

CRITIQUE OF JUDITH THOMSON *(article below)*

The abortion debate is often begun with examining this syllogism.

First premise: It is wrong intentionally to take the life of an innocent human being.

Second Premise: The unborn is an innocent human being.

Conclusion: It is wrong intentionally to take the life of the unborn.

Most people who attack this syllogism make their attack on the **second** premise. They question vigorously the notion of the humanity and personhood of the unborn.

Judith Thomson attacks the syllogism in its conclusion.

She allows the full humanity and rights of the unborn *but* she says abortion is still justified. How does she do this?

Her analogy of the unconscious world-famous violinist hooked up to you is an attempt to say: "It would *nice* of me to stay hooked up to you but it cannot be an *obligation*."

So ... the right to life of the unborn *does not mean* the woman being obliged to keep the unborn alive.

Any objections so far?

Mary Ann Warren (who was a lecturer at San Francisco State University) argued thus:

her analogy is "initially quite plausible ... in the normal case of an unwanted pregnancy ... we cannot claim that the woman is in no way responsible ... she could have remained chaste, or taken her

pills more faithfully, or abstained on dangerous days ... if x behaves in a way (involving) ..., say, a 1% chance of bringing into existence a human being with a right to life ... then it is by no means clear (that) x is free of any obligation ... to keep that human being alive ..."

She went on to say:

"My own intuition is that x has no more right to bring into existence, either deliberately or as a foreseeable result of action he could have avoided, a being with full moral rights (y) and then refuse to do what he knew beforehand would be required to keep that being alive ..."

John Finnis (an Oxford academic) questions the value of Thomson's analogy:

for him, the choice to have an abortion is not equivalent to the choice not to provide assistance to one who desperately depends on it ... "she carefully describes the violinist affair so as to minimize the degree of intervention against the violinist's body"

He adds later on, "the violinist unplugging is not the "direct killing" which she claims it is, and which she must claim it is if she is to reject the traditional principle about direct killing ..."

He asserts that the analogy is set up so that the argument (about unlawful interference with another's body) works one way only - in favour of the woman. "Judith Thomson ... (is) unable to see when an argument cuts both ways ... The child, like his mother, has a "just prior claim to his own body", and abortion involves laying hands on, manipulating, that body."

Finnis also rejects the burglar analogy: **"the burglar not merely has no claim-right to be allowed to enter or stay; he also has a strict duty not to enter or stay ..."** In general he rejects the 'ownership of body' talk of Thomson's, arguing that it leads to distracting, 'breaking the law' images: when my house is burgled, I say my house has been burgled; when the burglar attacks me, I say 'I am hurt', rather than 'My body has been attacked'.

He also notes the absence of a bystander/third party: **"As presented by Thomson, the violinist's case involves (i) no bystander, (ii) no intervention against or assault upon the body of the violinist, and (iii) an indisputable injustice to the agent in question. Each of these three factors is absent from the abortion cases in dispute."**

Peter Singer, the utilitarian philosopher, wrote a controversial but extremely influential book *'Practical Ethics'*; he also criticises Thomson's arguments:

"Is the argument sound? ... It is sound if the particular theory of rights ... is sound; and it is unsound if that theory of rights is unsound ..." He notices that Thomson adopts a theory of **"rights and obligations that allows us to justify our actions independently of their consequences ... a utilitarian would hold that, however outraged I may be at having been kidnapped, if the consequences of disconnecting myself are, on balance, and taking into account the interests of everyone affected, worse than the consequences of remaining connected, I ought to remain connected."**

Where do Warren, Finnis and Singer stand on the issue of abortion?

These quotes should show their positions:

For Warren, the *genetic* human being does not equal the *moral* human being. The zygote's completely human set of genes does not mean it is a person - **"the traits ... most central to the concept of personhood are, very roughly, the following: ... consciousness, ... reasoning, ... self-motivated activity, ... the capacity to communicate, ... the presence of self-concepts, and self-awareness ..."**

Warren was accused of lending support to the practice of infanticide. How do you think she could respond to that charge?

For Finnis, **"the most radically and distinctive human characteristic of all (is) the fact that she (Judith Thomson) was conceived of human parents."** Finnis thinks there is a **"perfectly clear-cut beginning to which each one of us can look back and in looking back see how, in a vividly intelligible sense, "in my beginning is my end"**.

For Singer, **"the 'Pro-Life' or 'Right to Life' movement is misnamed. Far from having concern for all life ... those who protest against abortion but dine regularly on the bodies of chickens, pigs and calves, show only a biased concern for the lives of members of their own species ... on any fair comparison of morally relevant characteristics, like rationality, self-consciousness, awareness, autonomy, pleasure and pain ... the calf, the pig and the much derided chicken come out well ahead of the foetus at any stage of pregnancy ..."** Singer would argue that there only moral grounds to object to the way abortion is carried out - particularly those in later term.

Judith Jarvis Thomson: A Defence of Abortion (1971)

I propose.., that we grant that the foetus is a person from the moment of conception. How does the argument go from here? Something like this, I take it. Every person has a right to life. So the foetus has a right to life. No doubt the mother has a right to decide what shall happen in and to her body, everyone would grant that. But surely a person's right to life is stronger and more stringent than the mother's right to decide what happens in and to her body, and so outweighs it. So the foetus may not be killed; an abortion may not be performed.

