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## The Moral Status of the Fetus and the Concept of Personhood

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### Abstract

The purpose of this study is to provide a comprehensive analysis of the existing approaches and concepts regarding the status of the fetus, address its importance as well as identify an approach that could possibly help in solving the dilemma on the moral status of the fetus. In general, the topic of abortion is very complex and raises a lot of different issues regardless of whether we try to analyze it from ethical, scientific, religious, legal, or political point of view. This study is focused solely on two ethical questions in the abortion debate. The first question is to define the moral status of the fetus and the second is about determining the importance of the fetal status for the abortion debate. Employing the descriptive, analytical, and comparative methods the study presents various different views and ethical approaches on the issue. The analysis demonstrates that all of the theories have their own problems and could potentially be very misleading and harmful to society. Having identified that this is something the entire society can never agree on, we should move on from the idea that is necessary to determine the status of the fetus alone in order to decide whether abortion is morally acceptable or not. We cannot exclude the woman as the main moral agent and address the fetus separately. We need to direct our attention to the relationship between the mother and the fetus. Our idea about the ethical and moral status of the fetus should be based on the nature of the relationship between the mother and the fetus.

**Keywords:** abortion; ethical dilemma; fetus; medical ethics; personhood.

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## **1. Introduction**

Abortion is a heavily debated and highly charged ethical issue in society. The quality of the decisions that each individual woman makes affects our families, our communities, and our whole society. When it comes to making a decision about whether to have an abortion, no one approaches it lightly. As an issue the question of abortion touches upon a significant number of important, fundamental ethical questions: the nature of personhood, the nature of rights, human relationships, personal autonomy, the extent of state authority over personal decisions, and more. All of this means that it is very important that we take abortion seriously as an ethical issue, seriously enough to identify the various components and discuss them with as little prejudice as possible.

For some people, their approach to the ethical questions will be purely secular; for others, it will be heavily informed by religious values and doctrines. There is nothing inherently wrong or superior to either approach. What would be wrong, however, would be to imagine that values of one approach should be the determining factor in these debates.

Traditionally, the debate as to the rights and wrongs of abortion has been expressed in terms of the 'right to life' of the fetus against the pregnant woman's right to choose whether or not to bear a child [1]. As mentioned above attitudes regarding abortion depend almost entirely on where the holder stands in respect of, on one hand, the status of the fetus and fetal interest in life and on the other hand, the woman's right to control her own body [2]. The question of abortion is very complex and raises a lot of different issues regardless of whether we try to analyze it from ethical, scientific, religious, legal, or political point of view. In this study the focus is solely on one of the two central questions in the abortion debate and that is the question about the status of the fetus and its importance in the abortion debate from an ethical perspective. It is important to note that a human fetus, strictly speaking, is an unborn human offspring from the third month of pregnancy until birth. It is preceded by the embryo and zygote. However, for the purpose of easier readability in this study we will use the term fetus to speak of an unborn human offspring at any stage of its development prior to birth.

## **2. The status of the fetus and the concept of personhood**

When discussing about abortion from ethical or moral perspective one of the most important questions that we need to answer is whether the fetus is regarded as a person or more importantly at what point does the fetus gains its personhood. The question of the moral status of human fetuses has been the main focus of the dilemma of abortion where fetal rights are asserted on one side and denied on the other. It compounds itself into a number of dilemmas for childbearing women, counterposing duties to ensure fetal health against rights to privacy and autonomy. Having a certain answer to this question will significantly help in resolving the issue with abortion, however the concept of personhood is more philosophical rather than something that can be medically proven [3]. The spectrum of opinions and views about the status of the fetus goes from those who believe that the fetus is a person from a moment of conception to the far liberal view according to which the fetus becomes a person at the moment of birth or even later.

