

Defending “A Defense of Abortion

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It does not take an extensive study to conclude that abortion is a divisive topic in modern, applied ethics. Catalyzed by the U.S. Supreme Court’s decision in *Roe v. Wade* (1973), this debate continues to intensify with no end in sight. This is because, for the most part, both major positions involve irreconcilable assumptions. Proponents of abortion commonly claim that abortion is not necessarily unjust killing and that it acknowledges properly and wholly the rights of the mother. Conversely, anti-abortionists typically claim that abortion is akin to murder and that it disregards the rights and personhood of the fetus. However, does abortion unfairly favor the mother’s rights over the rights of her fetus? Must abortion be akin to murder, or could it ever be justified? As both sides are prepared with an endless succession of arguments to answer such controversial questions, the debate continues.

Yet, if discussing abortion produces nothing more than division and vain conclusions, why then do we still do it? The answer is simple: by resolving the debate, an ethical standard for abortion might be established and case-by-case dilemmas could dissolve. For this end, the debate continues. To achieve such a standard, some have attempted to reconcile the two positions.

One such individual is Judith Thomson. In “A Defense of Abortion,” she demonstrates that even if a fetus is a person, it may still be aborted. To prove this point, Thomson invents a thought experiment involving an individual involuntarily attached to a dying violinist. With this thought

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experiment, she challenges the stringent idea that the right to life outweighs the right to one's body. For, if this idea is false, then—by the same token—a mother's right to her body is not outweighed by her fetus' right to life, and abortion cannot be impermissible.

Her argument and thought experiment are not without their fair share of criticism, though. Throughout this paper, I will analyze criticisms of Thomson's argument to determine whether her argument sheds light on a possible moral standard for abortion. First, I will consider an objection by David B. Hershenov who claims that abortion can never be permissible. Second, I will consider a criticism by John Martin Fischer who argues that mere inconvenience cannot be a sufficient basis for abortion. Third, I will address the criticisms of Michael Hawking to determine whether Thomson's argument permits late-term abortion. Fourth and finally, I will consider the criticisms of Michael Tooley and Keith Allen Korcus of whether the mother is responsible to her fetus.

Thomson's Violinist Thought Experiment

Before doing so, it is essential that I present Thomson's violinist thought experiment for subsequent reference. Thomson invites her audience to imagine that a woman is kidnapped and attached to a famous violinist suffering from a fatal kidney disease (48-49). The violinist would inevitably die if detached from the woman. By remaining attached, she must compromise the right to her body. She then considers whether it would be wrong for the woman to reclaim the right to her body even if such reclamation necessitates the violinist's death? Per Thomson, absolutely nothing can be wrong with detaching from the violinist as the initial attachment was involuntary, and the obligation to remain attached does not exist. Thus, she argues that neither detaching from the violinist nor aborting a fetus when conceived involuntarily can be wrong.

With this thought experiment, Thomson aims to support her claim that even if a fetus is a person, it may still be aborted. However (as is the case with most examples and thought experiments) its strength depends significantly on how well it parallels reality and incorporates morally relevant factors. That said, it comes as no surprise that many philosophers—both those in opposition to and in support of Thomson—criticize her pro-abortion argument by claiming that this thought experiment cannot realistically apply to abortion.

Hershenov: Is Detaching Morally Permissible?

David B. Hershenov is one such critic who argues that her challenge of the anti-abortion premise is unsuccessful. He believes, contrary to Thomson, that both disconnecting from the violinist and aborting a fetus are morally wrong (Hershenov 148). This conclusion follows from his argument:

(1) One must minimize harm to innocent persons.

(2) One must use their body, even at considerable costs, to save or sustain another's life.

Therefore, (C) it is obligatory to remain attached to the violinist.

