

Vulnerability, Dependence and Abortion: A Reply to J.J. Thomson

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ABSTRACT: Judith Jarvis Thomson's "A Defense of Abortion" imprinted pro-choice thinking for a generation and continues to exert influence over contemporary pro-choice culture. To a large measure it is Thomson's remarkable analogies that explain this sustained interest. They illustrate moral intuitions that appear to support abortion for all sorts of reasons, most of which have nothing to do with safeguarding the mother. No doubt her popularity comes from her conception of the origins of moral obligations, viz., that obligations only come from our informed and free consent to them. If a woman has not consented to becoming pregnant, she has no obligation to provide care for her unborn fetus. Thomson thinks that there is only a short step to justifying abortion. I respond to Thomson by examining two of her most compelling cases – the "violinist" and "people seeds" arguments. I offer counter-analogies that exemplify alternate moral principles regarding our obligations toward others.

JUDITH JARVIS THOMSON'S LANDMARK ESSAY "A Defense of Abortion"¹ has a persistent and timeless significance. The success of this essay in shaping a defense of abortion is due in large part to her powerfully persuasive analogies and her unusual tactic of granting to a fetus the same status and rights that any other person enjoys.

Thomson offers several different arguments in defense of abortion, including one based on self-defense. Her principal aim, however, is to defend elective abortions where there's no threat to the life or health of the woman. Her case rests on the principle that in the absence of a woman's free and informed consent to becoming pregnant, she has no obligation to provide care to her unborn fetus. From that conclusion she

¹ Judith Jarvis Thomson, "A Defense of Abortion," *Philosophy and Public Affairs* 1 (1971): 47-66, available at <http://www.jstor.org/stable/2265091>.

thinks that it is a short step to justifying abortion. I want to offer a sketch of two core arguments she provides in defense of elective abortion and then offer some counter-analogies aimed at rebutting her position.

The first argument Thomson offers is her famous violinist analogy. It establishes in a compelling way her point about the need for informed consent in becoming pregnant by appearing to duplicate the conditions of a coerced pregnancy. In this violinist analogy we are asked to imagine someone unwittingly captured and coerced into providing life-saving blood to a world famous violinist through tubes that transmit one's own blood to his. Thomson questions whether a person forced into that life-saving role is obliged to remain connected and completely to surrender one's liberty. She challenges the reader to answer whether the right to life means that one must go along with being kidnapped and coerced into saving a life. Doesn't it seem obvious that an individual under such circumstances has a right to disconnect herself from the violinist even if doing so would result in the violinist's death?

One is hard pressed to resist the obvious conclusion to which the violinist analogy leads. It seems clear that one could rightly detach oneself under these conditions, even if by doing that one knew that it would result in the death of the violinist. After all, rendering life-saving care was imposed, not chosen. There was no prior consent to the plan. Thus, there seems to be no duty to bring one's life to a complete halt to continue providing such care.² By analogy, then, Thomson argues that a woman who is pregnant by coercive means such as rape or incest has no duty whatsoever to render care to her unborn fetus, even if it is a person and has a right to life. Since the woman did not consent to sexual intercourse or to become pregnant, the woman has no duty to provide care.³ Thomson concludes that just as detaching oneself from the

² "A defense of Abortion," p. 55. Thomson explains: "For nobody has any right to use your kidneys unless you give him such a right; and nobody has the right against you that you shall give him this right -- if you do allow him to go on using your kidneys, this is a kindness on your part, and not something he can claim from you as his due."

³ *Ibid.*, p. 57: "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

violinist would be permissible, even though it results in his death, so too abortion in instances of coerced pregnancy is permissible. Even though the fetus and the violinist are persons who have a right to life, that right does not entitle either to coerced care from another.

How might one respond to Thomson's argument? Her analogy is persuasive and at first glance seems to establish her conclusion. However, it has a serious flaw – indeed, several flaws. In the first place, it blurs a crucial distinction between what happens in the violinist case and in a typical abortion. Detaching oneself from the violinist by removing tubes is a different path to death from a procured abortion, which typically involves dismembering or chemically poisoning a fetus. Detaching is not, as such, a lethal action, even if in some cases it results in death. Dissolving a person's body or hacking it to bits are lethal actions. There is a possibility, at least, that the detached violinist might somehow survive. Survival of a fetus, after being sliced into bits or dissolved, is ruled out.

