

Abortion

Introduction

In many parts of the world abortion, with varying degrees of restriction, is permitted by law. At a guess, approximately 50 million abortions are performed per year.

Historically, attitudes about abortion and the moral status of a foetus have fluctuated. Aristotle endorses abortion when writing that "when couples have children in excess, let abortion be procured before sense and life have begun; what may or may not be lawfully done in these cases depends on the question of life and sensation" (*Politics*, 7:16). The Hippocratic Oath states 'Nor will I give a woman a pessary to procure abortion.'

The Jewish Talmud, compiled around 600 AD, holds that 'an embryo is a limb of its mother' [Hulin 58a] and for the first forty

days after conception, the embryo is 'simply water' [Yevamot 69b]. A foetus' life is of equal importance to that of the mother's only 'once its head has emerged (from her body)' [Mishna Oholot 7:6].

The Christian tradition has consistently opposed abortion, although there have been varying views as to the gravity of the offence of abortion. Much of the difference stemmed from mistaken biological views inherited from the Greek tradition. For example, in patristic and medieval writings it was commonly believed that semen contained the man in miniature (the *homunculus*) which grew in the woman's womb as in a nest. There were also such mistaken notions as 'formation of the foetus' and 'ensoulment at formation'; these led to differing assessments of abortion as a crime.

How has UK law on abortion developed?

1861 Offences against the Persons Act

In an effort to reduce the number of deaths from 'back street' abortions the Act made it illegal to 'procure a miscarriage'.

1939 Birkett Committee

Government-appointed committee recommended liberalising abortion law but the outbreak of Second World War intervened.

1967 The Abortion Act

David Steel's Bill to provide a framework for legal abortions was passed. His aim, he said, was to 'stamp out backstreet abortions'. This permits abortion if two medical practitioners are of the view that continuation of pregnancy would:

- i) endanger woman's life, OR
- ii) involve greater risk to woman's physical or mental health, OR
- iii) involve injury to physical or mental health of the woman's children, OR
- iv) carry the substantial risk of a seriously handicapped child being born.

1980 Alton amendment fails

David Alton failed to prohibit abortions after 24 weeks.

1988 Alton's second amendment fails

David Alton failed to prohibit abortions after 18 weeks.

1990 Human Fertilisation and Embryology Act

This act was passed following growing unease about the advances in medical technology. Following research into these advances, the limit on the age at which an abortion could be carried out was lowered from 28 weeks (the limit set in the 1967 Abortion Act) to **24 weeks**. Doctors could, however, carry out an abortion at any point up to birth if the life of the mother was being seriously threatened or if the foetus were diagnosed as seriously handicapped.

Some UK Statistics (recently compiled)

- 1 in 3 pregnancies outside marriage are currently aborted.
- Around 4,000 girls under 16 have abortions each year.
- Typically between 175 000 and 185 000 pregnancies in England and Wales end in abortion each year.
- About a third of unborn babies found to be disabled are likely to be aborted.
- 60% of family doctors now believe a woman should be able to automatically have an abortion in the first three months of pregnancy if she wants it.
- In 1973 the figure was 24%.
- In 1992, the *Moscow Business Times* reported that 95% of Russian women had between 8 and 20 abortions during their fertile lives.

How does unborn human life develop?

First Month

'The first decisive moment ... a new life with a unique, never-to-be-repeated genetic code ... A virtually infinite number of combinations of maternal and paternal traits are excluded in favour of those which will determine the individuality of the new life.' (*Medical Ethics*, **Bernard Häring**, p 77) **Implantation** will occur some days after fertilisation.

Second Month

In the first half of the second month of gestation, the embryo's head grows to accommodate accelerated development of the brain. The embryo develops its external genitalia during the second month and the extremities become more developed. The foetus attains a length of about 3 cm.

Third Month

By the end of the third month, the fingers and toes become differentiated, and after the fourth month the average foetus is almost 15 cm long and weighs about 4 oz. The sex of the foetus is easily identifiable. The face looks human, and movement can usually be seen in ultrasound scans.

Fourth Month

8" long and weighing a half pound, the foetus' movements may be felt. Its heartbeat can usually be detected.

Fifth Month

12" long and weighing about a pound, the foetus has hair on its head. Its movements can be felt. Halfway through this month, the foetus' lungs may be developed to the point where it has a chance to live on its own.

