

Fetus as Child: A Suggestion for Pro-Life Vocabulary

Karen Chan

ABSTRACT: This paper argues that the abortion debate has reached a stalemate. Because the terms “person” and “rights” are defined so differently and are so contentious, discussions are often saddled with equivocations and resolution seems impossible. To move the issue forward, this paper suggests that the pro-life movement should engage the battle on a different front, namely, by focusing on seeing a fetus as a “child” who is, by his or her very biology, related to a mother. By shifting the debate away from individuals and toward relationships, this paper sketches how we may be able to use the biological relationship to establish concretely duties and obligations on the part of mothers toward their unborn children.

IN THE ENDURING DEBATE over abortion, the rhetoric on both sides of the divide typically invoke such terms as “persons,” “rights,” and “dignity,” with “persons” being the foundational concept that grounds “rights” and “dignity.” It seems, however, that the current debate has reached an impasse, particularly because the term “person” and the related concepts of “dignity” and “rights” are so contentious. In this paper I want to suggest that we direct our energy away from the personhood debate and engage the battle on a different front, namely, by emphasizing that the fetus is a child in relation to his or her mother. By so doing, we bring to light the fundamentally relational nature of the fetus that entails obligations on the part of the mother, the family, and the wider society. Of course, there are numerous challenges to such a suggestion. Yet, this plan of action is worthy to be considered and likely to be fruitful.

This confusion about rights and personhood has been pointed out numerous times before. In his monumental book *After Virtue*, Alasdair MacIntyre suggests that rights-talk and rights-claims tend to float free of any sufficient theoretical foundation and that, as a result, contemporary debates about rights result in moral incommensurability.

He even cites the abortion debate, with its frequent recourse to rights-talk, as a prime example of the “interminability of public argument.” MacIntyre notes that rights are a “moral fiction”: “The concept of rights was generated to serve one set of purposes as part of the social invention of the autonomous moral agent.”¹ In other words, contemporary rights-talk was originally proposed to support the modern-day conception of the person as an autonomous moral agent who is unfettered by any external realities such as teleology, divine law, authority, or anthropological norms. One might think, then, that we could seek clarity about rights (namely, who has what rights and what one is to do when they conflict) by turning our attention to the definition of “person.” But even discussions about the term “person” are fraught with disagreement. Originating from the term used for the theatrical masks used by ancient Greek actors, developed through the Middle Ages by Christian philosophers and theologians, and further refined in modern and contemporary philosophy, the term “person” has undergone various changes and refinements through the course of Western history, with the result that “person” in contemporary discourse is used variously.

The fact that there is no universal agreement on the definition of “person” is apparent in the abortion debate. John T. Noonan comments in his often-anthologized article “An Almost Absolute Value in History” that “[t]he positive argument for conception as the decisive moment of humanization is that at conception the new being receives the genetic code.”² Although Noonan himself does not use the term “person” in his argument, he lays the foundation for recognizing the personhood of all beings who are biologically human. As a result, Noonan concludes, “once humanity of the fetus is perceived, abortion is never right except in self-defense.” Following Noonan, many Pro-Life arguments have claimed that not only “personhood” but also (derivatively) “rights” and “dignity” apply to all biological humans, no matter their stage of development. Human fetuses therefore are considered to be persons.

¹ Alasdair MacIntyre, *After Virtue*, 2nd ed. (Notre Dame IN: Univ. of Notre Dame Press, 1984), p. 70.

² John T. Noonan, “An Absolute Value in History” in *Intervention and Reflection*, 9th ed., ed. Ronald Munson (Boston MA: Wadsworth, 2012).

In her response to Noonan, however, Mary Anne Warren proposes a different definition of “persons.” In “On the Moral and Legal Status of Abortion” she writes that we should not confuse genetic humanity and moral humanity. Rather, only persons can be admitted into the moral community. She defines a person as having some subset of the following criteria: (1) consciousness, (2) reasoning, (3) self-motivated activity, (4) the capacity to communicate, (5) the presence of self-concepts and self-awareness. She summarizes her position in this way: “All we need to claim, to demonstrate that a fetus is not a person, is that any being which satisfies *none* of (1)-(5) is certainly not a person.”³ Based on this narrow definition of personhood, not all biological persons are to be considered as moral persons endowed with rights. Fetuses, then, would be considered biological humans but not moral persons and would thereby have no rights.