Further, since Thomson grants that the fetus has the same status and rights as the rest of us, the violinist strategy only works by blurring what actually happens in an abortion. It is this blurring that forms the core of the problem with her analogy.

To make this point clearer, try modifying Thomson's analogy to resemble more accurately what happens in abortion. Instead of merely detaching tubes from your arm, suppose the only methods of escape required you to hack the violinist into bits or chemically dissolve his body while he lay there. Ask yourself: Are those methods of escape the same as merely detaching? Of course, the results are the same, but same results do not entail sameness of actions. So, would dissolving or slicing into bits be permissible methods of escape from the violist?

There is another problem about this analogy as well. If it defends abortion at all (as opposed to non-lethal detaching), it defends abortion only in instances of *coerced* sexual intercourse. Since most of the data shows that only a fraction of abortions are chosen because of rape and incest, this argument is not all that relevant since it does not really address the realities of elective abortions where no coercion was

world, to whom a woman who wants a child says 'I invite you in.'"

involved in pregnancy.⁴

What does Thomson say about abortion in cases where pregnancy results from *consensual* sexual intercourse? Intuitively, one might think that there is an important difference between consensual and coerced pregnancy. After all, it is not irrational to think that if a woman willingly engages in sexual intercourse, knowing that pregnancy might occur, she might have given *de facto* consent to her pregnancy. The presence or absence of voluntariness in performing an act is enormously significant and can lead to different responsibilities and obligations.

So, even if there is some reason to believe that it is permissible to extricate yourself from a coerced life-saving role, it is quite another matter when you freely place yourself in that role. For that reason, one might think that aborting a fetus produced through informed and consensual sex is morally problematic. Because on Thompson's view the fetus is a person, it would appear that abortion under such conditions breaks or abandons a serious and freely self-imposed obligation to care for one's unborn child.

Does pregnancy resulting from voluntary sexual intercourse mean that a woman has implicitly consented to keep and care for her unborn child? Thomson says no and rejects the line of reasoning that leads to that conclusion. She argues that, even in cases of pregnancy resulting from freely chosen sexual intercourse, a woman still has the right to seek an abortion. Thomson defends this by getting us to consider contraceptives and a woman's motives for choosing them.

When contraception is used, Thomson argues, a woman is signaling her lack of consent to become pregnant. Even though a woman realizes there is a possibility of pregnancy, the fact that she uses contraception is proof that she refuses to become so. Hence, in cases of contraceptive failure, a woman has not accepted any obligation to care for a fetus and so abortion is permissible.

It is worth noting that on her reasoning there is probably reason to believe that abortion is permissible whether or not contraception is used. For a woman can withhold consent to becoming pregnant in other ways. As long as she does not want to have a child as a result of sexual

⁴ In my home state of Minnesota, for example, such cases represent a little over 2% of the total number of abortions performed.

intercourse, it would appear (by Thomson's argument) that she does not give her consent.

To illumine and persuade the reader of her contraception argument, Thomson offers another interesting and compelling analogy. She asks us to imagine a world where children come to be from "people seeds" that float about and sometimes take root in one's carpet or upholstery, where they eventually grow into children. In this world people will want to open their windows in order to breathe fresh air. They know, however, that by opening a window a people-seed might enter and germinate. Wanting fresh air but wanting also to prevent one of these seeds from entering one's home, people naturally choose to screen their windows. The screen is analogous to contraception.

If a people-seed managed to enter a home, despite a homeowner's efforts to prevent that from happening, Thomson questions whether the home-owner should be thought to have consented to having a people-seed enter and germinate. In other words, when homeowners have taken deliberate steps to prevent people-seeds from invading their homes, does opening a window constitute their consent to have one enter and germinate? The answer seems pretty clear. Voluntarily opening a window after one has screened it does not constitute consent to having a people-seed germinate in one's home. In fact, Thomson reasons, screening windows signals a decided refusal of consent.

This example captures the core motivation for engaging in sexual contraceptive intercourse. People want to enjoy the pleasures and intimacy of sex – of "opening the window" – but they want to avoid its predictable but unwelcome result – an uninvited resident. So, they choose a contraceptive screen.