### ***2.1. Conception and the argument of potentiality***

Many conservative philosophers, academics, bioethicists, and politicians argue that human life, and therefore personhood, begins at conception. This theory is mainly based on the fetus's theoretical potential to grow into a human adult. Those who take the view that the fetus is a person from the moment of conception are strong opponents of abortion and regard the fetus as a person from conception because at that point the entire genetic make-up of a person is complete [4]. This view is quite extreme and opponents to this view usually connect the beginning of personhood with the capacity to do or experience certain things rather than just having a unique genetic constitution.

Another argument that favors the treatment of the fetus as a person from the moment of conception is the argument in which supporters actually accept that the fetus is not a person at conception, but it has the potential to become a person, and therefore it must be respected for the potential it has and be treated as person. Rather than attempting to find the moral status of the fetus on any attribute it possesses the emphasis is put on the potential that the fetus has, to become a person in the future [1]. However, we could criticize this argument simply by asking the question whether we treat the potential at the same level as something that is already acquired. If potential things have the rights of actual things, then potential adults, spouses, criminals, doctors, and judges would have the rights of actual ones. Since they do not, it is plausible to say that potential personhood does not yield the rights of actual personhood [5]. The potentiality argument is based on the idea about the ability to reach the next stage. Furthermore, if we accept this view it would imply that the newly developed forms of embryo research and the practices that involve the discarding of embryos are wrong and immoral because it prevents the existence of a particular developed person, namely the one the embryo would have become. Additionally, if we accept that personhood starts at conception as morally right it would mean that we see many of the contraception forms as immoral.

Saying that the fertilized egg has the capacity to become an adult is not true except in the weakest sense in which the future is unbounded, so all things are possible and possibly true. In any other sense the fertilized egg only has the potential to implant. What is significant is the value we ascribe to the basis of potentiality at any stage of development. The "embryo" will be able to be born only after it is viable [6]. This leads us to the idea of viability whose supporters believe that the fetus becomes a person at the moment of viability.

## **2.2. Viability**

Some support the idea that the fetus becomes a person at viability meaning the moment in which the fetus becomes capable of existing independently of the mother. Proponents of this view argue that this is the point at which the fetus has enough independence and can be regarded as separate from the mother [4].

There is divergence within the medical community about the true meaning of the term 'viability'. It is used in two ways. First, it is used as a biological criterion. Secondly, it is used as an ethical category. The use of viability as an ethical concept expresses the idea that the fetus has reached a certain development stage which would allow it to survive if brought ex-utero and it could be placed in the 'social role of a child' [7]. After a baby is medically "viable" after about 22 or 23 weeks, the chances of survival outside the womb increase with every day. At 23 weeks, the healthy fetus has a significant chance of survival if delivered. Therefore, just as a

viable infant is capable of consciousness and being alive, and because any late-term fetus, even if removed from the womb, is similarly capable, the viable fetus still does not have full personhood, but it has a higher moral status than the unviable fetus. A viable fetus is not an infant, but it has the equal moral status as an infant and thus, it deserves the same protections under the law as the viable infant, to which it is equal in moral status [7].

The critics to this view say that it is hard to know whether a fetus will be able to survive outside of the mother, but also that moment at which a fetus becomes a person will be dependent on where in the world you live and how developed the country and the technology there is [4]. In more developed countries the fetus can be viable after 22 weeks but in others it can be after 24 weeks or even later, depending on the technology they have. This can lead to additional problem as the status of the fetus will be dependent on its location and it causes differences between the status that the fetus has in developed countries as opposed to the status it has in third world countries. The viability of the fetus has played a significant part in the framing of abortion legislation, but the use of viability as a criterion represents a compromise which is conceptually unclear, and which fails to satisfy either side in the abortion debate. Since viability changes according to available techniques for neonatal care, it cannot be the criterion.