Since both sides disagree so fundamentally on definitions of personhood and what rights we ought to accord to different individuals, little progress has been made on either side of the abortion debate. Rather than reaching any sort of agreement or mutual understanding, each side is becoming more deeply entrenched in its own position. Real dialogue and debate is no longer possible since first principles are not shared. Rather, the disagreements simply become more heated and more shrill, with no real resolution in sight. Perhaps it is time to engage the battle on a different front. Although I agree that fetuses are genuinely persons and have rights, this tactic is not getting us anywhere. I suggest that we instead focus on the fetus as a child in order to emphasize its fundamental relationality to his or her mother, for by virtue of this fact of biological relatedness a mother has real obligations to care for the child. The sense of “child” that I am using here is not that of “child” as opposed to an adult or that of one who acts immaturely but rather as a gender-neutral term for the offspring of a parent. In this sense, “child” carries with it the sense of relatedness to the parent, as opposed to the connotations of independence that tend to be associated with the term “person.” The term “son” or “daughter” would also suffice for the

³ Mary Anne Warren, “On the Moral and Legal Status of Abortion” in *Intervention and Reflection*, 9th ed., ed. Ronald Munson (Boston MA: Wadsworth, 2012), p. 487.

purposes here of emphasizing the relation between mother and fetus, and derivatively the obligations of the mother.

Admittedly, this emphasis on relationality may be foreign to Western conceptions of the self or the individual. Western societies typically emphasize independence and autonomy, thereby defining the self or the individual as abstracted from its relationships with others. As a result of this Western emphasis on autonomy and independence, a rich theory of the nature of the parent-child relationship and of the role of the parent has yet to be articulated. Further, it may be difficult for Westerners to experience the “paradigm shift” that this change evokes and to grasp the importance of conceiving of the self or individual in terms of his or her relationships with others rather than as an independent entity. A brief overview of Confucianism may help us by providing a model for how such an approach might work. Of course, giving a full overview of the Confucian conception of the self in relation to the family or society is beyond the scope of this present paper. Yet some brief highlights are enough for our present purposes, so as to show the practical and theoretical implications of focusing on the fetus as a child.

Comparative scholars have long noted that Eastern traditions, particularly Confucianism, hold a very different view of the self. Unlike the Western autonomous “self,” the Eastern “self” is always defined in relation with others. Edwin Hui summarizes this point in “The Centrality of Relations in the Confucian and Christian Views of Human Personhood” by saying: “In the Confucian tradition, a person is never seen as an isolated individual but is always conceived of as part of a network of relations.”⁴ Every individual is a member of a family, which is in turn a part of some larger society. Each individual receives his or her identity only in relation to others and has a certain role to play and certain duties to fulfill. For example, an individual male by the very fact that he is a son in a family with, say, two younger siblings thereby has a set role with specific duties and obligations. It is not for the Confucian individual to decide who he will be and what responsibilities he will take on. Rather, his role has been largely predetermined for him, based on his

⁴ Edwin Hui, “The Centrality of Relations in the Confucian and Christian Views of Human Personhood,” *Ching Feng* 1/1 (2000): 59.

relationships with others (and particularly his family), and this is something over which he has little or no control. He will be expected to revere his parents and to take care of them in their old age as well as to protect his younger siblings. Should his father die, he will be expected to assume the duties of his father. Similarly, the Confucian parent (by the very fact that he is a parent) has a particular role to fulfill, namely, to educate the child and provide for his needs so that the child may become humane and may properly attend to his relationships with others in the family and in the larger society. These roles and relationships are deeply embedded in the Confucian way of life.

For present purposes, what is important to notice from the Confucian theory are the following points: (1) the self is a fundamentally relational entity, as opposed to Western conceptions of persons who are radically independent; (2) these relationships give rise to set duties and obligations, and there is a strong expectation that they be assumed; and (3) the relationships that define individuals and their ensuing obligations are not always chosen; rather, most often these relationships and obligations are based on the brute fact of biological relatedness.

