

***Should the moral status of the foetus be the overriding consideration when assessing whether or not abortion is morally permissible?***

**Introduction**

The bioethical subject of human abortion is swathed in complexity. Newtonian and Cartesian reductionism and many other traditional ethical modus operandi for attaining clear answers to complex moral questions are inadequate and inflexible.<sup>1</sup> Universal consequentialist or utilitarian stances again are prone to oversimplification, and the adversarial setting of rights, mother against foetus, may result in further suffering, mental or otherwise.<sup>2</sup> I do not believe there is a clear right or wrong answer in all cases. Contexts and openness are relevant and emphasis should be on how to respond sensitively, case by case.<sup>3</sup>

Pain and suffering not only during pregnancy but during any abortion procedure, birth and beyond of mother and/or child needs to be minimised. Very few, if any, cases will be simple, not least in the relationships between all who are involved. The upshot is that the foetus will not necessarily have overriding rights in moral permissibility of abortion in each case. However, it is one of a number of vital facets in the overall *complexity* of the issue of abortion. Without such attention, all human foetuses would be entirely expendable and I do not rationally understand this to be true. I also assert that the longer a foetus develops (gradualism),<sup>4</sup> the more emphasis may be on providing support and care for facilitating birth (although not imperious, depending on the mental and physical risks to either foetus or mother).

I support the normative virtue ethic, Ethics of Care (Gilligan)<sup>5</sup>, and compassion for all involved as a key approach to the decision making process, with the intent to minimise suffering and pain, physically and emotionally. Simple acts of utilitarian benevolence in such circumstances may well be admirable, but fall short, in that happiness is not the driver for intended outcome, instead, less suffering (for mother, foetus or both). Decisions must be reached that all are able to live with into the future. The best that can be done is to facilitate others to find contentment in their own decision (responding not reacting). Finding solutions may also be guided in conjunction with the main constituent facets of Principlism<sup>6</sup>, which offers a tool in seeking wisdom from the best of all approaches and then applied to different points in time and space, within the range-boundedness of each case. In a collaborative process, decisions must encompass liberty, informed choice as well as a broad human implication of placing empathy, compassion and altruism at heart (for foetus and mother).

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<sup>1</sup> Houle, K. "Is our Concept of Moral Responsibility Newtonian?" (March 2010) <<https://vimeo.com/10214488>>

<sup>2</sup> Hursthouse, R. "Beginning Lives" The Open University/Blackwell, Oxford/Cam (1995) p279

<sup>3</sup> Houle, K. "Is our Concept of Moral Responsibility Newtonian?" (March 2010) <<https://vimeo.com/10214488>>

<sup>4</sup> Freckelton, I.R. & Petersen, K.A. "Disputes and Dilemmas in Health Law" The Federation Press, Sydney. p223

<sup>5</sup> Sander-Staudt, M. "Care Ethics" Internet Encyclopedia of Philosophy <<http://www.iep.utm.edu/care-eth/>>

<sup>6</sup> US National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research "The Belmont Report: Principles as set out in Part B: Basic Ethical Principles" (April 1979) <<http://www.hhs.gov/ohrp/regulations-and-policy/belmont-report/index.html>>

I will conclude with advocating moral sensitivity in making decisions whether or not to abort a foetus, but overriding again is *compassion*, and for the right outcomes (rather than a ‘Rights’ argument). In this sense, the moral status of the foetus will not always be the overriding consideration when assessing whether or not abortion is morally permissible. I would also assert checks and balances are necessary (feedback loops on outcomes).<sup>7</sup>

### *Ontology of the human foetus*

To me, there is no doubt that at all stages, from fertilised egg to birth, the developing human in the womb *is* human. Homo Sapiens being a mixture of eukaryote and prokaryote cells and DNA derived originally from other hominidae in the distant past. I also class a developing human as an *individual*, although reliant on the mother for survival up and to around the point of viability\* and so, therefore, a person. Singer rejects, by ascribing *personhood* to individual beings that are both sentient and with a self awareness or rationality<sup>8</sup> ~ thus he believes new born human babies don’t qualify, yet adult great apes do, for example. I argue that babies, even foetuses, are indeed self aware and do rationalise. They have evolved a sense of emotion, ways to communicate preceding language (survival instincts), which can be tied to rational thought.<sup>9</sup> As both mother and baby are persons, therefore, there can be no value-based decision based on disputed personhood.