Sixth Month

During the fifth and sixth months the body becomes increasingly larger in proportion to the head. The foetus attains a length of about 30cm and weighs about 1 lb 6 oz. Respiratory activity occurs in the foetus as early as the twelfth week of gestation and continues throughout its intrauterine life. The lungs' bronchioles develop. Interlinking of the brain's neurons begins. Some rudimentary brain waves can be detected. The lungs do not function in any effective sense, however, because the foetus is enclosed in a sac of amniotic fluid.

Seventh Month

During the seventh month the skin, which is red and wrinkled, is covered with a white substance called the vernix, which protects the skin. By then the foetus is about 40 cm and usually weighs between 2 to 3 pounds. The body organs are sufficiently developed to sustain life outside the uterus; the more developed the foetus, the greater are its chances of survival. A foetus born at this period moves its limbs quite energetically and cries with a weak voice. The fingers and toes have well-developed nails.

Eighth Month

The foetus is 18" long and weighing about 5 pounds. In most pregnancies, the position of the foetus will change so as the head is placed above the cervix; so-called breach-births occur when the baby is born feet first.

Ninth Month

20" long and with an average weight of 7 pounds, the foetus is born about this time.

Some Vocabulary: Write a sentence definition for the following terms

(PROCURED) ABORTION	
CONCEPTION/FERTILISATION	
CONCEPTUS/ZYGOTE	
DOUBLE EFFECT	
EMBRYO	
FOETUS	
GESTATION	
BIPAROUS GESTATION	
ONTOGENESIS	
ANENCEPHALIC	
VIABILITY	
INFANTICIDE	
INTRAUTERINE	
AMNIOCENTESIS	

What is the moral status of the foetus?

This takes us to the heart of the issue. Your answer to this question will directly determine your answer to the question: 'Is abortion ever morally permissible?'

Those against abortion – 'pro-life' position - use the syllogism:

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

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

Conclusion: Therefore it is wrong to kill a human foetus.

Advocates of a 'pro-choice' position attack the logic usually on the *second* premise. An American Philosopher, Judith Jarvis Thomson, argued for a pro-choice position by attacking the *first* premise. Of that, more later.

In summary, then, there are perhaps three main views:

1. From conception onwards, the unborn life is fully human and deserving of full human rights.
2. The moral status of the foetus approaches that of a human during its development; at some point it is to be considered a human being with human rights.
3. The moral status of the foetus does not equate with a human being until birth – or until some point after birth.

The depth of controversy and polarity occasioned by the abortion issue is seen in the following quotes:

'I cannot project the degree of hatred required to make those women run around in crusades against abortion. Hatred is what they certainly project, not love for the embryos, which is a piece of nonsense no one could experience, but hatred, a virulent hatred for an unnamed object... Their hatred is directed against human beings as such, against the mind, against reason, against ambition, against success, against love, against any value that brings happiness to human life. In compliance with the dishonesty that dominates today's intellectual field, they call themselves 'pro-life'.

Ayn Rand, Philosopher renowned for Ethical Egoism

'The greatest destroyer of peace is abortion because if a mother can kill her own child what is left for me to kill you and you to kill me? There is nothing between.' Mother Teresa (Agnes Gonxha Bojaxhui) (1910) *Nobel Peace Prize Lecture*, 1979

1. HUMAN LIFE AT THE MOMENT OF CONCEPTION

This is the modern position of the Roman Catholic Church and of some Protestant evangelical groupings.

Catholic View

The Catholic Church's view is summed up by a quote from a Church document: **'from the time that the ovum is fertilized, a life is begun which is neither that of the father nor of the mother; it is rather the life of a new human being with his own growth. It would never be made human if it were not human already.'** (*Declaration on Procured Abortion*, 1974)

This position echoes the ancient words of Tertullian, a North African Christian writer: *To prevent birth is anticipated murder ... The one who will be a man is already one.* (2nd Century). The basic idea is that from conception onwards we have a human being with potential rather than a potential human being.

Four principles summarise the Roman Catholic position on abortion. They are: God alone is the Lord of life and death; human beings do not have the right to take the lives of other innocent human beings; human life begins at the moment of conception; and abortion, at whatever the stage of development of the foetus, is the taking of innocent human life.

Protestant Absolutist View

Protestants sharing the Catholic Church's absolutist stance might emphasise Scripture as their basic justification. Here are some texts they might use to support their view.

The image of God includes 'male and female' (Gen 1:27), but it is a scientific fact that maleness or femaleness is determined from the moment of conception.