Incorporating these three points into pro-life arguments in the West could be effective and beneficial. Instead of emphasizing the personhood and rights of individuals (especially in light of the typical Western sense of radical individualism), we should focus on the truth that all individuals are, by nature, related to others and depend upon others. The fetus is not alone in its utter dependence. By adopting the fundamentally relational rhetoric of fetus as child, we emphasize the relational bond between mother and child. The child depends on its mother, and by the very fact that the mother is related to her child, the mother has a particular role that gives rise to certain duties and obligations that she ought to assume. These duties and obligations will include bringing the unborn child to term and providing suitable care for her child (either by raising the child herself, giving it up for adoption, and so on). In the Confucian approach, we derive these duties from the very fact that the mother is biologically related to her child, irrespective of her desire to enter into this relationship (for instance, if she does not want the child) or of any willing participation in bringing about this new life (such as in the tragic case of rape).

Admittedly, there are numerous challenges to this new approach. Here I will only mention two. The first relates to our use of the Confucian system as a model of maternal and familial obligation to the fetus as child. Confucianism itself is a philosophical system, and whether or not abortion is permissible according to Confucianism is debated. Ruiping Fan and Philip J. Ivanhoe, scholars of Confucianism, both note that there is a strong Confucian presumption against abortion because of the importance of the family structure and the interrelatedness of the members of society. Yet, they comment that abortion may nevertheless be warranted in cases of rape or incest, for the legitimacy of the family could be thought to be compromised; the same may hold true for cases in which the mother's role in the family or society is otherwise threatened.⁵ Despite Confucianism's strong notions of the relational self and familial obligations, there is still debate about the permissibility of abortion. This is so because Confucianism does not itself advocate any strong metaphysics by which we can clearly establish the status of the fetus. Hence, Confucianism may not be adequate to provide a trouble-free foundation for a universal prohibition against abortion or as a comprehensive model for maternal obligations to all biological children.

This is not, however, an insurmountable challenge. My aim in turning to Confucianism here is not to provide a comprehensive philosophical foundation or to suggest that it is the only way to provide such a philosophical grounding. Rather, I want to point to a model to help sketch what such a theory that highlights the relational aspect of mother and fetus-as-child could look like. Indeed, I think that Western philosophical systems can meet this challenge. One prime example is the metaphysical thought of Thomas Aquinas, and especially his teachings on *esse* as act and as fundamentally relational and self-communicative. For example, in *The One and the Many*, W. Norris Clarke points out that

⁵ See Philip J. Ivanhoe, "A Confucian Perspective on Abortion," *Dao* 9/1 (2010): 37-51, and also Ruiping Fan's Confucian response in Moira Stephens et al., "Religious Perspectives on Abortion and a Secular Response," *Journal of Religion and Health* 49/4 (2010): 513-35.

the centrality of *esse* as overflowing action (rather than as static and self-enclosed being) is often overlooked.⁶

The more serious challenge to my suggestion in this paper comes in regard to my claim that the mother's biological relation to her child entails a strong duty or obligation to care for it. The obvious counter-argument here is that biological relatedness does not entail any sort of obligation to care for a biological child. A distinction might be made between biological motherhood and intentional motherhood. A biological mother is one who is related biologically to her offspring; an intentional mother is one who, by her intentions and actions, takes on the role of a maternal caregiver. In the majority of cases there is an overlap. The biological mother wants to care for the child and is also an intentional mother. In such cases, the mother shares her DNA with the child, gestates the embryo, carries the fetus to term, gives birth to her child, and continues to love, educate, and care for her child. Yet the role of biological mother and intentional mother may come apart. A biological mother who gives her child up for adoption, for example, refuses the role of intentional mother. Similarly, an intentional mother who adopts a child is not a biological mother. Furthermore, with the rapid advances in reproductive medicine today, we can see how the separation between biological and intentional motherhood are increasingly common and accepted by society. The use of donor embryos and the rise of surrogacy have all made it possible for a mother to be related biologically to her child in varying degrees, or even not at all. For example, a female can intentionally enter the motherhood relationship by selecting a donor embryo and contracting a surrogate mother to gestate the embryo and carry the child to term. Even further, the newfound possibility of creating three-parent embryos creates further complications with respect to biological relatedness. The objection, then, would be that because of these different possible permutations of biological relatedness, the brute fact of biological relatedness cannot give rise to any normative obligations. It is not biological motherhood

⁶ The reason for ignoring this feature of Thomistic thought may be because of our contemporary insistence on the human person as a self-enclosed entity that seeks independence, an assertion that may not be fully at home within the thought of Aquinas himself.

that entails duties and obligations toward the developing fetus, but rather intentional motherhood that entails these duties and obligations. A biological mother does not owe any care or support toward her fetus until she decides to take up the role of intentional mother.