Similarly, (C) terminating a fetus is wrong if the fetus is truly a person. (Hershenov 131–32)

To support his argument, Hershenov concocts a thought experiment involving unfortunate individuals on a birdwatching trip (134). In this example, two individuals on a birdwatching trip become swooped up and tangled in ropes over a trapdoor. When the door opens, they will unavoidably fall to the ground. Neither person is responsible for their current situation; rather, the trap was placed there by a sadist wanting to torment strangers. Regardless, their situation is about to get worse; in fifteen minutes the trapdoor will open, and they will fall to the ground. Because of how they are positioned in the ropes, the larger person can maneuver himself to hit the ground first and shield the smaller person from all injuries. However, resulting from the impact of the fall, the larger man will suffer nine months of agonizing nausea, back pain, and abdominal pain. On the other hand, if the larger person is freed from the ropes before the fall, he will avoid the otherwise inevitable harm. Negatively, the smaller man will fall to the ground and—without any cushioning from the larger man—die upon impact.

With this thought experiment, Hershenov aims to refute Thomson's claim that neither detaching from the violinist, nor aborting a fetus is impermissible. However, the defect in his argument is his absolute claim that, *no matter the circumstance*, unplugging the violinist, untangling the larger man, and aborting a fetus are never permissible (Hershenov 148). This defect renders his argument invalid when considering cases where the mother's life is at risk. This is because premise (2) of his argument necessitates that the mother sacrifices her health to support her fetus, while premise (1) prevents the abortion of her fetus. Having established this problem, I will now prove that Hershenov cannot accept his own

conclusion as his premises necessarily allow for abortion in cases where the mother's life is at risk.

Let's now consider this in the context of Hershenov's thought experiment. Imagine the same situation, only now, the two men are hovering over a pit of deadly sharp rocks. As opposed to the prior scenario, no matter the ability of the larger man to maneuver, the fall will most likely result in the death of both. There still remains the option for untangling the larger man from the ropes; however, doing so will force the smaller man to not only fall alone, but to fall alone on deadly sharp rocks. With this slight modification, the "right" choice is less apparent to let the larger man fall since the outcome is almost guaranteed. Per premise (1) of Hershenov's argument, the decision must be based on minimizing harm to innocent persons. Yet, if the larger man were not freed, the harm to both individuals would not be minimized; quite the contrary, it would be maximized.

Likewise, there are certainly instances where, known at some point during the pregnancy, the mother (and her fetus) will die unless she submits to an abortion and receives medical treatment. If this premise were applied in these instances, it would certainly favor abortion as the choice must be *made* to lose either one life (the fetus) or two lives (the mother and her fetus). So, to avoid losing both lives (which would directly violate premise (1) of his argument), Hershenov must accept that abortion, in some cases, must be an appropriate, permissible option to minimize harm to innocent persons. Ironically, Hershenov's argument ends up supporting, rather than refuting, Thomson's claim that abortion is not impermissible.

Fischer: Detaching for Convenience

We have just established that when the mother's life is at risk, abortion must be a permissible option—at least for those who accept premises similar to Hershenov's. However, absent any health risk, does the same hold true for the sake of convenience? In other words, can abortion be justified with the rationale that it is a mere inconvenience for the mother? Thomson responds that while abortion in some cases is clearly permissible, "in other cases [a] resort to abortion is even positively indecent" (65). For example, "It would be indecent of the woman to request an abortion . . . if she wants the abortion just to avoid the nuisance of postponing a trip abroad" (Thomson 65–66). So, even though Thomson advocates strongly for abortion under certain conditions, she concedes that trivial inconvenience is not a sufficient reason to justify abortion.

On this point, Judith Thomson is not alone. John Martin Fischer believes that mere inconvenience alone cannot justify abortion. In his

article, "Abortion and Ownership," Fischer agrees with Thomson's underlying argument that abortion cannot be impermissible. Yet, Fischer is not convinced that abortion is sufficiently justified on grounds that sustaining the fetus is an inconvenience. He argues that "great discomfort to the woman throughout her life cannot be sufficient for the permissibility of abortion" (Fischer 287). In other words, the fact that she will suffer "mental torture" from the horrific experience is not justification alone to morally permit abortion (Fischer 285). He believes that while inconvenience can certainly be a significant factor, it must be accompanied with some other justification—typically the mother's right to control her body. I will explain, with the support of Fischer, why mere inconvenience is insufficient to justify abortion, even in cases of rape.