### ***2.3. Personhood at Birth***

One of the most lenient approaches to the concept of personhood is the idea that the fetus becomes a person at birth. According to supporters of this view this is the most logical and natural moment when the fetus can be seen as having its own independent existence and becomes entirely separate entity from the mother. Birth itself is a major moral event. By 'giving birth', the woman confers to her new baby status as a person. The baby, unlike the fetus, does not have an necessary dependence on the woman, and adaptation to extra-uterine life has necessitated sudden, radical, and irreversible changes in its circulation and respiration [4]. It is obvious that the birth of the child is very important for the relationship between the mother and the child but does it affect the moral status of the fetus and how can a fetus that has been born and kept in an incubator have a different moral status than a fetus that is yet to be born? As a response it can be said that birth gives rise to a fundamental change in the relationship between the mother and the baby as well as society in general and thus it alters the legal and moral status of the fetus.

### ***2.4. Gradualist Idea***

The idea of this view is to move away from locating point in time at which the fetus becomes a person to recognizing the fact that the status of the fetus changes throughout the pregnancy. It has a special status which means that it is more than merely a bit of human tissue, but less than a person. Some argue that as the fetus grows older it acquires an increasing measure of respect until it reaches the status of a person. The fetus acquires moral status progressively throughout pregnancy, a progress that is marked by developmental milestones. Further, increasing moral status is also marked by the bonding that results from the woman's growing awareness of the fetus, and which, as the pregnancy becomes increasingly obvious, extends to her partner, her family, and then everyone she meets. This bonding with the fetus is the foundation for the responsibility she feels for the welfare of the future child [8]. A major difficulty for this view is that, once a person is born, we do not normally

accept the idea that he or she is more or less human. We do not have a grading scale for the level of personhood that humans have. For example, the idea that someone with some kind of disorder or disability is less human than someone else would be extremely unacceptable. Since we treat all born people the same, we cannot accept the idea that the fetus can have degrees of personhood.

### ***2.5. The Relationship Idea***

Those who support this view argue that a lot of the discussion on the status of the fetus is misguided meaning that we cannot talk about the status of the fetus independently from the status of the woman because she is not just a fetal container and the discussion should be focused on the relationship between the mother and the fetus. Although some gradualists underline the importance of the gradually growing bond between the mother and her fetus, it is important to mention that the relationship idea is different and not connected with the gradualist idea. This idea emphasizes the importance of the relationship between the woman and the fetus. The key feature of the relationship approach is in the emphases on the shared needs and interdependence of the woman and her fetus whose relationship is characterized by connectedness, mutuality and reciprocity and the alternative sets up the interests of the fetus in conflict with the interests of the mother [4]. It is important to assert the interests of the fetus against the pregnant woman but we cannot see the fetus simply as a body part of the woman because no other body part has the ability to eventually get up and walk away on its own. For these reasons we need an approach that recognizes the nature and intimacy of the relationship between the woman and the fetus. Ignoring this relationship and putting the interest of the fetus and woman as a separate can provide society with means of controlling women during pregnancy and threaten their fundamental rights [4].

Opponents of the relationship idea argue that we cannot discuss the relationship between the fetus and the mother before deciding whether a fetus should be regarded just as a part of her body or it has the same status as an adult person. Critics also voice the concern that emphasizing the relationship rather than the interest of those involved might lead to an overriding of the woman's rights. This view does not point in any direction in the abortion debate and it has been used from both sides. For example, some argue that fetuses are biologically dependent on a pregnant woman and will be physically and socially dependent on her after birth and this dependence is the basis for her moral obligation to regard the fetus with care but also her moral right to decide whether to keep it or not. On the other hand, those who are against abortion use the relationship view to emphasize the feminist values of nurturing, caring and the value of life. They use the ethics of care to argue that abortion is failure to care for one living being who exists in a particularly intimate relationship [4]. However, when it comes to the ethics of care it can be argued that the promotion of caring relationships requires both the support and sustenance of care; but also, the termination of relationships which are not nurturing or marked by care. This is especially important if people are hindered by non-caring relationships from entering caring ones. If we see it in this way, then we could say that abortion is an important aspect of promoting caring relationships within society [9].