'Before I formed you in the womb I knew you; before you came to birth I consecrated you ...' (Jeremiah 1:5)

Unborn babies are called 'children' - the same word used of infants and young children (Lk 1:41, 44; 2:12, 16).

God became man in Mary's womb at the moment of conception (Lk 1:26-27).

What objections are there to this absolutist stance?

Here are some:

1. **The Catholic Church has not always stated that human life and rights begin at conception.** Some argue that the Church's best thinkers have throughout the centuries speculated on the moral status of the unborn. A common view was to increase the unborn's status as the pregnancy progressed - relating to notions of 'unformed/formed' and 'unensouled/ensouled' foetus. They argue that it has been only since the last century that the Catholic Church has come out definitively in favour of 'life and rights at conception'.

IN REPLY, it could be argued:

- i) The Catholic Church's view developed in line with the scientific view of foetal development replacing the ancient Aristotelian notions that influenced Thomistic views. Bad biology was driven out by good. Had the Church always known the genetic significance of conception, then its view on abortion would have been as it is today.
- ii) The Church's view is given in response to what is happening at a particular time. It doesn't make sense to say, 'What is the Church's ancient view on cloning?' Abortion is ancient, but its industrialised mass version is modern. So the Church 'firmed up' and clarified its position in response to this.

Where do the terms ‘formed’, ‘unformed’, ‘ensouled’ and ‘unensouled’ come from?

Augustine maintained that the soul was implanted at 46 days although he condemned the killing of both formed and unformed fetuses, whilst Thomas Aquinas maintained that the souls of girls were implanted at 80 days and the souls of boys at 40 days. But he also said abortion is a violation of natural law and is always wrong, no matter when a soul may be infused into the developing child's body.

The forty/eighty-day view is based on the writings of Aristotle, who said a child becomes human at ‘formation’, the point at which it first ‘has a human form’- that is, when it looks human.

2. **Many zygotes fail to implant – ‘an entrance test for ‘life’ that more than 50% of fertilized eggs fail’** (Economist, 1984). The figure 50%+ is doubtful; what is not so doubtful is the fact that a significant proportion of zygotes do end in miscarriage (spontaneous abortion). Why, therefore, get hung up on the moral status of an entity that has a significant chance of dying naturally?

IN REPLY, it could be argued: there is a world of difference between an intentional killing and a natural death. Would infanticide be ever justifiable in a country with a naturally high infant mortality rate?

3. It seems bizarre to accord human status to a microscopic entity that hasn't the first appearances of being human. This argument has powerful appeal in spite of its crudity.

IN REPLY, it could be argued that:

- i) that there is a sound scientific basis for considering the conceptus to be fully human – it is genetically complete. Its needs, like those of an infant, are food, water, shelter and nurture.
 - ii) ‘If you are conceived of human parents, you are human.’
4. **Even if the Bible was taken to be a guide on these matters (a view that many reject), it is still not completely clear what view the Bible supports.** There are passages in the OT that suggest that the death of the foetus is not to be treated as morally equivalent to the death of a person.

IN REPLY, it could be argued that: OT passages like Ex 21:22-23 track the developing moral conscience of the Israelites. It should be seen in this context. The same passage speaks of the differing moral status between free person and slave.

4. Bible passages can be interpreted to support moral conclusions that Christians would find repugnant. Many Christians would argue that the Bible is a guide on faith and morals when interpreted holistically within a living Church tradition. **The notion of ‘having a soul’ is a religious assumption used to back the anti-abortion stance.** Many people reject the idea of humans having ‘an invisible soul’ etc. as an obsolete superstition.

IN REPLY, it could be argued: the notion of the soul is philosophical as well as religious. Aristotle (dodgy biology aside) put forward the view that the soul is ‘the form of the body’. By this he meant the organising, dynamic principle of the body. ‘If the eye were a body, sight would be its soul,’ Aristotle wrote.

5. **Even if the foetus is a person, abortion is still justified.** Thus argued **Judith Jarvis Thomson** in her work ‘A Defence of Abortion’ (Professor Thompson lectured in Philosophy at the Massachusetts Institute of Technology; her article appeared in 1971).

IN REPLY, it should be pointed out: that many thinkers ranging from atheists, like Peter Singer, to theists, like J. T. Noonan and J. Finnis, have found fault with her arguments.

