in many cases, do pregnant women *invite* the fetus into their bodies.<sup>17</sup> She appeals too to the *burdensomeness* of discharging the putative obligation: Nobody is required to do *that much* to care for someone else.<sup>18</sup> Burdensomeness and non-voluntariness are putative *obligation-defeaters*: factors that render an instance of providing aid non-obligatory. On my reading, much of Thomson's case invokes burdensomeness and non-voluntariness, but we might consider other candidate obligation-defeaters as well: We might think giving aid is non-obligatory when the burden results from others' moral failures, or when providing aid would impose costs of a particular *type*: namely, sacrifices of bodily integrity.

If Samaritanism just means providing aid to those in need, then the idea on the table can be understood like this: Samaritanism is not morally obligatory when it reaches some threshold of burdensomeness; when the burdens result from others' failure to do their part; when the burdens that would fall on the Samaritan are not voluntarily incurred by her; or when the burdens she would incur impose on her bodily integrity. My strategy, in a slogan, is to defeat these defeaters. I begin by clarifying the way in which Samaritanism obligates individuals. I take seriously the thought that, in cases of unwanted pregnancy, the fetus is a stranger of sorts to the pregnant woman, and any obligations she has to it are in this sense akin to duties to strangers in need: In

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17. Thomson 1971: 57.

18. "[N]o person is morally required to make large sacrifices to sustain the life of another who has no right to demand them" (Thomson 1971: 64). See also pp. 61–62 ("nobody is morally *required* to make large sacrifices of health, of all other interests and concerns, of all other duties and commitments, for nine years, or even for nine months, in order to keep another person alive"). Thomson famously argues that those in need can lack a *right* to our aid even when the cost to us of providing aid is small; this she thinks is shown by the Henry Fonda case in which he would have only to cross the room to save a life. But this is fully consistent with Thomson also thinking that a very high cost can dis-obligate when one would otherwise be obligated. The cases differ along two dimensions. First, rights and obligations may come apart if Thomson thinks we can be obligated to be minimally decent Samaritans even when those we help have no *right* to our help; second, high costs can *dis-obligate* even if low costs to aiding do not suffice to obligate. I thank an anonymous referee for pressing me on my interpretation of Thomson as taking burdensomeness to be a defeater.

neither case does the would-be Samaritan have any *special* relational duties.<sup>19</sup> Using an insight that has rightly been emphasized in feminist moral theorizing, I argue that moral obligations to provide care in cases like these are, first and foremost, shared *social* obligations. The fact that they are social obligations has important consequences. Even so, social obligations can fall to individuals with their full obligating force, and such obligations are not conditional in any of the ways canvassed above. Insofar as Thomson's and others' view that fetal care is non-obligatory relies on such considerations as defeaters, that view is left unsupported.

### ***Social Obligations of Caregiving***

Feminists have powerfully drawn attention to the implications of dependence for our moral and political theorizing.<sup>20</sup> We all rely on the care we receive from others to meet our basic needs and to flourish, and our dependence does not lessen our moral claim to have our interests considered in moral decision-making. On the basis of these insights, feminists have rightly challenged prevailing ontological assumptions that separateness and independence characterize the ideal self.<sup>21</sup> They have argued that moral theorizing is flawed insofar as it lacks the resources to secure the status of children, the elderly, people with disabilities, or other dependents as direct and unambiguous moral subjects, and that it is flawed insofar as it fails to entail moral obligations for the provision of care for those in need of it.<sup>22</sup>

From the moral obligation to care for dependents, it follows that obligations to care can compel us even when they are not voluntarily undertaken. The basic idea is this: My good fortune in having a rich network of loved ones willing to internalize the cost of providing care in times of dependency is *morally arbitrary*. If that's right, then the moral importance of my interest in receiving care does not vary depending on whether I have loved ones so motivated to

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19. Because I do not rest my argument for obligations to fetuses on special obligations deriving from particular relationships, my argument is not susceptible to the objection that special obligations can arise only from voluntary acceptance of those obligations. See, for example, Brake 2010. On special obligations to gestate, see Little 1999.

20. Brennan 1999: 880.

21. See, for example, Tong 1993.

22. See, for example, Nussbaum 2000. By "care" I will mean the *provision of care*, rather than the affective attitude of caring *about* someone. We certainly also have an interest in *being cared about*, but I set that interest aside for this paper. And though I am convinced that we are obligated to meet others' needs for care, my project is not an application of feminist care ethics. I do not regard care as a distinctly feminine moral virtue; nor do I think that caring motivations are essentially morally virtuous, or that care is morally on a par with justice, or morally preferable to impartiality. On care ethics, see Noddings 1984, Held 2006, Kittay 1999, and Ruddick 1989. For an argument that the care ethics tradition imposes a strong moral presumption against abortion, see Wolf-Devine 1989.



provide it. And if *that's* right, then dependents are owed care irrespective of their fortune in social networks. If our obligations to provide care derive from the morally significant interest dependents have in *receiving* care, and if the moral import of those interests is independent of dependents' fortune in social circumstances, then dependents are owed care whether or not any particular party has undertaken to internalize the costs of providing it.

Because dependents are owed care whether or not they have intimate relations who are intrinsically motivated to provide it, obligations to care can arise non-voluntarily. In what follows, I explore the possibility of non-voluntary obligations to care for fetuses. I will argue that, if fetal interests in receiving care are morally significant interests, then in cases of unwanted pregnancies, they generate *shared* obligations that sometimes *fall to particular individuals* to discharge, obligating those individuals in turn. Crucially, the particular individual to whom such an obligation falls is obligated *only contingently*: because circumstances render her uniquely situated to discharge an obligation that we share.

A full account of how shared obligations obligate individuals is beyond the scope of this paper; therefore, a note on the dialectic is in order: I will argue that collective obligations to care *at least sometimes* obligate individuals in turn, even when the putative defeaters canvassed above obtain. If I am right, the permissibility of abortion cannot be established on the grounds that no agent has voluntarily undertaken to provide fetal care, on the grounds that providing care would impose very serious costs, on the grounds that these would include *bodily* costs, or on the grounds that the costs would result from others' moral failings. If successful, my argument will undermine what I take to be the strongest reasons for thinking the permissibility of abortion is consistent with the moral considerability of fetuses.