### ***2.6. Other Views***

Another popular approach is the idea that the fetus becomes person at sentience meaning the personhood of a

fetus begins when it is capable of sensations or desires. This is supported by the argument that if we accept the fact that brain death is the end of life then we should also accept that the life begins when the brain activity starts. The problem with this is that sensations do not make someone a person, it is the self-consciousness of the being and such view can make this criterion much broader and problematic [4]. Moreover, with the development of fetal science it may be found that fetal sentience starts at an earlier point in time which could lead to additional uncertainties.

Other significant views regarding the beginning of personhood include the view that the fetus becomes a person at fourteen days because that is when the embryo becomes a distinct entity, but the difficulty with this view is that we cannot really determine the exact moment at which the human life starts. Another one is the view that takes into consideration the point of 'quickening' which is a term used to describe the moment at which the mother can feel the fetus moving, even though this moment is emotionally very important with the way modern technology and scans have evolved a very few people still support the stance that this moment should have a moral significance [4].

### ***2.7. Does it really matter?***

Seen as how there is no certain answer regarding the status of the fetus and beginning of personhood, it is important to consider whether there may be an alternative way to understand the morality of abortion regardless of the view we hold about the status of the fetus. In reality the question about the moral status of the fetus is something that the entire society can never really agree on for certain, especially seen how it cannot be scientifically proven and the opinions regarding this question are very polarized. Every single one of the views and theories regarding the moral status of the fetus are flawed and regardless of which one we prefer or accept as morally right it can possibly cause some undesirable consequences. If the problem of the personhood of the embryo cannot be solved and if rational argument about the beginning of individuality cannot be conclusive either, then we should look to more emotional explanations regarding the beginning of a human life. What is it that we value? In order to decide whether abortion is morally acceptable or not, it is not necessary to establish the status of the fetus per se. What is really important and what we really have to focus on is the relationship that the woman has with the fetus. The woman should be the one who decides whether abortion is an appropriate response to her pregnancy based on her own personal values in regards with the fetus. It is inappropriate to lay down abstract rules for when a decision to abort or not is moral or 'right'. Women should be considered the full moral agents, responsible for making moral decisions. The personhood concept or the idea that the fetus is a person is heavily supported and pushed in the abortion debate as a very important question in the resolving of the issue but in reality, even if we accept any of the concepts, when it comes to the real question of making a choice it can be said that in general, we as society value the life of the woman more than the status of the fetus. In the particular case of having to choose between the fetus and the mother, the only reason for admitting the exception of the mother's life is exactly that: she has a life. She lives, while the fetus does not have "a life." It is alive but not a living person [6]. All of the concepts regarding the status of the fetus are problematic and flawed and just make the abortion debate more complex. Putting the focus on the question about the status of the fetus draws attention from the real issue when it comes to abortion which is *"Is it morally or ethically right to force someone to go through an unwanted pregnancy?"* To compel women to bear unwanted children is a form of

ethical despotism. In Mill's words: *"Compelling each to live as seems good to positive rest. If people are to be free, that freedom must include freedom to make these difficult and extremely personal choices. Promotion of freedom and the prevention of suffering are fundamental goals, which society ought to support. Denying woman abortion is, leading woman to reproductive end"* [10].

One of the main problems with the standard perception of pregnancy, where a distinction between the interest of the fetus and the woman is made, is that it fails to take into account the differences in wanted and unwanted pregnancies. As a society we have to acknowledge that the attitude of those involved in a pregnancy is very dependent on the fact whether the pregnancy is wanted or not. Based on that, we need a view which provides a meaningful way to respond to all pregnancies. If we take the ethics of care approach, we can recognize that, in the case of a wanted pregnancy, there is a caring relationship which we value, and the state has a duty to support and protect. However, in the case of an unwanted relationship, the state has a duty to provide abortion to ensure there is no coerced relationship, which would be the antithesis of care. Further, providing abortion, does not necessarily make the act wrong or immoral, it promotes caring relationships – the current caring relationships the woman has; the care for any child the woman later has; and care for herself.