Fischer considers a thought experiment originally presented by Joel Feinberg, but with slight modifications (Feinberg 102). Fischer labels this modified thought experiment the "Cabin Case," and it goes as follows: For many years, an individual has planned a trip to the Himalayan mountains (Fischer 277). This individual, in preparation for the trip, secured a cabin in a highly remote area of the mountains to enjoy nature alone. Unfortunately, an innocent person has been kidnapped and left alone to die in the desolate mountains, very near the cabin. By chance, this person happens upon the cabin. Either (A) the individual can let the innocent man in and provide him with food and shelter until a search party arrives in nine months, or (B) the individual can forcibly prevent the innocent person from entering and staying—inevitably causing his death.

In this case, (B) seems intuitively wrong. That is because (B) is entirely based on avoiding mere inconvenience. Analogously, when these options are adapted to abortion, (A) is comparable to carrying the fetus to term while (B) is comparable to aborting the fetus for the sake of convenience. Again, (B) seems intuitively wrong when contrasted with (A). However, this dilemma is misleading. That is, in cases of rape, the scenario would be more like this: The kidnapper forces himself aggressively into the cabin, leaving the innocent person behind. Thus, the individual does not choose to let the innocent person in; rather, he must choose whether to force him out. When considering the "Cabin Case" in this context, it becomes absolutely necessary to reference other justifications (e.g., exercising the right to one's privacy or the right to one's property) for forcing the innocent person out.

Similarly, even abortion in the case of rape is not sufficiently justified by it being an inconvenience to the woman. Although carrying her fetus may hinder her social life or prevent her from pursuing certain hobbies, she cannot rely on those inconveniences alone to abort her fetus. On the other hand, what if carrying the fetus to term would "mentally torture" the woman to the point that she would suffer a psychotic breakdown? Would

inconvenience sufficiently justify abortion in such extreme cases? It seems that it would; nevertheless, that is only the case if the term “inconvenience” is equivocated with the mother’s life or health being at risk. In such cases, the mother’s health (mental) is threatened, not merely inconvenienced. So, to avoid committing a fallacy of equivocation, it is necessary to separate (a) carrying a fetus being a threat to the mother’s health from (b) carrying the fetus being an inconvenience to the woman. In other words, this objection adheres more closely to the principle that abortion is permissible when the mother’s life or health is at risk, not with abortion based on avoiding inconvenience.

From this analysis, it is evident that mere inconvenience is not a sufficient rationale for abortion. That is not to say, however, that it cannot be used as part of a justification for doing so. Instead, I argue that it cannot be used as the *only* justification. I have also been careful to qualify such convenience as “mere” or “trivial,” leaving open the possibility for abortion to be justified by “great” or “substantial” inconvenience. Therefore, from our narrow and focused analysis, we can conclude that Thomson’s argument, with further support from Fischer, establishes that mere inconvenience alone is not a sufficient justification for abortion.

Hawking: The Viable Fetus

Now that we have discussed whether inconvenience can justify abortion, let’s explore whether late-term abortion is permissible according to Thomson’s argument. For this, I will consider a question proposed by Michael Hawking in “The Viable Violinist.” He asks if, according to Thomson’s argument, abortion is permissible when the fetus is viable to live outside its mother’s womb (Hawking 315). Hawking demonstrates that Thomson’s argument “reinforces the moral similarity” of late-term abortion and infanticide (312). Furthermore, in his discussion of late-term abortion, he differentiates between detaching from a fetus and killing a fetus. Using this distinction, Hawking finds a satisfactory answer to his question: per Thomson, late-term abortion is permissible insofar as it does not involve securing the fetus’ death.