It may be helpful to differentiate the kind of argument I'm developing from a public goods argument. Some shared caregiving obligations may derive from the public value that good caregiving generates. If I voluntarily create a fetus, shelter it, and then begin to parent the child that results, I may become individually and non-derivatively obligated to continue parenting it.<sup>23</sup> Still, others may owe me support in discharging that caregiving obligation, insofar as raising my child well generates a certain kind of value for others, which

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23. Some may argue that the mere fact of becoming pregnant directly obligates the pregnant woman specifically, even when she has undertaken to prevent pregnancy. See Beckwith 1992, Hall 2004, Austin 2007, Fuscaldo 2006, and Millum 2008. I do not find this plausible, and I proceed on the assumption that non-voluntarily pregnant women are not *especially* obligated to provide fetal care. My opponents will agree, I think, that the mere fact of having caused the fetus to exist does not itself obligate the pregnant woman to provide fetal care. For arguments that parental obligations must be voluntarily incurred, see O'Neill 1979 and Brake 2010.



they should contribute to financing. The caregiving obligations *I* am concerned with are shared in a more direct way than in the case of obligations arising from public goods. In the public goods case, the obligation arises because we all benefit from particular individuals doing a good job in providing the care that *they as individuals* are obligated to provide. Because we benefit too, we should support them in providing it. The shared obligations I'm concerned with arise not because those who are obligated *benefit* from caregiving being done well, but because *dependency itself* obligates broadly when no particular individual is intrinsically motivated to provide care.

We share the obligation to ensure that our elderly are cared for when they have no surviving relatives; to ensure that the sick and disabled are cared for when they would otherwise go without; and to ensure that children receive care even when nobody is motivated by love to provide them with it. All this is consistent with *some* cases of unmet caregiving needs resulting from failures of individuals to do what they are individually obligated to do. Perhaps we are always obligated as individuals to care for our own aging parents; still, childless parents are no less owed care than those with children. Perhaps we are always obligated as individuals to care for children we've voluntarily undertaken to parent; but children whom nobody undertook to parent are owed care too. Below, I'll consider cases of shared obligations that result from individual moral failing; for now, focus only on the cases of unmet caregiving needs that involve no such failing: If fetuses are morally considerable, obligations to care for unwanted fetuses are *shared* obligations, in the same way that we share an obligation to provide care for orphans and other dependents who would otherwise go without. We devise social mechanisms for meeting these obligations, and the mechanisms often involve assigning caregiving responsibility to individuals in particular social roles, obligating those individuals in turn.

When this occurs, the fact that these individual obligations derive from a shared obligation remains normatively salient: It is in light of our being obligated *collectively* that we judge the fairness of the mechanisms for distributing responsibility. For example, our willingness to subject paid caregivers to certain vulnerabilities is all the more morally egregious given that these caregivers are, at great personal cost, meeting *shared social* obligations on our behalf. While our status quo mechanisms for allocating responsibility for shared obligations are unfair, such mechanisms *could* enable us to share the burden of such obligations, or allocate it fairly to those willing to shoulder it on our behalf. Consider our obligations to the disabled, the elderly, and children without parents: We could socialize the costs of caregiving, negotiate the context of care, and compensate those who provide it so that caregivers are not unfairly vulnerable in virtue of the work they do. Though we currently fail in important ways to discharge our collective obligations of care for these indi-

viduals, and we certainly fail fairly to compensate and protect caregivers, the collective nature of the obligation does not, in principle, make this impossible.

A shared obligation to fetuses would be different. Unlike other obligations to dependents, the burden of providing fetal care is almost entirely undistributable. While other collective obligations require only that *someone or other* provide care, the care of nurturing a fetus can be done only by the pregnant woman herself, who—in the relevant cases—is *unwillingly* pregnant and who has not voluntarily undertaken to provide fetal care. If fetuses are morally considerable, then discharging our collective obligation to caring for them presents serious complications.

The complications are not entirely novel, however. Consider the orphan trains that, during the last half of the nineteenth century and first decades of the twentieth, carried orphans and abandoned children from east coast cities to Midwestern farms to be “adopted.” Some of these children were indeed adopted, but many were taken in not as children to be raised but as free sources of labor, subject to lives of abuse, exploitation, and servitude.<sup>24</sup> In the novel *Orphan Train*, readers are introduced to one such orphan named Dutchy, whose adopted guardians beat him regularly and capriciously, force him to perform hard manual labor, refuse to send him to school, and make him sleep in a barn during freezing Midwestern winters.<sup>25</sup> Twice Dutchy tries to run away. On his third attempt, he makes his way to a nearby farm where he is found starving, severely injured, and nearly frozen to death. The farmer who finds Dutchy reasonably believes that Dutchy can be spared a life of abuse and neglect only if he, the farmer, gives Dutchy a home. In the story, the farmer takes Dutchy in and gives him the care he needs. Was he morally obligated to do so? I’ve argued that we have a collective moral obligation to care for dependents, including those, like Dutchy, who are deeply unfortunate in their social connections. But does that obligation fall to the farmer to discharge?

I submit that the farmer *is* obligated to help.

The obligation is, in the first place, a *collective* obligation that we share as a society. Recall from above that collective obligations can obligate despite being burdensome and despite being unchosen. The *need* that generates the collective obligations does not go away when those obligations can be met only by certain individuals; nor, then, should we think that need ceases to *obligate* when only one can meet it. Through no fault of his own, Dutchy is vulnerable and needs care. If the dependence of others is strongly morally compelling as feminists have rightly urged, then Dutchy is owed care. In this case, our collective obligation to provide care falls to the farmer, in virtue of his being uniquely positioned to discharge it. Certainly, it is unfair to the farmer that oth-

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24. Warren 2001.

