

If the Fetus is a Part of the Mother, then Three Popular Abortion Defenses Fail on Purely Conceptual Grounds

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ABSTRACT: Some abortion defenders claim that a fetus is a part of a pregnant woman's body. Abortion opponents often respond that a fetus is not a maternal part by stressing any or all of the following: differences in fetal and maternal DNA; the fetus does not function like a maternal body part contributing to the mother's survival; the fetus's developmental telos is towards independence from the mother; the fetus's relation to the mother is that of a tenant to a niche, not a part to a whole; a fetus is a substance (a human being) and one substance cannot be a part of another substance. Drawing upon Elseijn Kingma's work, I respond that these arguments provide little reason to doubt the claim that a fetus is a maternal part. Nevertheless, somewhat ironically, the fetal parthood thesis dooms the following three popular defenses of abortion: fetuses can be terminated on the grounds that they violate their mothers' bodily integrity; fetuses can be killed for trespassing on their mothers' bodies; fetuses can be aborted because pregnant women have a right to self-defense. These three defenses fail on merely conceptual grounds, for bodily parts cannot trespass upon the whole, nor can they violate the integrity of that whole, nor are they legitimate targets of a right to self-defense if they are not external to the self.

SOME DEFENDERS OF ABORTION claim that a fetus is merely a part of a pregnant woman's body. Pro-lifers often respond that fetuses are not parts of their mothers but independent organisms. The pro-life worry here may be that, if the fetus is a mere part of the pregnant woman, then she will have a right to dispose of it as she sees fit, just as she can remove at her whim other "clumps of cells" that are unwanted parts of her.¹ Pro-lifers may try to

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¹ See Rosalind Hursthouse, *Beginning Lives* (Oxford UK: Basil Blackwell, 1987) for instances of embryos being described as clumps of cells and not a human being (p.

deny that the fetus is a maternal part by claiming that a fetus (1) has its own DNA that is distinct from that of the mother; (2) its developmental telos is towards separation and independence from the mother; (3) its function is not to contribute to the survival of the mother, which makes it unlike genuine maternal body parts such as the mother's heart, liver, lungs, and so on; (4) its relation to the mother is not that of a part to a whole but rather than of an occupant to a niche, analogous to that between a reader and her office; (5) it is a substance (a human being) and no substance can be a part of another substance (such as a human being).

I will suggest that none of these considerations provides a reason to believe that the fetus is not a part of the mother. (1) Differences in DNA do not distinguish maternal parts from fetal organisms. A mother, for instance, could be gestating her own genetically identical clone. (2) Parts of an organism such as placenta, sperm, baby teeth, hair, and so on can be temporary. (3) Body parts do not have to facilitate life processes, as evidenced by sexual organs and breasts, whose role is to contribute to reproduction rather than to survival. (4) The fetus is attached to the mother in a manner similar to the way the stalk of many of her other organs are attached. (5) Like atoms and kidneys, human beings do not just pop into existence and out of existence when they become independent or cease to be independent of other substances. That said, I am not so concerned with defending the thesis of fetal parthood. Rather, I want to show that if it is true, it dooms three popular defenses of abortion on merely conceptual grounds. One does not even have to do any moral heavy lifting, such as defending premises about the dignity of the fetus, the impermissibility of intentionally killing the innocent, the duty to prevent the greater of two harms, or the like.

In the first case, abortion can no longer be supported by claiming that a fetus violates the bodily integrity of the pregnant woman. If the fetus is a part of the mother, then it cannot violate her bodily integrity. Only something that is not a part of her body can violate her bodily integrity. So, a right to bodily integrity can no longer be relied upon as a ground for justifying abortion.

In the second case, fetal parthood would render inapplicable the defense that requires a fetus to be a trespasser. The idea here is that a fetus, though innocent, is a trespasser who has no right to be in the woman's body. But one cannot trespass upon one's own property. So, it cannot be claimed that a fetus

27), more akin to an animal or a part of a woman's body (pp. 39, 48), aborting them being like cutting hair (p. 18) or an appendectomy (p. 16).