Having argued that opening a window signals no consent to the entry of people-seeds, she then concludes that a homeowner has no duty to supply sustenance or care if a people-seed should enter and take root. By analogy, since the woman's use of contraception signals her refusal to consent to care for a fetus, a woman has no duty to supply care to it. She can order the intruder out. For Thomson, that also means that she can have it forcibly and lethally removed by abortion.

What are we to make of this argument? One cannot help wondering at the other-worldly nature of her people seed analogy. This, as well as the violin analogy, ignores a significant fact, viz., that there is a mother-

child relationship in pregnancy where no familial relationship exists between a given individual and a world-famous violinist or a people-seed. Surely, that relationship matters. Recall, she agreed at the start that the unborn is as much a person as anyone else, so the developing fetus is that woman's child.

The strength of the "people-seed" argument, as with the violinist case, hinges on the notion of prior consent. Only when one consents to perform some service to another is one obliged to provide it. No such consent is given when using contraception, and presumably other forms of refusal, so there is no obligation to carry the fetus to term. Abortion, it seems, is justified.

Given these arguments, how might one respond? I want to offer a few analogies of my own. It is important to realize that, however otherworldly or unreal her analogies are, they offer a hidden value. They give permission to others to employ different analogies, even unlikely ones, as a way to think differently about sex, contraception, and abortion. So here are two analogies that counter Thomson's.

First Analogy: Baby Drop Program

This first analogy begins with something that actually happens. We have begun to see legislation in America that allows individuals to drop off infants at hospitals anonymously and with impunity. Although abandoning one's infant is normally treated as a punishable offence, this legislation is aimed at safeguarding newborns from neglect, maltreatment, or death, rather than focusing on punishing persons who abandon them. Imagine, then, a society where lots and lots of infants are dropped off, so many that it becomes a problem of finding suitable placements for them. So, the government develops a baby-drop initiative where it pays couples a monthly sum merely for providing foster care to such infants whenever needed. Suppose that additional monetary compensation is provided to couples, say a monthly stipend for their service.

Along comes an enterprising couple who decides to join the baby-drop program but solely for its financial benefits. Privately, they have an aversion to caring for infants and have absolutely no interest or intention in taking one in. The couple wants the money that comes from joining the program but also wants to make certain that they never have to care for any infants. So, they devise a strategy that simulates their

willingness to care for abandoned babies but ensures it will never happen. They register for the baby-drop program and then surreptitiously publish fake ads in local publications and online with false contact information. In this way no one in need can find them. Their strategy works and the couple collects a pretty good income. Life is good.

Project ahead a few years into this happy arrangement to one cold winter evening when the couple hear a knock at their door. They open it and find on their doorstep an abandoned infant with one of the couple's ads pinned to its blanket. Furious, the couple try to figure out how this could have happened, given their careful efforts at misleading anyone who wants to drop a baby at their home. The baby cries and as the reality of the situation hits them, they wonder what to do. The question is, what may they do about it?

May the couple throw the baby off their doorstep onto the ice-covered street and close the door? May they take and kill the child in order to avoid caring for it? Or, do they instead have a responsibility to provide care for the baby?

It seems that using Thomson's contraception argument, the couple could reason in this way: "Look, we never wanted an infant and had no intention ever of actually welcoming a baby into our home. Our participation in the program was only for the money. Sure, we sent out notices, but we did our best to ensure that they would never be traced back to us. We falsified our advertisements in order to *screen* out the possibility that anyone would ever deliver a baby to our home. That we did our best to prevent a child is clear evidence of our refusal to welcome an infant into our lives. Therefore we have no duty to supply care to it now. As far as we are concerned the child can die. Indeed, we are within our rights to have it killed in order to rid ourselves of an unwanted burden."

The reason why the baby-drop analogy is relevant is that it exactly mirrors the relevant conditions of Thomson's contraceptive people-seed analogy. In fact, the baby-drop analogy more closely resembles contraceptive intercourse. For, as in the baby-drop case, intercourse (including contraceptive intercourse) can be accurately described as an "inviting" activity. Sexual activity is precisely what causes new human life. It is an invitation to someone. Contracepting couples might not have

much interest in welcoming an infant into their lives, but what they choose to do is precisely a child-creating action. Of course, the motives for sending an invitation are different in the cases of contraceptive intercourse and the baby-drop scam (pleasure versus money), but that does not detract from their core similarity. In both cases couples choose to perform a desirable action that naturally leads to a child, and yet hope and try to ensure that one never arrives.