25. Kline 2013.

ers have abdicated their shared responsibility to care for Dutchy. But Dutchy is no less in need of help for their negligence. Though unfairly, the collective obligation falls uniquely to the farmer to discharge, obligating him in turn.

Moral entitlements to care should not be conditional on one's being lucky enough to have loved ones intrinsically motivated to provide it; neither should they be conditional on one's being lucky enough that the burden of providing care is readily distributable. If I am right that Dutchy is owed care even if the farmer is his only hope of receiving it, then collective obligations to provide care at least sometimes obligate individuals who are uniquely situated to discharge them, and those obligations are not defeated by non-voluntariness. Dependency can obligate us even when we neither cause the dependency nor invite the obligation.

It can also obligate even when discharging the obligation would impose serious costs—including costs resulting from the moral failings of others. I turn now to further consideration of these putative obligation-defeaters.

### *Others' Noncompliance*

One might think that the farmer is *not* obligated to provide care, because his being uniquely positioned to discharge a collective obligation results from others' moral failings. Only because others have failed to provide morally obligatory care to Dutchy does the burden fall so heavily on the farmer.<sup>26</sup> Similarly in the case of unwanted pregnancies, we might think that this burden befalls the pregnant woman *only because* of moral failures of others.

The idea of others' moral failings as an obligation-defeater seems to find support in the work of Liam Murphy. Murphy talks of the moral demands to help others "as presenting people with a *collective* project" for which "we can look at the distribution of . . . demands among people."<sup>27</sup> That project, he argues, "should not demand more of us as expected compliance by other agents decreases."<sup>28</sup> Accordingly, he defends a "compliance condition," which effectively limits the demands on individuals of our collective duty to promote the good. Roughly, each individual is required to promote the good only to the point at which the costs she incurs equal what costs she *would* incur if everyone else were doing their fair share. While our own share can be large under dire circumstances when the need is great, we are not required to pick up the

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26. We might think that if others had done their share, no burden would fall to the farmer *at all*. But if caregiving is a social obligation, he would still be required to foot his share of the bill of providing obligatory care to orphans.

27. Murphy 1993: 282. See also Murphy 2000. If morality demands more than promotion of the good (for example, if we have special obligations in virtue of particular relationships), its other demands may not be collective in this sense.

28. Murphy 1993: 267.

slack when some parties to our collective obligation fail to do their part.<sup>29</sup> To determine how much any particular person is obligated to do, then, we must ask how much that person would be required to do under conditions of full compliance. In the Dutchy case, the farmer is required to help only as much as he would need to if everyone were fulfilling their own share of the obligation—much less than I have argued is required of him.

Like others before me,<sup>30</sup> I think Murphy is wrong. It is the simple fact that dependents need care that generates our collective obligation to care in the first place. Because the need for care persists even under imperfect compliance, it is hard to see why the extent of the obligation should depend on a counterfactual about what would exhaust the need under idealized circumstances. Consider a case of easy rescue in which I am the only one able to prevent two children from drowning in a lake. I can save both children, and it seems that I am obligated to do so, though it would be less costly to me to save only one. Now consider the same scenario, except that there is another person in position to help, who nonetheless will not. Surely the mere addition of a noncomplying agent on the scene does not eliminate my obligation to the second child; Murphy's claim that our obligation extends only to what would be required under full compliance says otherwise and on that basis is implausible. The implausibility is especially evident when dire needs fall *only slightly* more heavily on me due to others' noncompliance.<sup>31</sup> Contra Murphy, others' noncompliance *can* expand my own obligations.<sup>32</sup>

Suppose, though, that Murphy is right: that we are *not* obligated to take up the slack generated by others' noncompliance. Still, collective obligations might impose profound costs when the need that generates the obligation is large or when others are *unable*—rather than *unwilling*—to shoulder their share. Murphy's own examples illustrate these possibilities: He argues that our obligations to aid famine victims might increase when a drought worsens the plight of those in need,<sup>33</sup> and that we may be required to shoulder the full burden of rescuing a drowning child if we are the only person able to help.<sup>34</sup>

29. This argument is offered as a response to the objection that general duties to promote the good are implausibly demanding. Murphy replies that such principles are *implausibly* demanding only under circumstances of imperfect compliance. Murphy leaves open the possibility that our obligations are limited even *independently* of considerations of compliance (Murphy 1993: 289). I take up general concerns of demandingness below.

30. See, for example, Arneson 2004, Hooker 2009, and Barry and Overland 2013.

31. Murphy considers a similar case, adapted from Singer 2009 (Murphy 1993: 291–92). Murphy mentions that the problematic cases might be accommodated by invoking some account of special obligations, but does not develop this idea. Although I will not discuss it here, I do not find this to be a satisfactory response.

32. Note that this does not entail that others' non-compliance *always* expands my obligations.

33. Murphy 1993: 286.

34. Murphy 1993: 291; see also 289.

Similarly, we can amend the Dutchy case so that the farmer's obligation no longer results from others' noncompliance: Suppose that an apocalyptic natural disaster wipes out most of the country's population and infrastructure, so that the very few survivors have no means of finding one another. Dutchy, orphaned in the natural disaster, shows up in the farmer's barn one morning after traveling a great distance. The farmer finds Dutchy in the same circumstances as before: sick, mal-nourished, and in desperate need of care. Again, the farmer is the only one who can help. But this time, the circumstances do not result from noncompliance. There are, quite simply, no other survivors from whom Dutchy can get help. By Murphy's own lights, one can be required to shoulder the entire burden of a collective obligation—even when that burden is very large—when one's having to do so results not from noncompliance but from circumstances that render the burden un-sharable.