– if literally part of its mother’s body – is a trespasser who violates the pregnant woman’s property-like rights over her body.

A third claim that can no longer be advanced to justify abortion is that the fetus is an innocent threat that can be killed in self-defense. The problem is that self-defense is not a defense against one’s self (or parts of oneself). So, while people may have rights against innocent threats external to them, they cannot defend the fatal elimination of their own fetal parts upon such grounds.² Attacking oneself is not self-defense. It is self-mutilation.

1. Family Ties

The Fetal Container Model. Elselijn Kingma takes the received view to be that “the fetus is not part of, but merely contained within or surrounded by the gestating organism.”³ She calls this the fetal container model.⁴ She does not believe that there are good arguments for the view that the fetus is not a part of the mother. I suspect that she is right. I will respond in reverse order to the five defenses of the fetal container view mentioned above.

² Jeff McMahan distinguishes between innocent threats and innocent aggressors in his *The Ethics of Killing: Problems at the Margins of Life* (New York NY: Oxford Univ. Press, 2002), pp. 400-01. The latter are beings who can form intentions to attack another. Perhaps they were misinformed and thus not culpable for the aggression. An innocent threat does not form such intentions but is merely a danger to another. A life-threatening pregnancy involves a fetus that is an innocent threat, not an innocent aggressor.

³ Kingma observes that “images of pregnancy...give fosters’ (fetuses’) skin the colour of white babies rather than the dark-purple that they actually are” to make them resemble babies and “they tend to fade out, or omit altogether the gravida (mother), placenta, and umbilical cord.” Elselijn Kingma, “Pregnant Mereology,” *Mind* (forthcoming).

⁴ For a sustained philosophical defense of the view that the fetus is not a part of the mother, see Barry Smith and Berit Brogaard, “Sixteen Days,” *Journal of Medicine and Philosophy* 28: (2003): 45-78. They write that the fetus is in the mother in the way that “a tub of yogurt is in the fridge” (p. 74). David Oderberg writes that “an embryo is an organizational unity that is not a part of its host”; David S. Oderberg, “The Metaphysical Status of the Embryo: Some Arguments Revisited,” *Journal of Applied Philosophy*, 25 (2008): 263-76 at p. 266. Robert George and Christopher Tollefsen write: “The embryo is not a maternal body part. No text of modern embryology even remotely suggests such a thing”; Robert George and Christopher Tollefsen, *Embryo: A Defense of Life*, 2nd ed. (Princeton NJ: Witherspoon Institute, 2011), p. 231. A.A. Howspeian writes: “No thing that is merely part of some other thing could be a human person”; A.A. Howspeian, “Four Queries Concerning the Metaphysics of Early Human Embryogenesis,” *Journal of Medicine and Philosophy* 33 (2008): 140-57 at p. 152.

Human babies are construed as substances. Being substances in their own right excludes them from having been maternal parts when in the womb. The background assumptions here seem to be that parts cannot survive removal from a substance and that substances cannot be parts of other substances.⁵ If that is true and fetuses exist before and after their births, then they cannot be maternal parts. I am not sympathetic to the view that there cannot be substances that are parts of other substances. Nor am I sympathetic to the claim that substantial change occur when substances that were independent become parts of other things or when some things that were parts come not to be parts later on. I take it that independent substances can become parts without going out of existence and that things that are parts can persist in existence when they become independent. For example, I do not think that atoms go out of existence when they enter our bodies and become parts of us, nor do they pop back into existence (nor does a duplicate emerge) when their matter exits our bodies. At most, certain of their properties are masked by parthood. Furthermore, a donated kidney is not a different entity when it is removed and remains “on ice” while awaiting transplantation, nor does a substantial change occur again when the kidney is transplanted.