However, in doing so, Hawking exposes a shortcoming in Thomson’s argument. He shows that her argument cannot distinguish between infanticide (the intentional killing of a child) and late-term abortion. So, as infanticide is an “atrocious,” late-term abortion must be the same (Hawking 313). This is because with late-term abortions, the fetus has the potential to be viable without the womb. While with early abortions, the fetus cannot survive without its mother’s womb, so the death of the fetus

necessarily accompanies its detachment. Hawking then argues that "In the case of abortion in late-term pregnancy, feticide ... requires a *separate rationale*; it is done to ensure that the fetus is not still alive when it is born" (315). This point is an echo of Thomson's original claim that if the fetus survives the initial detachment, "you have no right to be guaranteed of [its] death" (Thomson 66). And, as the fetus becomes progressively more viable throughout the pregnancy, the line between infanticide and abortion blurs.

Consequently, late-term abortion becomes less permissible as the pregnancy progresses. At that point, the permissibility of abortion does not depend on how the fetus was conceived. Rather, it depends purely on whether it involves detaching the fetus or "ensuring that [the fetus] does not result in a live birth" (Hawking 315). If the latter is required, then it falls appropriately under the same category as infanticide. Assuming this to be true, I will demonstrate that Hawking's criticism of Thomson helps establish that late-term abortion (when the fetus is viable) is permissible, insofar as it does not guarantee the death of the viable fetus.

To begin, I mention a fundamental feature of Thomson's argument: the assumption that a fetus is a person from conception (Thomson 48). Her paper is devoted to proving that whether the fetus is a person does not prevent it from being aborted. On the other hand, aborting a fetus when it is a viable person is a more complex issue. When the fetus is not viable, abortion necessarily involves detaching the fetus—where the death of the fetus is simultaneously ensured. That is because the fetus' survival is dependent on it being within the mother's womb. When the fetus is viable, however, abortion only guarantees the detaching of the fetus from its mother. In this case, it being a person from conception is irrelevant; instead, it depends entirely on it being a viable person at that given moment. To fully abort a viable fetus, one must secure its death as a separate, independent act. This is typically "accomplished by potassium injection to the heart, which stops the heart from beating" (Hawking 315). However humane or painless that may be, Thomson is entirely opposed to it. Her argument only condones abortion which involves detaching, not abortion which ensures the fetus' death if it survives the initial detachment.

Korc: What About Responsibility?

In this section, I will address a more controversial aspect of Thomson's argument: whether a mother who engages in intercourse is morally responsible to her fetus. For if, as Thomson argues, there is no special responsibility of a mother to her fetus, then she cannot be morally prevented from aborting her fetus. It is surprising that Thomson devotes

only a brief portion of her argument to addressing it. Her view is that “We do not have any such ‘special responsibility’ for a person unless we have assumed it, explicitly or implicitly” (Thomson 65). Expectedly, her cursory response seems to raise more questions than answers.

One criticism is proposed by Michael Tooley. In “Abortion and Infanticide,” he disagrees that this special responsibility depends, to *any* degree, on whether the mother voluntarily assumes it. He argues that the mere act of knowingly doing something which might force another into needing assistance can “place one’s self under a serious obligation to provide that assistance” (Tooley 45). Thus, Tooley believes that voluntarily engaging in intercourse can be a sufficient condition for forming this responsibility. In other words, Tooley is not convinced by Thomson’s argument against this responsibility.

Keith Allen Korcz is also not convinced. In his article, “Two Moral Strategies Regarding Abortion,” Korcz claims that Thomson’s account is “implausible” and incomplete (590). He believes that one is morally responsible for an event E if:

- (a) One voluntarily performs an action A,
- (b) One knows (or should know) that A may cause E,
- (c) *Ceteris paribus* (other factors are held constant),
- (d) And, one knows (or should know) that the risk of E’s occurring, given A, is not a reasonable risk to take. (Korcz 591)

Thus, when a pregnancy is accompanied with conditions (a)–(d), the mother automatically assumes a moral responsibility toward her fetus. Whether precautionary measures were taken (e.g., contraception) is beside the point; the act of performing intercourse can establish a moral responsibility between a mother and her fetus.