Now, if you think that the couple in the baby-drop analogy has an obligation to provide shelter to the infant at their door, even if they did all they could to prevent a child from ever arriving, then something is amiss with Thompson's people-seed analogy and with her consent argument. For, the couple freely entered into the baby drop program but did so while at the same time signaling that they did not consent to host any infants, because they did everything in their power to ensure that their offer would never be taken up.

Someone might object to comparing the baby-drop case to Thomson's people-seed analogy because the latter does not involve inviting a child into a home. One might try to argue that in the baby-drop case, the couple expressly states their willingness to host an infant, despite their attempts at ensuring that it never happens. The people-seed analogy (and by analogy, contraceptive sex) involves no such declaration. Indeed, as contraceptive sex, if it makes a statement at all, it is a refusal to accept pregnancy.

Granted, the cases are different in some respects; however, the important question is not whether the baby-drop case is sufficiently similar to the people-seed analogy, but which of these analogies more accurately captures what happens in pregnancies due to contraceptive failure. To answer that, consider an important difference between these analogies. The people-seed analogy connects two events that are only *incidentally* related – opening a window and the coming to be of a human being. There is no *causal* relationship between opening windows and procreation. There is nothing intrinsically baby-making about opening a window, nothing that suggests that you are inviting someone to enter your home. That is precisely why it is persuasive in defending abortion.

The baby-drop analogy, however, is different in precisely the way that captures contraceptive sex because it involves an activity of inviting

– of sending out invitations, albeit garbled and disfigured ones – but not wanting anybody to answer them. Sexual intercourse is intrinsically related to having a baby dropped at one’s home. Its structure is reproductive – why else use contraceptives? This is why contraceptive sex is more analogous to freely agreeing to serve in the baby-drop program for its rewards, but not really meaning it. Even if a couple does their best to mangle or interfere with the invitation they send, through their use of contraception, they are still sending an invitation. In that sense, this analogy expresses a reality about contraceptive sexual activity that the people-seed analogy does not.

To appreciate the similarity of this comparison, consider a related case: Suppose a woman is contacted by a lawyer and informed that, as the sole living relative of a wealthy uncle, she qualifies for an enormous inheritance that includes a very large sum of cash and a mansion located in a remote but attractive area. There are, however, conditions that come with the inheritance. The deceased uncle willed that the inheritor must agree to host a lavish, month-long family reunion once a year at the mansion in January. If the inheritor does not agree to these terms, the estate is to be donated to charity. Realizing that it is impossible to guarantee family attendance at a reunion, the will also stipulated that the inheritor would be allowed to live in the mansion and receive a handsome remuneration for merely sending out invitations to the reunion. That way, as a reward for her efforts at bringing family together, she would receive a yearly stipend whether or not those invited actually show up for the party.

Suppose too, that the woman is unhappy with these terms but nevertheless wants to live in the mansion and have access to the money. So she devises a plan. She agrees to the terms, lives in the mansion, and sends out invitations that result in her receiving a handsome reward for each one sent. However, she does her best to insure that the invitations never reach their destinations. She manipulates, disfigures, and otherwise ruins each invitation before it is sent. Some are not stamped, others have wrong addresses, others are addressed in indecipherable handwriting, some contain empty envelopes. You get the idea.

Months and then years pass. Cash flows in on a regular basis, and life in the mansion is good. One bitterly cold New Year’s Day, however, there is a knock at her door. The woman opens it to discover a young,

poorly dressed and shivering girl standing at her door. The girl pulls out a wrinkled and dirty envelope from her pocket, holds it forward in a shaking hand while explaining that she is a distant cousin and has spent everything in order to attend the family reunion. She also says that she has nowhere to go for the month and no means of supporting herself. What do we think the woman may do about the girl at the door? May she close the door on her, leaving her die of hypothermia? May she kill the girl to avoid an unwanted burden? Or, does her garbled and reluctant invitation impose an obligation on the woman to render care to her?