Will to flourish, of mother and/or baby<sup>10</sup> is a factor not to be ignored. Whether the baby is wanted or not, the mother is the survival system for the baby. Her well-being and ultimate decision is key. But a newborn baby has very strong instincts (for example, in that he/she will look for food immediately after being born, which is more than simply a biological reflex). The compulsion is so strong that a child, if allowed, will wriggle to the mother’s breast. The will to survive is strong and has to be reconciled if a decision is finally made to end the life of the unborn.

One problem, in biological terms, is in choosing a precise point when the unborn person acquires any ‘Right’ to live. One can approach the switching-off of life a support machine to a brain damaged adult in a similar way. There are incremental degrees of consciousness, suffering and viability. For a foetus, there is a stronger likelihood of being assigned a ‘Right’ to live as he/she grows and develops sentience, so long as the mother’s relative health also remains viable. Similarly, there is stronger ‘Right to die, the more damaged a adult person’s brain is, and less likely to recover in any reasonable capacity. The moral status of both mother and foetus are equal, so cannot be relied upon effectively in the decision to abort simply on their own. Responsibility for most compassionate outcome is more pertinent and I shall explore this further below.

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<sup>7</sup> Houle, K. “*Is our Concept of Moral Responsibility Newtonian?*” (March 2010) <<https://vimeo.com/10214488>>

<sup>8</sup> Singer, P., Keynote Address, *Person beyond the Human Conference*, Yale University. (Dec 2013) <<https://www.youtube.com/watch?v=Q1aMcUg2HDU>>

<sup>9</sup> Greenspan P. 2002 “*Practical reasoning and emotion.*” In *Rationality* (eds Mele A., Rawlings P.). New York, NY: Oxford University Press. p 206

<sup>10</sup> Schopenhauer, A “*The World as Will and Representation*” Christopher Janaway Cambridge University Press, 28 Oct (2010) bk.1, chap. 21

## *Complexity*

The moral problem of abortion may be viewed as a complex system of agents, values, collective behaviours, relationships and interaction with environment. A human being is of course, a complex biological system, but also dynamic, with consciousness emerging or in tact and existing within other complex systems such as ecologies, socio-political and economic paradigms. A human being is also part of a cultural existence. In this sense, there must be some relativity between different approaches. All are part of Earth's biosphere, the solar system, galaxy, and so on. And all of which are also subject to change. A foetus is, indeed, valuable as a sentient living being with a will to flourish, though 'willing' along with all interconnected organisms in the web of life here on Planet Earth (so far, the only planet we are sure hosts life as we know it).

Houle rejects reactivity and rationalism in response to ethical issues and I agree. The field of complex systems focuses, instead, on certain questions about parts, wholes and relationships and facilitates understanding of both direct and indirect effects. A similar approach, though not mathematical, can be adopted to inform moral complex decision-making in bioethics and beyond.

Range-boundedness of such a complex system is relevant. The question of abortion is often dictated by society, law and religion, at a macro level. But foremost, human pregnancy, motherhood and abortion are deeply personal issues, intensely emotional and each case unique. However, in Western society they also fall within the boundaries/scope of family medicine and general practice, rationally, emotionally and ethically. This is not to limit abortion as merely a medical issue, but encompass those individuals in the system of advice leading towards decision making and facilitating that decision.<sup>11</sup>

Three questions can be asked on complexity, which are all inter-related. How do interactions give rise to patterns of behaviour? Which way do we describe any given complex system, and what are the processes of complex systems through pattern formation and evolution? Complexity theory provides sophisticated tools; concepts that help thought processes, greater in-depth analysis, and computer models. Mind maps may provide similar, though less impersonal, visualisations of actors, relationships, choices and outcomes via the use of symbols and language for the purposes of procuring some delineation within a specific range-boundedness in an otherwise subsuming process. Key is that these methods are tools in assisting the mother determine the best outcome in her particular circumstances, which may or may not lead to a termination of the pregnancy, and therefore, the death of the foetus.