2. THE FOETUS GRADUALLY REACHES HUMAN STATUS AT SOME POINT DURING THE PREGNANCY.

It is fair to say that most people are of this view. Many Christians would accept it, and current UK law supports it. There are two points to note here:

1. Even if you agree that the embryo/foetus is a potential human being, there is difference about when the 'humanising moment' actually occurs. When is a 'potential human being' to be considered an actual human being?
2. Although many Christians (and Jews and Muslims) would be in this camp, they would still argue that the unborn life has some moral status even before it is considered human. ... *the foetus has a moral significance insofar as it is potentially a human life and is likely to become a human person in the normal course of events ...* (Abortion: An Ethical Discussion, Church of England).
3. So when is a 'potential human being' actualised as a human being?
 - i) Some think **implantation** is a good moment: *(There) is at least a degree of difference between the embryo before and the embryo after it is implanted in the womb ... The step from one to the other appears to be the step from potency for life to actual life ...* (The Church in Wales)
 - ii) Others think that the **formation of the cerebral cortex** is decisive.
 - iii) Others think that the **viability** of the foetus is key. *'Until a foetus is viable outside the womb it can only be a potential human personality, but it nevertheless deserves respect on precisely that account ...'* (Baptist Union of Gt. Britain and Ireland)
 - iv) And, of course, there are other markers that might be taken to be decisive.

What objections are there to this stance?

1. A 'defining humanising moment or process' during gestation is the subject of much debate. What, if anything, counts most towards turning a potential human into a human? Even if there was greater agreement around some particular point (e.g. viability), this doesn't prove humanisation occurs at that point. After all, medical advances (for example, artificial womb technology) may make viability considerations largely irrelevant. And why, after all, should a being's status as human depend on the shifting sands of science? Furthermore, significant milestones like the formation of cerebral cortex occur at different times in different individuals.

IN REPLY, it could be argued that:

- i) 'what it is to be human' is simply not clear-cut, and so it shouldn't be surprising that there is controversy in trying to secure agreement.
 - ii) the law has to set some kind of limit, and any limit will appear arbitrary. A person doesn't suddenly become an adult at 18; it is clear that some could bear the responsibilities of adult earlier than this, some later.
2. Since there is vagueness about when unborn life is human, it is better and safer to think of unborn life as human from conception. J. T. Noonan pointed out that there is an incredible increase in potentiality when one compares the life of the unfertilised ovum and spermatozoon with the life of the zygote. He estimated that there are about 200 million sperm cells in every ejaculate and between 100 000 and 1 million oocytes in a female infant, of which a maximum of 390 are ovulated. He estimated that the chance of a fertilized ovum developing normally is 4 in 5. Pope Paul VI wrote: *'... even if a doubt existed concerning whether the fruit of conception is already a person, it is objectively a grave sin to dare to risk murder.'*

3. THE MORAL STATUS OF THE FOETUS DOES NOT EQUATE WITH A HUMAN BEING UNTIL BIRTH – OR UNTIL SOME POINT AFTER BIRTH.

This very controversial view has been put forward by thinkers like **Peter Singer**. Arguing on strictly preference-utilitarian grounds, he asserted that sometimes infanticide may be justifiable. He conceded that the natural affection that begins to bind parents to their child makes infanticide 'normally a terrible thing'.

Singer rejects arguments that seek some morally significant dividing line between fertilised egg and child. Even birth, he argues, is problematic if used as such a dividing line. After all, aren't there some babies born premature that are less developed than foetuses that may well be aborted?

Other philosophers, like **Mary Ann Warren** (San Francisco State University, writing in 1973) argue that there is a difference between human life in the 'genetic' sense and in the 'moral' sense. She maintained that to be a human in the moral sense, to be a person, was to have certain characteristics central to personhood: consciousness, reasoning, self-motivated activity, communication, self-awareness. She argued that a foetus, even in the later stages of pregnancy, lacks these features. She maintained that even the potential to acquire these features did not give the foetus a significant right to life. Her conclusion is that the mother's right to have an abortion is absolute; it cannot be outweighed by the rights of the foetus.

What objections are there to this stance?

1. **It is obscene to argue for infanticide, even for carefully defined cases.** Peter Singer met with much controversy in advancing his views. In some quarters, his views have been compared to those advanced by the Nazis (an irony since Singer's Jewish parents were on the receiving end of Nazi terror).

IN REPLY, it could be argued that:

- i) Singer's conclusions are supported by careful arguments built on a preference-utilitarian basis. He

endeavours to be systematic in pointing out strengths and weaknesses in opposing arguments.