We do not know what Thomson might say about these counter-analogies, or whether she sees an obligation applying either to the couple in the baby-drop program or to the woman in the inheritance example. We do know, though, that she would not object to these comparisons merely because they involve a baby and a young girl where the people-seed case involves a fetus. Remember, Thomson makes a point of stipulating that even in her people seed analogy, she is willing to allow for the sake of argument, that a fetus is a person having the same rights as any other person.

Further, recall that Thomson argued that since a woman using a screen does not consent to having a people-seed enter her home, she had no obligation to render care to it, despite its entering as a result of what she chose to do. The baby-drop and the inheritance analogies replicate those conditions, and so it would appear to lead to the same conclusion: that there is no duty to render care to, or shelter those who show up as a result of being invited. It seems as though Thomson's consent principle permits them to close the door on their invited guests, even if that meant that they died of exposure. It might also permit them to seek the death of these invited but unwelcome guests.

Yet, these conclusions are inhumane. No morally mature person would shut an infant out in the bitter cold and leave it to die merely because one did not first consent to care for it. It is implausible, therefore, to think that the couple has no duty whatsoever to supply care to the baby under these circumstances. Sure, they tried their best not to host a baby. Sure, they did all that they could to insure that no invitation was accepted. But it was their action of *inviting*, however defective, however obstructed, however insincere that brought an infant to their door.

The same considerations apply to the inheritance example. Inviting someone just is consenting to care for another, and doing that imposes an obligation to honor the invitation. Refusing to shelter a baby violates the couple's freely consented agreement to care for it. Contraceptive sex is an *inviting* activity that a couple immediately tries to revoke. Abortion as a remedy to contraceptive failure is wrong, even on Thomson's terms. It violates the principle that one has a duty to fulfill obligations one freely accepts. It is immoral precisely because it reneges on an invitation. Using Thomson's principle, formally it would like this:

- (1) We have duties to care for others if and only on condition that we have consented to do so. (This is Thomson's "C" principle.)
- (2) Issuing an invitation to someone to shelter and care for him is to consent to care for him.
- (3) Thus, issuing such an invitation imposes the obligation to care for him.
- (4) Engaging in voluntary sexual intercourse, even contraceptive intercourse, is essentially issuing an invitation to a fetus to provide it shelter and care.
- (5) Thus, engaging in voluntary sexual intercourse, even contraceptive intercourse, imposes the obligation to continue a pregnancy and to provide care for one's fetus.

The baby drop and the inheritance analogies show that contraception does not rid a woman of the obligation to care for her unborn fetus. These analogies do not address, however, whether abortion is permissible in cases where pregnancy results non-consensually, as in rape and incest. I want to offer a different analogy, even more improbable than those we have considered, in order to show that the principle underlying the violinist argument is faulty. We sometimes have duties to supply care to others even when we do not give our prior consent to do so.

Second Analogy: The Stowaway

Imagine a future time when space travel has become commonplace and available to everyone. In this future, personal spacecrafts are capable of making long voyages lasting months without interruption. They are able to carry sufficient food, oxygen, and fuel onboard for

extended periods. Now, a young man decides to take a long, uninterrupted and solitary trip into space. He programs his ship for a nine-month trip that cannot be interrupted once it starts. As soon as he pushes the “go” button, he is off on his solo trip, no matter what.

Prior to his departure, he endures a dockside bon voyage party with family and friends. Unknown to him or others, one of the guests, a five-year-old niece, surreptitiously enters his ship, hides, and eventually falls asleep under a pile of his gear and belongings. The party ends, the family and guests leave, and our young voyager blasts off. Autopilot takes over and his journey of self-discovery begins. Hours later, the little stowaway wearily awakens and climbs out from her hiding place. The young man, surprised and angered by the discovery, rebukes her for stowing away.

Because he is unable to override the autopilot, he realizes that he cannot turn back or drop her off somewhere along the journey. Fortunately, there is sufficient air, food and fuel – plenty for both of them for the entire voyage. So, allowing the girl to stay aboard for the duration of the trip does not pose mortal danger to anyone. But it seriously upsets his plans, invades his privacy, and will take an emotional toll. What may he do about it?