If readers are not convinced of this point, I would ask that they imagine a sci-fi scenario where they are swallowed by an alien leviathan in order to play some parthood role in the creature’s digestive tract, perhaps akin to bacteria in our digestive tract. Assume that one’s body is kept intact and functioning and conscious in the alien’s gut and so meets any plausible criterion for being alive. It is hard to believe that one pops out of existence when one’s body become a (virtual) part and then pops back into existence (or that a duplicate emerges) when the heroic rescue team cuts open the monster and removes the living creature that resembles the person who was swallowed and seems to recall that person’s life.

So much for the view that fetuses cannot be parts of a substance because fetuses are substances and substances cannot be parts of other substances. Incidentally, if substances must be independent from other substances,

⁵ Some hylomorphic theorists are attracted to this view of parthood. Entities that might be substances outside of the body undergo an ontologically significant change when they enter the body and become virtual parts until their departure when substantial change occurs. See Davis Oderberg, *Real Essentialism* (New York NY: Routledge, 2007); Patrick Toner, “Independence Accounts of Substance and Substantial Parts,” *Philosophical Studies* 155 (210): 37-43.

conjoined twins would not be individual human substances who could potentially survive being separated from one another. They would instead be non-substantial beings when attached to each other that, when severed, would actually become independent human substances.

Barry Smith and Berit Brogaard argue that the fetus's relation to the mother is not that of a part to a whole but that of a tenant to a niche, analogous to that between a reader and her office.⁶ Unlike wall beams and floor tiles, a reader is not attached to her office, and so she and her office are not in a part/whole relationship. Smith and Brogaard claim that tenants in a niche can (1) move in and out on the niche, (2) do not have parts in common with the niche and (3) lack a common boundary with the niche. They insist that the fetus has a bona fide boundary rather than a *fiat* boundary that distinguishes it from its mother. A fiat boundary is illustrated by the boundary between your arm and shoulder or between your office and the hallway when the office door is open.⁷ A bona fide boundary is marked by a physical discontinuity like that between a fish and its aquarium or your office and the hallway when the door is closed. Just as a fish is not a part of its aquarium, a fetus is not part of its mother. Smith and Brogaard summarize their view thus: "If the foster (fetus) is connected to the mother – if, in other words the boundary between the foster (fetus) and the mother is a matter of fiat and not bona fide boundaries – then the foster (fetus) cannot be stand to the mother in the tenant-niche relationship."⁸

Surprisingly, Kingma shows that on the criteria offered by Smith and Brogaard the fetus is best construed as a part of its mother. The fetus cannot move in and out of the mother like an astronaut in a space ship. Once the fetus departs, it cannot return. The newborn's lungs and kidneys are active and it can no longer obtain food, oxygen, or remove wastes through the placenta. The fetus's departure is a bloody mess because the fetus shared a topographical boundary with the mother. Women sometimes die from the tearing away of the placenta. The boundary between the mother and her fetus thus seems to be a fiat boundary and quite unlike that of the fish in the aquarium. Consider the

⁶ Barry Smith and Berit Brogaard, "Sixteen Days," *Journal of Medicine and Philosophy* 28: (2003): 45-78.

⁷ Smith and Brogaard explain: "Fiat boundaries are boundaries that correspond to no underlying physical discontinuities. Examples are found above all in the realm of arbitrarily demarcated geospatial entities such as postal districts, census tracts, or traffic corridors" (p. 72).

⁸ Smith and Bogard, p. 73.

two most plausible candidates for the boundary: the umbilical cord and the placenta. The boundary between the entity gestated and the being doing the gestating cannot lie at the umbilical cord, for it is connected to the fetus like a tail is to a cat. The cord is attached to the fetus much in the same way that your heart, lungs, and kidneys are attached to other parts of someone's body. Nor can the boundary be at the placenta, for it is perfused by both fetal and maternal blood supplies, connected to the fetus by the umbilical cord, and grows directly into or out of the uterine wall.⁹ So, the criteria of topological connections and the inability to move in and out of the mother actually favors fetal parthood rather than the tenant-niche relationship.