The amended Dutchy case is a case of full compliance. No obligations to care are rendered more burdensome by others' failure to do their share. One might argue, however, that noncompliance *is* at issue in both abortion and the violinist case. The music aficionados who kidnap you in the violinist case presumably did wrong in attaching you to the violinist without your consent. With regard to fetuses, we fail regularly to meet our collective obligations to support and care for non-voluntarily pregnant women. Plainly, there is imperfect compliance with moral obligations in both of these cases. If the burden that falls to the pregnant woman (or the violinist's host) results from others' failure to do their share in discharging moral obligations, then an argument that we are obligated to provide fetal care when we are uniquely situated to do so would *seem* to depend on a decisive refutation of Murphy's argument after all.

Here we must distinguish noncompliance *after* the need for care arises from noncompliance *before*, including noncompliance that causes the very need in question. For Murphy, the relevant noncompliance is noncompliance *after*: noncompliance in discharging *this particular obligation now that it exists*. Notice that, in the cases that interest us, this kind of noncompliance wouldn't lessen the burden much even if it did in principle limit the obligation. In the typical case of pregnancy, the woman would be uniquely positioned to provide the care of gestation even if everyone were doing their fair share. We should certainly undertake to increase compliance with the obligation to support pregnant women, but carrying fetuses is profoundly costly *whether or not* others comply with their obligations to support those who do it. The great bulk of the burden is due not to other's noncompliance, but to one's being the person on whose body the fetus has come non-transferrably to rely.

For our purposes, it may seem that *past* noncompliance is more relevant. But Murphy rightly sets past noncompliance aside: For him, our obligations depend on what burden we would incur were everyone doing their fair share

in discharging the particular shared obligation in question, “under full compliance *from now on*.”<sup>35</sup> And indeed, there is good reason to set past noncompliance aside. The complicated circumstances leading to any particular case of dependency are sure to include some noncompliance. Surely this should not erode the moral import of the need in question now; to claim otherwise would be to limit obligations to help others in times of need far too much, and plausibly exempt some individuals from being owed any general obligations *at all*. The fact that some need results from past or structural gender injustice, for example, should not limit individuals’ obligations to aid now. Even if many pregnancies result from systemic injustices like high costs of contraceptives, this would not, on Murphy’s account, lessen the moral burden to care for the fetus once it exists.<sup>36</sup> Murphy’s argument that we have only to do our share under full compliance would not defeat obligations to care for fetuses (or violinists), because once incurred, those obligations would fall to individuals at great cost *even under* full compliance. In fact, non-voluntarily incurring very costly moral obligations is one facet of the structural gender injustice in question, and lends urgency to the demand that we remedy it.

Contra Murphy, I’ve argued that others’ failure to do their fair share in discharging collective obligations *can* increase the extent of our own obligations. Even if I’m wrong about this, however, noncompliance would not lessen obligations to provide fetal care, since such obligations would be profoundly demanding regardless of others’ compliance.

### ***Demandingness***

If collective obligations can impose burdensome and non-voluntary obligations on individuals whom circumstances render uniquely positioned to discharge those obligations, then we so far lack a principled reason to think that our collective obligation to care for dependents does *not* fall in turn to the relevant individual in the violinist case, the Dutchy case (at least the full compliance version), and cases of unwanted pregnancies. Still, there is a rich debate regarding the demandingness of moral obligations. This debate has fo-

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35. Murphy 2000: 117; my emphasis.

36. I have set aside cases of pregnancy resulting from rape, and so omit mention of the deep moral wrongs relevant in those cases. I should clarify, though, that it is not for reasons of noncompliance that I have set aside pregnancies resulting from rape. (As I say, I don’t think noncompliance renders caregiving non-obligatory, and Murphy rightly denies that *past* noncompliance does.) Rather, I exclude pregnancies resulting from rape because the burdens of fetal caregiving in such cases are plausibly much higher than the burdens in other cases—just as the burdens are higher in cases where the life or health of the woman is at risk—and so the balance of competing interests could work out differently than in the cases I focus on here. (As I clarify below, I *do* think that some instances of caregiving would impose costs so high that they defeat obligation.)



cused largely on the demands that act consequentialist moral theories impose, and in particular on Peter Singer's argument that we are required to prevent harm even when doing so requires great personal sacrifice.<sup>37</sup> My argument has not relied on consequentialist commitments, but neither is consequentialism unique in imposing counterintuitively demanding obligations.<sup>38</sup> Regardless of any normative ethical commitments and regardless of whether others are doing their fair share, some will maintain that the shared obligations I have invoked cannot fall to individuals, because the costs they would impose are too high.

I do not deny that some costs are so high that we cannot be obligated to bear them. The burdens of continuing pregnancies that threaten the life of the pregnant woman seem a clear case. In the range of healthy pregnancies to which I have narrowed my focus, the costs—while significant—are much lower. Theorists who are persuaded by the demandingness objection have proposed more moderate principles of morally obligatory aid, and many of these still render the verdict that fetal care is obligatory in non-health-threatening pregnancies. For example, Richard Miller rejects Singer's view as too demanding, but endorses the following principle of moral requirements to aid those to whom we have no special relationship-based obligations:

One has a duty to rescue someone encountered close by who is in imminent peril of severe harm and whom one can help to rescue with means at hand, if the sacrifice of rescue does not itself involve a grave risk of harm of similar seriousness or of serious physical harm, and does not involve wrongdoing.<sup>39</sup>

In endorsing this principle, Miller rejects Singer's conviction that proximity is morally irrelevant. But this weaker criterion of our obligations to provide aid still renders the verdict that fetal care is obligatory in non-health-threatening pregnancies. We might think that Miller's principle is still too demanding, or demanding in the wrong way. But even less demanding principles than Miller's, including those that do not tie the extent of obligation to proximity, still do not—or do not *obviously*—rule out the possibility of morally required fetal care.<sup>40</sup>

Any plausible principle of moral obligations must allow for what we know to be true of our moral life: Doing right can sometimes require a great deal from us. Providing sustained care for dependents—whether fetuses, orphans, the elderly, or the ill—can be profoundly burdensome. If we are to take seri-

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37. In particular, sacrifice up until the point where further action would cost me so much as to constitute a net loss of wellbeing, impartially understood (though others of his formulations require less). See Singer 1972, 2009. See also Unger 1996. On the demandingness objection, see Hampton 1993, Scheffler 1994, Wenar 2003, Miller 2004, Cullity 2004, Hooker 2009, Barry and Overland 2013. For a defense, see Arneson 2004.