## *Liberty and Justice*

Houle cites post-structuralist Derrida on responsibility, and in doing so relates to a foundational notion of sovereignty or individual liberty. A person must be free and responsible for their decisions and acts for there to be a sense of real justice. Yet freedom really means operating 'within rules.' A just decision goes beyond law.<sup>12</sup> A person must obey rules, but in doing so re-enforces or "re-institutes" that rule as one would formulate a synthesis in a Hegelian dialectic. Laws are sometimes broken yet proven to be inadequate through being tested, so each case and each decision is unique. The

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<sup>11</sup> In a compassionate society, back-street abortions should be unnecessary because women deserve proper medical and psychological help in making any decision and in carrying out abortions.

<sup>12</sup> Rosenfield, Carlson, Cornell. "*Deconstruction and the Possibility of Justice.*" Routledge, Oxford. (1992) pp. 22-23

same concept may be applied to unique decisions to abort (or not abort) a foetus, morally and legally. Each case may be looked at uniquely.

“One of Derrida’s ideas is that ethics is ‘im-possible.’ You need that hyphen in the word – ‘im’ and ‘possible.’ By that he means we can never actually get ethical life right, but we have to try to anyway,” explains Houle. “Our lives are difficult and complex, and we have blind spots and only partial understanding of many things, yet we are still capable of being committed to doing the right thing.”<sup>13</sup>

Tough, complex decisions themselves may be informed by (and may inform), hard science on questions of mental/biological health, or sentience of both mother and foetus e.g. when does a foetus begin to feel pain?<sup>14</sup> They may also be informed by pluralistic values, particular moralities, in relation to family and friendships, laws, reforms and community support and practice. But each final decision is unique to each specific set of actors. It is only fair that facilitating responsibility and, therefore, freedom of the final decision is respected and not abused. There will also be an acceptance of outcomes with such responsibility, whether abortion has been carried out or not, and consequences reviewed, not in any philosophical utilitarian sense, but in so much as to allow feedback loops, reviews, affirmations or complaints et al, for all those involved, advancing, perhaps, towards “coherence and consensus”<sup>15</sup> via a “Reflective Equilibrium” (Rawls).<sup>16</sup> In this way also, carers might learn from experiences and be ready to improve on listening, advice, support, care and compassion for mothers and foetuses who follow, and to help mothers in acceptance of decisions taken either way.

## Ethics of Care

An alternative to justice as all-persuasive within the sphere of liberal human rights, Gilligan’s Ethics of Care<sup>17</sup> offers a more empathetic approach, placing in context the wellbeing of care-givers and care-receivers.

“It builds on the motivation to care for those who are dependent and vulnerable, and it is inspired by both memories of being cared for and the idealizations of self. Following in the sentimentalist tradition of moral theory, care ethics affirms the importance of caring motivation, emotion and the body in moral deliberation, as well as reasoning from particulars.”<sup>18</sup>

<sup>13</sup> Interview of Professor Houle, K. by Pitman, T., University of Guelph, Canada. (2014) <<http://news.uoguelph.ca/2014/05/prof-takes-philosophical-approach-to-abortion/>>