It sounds plausible. But now let me ask you to imagine this. You wake up in the morning and find yourself back to back in bed with an unconscious violinist. A famous unconscious violinist. He has been found to have a fatal kidney ailment, and the Society of Music Lovers has canvassed all the available medical records and found that you alone have the right blood type to help. They have therefore kidnapped you, and last night the violinist's circulatory system was plugged into yours, so that your kidneys can be used to extract poisons from his blood as well as your own. The director of the hospital now tells you, 'Look, we're sorry the Society of Music Lovers did this to you - we would never have permitted it if we had known. But still, they did it, and the violinist now is plugged into you. To unplug you would be to kill him. But never mind, it's only for nine months. By then he will have recovered from his ailment, and can safely be unplugged from you.'

Is it morally incumbent on you to accede to this situation? ... Because remember this. All persons have a right to life, and violinists are persons. Granted you have a right to decide what happens in and to your body, but a person's right to life outweighs your right to decide what happens in and to your body. So you cannot ever be unplugged from him.' I imagine you would regard this as outrageous,

which suggests that something really is wrong with that plausible sounding argument mentioned a moment ago...

Suppose you find yourself trapped in a tiny house with a growing child. ... you are already up against the wall of the house and in a few minutes you'll be crushed to death. The child on the other hand won't be crushed to death; if nothing is done to stop him from growing he'll be hurt, but in the end he'll simply burst open the house and walk out a free man. Now I could well understand it if a bystander were to say, 'There's nothing we can do for you. We cannot choose between your life and his, we cannot be the ones to decide who is to live, we cannot intervene.' But it cannot be concluded that you too can do nothing, that you cannot attack it to save your life. ... Perhaps a pregnant woman is vaguely felt to have the status of a house, to which we don't allow the right of self-defence. But if the woman houses the child, it should be remembered that she is a person who houses it.

There is another way to bring out the difficulty. In the most ordinary sort of case, to deprive someone of what he has a right to is to treat him unjustly. Suppose a boy and his small brother are jointly given a box of chocolates for Christmas. If the older boy takes the box and refuses to give his brother any of the chocolates, he is unjust to him, for the brother has been given a right to half of them. But suppose that, having learned that otherwise it means nine years in bed with that violinist, you unplug yourself from him. You surely are not being unjust to him, for you gave him no right to use your kidneys, and no one else can have given him any such right. ...

The emendation which may be made at this point is this: the right to life consists not in the right not to be killed, but rather in the right not to be killed unjustly. But if this emendation is accepted, the gap in the argument against abortion stares us plainly in the face: it is by no means enough to show that the foetus is a person, and to remind us that all persons have a right to life - we need to be shown also that

killing the foetus violates its right to life. i.e. that abortion is unjust killing. And is it?

I suppose we may take it as a datum that in a case of pregnancy due to rape the mother has not given the unborn person a right to the use of her body for food and shelter. Indeed, in what pregnancy could it be supposed that the mother has given the unborn person such a right? It is not as if there were unborn persons drifting about the world, to whom a woman who wants a child says 'I invite you in.'

But it might be argued that there are other ways one can have acquired a right to the use of another person's body than by having been invited to use it by that person. Suppose a woman voluntarily indulges in intercourse, knowing of the chance it will issue in pregnancy, and then she does become pregnant; is she not in part responsible for the presence, in fact the very existence, of the unborn person inside? No doubt she did not invite it in. But doesn't her partial responsibility for its being there itself give it a right to the use of her body? If so, then her aborting it would be more like the boy's taking away the chocolates, and less like your unplugging yourself from the violinist - doing so would be depriving it of what it does have a right to, and thus would be doing it an injustice...

If the room is stuffy, and I therefore open a window to air it, and a burglar climbs in, it would be absurd to say, 'Ah, now he can stay, she's given him a right to the use of her house - for she is partially responsible for his presence there, having voluntarily done what enabled him to get in, in full knowledge that there are such things as burglars, and that burglars burgle.' It would be even more absurd to say this if I had had bars installed outside my windows, precisely to prevent burglars from getting in and burglar got in only because of a defect in the bars. It remains equally absurd if we imagine it is not a burglar who climbs in but an innocent person who blunders or falls in. Again, suppose it were like

this: people seeds drift about in the air like pollen, and if you open your windows, one may drift in and take root in your carpets and upholstery. You don't want children so you fix up your windows with fine mesh screens, the very best you can buy. As can happen, however, and on very, very rare — occasions does one of the screens is defective; and a seed drifts in and takes root. .Someone may argue that you are responsible for its rooting ... But this won't do - for by the same token, anyone can avoid a pregnancy due to rape by having a hysterectomy.

There is room for yet another argument: We must surely all grant that there may be cases in which it would be morally indecent to detach a person from your body at the cost of his life. Suppose you learn that what the violinist needs is not nine years of your life, but only one hour... Admittedly you were kidnapped. Admittedly you did not give anyone permission to plug him into you. Nevertheless, it seems to me plain that you ought to allow him to use your kidneys for that one hour - it would be indecent to refuse...

So my own view is that even though you ought to let the violinist use your kidneys for the one hour he needs, we should not conclude that he has a right to do so. We should say that if you refuse, you are, like the boy who owns all the chocolates and will give none away, self-centred and callous, indecent in fact, but not unjust ... If anyone does wish to deduce 'he has a right' from 'you ought', then he must surely grant that there are cases in which it is not morally required of you that you allow that violinist to use your kidneys, and in which he does not have a right to use them, and in which you do not do him an injustice if you refuse.

And so also for mother and unborn child. Except in such cases as the unborn person has a right to demand it - and we were leaving open the possibility that there may be such cases - 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 nine months, in order to keep another person alive