38. Hooker 2009, Murphy 2000.

39. Miller 2004: 378.

40. See, for example, Hooker 2009 and Barry and Overland 2013.



ously the feminist insight that dependents are owed care regardless of their fortune in social networks, we must recognize that unchosen caregiving obligations can obligate even when they are profoundly burdensome.<sup>41</sup> On this basis, I have argued that the farmer is (tragically) obligated to care for Dutchy. If, in a healthy pregnancy, the costs to the woman of providing fetal care are so much higher than the costs of caring for Dutchy that the pregnant woman but not the farmer is *dis*-obligated, then we are owed some account of costliness—or some principle of which costs must be borne—that adjudicates the cases as such. Because dependency can obligate despite imposing high costs, costliness as such does not block the transfer of our shared obligation to the agent uniquely positioned to discharge it.

### ***Bodily Integrity***

I have been arguing that some of the most *prima facie* appealing reasons for thinking we are not obligated to provide fetal care do not, after all, categorically excuse us from obligation. As Thomson rightly emphasizes, very morally weighty interests can be in tension with other very morally weighty interests. Arguments for the conclusion that women's interests are decisive cannot rely on a strategy of conditionalizing moral obligations to dependents based on voluntariness or costliness. These strategies are contrary to sound moral commitments that feminists have rightly highlighted in their theorizing.

One putative defeater remains to be considered. Many plausibly think that continuing unwanted pregnancies compromises a woman's bodily integrity. As Margaret Little argues, gestation "is not just any form of help: it involves the use of one's very body; its continuation can implicate every corner of a girl or woman's life."<sup>42</sup> Can obligations to provide fetal care be defeated on the basis of gestation's implications for bodily integrity?

On one understanding, this strategy just reiterates the huge costs of providing fetal care. The high costs of carrying unwanted pregnancies to term are undeniable. These costs extend far beyond straightforward financial costs to include health costs as well as diminished privacy, lost independence, oc-

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41. Although I have set aside the question of fetal moral status, it is worth noting that the feminist commitment I have been exploring also casts doubt on the idea that dependency undermines—or makes contingent—dependents' moral status. Some argue, for example, that the moral status of fetuses is contingent on the recognition or conferral of that status by others (Addelson 1991, Sherwin 1991, 1992, Shrage 1994, Layne 1997, Harmon 1999, 2007). See also the accounts of miscarriage developed in McLeod 2002 and Parsons 2010. If dependents should receive care regardless of their fortune in social networks, then the view that dependents' moral status depends on the attitudes of care-givers seems mistaken. That view also counterintuitively calls into question the moral status of unloved infants, severely disabled adults, and elderly dependents. See Wolf-Devine 1989 and Brennan 1999.

42. Little 2006: 344. See also Thomson 1971: 54.

cupational interruptions, and diminished job prospects. None of this is to be taken lightly, and I will have more to say about the political implications of these costs in the next section. But understood this way, Little's point simply re-deploys the strategy considered above, and is subject to the same response: Collective obligations do not cease to obligate because the costs of discharging them are high—even *extremely* high; nor do those obligations cease to obligate when they fall to particular individuals at extremely high costs.

A better way of taking Little's point is that an obligation to gestate would not only impose extremely high costs; it would impose costs that are *different in kind* than the costs of providing other kinds of care. Perhaps they are different in kind because of the *intimacy* involved in gestation,<sup>43</sup> or perhaps more specifically because the costs involve the use of one's *body*.<sup>44</sup> I do not deny that gestation is intimate or that its costs are bodily. But like burdensomeness generally, costs measured by bodily intimacy do not categorically render caregiving non-obligatory, because the fact that gestation involves bodily intimacy does not categorically differentiate it from other forms of caregiving. Many kinds of caregiving involve bodily intimacy, and do not cease to obligate in virtue of that.

The changes to one's body and health that result from caring for children, for the sick or elderly, or for people with disabilities are significant and well known. All of these forms of caregiving can involve serious physical sacrifices (in terms of sleep, leisure, and health), and many of their bodily components clearly involve bodily *intimacy*: Parents routinely sacrifice hygiene and privacy for the sake of their children. To be sure, some of these obligations are special obligations that arise only in virtue of particular relationships. But the Dutchy case demonstrates that not all caregiving obligations are special in this regard. Other (non-special) obligations that involve bodily intimacy include certain instances of saving drowning children, nursing the sick, or sharing shelter under conditions of extreme scarcity. These forms of aid not only can involve short-term bodily intimacy; they can impose long-term bodily costs, as many of us who know nurses are well aware. Regarding gestation as categorically different because of the bodily intimacy it involves discounts the bodily nature of *much* caregiving work.

This all suggests that caregiving obligations fall on a continuum in terms of the bodily intrusion and intimacy they demand. Still, the intuition that pregnancy is *sui generis* is a strong one. What more can be said to challenge the idea that the bodily intimacy of gestation makes it categorically different than other forms of caregiving? Notice that, if women are *ever* morally obligated to gestate, then caregiving can obligate despite imposing *gestation-level* costs

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43. Little 1999.

44. Little 1999, 2006.

of unwanted bodily intimacy. Those persuaded by Little's argument might be inclined to deny that gestation can ever be morally obligatory, but such a denial will require accepting verdicts that are highly implausible. Some such verdicts are implausible *irrespective of* fetal moral significance: Imagine a sadist who becomes pregnant for the sole purpose of wounding a lover who dreams of co-parenting with her. The sadist plans to secure a last-minute abortion for the pleasure of watching her partner suffer. Imagine that, on the eve of the planned abortion—two days before a scheduled delivery, say—the sadist reconsiders. Given her options at that moment, we might plausibly say that she would *do wrong* to go through with her plan. If so, is she not *obligated to* complete the pregnancy for the remaining two days, even if she herself declines to parent afterward? We need not imagine that the alleged wrong here is to the fetus; the point is just to establish that we can devise scenarios in which refusal to gestate is a wrong.