He has only two options. He can accept the situation and put up with his uninvited niece for the entire trip, even though it is a serious imposition. His other option is to use the ship’s small airlock, through which compacted refuse is released into space, in order to remove his niece. Given his superior size and strength, he could dissect the niece, piece by piece, and eject her through the airlock. Doing that would restore his privacy and allow him to continue on his trip unburdened. It would also require him to cause her immediate death. Since he never gave his consent to her presence or to care for her, may he reclaim his privacy in this way and continue his solitary voyage?

What might Thompson say about this analogy? It has many similarities to her violinist analogy. In both cases, someone is imposing. In both cases, the dependent person has no right to receive care. In both cases, someone is unwittingly placed in a situation (at least initially) of being coerced into providing aid and sacrificing privacy. Real and personal suffering is inflicted without prior consent. To this extent the cases are the same.

It appears from what Thomson argues that even if the five-year-old girl happened to be a niece of the young man that would not really matter, since that relationship does not give her any special right to be in the craft. The central fact for Thomson is that the young man never consented to a having this young girl along as a passenger. He has been coerced into this situation. Her presence burdens him for nine months. Therefore the principles used in Thomson's violinist analogy would appear to provide him with the moral right to dissect and eject pieces of the young girl out of the airlock, for there is no other means of escaping the burden.

We can see an important difference by asking which of the two analogies, the violinist or the stowaway, better captures the essential features of non-consensual pregnancy? There is evidence to think that the stowaway analogy is more accurate for several reasons. In the first place, in this analogy [as in rape or incest] a child is imposed upon someone without consent, but it happens through no fault of the child who intrudes. The five-year-old girl is not old enough to grasp the meaning of her wrongful action. All the more, then, a fetus has done nothing to contribute to a pregnancy and does not understand how or why it came to be. The fetus cannot grasp the wrong that has been done to a woman through rape or incest, but it did not commit it.

It is different in the violinist analogy. We imagine that the violinist is part of the conspiracy, or at least a cooperator. A fetus could never be part of a conspiracy to coerce another. Even if the violinist were unwittingly coerced into the kidnaping, and not a party to it, he could decide to detach himself once he came to realize that the woman had been coerced into giving care to him. The fetus has no such capacity for action.

There is another reason to prefer the stowaway analogy. A pregnancy program cannot be undone once it starts. There's no going back, no undoing it. As in the stowaway analogy, to 'remove' the child means killing it.

There are two further critically important aspects of the stowaway analogy that commend it. First, in the violinist analogy, the woman's life is completely hijacked and she is imprisoned on a gurney. Pregnancy, for the most part, is not like that. Like the stowaway example, in pregnancy life can be lived, and there is plenty of food, oxygen and

water for all.

Second, detaching, which is the means of liberating oneself from the violinist is not nearly what happens in an abortion. The stowaway analogy, because it involves cutting the girl into pieces as a way to remove her from the ship, matches much more closely to what transpires in an abortion.

So, what may the uncle do with his stowaway niece? No doubt, he is not obliged to be happy about her presence. Nor has he a duty to be gracious about the situation. He could refuse to play with her, to read to her, or even to speak to her. But does he have the right to evacuate her, bit by bit, by causing her immediate death, merely because he did not consent to her presence and because that is the only way for him to regain his privacy and resume his project?

There are only two ways to answer this. Either he has the moral right to dissect and eject her out of the ship or he does not. If one believes that he does have that right, then one is also committed to supporting a much larger set of lethal actions, including infanticide and patricide. In other words, the moral right to kill expands to any circumstance when dependents rely on us for life but for whom we have not expressly given our consent to render care. If we think it permissible to use deadly means to enforce our right to our liberty and our right to privacy against other humans, when deadly means are the only way to exercise those rights, then we must accept that we are also entitled to do this every time we find ourselves imposed upon by others, relatives or not, even temporarily. That is the logical conclusion of the violinist example.

Now, of course, someone might argue that there are always non-lethal ways to free ourselves from having to care for others. But, suppose for a moment, there are not. You find yourself forced to care for someone in circumstances that prevent you from ridding yourself of that person. Suppose that it is not just days but weeks. You are stranded in a war zone or in a disaster area and find yourself burdened by a young child who insists on staying at your side. Is there any limit on what you can do to others to rid yourself of the burden of providing them care? Are you entitled to kill anyone if that would be necessary to free yourself from helping them?