To be clear, my claim is not that mothers who are not biologically but intentionally related to their children are less nurturing or loving than mothers who are both biologically and intentionally related to their children. It is a sad fact indeed that many biological mothers neglect and abuse their children, while many intentional mothers provide exceptionally nurturing care. My claim, however, is that the separation of biological and intentional motherhood (not to mention our desire to praise mothers who assume intentional motherhood) obscures the fact that the paradigmatic case of motherhood is the one in which the mother is a mother both biologically and intentionally. Motherhood is an analogous term. The paradigm or primary analogate of motherhood would be when biological and intentional motherhood are intertwined. To be sure, someone who is related to a child only biologically or only intentionally still can be called properly a mother. Yet it would still be true to say that there is something lacking in either of these relationships. It would be better if the mother were related both biologically and intentionally to the child. Indeed, this claim is supported by the observation that we feel sad when a biological mother neglects or abuses her child and refuses intentional motherhood. Furthermore, the push by infertile women who turn to assisted reproductive technologies to try to conceive a biological child because they strive for biological connectendess testifies to the fact that there is still an implicit primary analogate to motherhood.

Contemporary society often overlooks the fact that there is a controlling sense of “motherhood” and various analogous senses. For various reasons this confusion about the notion of motherhood leads to privileging intentional over biological motherhood rather than the drive to reunite these two senses of motherhood. The danger, as hinted above, is that maternal duties and obligations become attached to intentional motherhood. The idea is that a woman must consent to being a mother before she is considered to be a mother. The truth is, however, these duties and obligations to care for one’s child attach to biological mothers by the very fact of the biological relationship. We should expect

biological mothers to recognize and accept their obligations and thereby take up the role of intentional mothers, or at least to arrange for suitable care for their children. In order that my suggestion at present may reach success, we must work to recover the primary sense of motherhood as that in which biological and intentional motherhood are intertwined.

Although the practical challenges of changing our pro-life rhetoric to focus on the fetus as child are great, they are not insurmountable. This change is an important step in the pro-life movement to move beyond the current stalemate around the language of rights and personhood, and it has the potential to be very fruitful. In order to implement this program, there are (at least) three things that need to be done. So, I suggest the following as our battle plan:

First, we must shift our pro-life rhetoric from focusing on the fetus as a person with rights to emphasize that the fetus is a child. To a mother who is facing the difficult decision of whether or not to abort, we should remind her that the fetus is not just a depersonified mass of cells but her own child, to whom she owes love, care, and attention. Indeed, the real tragedy of abortion is that a mother is pitted against her own child, that she believes that the life of her child is in competition with her rights and freedom. This shift in vocabulary can only be effective if we can implement successfully the next two strategies.

Second, we must engage in more serious reflection across a variety of disciplines, and especially philosophy, on the concept of relationality. We need to recover an adequate and attractive alternative to the person as a self-enclosed and independent being in order to emphasize that we are all beings that depend on others and have duties and obligations to others in the community. Further, we need to work out a philosophy of motherhood to articulate and analyze the mother-child relationship and also to tease out the nature of the obligations of the mother to the child and/or the virtues proper to mothers. Relatedly, we must continue to make clear that there are many analogous senses of motherhood, with the controlling sense of motherhood being the intertwining of biological and intentional motherhood. We must continue to reflect upon the permissibility of different advances in reproductive medicine in relation to the ways in which they support, lead away from, or even destroy the primary and normative sense of motherhood.

Third, and perhaps most importantly, we must continue to offer support to biological mothers so that they can embrace their roles as mothers and provide nurturing care for their children. Although I have focused on the mother-child relationship here, I must clarify that the child is not only related to his mother but also to his father, siblings, family, and the community. We must provide resources so that all of these parties can fulfill their duties and obligations to the child. Only with such wider support can the mother successfully care for her child beginning at conception and embrace her role as mother.