Or, restoring the assumption of fetal moral considerability, take Thomson's own example of a woman who intentionally becomes pregnant because she wants a child, but then seeks abortion in her seventh month to avoid postponing a trip abroad.<sup>45</sup> Or consider Thomson's fantastical case of a pregnancy that lasts only one hour.<sup>46</sup> I am not sure of Thomson's assessment that abortion under such circumstances is morally "indecent."<sup>47</sup> But I certainly agree with her that these are cases in which, assuming fetal moral considerability, the person in question *ought* to finish the pregnancy.<sup>48</sup> If this is right, then we can sometimes be obligated to gestate, despite the costs of bodily intimacy involved. The fact that providing care imposes bodily costs does not render that care non-obligatory; neither, it seems, does the fact that it imposes bodily costs of the specific type involved in gestation.

In actual cases of pregnancy, the bodily costs are significant. A pregnancy is distinct from other kinds of caregiving in that it is unrelenting. The pregnant woman cannot take a break from being—and being perceived to be—a caregiver.<sup>49</sup> I have argued, however, that the bodily nature of these costs does not categorically dis-obligate. If this is right, then these bodily costs seem of a kind with other high—sometimes *tragically* high—demands of dependency.

I should be very clear about what I take myself to have established. The fact that caring for dependents requires sacrifices of bodily integrity does not categorically render that care non-obligatory. Neither are we dis-obligated in

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45. Thomson 1971: 65–66.

46. Thomson 1971: 60.

47. While I take moral wrongness to be an assessment of an agent's act, I take indecency to be a strongly negative assessment of the agent herself. It is one that I would want much more information before levelling.

48. Thomson 1971: 69.

49. I thank an anonymous referee for urging me to consider unrelenting-ness as a unique feature of gestation.

virtue of the fact that we have not invited the dependency; nor are we dis-obligated in virtue of the fact that the costs of caregiving are very high, or result from others failing to do their fair share. Still, perhaps some combination of the defeaters considered here renders gestation non-obligatory. Perhaps there is some point at which the *bodily* costs of caregiving, *if non-voluntarily incurred*, become *too high* to obligate. Some costs surely do excuse. One does not have to rescue a drowning child—or care for a needy fetus—at the cost of her own life. Plausibly, lesser costs than death can excuse from obligation: risk of serious injury, perhaps; the emotional trauma of carrying a fetus that results from rape. But I think that Dutchy is owed care even when the costs are high and include unwanted physical intimacy and a bodily toll, even when the farmer did not invite Dutchy's dependence on him, and even when that dependence and the costs it imposes result from others' moral failings. If, as I have argued, the bodily nature of gestation does not make its costs categorically morally different than the very high costs of caring for Dutchy, then we have a strong case for thinking that, conditional on fetal moral considerability, the fetus is owed care in the range of cases under consideration.

If I am wrong, then we should seek some account of how the putative defeaters *jointly* dis-obligate, even though none dis-obligates alone. And we should want such an account to make sense of the Dutchy case—to explain how care for Dutchy is obligatory but fetal care is not. If I am *right*, that takes nothing away from the fact that the costs of carrying an unwanted pregnancy to term are high indeed. Under the status quo, the distribution of these costs is also *unfair*: The costs derive from *shared* obligations that *uniquely* burden women, a social group already overburdened by the costs of caregiving obligations. And even though we are limited in our capacity to share the costs of gestation among us, we could do far more. While this unfairness does not make the obligation go away—dependents are no less morally entitled to care because circumstances render them reliant on those already unfairly burdened—these circumstances *should* affect the attitudes we take and the way we behave towards those on whom the obligation falls. I turn now to the question of social policy, arguing that abortion policy should aim both to increase the extent to which our shared obligations of caregiving are met, and to support those who are non-voluntarily in a position to provide morally obligatory care.

## II. The Politics of Abortion

Whatever the ethical facts about abortion turn out to be, legal restrictions or prohibitions constitute the *real* threat to women's full equality and bodily integrity. As a result, feminists have tended to focus on the *politics* of abortion—

on what our laws and policies should be—and to favor social policies that preserve and protect women’s ability to abort unwanted fetuses.<sup>50</sup>

In this section, I want to suggest that the politics of abortion is, like the ethics of abortion, more complicated than much of our rhetoric suggests. I argue, first, that if fetal interests turn out to be morally significant, then abortion is rightly regarded as a *political* issue in the sense of being legitimately susceptible to collective political action. Second, I argue that, again conditional on fetal moral considerability, abortion policy should be guided by the insight that providing care for unwanted fetuses is first and foremost a *shared social* obligation.

Suppose we grant that conflicts of strong and morally significant interests are presumptively subject to political adjudication. Still, we may think—and many have argued—that the *personal* nature of the abortion decision takes collective political action off the table.<sup>51</sup> I think this is a mistake. To shield such decisions from political adjudication based simply on the judgment that they are personal is to disregard what many take to be the core idea of contemporary feminism: The personal is political.<sup>52</sup> Because the personal is political, systemic vulnerabilities are no less urgent matters of justice in virtue of arising in intimate relationships; the family cannot be regarded as a “private” realm with presumptive immunity against political intervention;<sup>53</sup> the vulnerabilities of unpaid caregivers generate demands of justice even when those receiving care are intimates whom the caregiver loves; and certain basic interests should enjoy protections even when the threat to those interests occurs behind closed doors and comes from those whom we have chosen to trust. Because the personal is political, we need political protections to secure women’s equality not only in the workplace but in the home as well.