Nevertheless, Korcz admits that this only applies when requirements (a)–(d) are simultaneously met. For instance, as is the case with some very young women, this set of conditions fails to apply to those who “may have been non-culpably ignorant of the risk of pregnancy” (Korcz 592). As condition (b) is not met, no moral responsibility is formed. Likewise, in cases where the woman is raped, even if the woman is entirely aware that intercourse may cause pregnancy (b), condition (a) is not met—as a result, the woman is not morally responsible for the pregnancy nor to her fetus. When one or more of these conditions are not satisfied, Korcz concludes

that other (non-enumerated) conditions must be present to confer morally responsibility upon the mother to her fetus.

Still, Thomson still believes that even when all of Korcz's conditions are fulfilled, a moral responsibility is not necessarily formed. She argues that "If [the parents] have taken all reasonable precautions against having a child, they do not simply by virtue of their biological relationship to the child . . . have a special responsibility for it" (Thomson 65). As appealing as her argument may be to pro-abortionists, Korcz's seems more realistic. That is because it fully recognizes the consequences of voluntary actions. When Korcz's conditions are all met, a moral responsibility necessarily results.

Imagine a man purchases a pack of beer for a party later that night. As he drives home, he notices a billboard that reads, "Don't drink and drive." He has driven drunk multiple times in the past without any repercussions, although fully aware that several of his friends have been involved in drunk driving accidents. Sober, he drives to the party. After finishing up his last beer at the party, he stumbles into his car to travel home. On his way home, he meanders into oncoming traffic, striking another car head-on. Miraculously, he survived the crash while suffering only slight bruises. On the contrary, the family in the car he struck suffered the loss of their child. In this case, is the man responsible for the loss of their child?

According to Korcz's conditions, yes. That is because (a) the initial act was voluntary, (b) the man had a full understanding of the possible consequences of his action, (c) the scenario involved no anomalies, and (d) the possible consequences were not worth the risk. The mere fact that these conditions were met is sufficient to guarantee that he is, at least to some degree, responsible for the child's death. Whether the man chooses to assume responsibility for his action is irrelevant.

Thomson would reason otherwise. Even if the man drove drunk and fulfilled conditions (a)–(d), she would argue that he does not have to assume responsibility for the child's death. That is not to say, however, that he can deny responsibility for his initial, voluntary act. Instead, Thomson would argue that he is justified in denying responsibility for its consequences—which seems intuitively wrong.

After comparing the two arguments, Korcz's argument appears more reasonable as it more fully recognizes the moral responsibility involved between actions and consequences. That is, whenever someone acts voluntarily and when the consequences are predictable or known, that individual is morally responsible for the consequences of his or her action. Because of this, Thomson's argument against the mother's responsibility to her fetus is incomplete. It is wishful thinking to believe that Thomson's argument justifies abortion with the rationale that a mother who voluntarily engages in intercourse is not morally responsible to her fetus.

Conclusion

Now that we have addressed several criticisms of Thomson's argument, let's review. The purpose of this paper was not to favor one abortion position over another, nor was it to merely summarize the arguments of philosophers on the subject. The purpose of this paper was to determine whether Thomson's argument sheds light on a possible moral standard for abortion. From our analysis of these criticisms, we can conclude that this moral standard seems plausible:

1. Abortion is not always impermissible.
2. Mere inconvenience is not sufficient to justify abortion.
3. Late-term abortion is permitted only if it does not involve ensuring the viable fetus' death.
4. Abortion cannot be justified via the rationale that a mother who voluntarily engages in intercourse is not morally responsible to her fetus.

Yet, there are still many issues that Judith Thomson's argument does not solve, let alone address. For example, what rights does the father have in an abortion? What responsibility do men have in using contraception to prevent pregnancy? Is abortion justified when based on unwanted, predictable or known features of the fetus (e.g., genetic disorders, sexual orientation, gender, etc.)? And so, as an ever-growing list of questions and issues will be raised, the debate continues.

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