If we have to clear the question about the status of the fetus, I argue that we should regard the fetus as a person once the woman makes a decision to continue with her pregnancy. It follows the ethics of care approach and puts the value on the caring relationship between her mother and her fetus. To quote Joan Tronto *"ethics of care is a set of moral sensibilities, issues and practices that arise from taking seriously the fact that care is a central aspect of human existence...a species activity that includes everything that we do to maintain, continue and repair our 'world' so that we can live in it as well as possible. That world includes our bodies, ourselves and our environment, all of which we seek to interweave in a complex, life-sustaining web"* [9]. The question about the status of the fetus and the idea of personhood should be secondary to the question about the nature of the relationship between the mother and the fetus. What is caring depends on the relationship between the parties, their personalities, and preferences. We should always regard pregnancies as a relationship between the woman and the fetus and address them as one and not try to weigh out their interests. Women cannot be viewed simply as fetus holders they should be seen as the moral agent entrusted with the power to make their own ethical decision based on their relationships and feelings towards the fetus.

### **3. Conclusion**

From what was presented above in regards with the different views and ideas about the status of the fetus we can clearly see that there is no right answer to the question. There are two directly opposing and radical positions that can be identified from the numerous views about the status of the fetus. On one end of the spectrum is the idea that the fetus has full moral status and on the other is the view that the fetus has no moral status. Accepting the idea that the fetus enjoys full moral status implies that we have to protect the fetus and guarantee its rights just like we do with newborns. However, in doing so we limit the autonomy of the mother to make decisions about her own body and this also implies that all forms of abortion are therefore morally wrong. In contrast, if we accept the view that the fetus does not enjoy the moral status of a person it could potentially lead to more than just justifying abortion, it could be used as an excuse for infanticide. Generally, in practice

most agree that neither of these radical approaches are acceptable. In an attempt to find a middle ground and establish a widely accepted position, in most societies the dominant view is the gradualist idea, where in the early stages of development the fetus is not regarded as a person, which allows for early abortions to be permissible and deemed as morally right. Based on this approach the fetus gains its personhood in the later stages of development. But as it was mentioned before, this approach is not perfect either. Giving different degrees of personhood to human beings is impermissible, so the notion of doing so with fetuses is deemed as problematic. The spectrum of different ethical views only shows the complexity of the debate. All of the theories have their own problems and could potentially be very misleading and harmful to society. However, their existence helps us as individuals to understand the range of opinions and different points of view on the issue. It allows us to justify our choice and at the same times makes us aware of the contingency of our decisions.

One way that could potentially help advance the debate on abortion is to abandon the idea that we have to determine the status of the fetus separately. Instead, our idea about the ethical and moral status of the fetus should be based on the nature of the relationship between the mother and the fetus. The fact that a fetus is carried in a woman's body means that even once its identity and moral status is determined there is further work needed to establish a way forward in terms of how to treat the fetus, particularly when a conflict of interest arises. In practice, the main status that it is important to establish is the legal status of the fetus, and in establishing the legal status of the fetus we cannot ignore the extent to which the fate of the fetus is bound up with that of the woman carrying it. Instead of trying to impose a unitary approach on this abstract issue we should trust women to act morally and make choices that they can individually live with. Those who have moral reservations based upon their interpretation of the status of the human fetus will remain free to act in accordance with their conscience and persuasion and at the same time other women will have an alternative option and freedom to act in ways that they find both necessary and ethically permissible.

The nature of this ethical issue allows for it to be subject to other interpretations. This study does not provide a complete in-depth analysis on all theories. It gives a comprehensive overview on the most dominant approaches regarding the status of the fetus. Additionally, It does not analyze the question whether having the moral status of a person is enough to render abortion as morally wrong.

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