“The personal is political” does not deny that individuals should have some degree of privacy and autonomy in making choices that primarily con-

50. Jaggar 1974, 1997, Sherwin 1991, Varden 2012.

51. Consider the debate in the animal ethics literature about whether a pro-choice position on abortion is consistent with the moral significance of animals. Those who think it *is* consistent have argued that, though the moral status of animals may suggest fetal moral status as well, the state cannot *enact protections for* fetuses without violating the privacy of women. Protections for animals pose no similar threat; thus, the animal rights agenda is consistent with a pro-choice politics of abortion (Francione 1995). On the tension between animal moral considerability and fetal lack thereof, see Jenni 1994 and Kao 2005. For a challenge to Francione, see Abbate 2014.

52. Okin 1989: 124. For a history, see Heberle 2016. Among the many meanings the slogan has carried, I use it here to indicate a commitment to expanding the spaces that we regard as political—to rejecting the idea that by labeling something “personal” we render it immune to considerations of justice and politics.

53. The majority decision in *Roe v. Wade* invokes the right to privacy as the basis for the abortion rights that it recognizes. See MacKinnon 1984 for an argument that the public/private distinction at the heart of *Roe* serves to reinforce the domination and oppression of women, even when it is used to justify protections for access to abortion.

cern their own interests. But our private lives *become political* when our choices impact others, and potentially threaten interests of others that society ought to take seriously. Even without getting precise about which interests those are, we can see that they include the interests of those like Dutchy, who need care that nobody is intrinsically motivated to provide.

If fetuses lack moral status, then regarding the personal as political generates a strong case in favor of protections for women's access to abortion. But if fetuses are morally considerable, their vulnerability would be precisely the kind of vulnerability that feminists have rightly been committed to politicizing. Although fetal moral considerability remains only a premise assumed for the sake of argument, it is worth considering the political consequences that would follow from it. Abortion would implicate competing morally *and politically* significant interests. In crafting policy, we would need to carefully weigh the vulnerabilities of fetuses against the vulnerabilities of unwillingly pregnant women. I submit that such policy should be guided by two goals. First, we should reduce the incidence of abortion as one aspect of reducing the incidence of unmet shared caregiving obligations generally. The aim is not to encourage caregiving; it does not give us reason to prefer more dependents to fewer. Rather, the aim is to reduce the extent to which dependents in need of care go without.

Second, we should ensure that our policy reflects the fact that these are *shared* obligations. This requires supporting caregiving and devising mechanisms to share its costs, at least when the obligation falls non-voluntarily to particular individuals. We are obligated, as a society, to ensure that care is provided to dependents who have no loved ones intrinsically motivated to provide it. When someone is uniquely situated to discharge the obligation, it becomes theirs to discharge, and can obligate even when the costs are high. But when this obligation is not voluntarily incurred, we must share its costs insofar as sharing is possible, compensate for costs that cannot be shared, and work to ease vulnerabilities that result from uncompensated costs.<sup>54</sup> The vulnerabilities of those who care for fetuses are particularly urgent, since the most serious costs are entirely non-transferrable. We should endorse protections and social supports for (non-voluntarily) pregnant women, and we should call for new social and medical technologies to share the costs more broadly. We should improve the methods by which women can avoid incurring unchosen caregiving obligations by making contraception readily available. And we should design healthcare, housing, education, and employment policy with an eye toward ameliorating the cumulative vulnerabilities women face.

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54. Perhaps we should share the costs even when they are voluntarily incurred, but the case for doing so will likely differ from the one developed here. See the discussion of public goods justifications for cost-sharing above.



To a great extent, these two policy goals can be pursued concurrently. For decades, we have had evidence that “dealing with abortion as part of a comprehensive strategy of public health and family planning, rather than making it illegal,” is the most effective means of reducing the incidence of abortion,<sup>55</sup> and the research continues to confirm this.<sup>56</sup> The available evidence suggests that interventions like increased access to family planning services and health-care can reduce abortions *and* increase the extent to which we share the costs of meeting our caregiving obligations.

But such interventions would not prevent all unwanted pregnancies, and thus would not fully reconcile the goals of reducing the incidence of abortion and socializing the costs of caring for fetuses. There is more we could do to better ease the vulnerabilities of caregivers, but even assuming such measures were in place, we would fall far short of truly sharing the costs of caring for fetuses. Given existing medical technology, the costs borne by pregnant women themselves are un-eliminable. If fetuses are morally considerable, my argument in this paper opens the door for political interventions to restrict access to abortion—to induce particular women to internalize the costs of our shared obligations to provide fetal care. It would open that door only if such restrictions would reduce the incidence of unmet caregiving obligations overall—a big “if,” to be sure. And even that isn’t sufficient to justify restricting access to abortion. Women have morally significant and compelling interests in bodily integrity. That the personal is political establishes that, if fetuses are morally considerable, their vulnerability is politically relevant. But we have two systemically vulnerable parties here, and fetal vulnerability must still be weighed against the vulnerability of unwillingly pregnant women.

I make no attempt to settle this weighting question here, but it is worth noting some features of social policy that bear on the political implications of my argument. Social policy cannot be determined *only* by considerations of how best to protect politically-enforceable morally significant interests. It should be sensitive not only to what our politically-enforceable moral obligations *are*, but also to the degree to which individuals are responsible (in the forward-looking sense) and culpable (in the backward-looking sense) for opting (not) to discharge them. I have argued that the moral obligation to provide care is not lessened due to that obligation being profoundly costly to discharge, or to its non-voluntariness. But on any plausible account, responsibility and culpability *will* vary according to costliness and voluntariness.<sup>57</sup> And costliness, in turn, will vary depending on the

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55. Jacobson 1993.