The only other alternative is to grant that the young man in the

stowaway analogy does not have the moral right to remove his uninvited companion by killing and dismembering her. If you think that, then it means that prior consent is not the *only* source of obligation regarding our treatment of others. If the young man has the obligation to not kill but instead must render basic care to his young stowaway, even though he did not give his prior consent, then the core principle underlying Thomson's violinist analogy is false. Absence of consent does not entitle one to use deadly means to re-acquire liberty or privacy.

If one believes that it is wrong for the uncle to eject his young passenger in pieces out of the airlock, then for the same reasons it would be wrong for a woman to seek an abortion in cases of pregnancy due to rape or incest. In both cases, the child is innocent, a completely dependent stowaway who is too young to realize that she has no right to be there, but who depends on continued care in order to live – care that is natural during any pregnancy.

I am not arguing that a society should adopt laws that require women to continue pregnancy in cases of coerced pregnancy. This is not about law. What I am saying is that it is a grave mistake to think that prior consent is the *only* or *necessary* basis for obligations to care for others. It is understandable that women would want to rid themselves of a fetus conceived in a terrible and horrific manner. But what I am arguing is that it is far from clear that it is morally upright to do so.

The stowaway analogy illustrates that we have duties to care for others even when we make no explicit agreement to do so, even when caring for others is difficult, burdensome, and unpleasant. Why do we have that obligation when we have not consented to it? Because persons are valuable and their lives are valuable – valuable enough that killing people as a way to achieve our liberty or privacy is always wrong. Deliberately and intentionally killing someone to rid ourselves of them violates a basic principle of human morality: Do not kill innocent persons.

If what I have said is true, then Thomson's case is false. Why then is it so compelling and persuasive? There are several reasons, I think. In the first place, her analogies are clear and configured perfectly to make the reader accept her conclusions. They succeed by isolating exactly those circumstances where a person's informed consent appears to be the *only* source of an obligation to care for another. The reader has little

choice but to agree with her conclusion that anyone caught in the violinist situation could rightly detach oneself and by the same token one could remove germinating people seeds if they manage to get past a screen.

Thomson succeeds by ignoring the difference between direct and intentional killing versus removing or detaching. Although it seems clear that one could detach oneself from the violinist, that's far from the same as hacking him to bits as a means of escape.

Also, Thomson's case blurs the important difference between providing *ordinary* care as opposed to *extraordinary* care. It's true that we are not obliged to render extraordinary care to another as that would require too much of us. We do not have to risk our lives or our futures to assist someone. However, the obligation regarding ordinary care is much different and Thomson does not seem to notice or grant that. And that's why she ends up arguing the remarkable and absurd point that we have no obligation to even cross a room and touch someone's forehead to save them from dying. This strikes most rational adults as absurd and for good reason. For, failure to take simple, non-risky steps to preserve a human life, like touching a person, or placing a cloth over a severed artery, or removing an obstruction from a person's throat, are choices that display grave disregard for the life of another. Such failures to act are tantamount to murder. Let me try to show why that's so.

I heard of this happening at a public beach. A father had taken his kids swimming and was standing in knee-deep lake water. A little girl, aged 2 or 3, waded into the water a few feet away from him and fell face forward. She flailed her arms in an attempt to get her face out of the water or to turn herself over, but couldn't manage it. The father looked around the beach for someone – the child's parent/guardian—to notice what was happening and to come to the aid of this struggling child. It was a crowded beach and no one seemed to be paying attention to what was transpiring. He soon realized that unless he picked her up she might drown in moments. He had two alternatives, look away and do nothing or simply reach down and pick her up. He chose the second option.

Had he adopted Thomson's rule that the only source of obligation was prior consent, then there would have been nothing wrong with him simply ignoring the drowning child, nothing at all. So, instead of lifting the struggling child out of the water, he could have rightly turned his

back and left her to her fate.

Suppose that he chose that action and the child drowned. Would he have been arrested for failing to render this minimal, but life-saving assistance? It would be difficult to prove negligence, and so probably not. Would he have done anything wrong? Surely, yes. His choice to refuse such help is nothing short of intentionally contributing to that child's death. His inaction is equivalent to murder.