It may be argued that the fetus lacks the characteristic functions of an organism's parts in that it does not contribute to the survival of the mother. Fetal health and maternal health can even be at odds. That makes fetuses unlike genuine body parts such as the mother's heart, liver, lungs, veins, intestines, and so on. These entities function properly when they enable the mother to stay alive. But sex organs and breasts do not contribute to vital life processes. They serve biological goals of reproduction. Breasts produce milk that enable offspring to survive but do not contribute to sustaining the life of a nursing mother in the way her heart and lungs do; likewise, for parts that produce, store, and protect gametes or serve to attract mates. Nevertheless, few would deny their status as body parts.

It is true that fetuses have a developmental telos that is towards separation and independence from the mother. But many parts are designed to leave our bodies. Consider baby teeth and placenta. Our bodies remove many parts when they have been "used up." Parts like sperm will even have their functions apart from our bodies. If readers still insist that the fetus is different and is not a part because it leaves the mother's body and continues to develop (unlike sperm), my response is to imagine gametes capable of parthenogenesis. It is hard to believe that some gametes are parts and some are not.¹⁰

Pro-lifers may try to deny that the fetus is a maternal part by claiming that the fetus has its own DNA, which is distinct from that of the mother. But this approach is still problematic, for it is possible to have parts that have different

⁹ See Kingma, "Pregnant Mereology," *Mind* (forthcoming) and "Were You a Part of your Mother: The Metaphysics of Pregnancy," *Journal of Medicine and Philosophy* (forthcoming).

¹⁰ See Tollefsen and George for the claim that gametes are parts of human organisms (pp. 159-60).

DNA, whether on account of mutations or as transplanted organs or as transfused blood.¹¹ So, different DNA is not sufficient to give reason for thinking a fetus to be a tenant rather than a part, and thus this line of reasoning does not support the fetal container claim. Nor is different DNA necessary for the fetal container relationship to obtain, for we can always imagine a woman carrying her own clone, which will have identical DNA. I very much doubt that defenders of the fetal container view are going to make exceptions and claim only that cloned fetuses are parts of their mothers. So, genetic differences cannot explain why such a fetus is not a part of the mother.

2. The Conditional Failure of Three Abortion Defenses

Bodily Integrity. The problem for such an approach is that if the fetus is a part of the woman's body, then it makes absolutely no sense to defend abortion on the basis of protecting the woman's bodily integrity against an intruder that interferes with the operations of her body. Consider the following passage from Christyne Neff:

Applying the language of bodily integrity law, specifically battery law.... The resultant forced pregnancy is a significantly deep intrusion, more in line with a severe beating than a slap on the buttocks. The intrusion of pregnancy physically "touches" countless organs and appendages of the woman, inside and out.... When viewed together, the preceding areas of law add up to a powerful right of bodily integrity. The assault and battery line of cases provide interesting lessons on what constitutes the "touching" in a physical intrusion. Touching may range from internal poisoning to a slap on the buttocks to a laceration, set in motion or caused directly by the actor. In every case, however, the harm from the intrusion always includes physical harm to the person, not solely psychological harm or harm to property.¹²

¹¹ For an account of mother and child chimeras produced by their exchanging DNA, see Rose Hershenov and Derek Doroski, "Twinning Inc." in *Theoretical Medicine and Bioethics* (forthcoming).

¹² Christyne Neff, "Women, Womb, and Bodily Integrity," *Yale Journal of Law and Feminism* 3/2 (1990): 327-53 at p. 329. Neff wants to replace the privacy rights defense of abortion with a bodily integrity defense. We also find Drucilla Cornell claiming: "To deny women their bodily integrity by denying them the right to abortion severely curtails women's ability to develop an individuated self"; Drucilla Cornell, "Response to Judith Thomson's 'Abortion,'" *Boston Review* (November, 1995). I do not see how any reasonable conception of selfhood is threatened by a lack of abortion opportunities unless we are talking about the fetus's selfhood. Cornell must be using "individuated" and "self" in a non-metaphysical sense, more akin to a narrative self that does not literally determine one's temporal boundaries. Cornell's position loses its foundation