56. Singh et al. 2009, Cohen 2009.

57. See Arneson 2004 for an account of the distinction between what one ought to do and what one is to be blamed for not doing. Arneson’s account is offered as a defense of Singer’s arguments for demanding moral obligations. See also Barry and Overland 2013.



extent to which we are socializing the shareable costs of fetal caregiving and ameliorating the vulnerabilities that result from un-shareable costs. Non-voluntarily pregnant women incur serious costs when they provide fetal care even under the best of circumstances; our failure fairly to protect them and share the costs of caregiving raise the burden on them still further. Plausibly, this affects their degree of responsibility for caregiving and their degree of culpability if they opt not to. As others have pointed out, to assign unwillingly pregnant women responsibility for providing fetal care would be to ask more of them than we ask of any other citizen.<sup>58</sup> I do not think this means we are wrong to ask it. *Someone* will be asked the most; this does not mean that they are being asked too much. But it should surely bear upon the assessments we make of them as moral agents, and thus on the social mechanisms we devise for making good on our shared obligations.<sup>59</sup>

Besides assessments of responsibility and culpability, we should be sensitive to the limits of social policy itself as a form of regulation. Policy is a blunt instrument, and often goes awry in hard cases. When it comes to abortion policy, the hard cases are *really* hard, and the costs of getting it wrong are high. If fetuses are morally considerable, then their vulnerability is politically-relevant, and we should devise social policy to protect them. But because these very policies can worsen existing vulnerabilities of women, they should allow maneuverability where the hard cases are likely to arise. We should ask, for example, whether medical professional codes of conduct can suffice for adjudicating exceptions to whatever abortion restrictions are imposed. Social policy is a blunt instrument, and we should be open to the possibility of making room for more agile instruments to work under its auspices.<sup>60</sup>

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58. Little 1999: 296, Little 2006: 344, Thomson 1971: 63–64. Little seems to agree with me that this does not tell decisively against assigning such responsibility. She is open to restricting abortions during the third trimester, and suggests that the justifiability of regulation depends upon practical considerations, such as the unavoidable “crudeness of regulation” (Little 2006: 346–47).

59. Assuming that the weighting of considerations favors protecting *some* access to abortion, we should take care to ensure *fair* access: to avoid unfairly burdening less privileged women by enacting cost-based barriers to abortion access, or by exempting abortion from the social support and subsidies available for other medical care. On this basis, we should oppose verdicts like those issued in *Poelker v. Doe* (1977), *Harris v. McRae* (1981), and *Webster v. Reproductive Health Services* (1989), which have the effect of forcing women to internalize the costs of abortion even when similar costs would be subsidized for other medical procedures. Whatever access to abortion remains legally protected, it should be accessible to women regardless of ability to pay.

60. Suppose, against the guiding assumption of this paper, that fetuses *acquire* moral status at some point during gestation—for example, upon becoming sentient (Boonin 2003, McMahon 2002). Or suppose they develop it gradually over the course of gestation (Little 2006; see also Quinn 1993 and Degrazia 2007). In either case, my political arguments here would support crafting policy that reflects changes in the weightings of women’s interests relative to progressively morally weightier fetal interests over the course of gestation.

I have argued that, if fetuses are morally considerable, then care for unwanted fetuses is a collective, social obligation. We might think that certain conditions could block the inheritance of that shared obligation by an individual uniquely situated to discharge it. Such plausibly excusing conditions include the non-voluntariness of the obligation, the burdensomeness of discharging it, the fact that the caregiving in question imposes bodily costs, and the fact that the obligation or the burdensomeness are due to others' moral failings. I have argued that none of these conditions dis-obligates individuals from providing socially obligatory care that they are uniquely situated to provide. I have argued, too, that if fetuses are morally significant, then abortion is a *political* issue, and provision of fetal care is a legitimate aim of social policy.

By construing abortion as a question of whether women must incur great cost to discharge a shared obligation, I embed the issue within a broader debate: What must we do when we find ourselves so positioned that we alone can provide some benefit that all of us, together, are obligated to provide? Thomson noted that nobody is legally compelled to be even a *minimally decent* Samaritan, let alone a *good* Samaritan. Why then should women be compelled, morally *or* legally, to be good Samaritans to fetuses? Thomson is right that there is a tension here to be resolved. I have been trying to motivate a different way of resolving it: Dependency and vulnerability can generate shared obligations. When those obligations fall to individuals, those individuals may be morally obligated to be *very* good Samaritans. And because the personal is political, the vulnerabilities in question can be *politically relevant*. This does not necessarily mean that our obligations should be coercively extracted from us; doing so could generate or exacerbate other politically relevant vulnerabilities. But it does open the door to collective political strategies for the provision of care, even when the burden of providing that care falls to certain individuals at great personal cost. This includes political inducements to save drowning children, take in orphans, and—should they turn out to be morally considerable—care for unwanted fetuses. Perhaps more importantly, it includes political measures to socialize the costs of discharging those obligations, and to minimize the vulnerabilities of those who bear them.

Participants in the abortion debate have understandably tried to make progress without settling the moral status of the fetus. The upshot of this paper is that we should doubt the prospects for advancing the abortion debate independently of questions about fetal moral considerability. Those of us who believe that dependency can generate demanding obligations to provide care must re-center the question of fetal moral status in discussions about the ethics of abortion, and those of us who take seriously the idea that the personal

is political must re-center questions of fetal moral *and* political status in our discussions about the *politics* of abortion.<sup>61</sup>

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61. I am grateful to Christina Ashworth, Jeff Behrends, Harry Brighouse, Josh DiPaolo, Joseph Kupfer, David O'Brien, Amanda Roth, Rebecca Sadock, Shanna Slank, and Eric Stencil for helpful comments and discussion. Thanks to anonymous referees whose thoughtful feedback made the paper much better. Thanks too to audiences at the 2015 meetings of the Central States, Mountain-Plains, and Midsouth Philosophy Conferences, at the Henry Janssen Memorial Conference at the University of California, San Diego, and to Harry Brighouse's fall 2016 Ethics class at the University of Wisconsin, Madison. Finally, thanks to my paper-workshopping group at the 2015 Mentoring Workshop for Early Career Women in Philosophy, and to Meena Krishnamurthy, whose invitation to contribute a guest post to her blog, *Political Philosoph-her*, gave me the initial excuse to think more seriously about questions that had long concerned me when discussing Thomson's wonderful article with students.

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