<sup>14</sup> Report by Royal College of Obstetricians and Gynaecologists “Fetal Awareness: Review of Research and Recommendations for Practice” (2010) <[<sup>15</sup> Kenny, A. “\*A New History of Western Philosophy\*” Clarendon Press, Oxford \(2012\) p 976](https://www.rcog.org.uk/en/guidelines-research-services/guidelines/fetal-awareness---review-of-research-and-recommendations-for-practice/?_t_id=1B2M2Y8AsgTpgAmY7PhCf%3d%3d&_t_q=fetus+pain&_t_tags=language%3aen%2csiteid%3a39338ee9-cb61-4e10-a686-8f4a5e1b76d7&_t_ip=51.6.106.156&_t_hit.id=EPiServer_Templates_RCOG_Models_Pages_GuidelinesDetailsType/_29edb86d-7fb3-4b50-be78-99b60b6991ec_en&_t_hit.pos=2></a>></p>
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<sup>16</sup> Singer, P. The Monist Vol. 58, No. 3, “*Sidgwick and Moral Philosophy*” (JULY, 1974), pp. 490-517 <[http://www.jstor.org/stable/27902380?seq=1#page\\_scan\\_tab\\_contents](http://www.jstor.org/stable/27902380?seq=1#page_scan_tab_contents)>

<sup>17</sup> Gilligan, C. “*In A Different Voice*.” Cambridge, Mass.: Harvard University Press (1982)

<sup>18</sup> Sander-Staudt, M. “*Care Ethics*” Internet Encyclopedia of Philosophy <<http://www.iep.utm.edu/care-eth/>>

Every case will be unique in terms of the individuals and relationships involved, age and their experiences, circumstances of pregnancy and potential futures. Ethics of Care does not purely relate from a feminist perspective, but none-the-less, it is critical of male bias to date, and offers a compassionate approach to finding solutions to include all the persons involved.

Gilligan explains,

“As an ethic grounded in voice and relationships, in the importance of everyone having a voice, being listened to carefully (in their own right and on their own terms) and heard with respect. An ethics of care directs our attention to the need for responsiveness in relationships (paying attention, listening, responding) and to the costs of losing connection with oneself or with others. Its logic is inductive, contextual, psychological, rather than deductive or mathematical.”<sup>19</sup>

Houle proposes the whole subject of abortion requires compassion and care in order to facilitate inescapable responsibility.<sup>20</sup> The compassion and care extends to both mother and foetus of equal status in the decision making process, with any final choice being carried out with least pain and suffering (emotional or physical) to either mother or foetus.

## Principlism

An important approach in bioethics or medical ethics is the four-principle approach, or Principlism (Beauchamp, Childress 2009). The Four key ethical components are autonomy, non-maleficence, beneficence and justice. The idea is that a common morality may be found in balance, which is universal, as opposed to particular.

Despite the immediate assumption that this approach leads to fixed common moralities, I do not feel Principlism should be discarded only that common moralities may not be automatically imposed, causing more suffering than is necessary. Beauchamp and Childress address this concern by extrapolating methods of specification and balancing to enrich each case, with empirical data from the particular moralities. The method of specification is, according to Beauchamp,

“a methodological tool that adds content to abstract principles, ridding them of their indeterminateness and providing action-guiding content for the purpose of coping with complex cases. Many already specified norms will need further specification to handle new circumstances of indeterminateness and conflict.”<sup>21</sup>

Measuring values in some semblance of balance is important for decisions/judgments in unique circumstances. Since the particular moralities are different, actors sometimes specify and balance the principles differently, and hence Principlists often claim “that there can be different and equally good solutions to moral problems,”<sup>22</sup> each case being unique. Thus, it offers a supportive framework in circumstances where the moral status of both mother *and* foetus is taken into account.