Given this problem, it is thus false to say (as McMahan does) that a pregnancy that is “unwanted can plausibly be regarded as a form of *bodily invasion*.... Another individual’s entire body becomes lodged within the pregnant woman’s body and draws sustenance from it.” Likewise, Neff is wrong to write that the pregnant “woman always will be the source of nutrients, oxygen, and waste disposal for the *parasitic* embryo.” If one’s own fetus is a part of the mother’s body, it cannot be an intruder or parasite. If violations of bodily integrity are made by intruders, then pregnancy cannot be a violation of bodily integrity.

Moreover, one cannot preserve an entity’s bodily integrity by removing parts of it. Nothing could be further from the truth, and little should be more obvious once the fetus is granted parthood status. It is not conceptually possible to protect someone’s bodily integrity by destroying a part of that person’s body.¹³ Bodily integrity, taken literally, has to do with the integration of the body’s parts, their harmonious working together. So, to violate bodily integrity is to interfere with the functioning of those parts. The paradigmatic cases of the violation of bodily integrity involving fists, knives, bullets, poisons, and surgical tools consists of interference that takes the form of damaging body parts or removing body parts. A violation of the right to bodily integrity, however, may even occur with the placing of a restraint on the body that is non-damaging, for the proper functioning of a person’s bodily parts involves them responding to the signals to move from other parts of the person. Finally, unwanted touching, which is neither damaging nor restraining, would be the limiting case as bodily integrity involves one’s parts interacting only with one’s other parts, not the parts of a distinct person.

The best that one could do to justify abortion on the grounds of bodily integrity is in the case where the pregnancy threatens the woman’s life. That could be a scenario where some loss of bodily integrity protects against an even greater loss of bodily integrity. But this approach will not help with most abortions, for most are not the termination of life-threatening pregnancies.

So, if one assumes fetal parthood, abortion is not merely an attack on bodily integrity, but in being so it is necessarily *always* an attack on the pregnant woman’s health. I do not mean that the woman’s health is threatened by abortion in that such surgical procedures may increase the likelihood of

in bodily integrity when the fetus is a bodily part.

¹³ That does not mean that the removal of parts is not permissible. It is not justifiable in terms of bodily integrity.

sterility or cancer, or lead to pathological grief or other mental problems. Nor do I mean that abortion is dangerous and that a woman could die during the procedure. My point is merely that it is pathological to remove parts of one's body. Now, not much hinges on this because it is likewise true that one has undergone a self-inflicted pathology when donating a kidney – something that is morally permissible, if not incredibly admirable. Nevertheless, abortion is, ironically, always unhealthy for the pregnant woman even if there are no *unwanted* unhealthy side effects.

So, if the U.S. Supreme Court were to allow abortion bans where the procedure threatens a woman's health, it would have to prohibit all abortions. To obtain the result desired by abortion advocates, the Court would have to qualify its health restrictions on abortion to cases where the risks to the pregnant woman's health are the result of unwelcome pathologies caused by the fetus and not to pathologies that women induce to kill their fetuses and end their pregnancies. Even this approach would have to be qualified further, for some pregnant women would willingly undergo procedures that are perhaps more dangerous to them than continuing their pregnancies and that could reasonably be curtailed by pro-choice legislatures and judges.

Fetal Trespassers. It may seem that trespassing and violating bodily integrity admit to the same type of rights violation or always occur together. It is worth giving them both their own sections, for abortion defenders often refer to one and not the other as rights violations. I also suspect that one can trespass without violating integrity. Perhaps a paternalistic medical treatment is a case of trespassing without violating bodily integrity, for the procedure restores bodily integrity. But that may still violate bodily integrity for the sake of greater bodily integrity. Sometimes the mere crossing of a boundary is considered a violation of bodily integrity, though we could perhaps distinguish between bodily trespassing that does not interfere with the body and attacks on bodily integrity that do. Something within the body that is not part of the body may be trespassing without violating integrity just as someone can trespass on a person's property by crossing it without violating the integrity of the property-owner, as does the vandal. Consider the following passage from Eileen McDonagh:

The fetus is more like a trespasser on the woman's body, it shouldn't be present and acting upon her body without consent.... A trespasser is one who enters upon the property of another without any right, expressed or implied invitation, permission....