- ii) Singer points out that much of the shock aroused by his views is because of the Christian 'sanctity of life' ethic that is still residual in Western thought. He argues for the abandonment of the 'sanctity of life' ethic.
2. Though Singer rejects viability and other markers as morally significant, he presents his own markers for the transition from potentially human to personally human: '*characteristics like rationality, autonomy, and self consciousness*' make a difference.

Many would echo the Catholic view that there is a serious ambiguity about an argument from the premise that the embryo is 'potentially human', for the potentiality concerned is not that of becoming something else but of becoming what it essentially is.

IN REPLY, it could be argued, as Singer does:

that 'to pull out a sprouting acorn is not the same as cutting down a venerable oak. To drop a live chicken into boiling water would be much worse than doing the same to an egg'.

4. OTHER VIEWS ON ABORTION

1. **Privacy Argument.** This feminist view holds that it is for the woman and for her alone to determine that which is inside her body. It is a *private* issue rather than a matter for law. Advocates of this view might use J. S. Mill's view that the power of law should only constrain the behaviour of someone in order to prevent harm to others. Abortion, whether right or wrong, does not normally involve the wider community and so should not be a matter of law.

IN REPLY, Singer has pointed out that: this argument fails in the case of abortion. The dispute is precisely over whether there *is* a victim – the foetus. To assume there is not, as the privacy argument appears to do, is avoid the issue rather than solve it.

2. **Hard Case Arguments.** Many people would consider abortion the only option for hard cases, such as:
 - conception after rape or incest,
 - a very young, inadequate girl becoming pregnant,
 - serious threat to the life of the mother.
 - serious risk that the child will be handicapped.

IN REPLY, it could be said, that:

- i) in cases of conception after rape or incest etc., that a child (if we really think the foetus is a child) should not be made to pay for the crimes of its father with its own life. Abortion after rape incurs a second violence after the first. Once you accept the human life begins at conception, all your reasons for having compassion on the woman (tragic, innocent, vulnerable, etc.) apply as much or more to her unborn child. It should be

said that conception after rape is very rare indeed. As for medical emergencies threatening the pregnant woman's life, (ectopic pregnancies being an example) the Principle of Double Effect can be applied in certain cases; other cases present real dilemmas (see next point).

- ii) No dilemma (or near-dilemma) type situation involving abortion should be used as a general argument for abortion. There are dilemma situations where a person might judge it appropriate to lie or break a promise. No one would use these situations to formulate a principle that it is generally ok to lie or break a promise.

3. **Backstreet Abortion Argument.** This argument states that laws prohibiting abortion do not stop abortions but lead to dangerous, unhygienic abortions being attempted. This was a powerful incentive for David Steel to propose a change of law in the UK.

IN REPLY, it could be argued that

- this does not really grapple with the morality of abortion as such.
- to oppose abortion is to oppose both 'backstreet' and 'frontstreet' abortion and to work for alternatives that really support women through difficult pregnancies.
- the legalisation of abortions has led to more a significant number of botched abortions, perforated wombs, and so on.
- the argument against using extreme situations to formulate a general principle (see 2(ii) above) applies here.

Offer a response to each of the following views:

<p><i>“Hard cases make bad laws – abortion law based on them is no different.”</i></p>	
<p><i>“Abortion is a ‘pro-life’ choice: a woman seeks an abortion only when the situation is so grave as to make continuing the pregnancy ‘anti-life’.”</i></p>	
<p><i>‘Nowadays, abortion has replaced adoption as the logical conclusion to an unplanned pregnancy.’ Cardinal Thomas Winning wrote this for a Scottish newspaper in 1997.</i></p>	
<p><i>‘Whatever people’s theoretical beliefs about the status of the embryo, most would agree that an early miscarriage is not as tragic as the birth of a still-born baby.’ Dr. John Habgood, the former Anglican Archbishop of York</i></p>	
<p><i>How ‘pro-life’ are people who shoot doctors for carrying out abortions?</i></p>	
<p><i>The terms ‘pro-life’ and ‘pro-choice’ and ‘anti-abortion’ are inaccurate and unhelpful in the debate about the morality of abortion.</i></p>	
<p><i>It is impossible to oppose abortion without relying on theistic arguments.</i></p>	
<p><i>Abortion is profoundly anti-women. Three quarters of its victims are women: half the babies and all the mothers.</i></p>	