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<sup>19</sup> Webteam, Ethics of Care ~ “Interview” of Gilligan, C. June 21st, 2011 <<http://ethicsofcare.org/carol-gilligan/>>

<sup>20</sup> Houle, K. L. F. “*Responsibility, Complexity, and Abortion: Toward a New Image of Ethical Thought*” Lanham, Maryland: Lexington Books (2013)

<sup>21</sup> Beauchamp T. L. & Childress, J. f., “*Principles of Biomedical Ethics, 6th Edition.*” Oxford: Oxford University Press (2008) p 301

<sup>22</sup> Gordon, J.-S., Rauprich, O. & Vollmann, J. “*Applying the Four-Principle Approach*” Bioethics, 25(6) (2011) p 299

## Conclusion

The moral status of the foetus is an important factor, but only in that it is equal to that of the mother. Both mother and foetus, I have asserted, have *personhood*, so the question becomes one of who requires the most compassion, not only in the short term but in the medium and long-term too. It does not necessarily follow that the moral status of the foetus will, therefore, be the overriding factor. More important still is the sensitivity, *compassion* and responses to each individual case and in the mother coming to her final decision and being able to live with it either way. Complexity theory, Mind Maps and Principlism are offered to facilitate individual decision making processes.

Each case is complex yet limited by a range-bounded-ness as opposed to an unlimited essential range, whereby abortion/non-abortion can be seen as closed 'space,' with a solution and outcome based on those directly effected by any decision in the short to long term. Complex cases may encompass personhood, relationships, support, poverty, ill-health, sexuality, fertility, viability, disability, violation (rape/incest), amongst many other constructs.

Not only should we recognise the moral status of the foetus as compared to the mother (and others, including father, other family members, medical staff et al), but also the idea of compassion in relation to finding workable solutions which will reduce suffering. Pro-Life, Pro-Choice arguments, religious and secular, can be fraught with emotion from all sides. In a sense, neither offers care and compassion to either the mother or an unwanted child, because the disputes between both sides cause more suffering to those in a predicament in need of love and support.

Complexity theory, Mind Maps, Ethics of Care and Principlism offer ways of clarifying, responding whilst recognizing compassion as an ethically relevant issue. Caring can be viewed as a social responsibility of both men and women. It is no wonder that Gilligan references Hume as one of her inspirations, and his work on the meaning of sympathy.<sup>23</sup> As a virtue, sympathy may give rise to love and that moral approval is itself a 'species'<sup>24</sup> of love. And love itself is good.

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## Bibliography

- Beauchamp T. L. & Childress, J. f., "*Principles of Biomedical Ethics, 6th Edition.*" Oxford: Oxford University Press (2008)  
 Campbell, R & Collinson, D. "*Ending Lives*" The Open University/Blackwell, Oxford/Cam (1995)  
 Gilligan, C. "*In A Different Voice.*" Cambridge, Mass.: Harvard University Press (1982)  
 Houle, K. L. F. "*Responsibility, Complexity, and Abortion: Toward a New Image of Ethical Thought*" Lanham, Maryland: Lexington Books (2013)  
 Hursthouse, R. "*Beginning Lives*" The Open University/Blackwell, Oxford/Cam (1995)  
 Kenny, A. "*A New History of Western Philosophy*" Clarendon Press, Oxford (2012)  
 Rosenfield, Carlson, Cornell. "*Deconstruction and the Possibility of Justice.*" Routledge, Oxford. (1992)  
 Schopenhauer, A "*The World as Will and Representation*" Christopher Janaway Cambridge University Press, 28 Oct (2010)  
 Singer, P. "*Practical Ethics 3rd Ed*" Cambridge University Press, Cambridge, US (2011)  
 Tooley, M. "*Abortion and Infanticide*" Oxford University Press, Oxford. (1985)

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<sup>23</sup> Cohon, R. "*Hume's Moral Philosophy*", The Stanford Encyclopedia of Philosophy (Fall 2010 Edition), Edward N. Zalta (ed.), URL = <<http://plato.stanford.edu/archives/fall2010/entries/hume-moral/>>.

<sup>24</sup> Korsgaard, C. M. "The General Point of View: Love and Moral Approval in Hume's Ethics" Hume Studies Volume XXV, Number 1 and 2 (April/November, 1999) 3-42. <<http://www.humesociety.org/hs/issues/v25n1-2/korsgaard/korsgaard-v25n1-2.pdf>>