There was another case some time ago at a college cafeteria during the latter moments of a lunch period. Only a few students were eating and one of them, a football player, began choking. Unable to speak or make any sound, he stood up and waved his arms for assistance. Another student at a nearby table recognized what was happening and immediately approached him from behind, placed her arms around him and performed the Heimlich maneuver. The obstruction was released and the football player was fine. These two students became good friends from that moment on. She did a fine thing for him – without being asked and without having given her prior consent to render that kindness. This is another instance of rendering ordinary care.

Under Thomson's rules the only source of obligation is prior consent. So, instead of coming to this fellow's assistance, had she continued with her meal and then left the cafeteria, she would have done nothing wrong, even if her fellow student died.

The error in Thomson's reasoning, which leads to the disturbing conclusion of permitting the deliberate evacuation and death of a defenseless relative, is that it overemphasizes consent as the only relevant condition for having duties to care for others. And her case does not acknowledge the important distinction between providing ordinary versus extraordinary care.⁵ By failing to see that difference, she ends up concluding that one does not have a duty to do anything to preserve the life of another – not even walking across a room and touching someone

⁵ This point is found in its clearest form in her Henry Fonda analogy where she sees no difference between extending simple, life-saving care to someone in the same room and rendering it to someone across the country. She ignores the fact that circumstances have a great deal to do with ascertaining moral duties.

in order to save his life.⁶

Pregnancy does not, under typical conditions, impose grave physical burdens on a woman. To be sure, it is demanding and difficult. There are risks. But all of this is part of the natural, biological reality of pregnancy and motherhood. If we think that these difficulties are always too burdensome, too imposing, or too heavy, then why not simply leave it at that and conclude that abortion is permissible for any reason and at any time? In other words, if pregnancy always involves extraordinary burdens, then refusing to carry a child to term would be permissible in every case. We would need no special reason for terminating pregnancies such as those that result from rape or incest.⁷ All of Thomson's work in defending abortion would be unnecessary if pregnancy is essentially providing extraordinary care.

But what of the emotional or psychological burdens associated with pregnancy, especially when it is non-consensual? Don't these burdens absolve a woman from any duty to render care to her unborn? Do such difficulties therefore justify killing or ejecting an unborn child to its death?

Let me make this observation. A cursory survey of modern history over the last hundred years, or even the last fifty years, includes story after story of individuals rendering care to others without initially consenting to do so – sometimes at great risk to their own lives and safety. In Rwanda, Hutus sheltered Tutsis at great peril to their own lives. Scores of Jews were sheltered from the Nazis by various peoples including Poles and Italians. Alongside our history of tyranny, terror, and mass extermination there is also a parallel history of heroic rescue

⁶ Judith Jarvis Thomson, "Abortion," *Boston Review*, <http://bostonreview.net/BR20.3/thomson.html>. It is interesting to note that twenty-plus years later, Thomson dropped these kinds of arguments in responding to *Evangelium vitae*. She recanted the position she had granted in this earlier defense of abortion. There she rejects the notion that the unborn has the same rights as the rest of us.

⁷ (1) One must render life-saving care to others whenever it does not impose extra-ordinary burdens. (This is the (OC) Ordinary Care principle.)
 (2) Bringing a fetus to term, even when pregnancy is coerced, does not impose extra-ordinary burdens on a woman or the fetus and can help.
 (3) Hence, a woman must render care to the fetus and bring it to term.

and care, often in extremely dangerous circumstances for those who have rendered it to the needy. Many individuals and many groups have taken significant pains and risks to help others simply because help was needed – not because there was a prior agreement to supply care. We see in all of these instances of assisting others a remarkable exhibition of friendship and goodness. They illustrate the often anonymous greatness of ordinary human beings.

There is no doubt that pregnancy resulting from rape and incest imposes a difficult and significant burden on a woman. But it also imposes one on her child, who is a refugee of sorts. A mother has the opportunity to come to the aid of this refugee, of someone in dire need who lacks a right to be where it is. That pre-born refugee is in hiding, seeking assistance and solace. Throughout history people have helped strangers at much greater risk to their own lives and have discovered that it was worth doing. It can make one's life significant beyond all measure. It is likely that women who choose to render care to their uninvited, unborn children will discover the same truth. Friendship is worth it. Life is worth it.