The physical location of the fetus inside the woman and the degree of its physical attachment and use of the woman's body, far from negating the integrity of the distinctly separate identities of the fetus and the woman, should highlight this distinction, casting the fetus as a trespasser upon the body of the woman.... In sum, the fetus as a trespasser upon the woman's body making use of her flesh and blood to sustain and develop its own physical flesh and blood casts the woman not as a good Samaritan, but rather as a captive Samaritan.¹⁴

The second abortion defense that cannot be sustained if the fetus is a part of the mother is one that requires the fetus to be a trespasser. The idea is that the fetus is a trespasser who, though innocent, has no right to be in the woman's body. One cannot trespass upon oneself, however. Thus it cannot be claimed that the fetus – if literally part of the mother's body – is a trespasser who violates the pregnant woman's property rights in her body. The fetus is no more of a trespasser than the woman's limbs. Thus it is impossible for the fetus to be somewhere in a woman's body where it has no right to be.

People are naturally led to think of the fetus as a trespasser because the fetus is a late arrival on the scene. A woman's body existed long before she became pregnant with the fetus. The fetus appears in her body after sexual relations and so it is difficult to imagine it as a part of her body. Judith Thomson famously uses the fanciful scenario of a violinist that was separate and then becomes attached. She also defends a right to abortion with the imagery of a person seed that comes through a window with a defective screen (failed contraception) and takes root in your carpets and drapes.¹⁵

She also uses the analogy of the burglar who sneaks through a window that the home-owner left open. The right of a third party to abort the woman suffering from a life threatening pregnancy is defended with the example of a child growing at such a rate in one's home that it will soon destroy the edifice and kill its owner. The image is again of the trespasser. Thomson describes the woman's body in her famous "Defense of Abortion" as her property. Thus the

¹⁴ Eileen McDonagh, "Good, Bad, and Captive Samaritans: Adding Pregnancy and Consent to the Abortion Debate" in *The Politics of Pregnancy: Policy Dilemma in the Maternal-Fetal Relation*, ed. Janna Merrick and Robert Blank (New York NY: Routledge, 1993), pp. 31-50 at p. 39. Robin West writes: "We need to explain...the harms and dangers of invasive pregnancy.... It has to do with invading the physical boundaries of a life"; Robin West, "Jurisprudence and Gender," *University of Chicago Law Review* 1 (1988): 66.

¹⁵ Judith Thomson, "A Defense of Abortion," *Philosophy and Public Affairs* 1 (1971): 47-66.

fetus is trespassing upon the woman's bodily property.

But there is no reason why someone cannot acquire parts not possessed before. That is the lesson of metabolism and growth. We all started out very small. It may seem that by the time that one can become pregnant, one is full grown and not getting any new macro-level parts. But as much as we might like to consider our weight gains as foreign to us, we are acquiring (and hopefully losing) certain fatty parts throughout our adult years. Fetuses, in one aspect, are like fat, placenta, baby teeth, and hair. These are not parts that we always had.¹⁶ Once acquired, they are not parts that we will necessarily keep until the end of our lives; nevertheless, they are parts. Our parts can be there from the start of our existence, they can be grown later, they can enter our body surreptitiously, or they can do so consensually as when we request an organ transplant.

Self-Defense. For an example of this approach, consider the following passage from Jane English:

Though the fetus is itself innocent, it may pose a threat to the pregnant woman's well-being, life prospects or health, mental or physical.... But if the threat is on par with a serious beating or loss of a finger, she may kill the fetus that poses such a threat, even if it is an innocent person.... If you are attacked it is clear that your body guard, acting as your agent, has a right to kill the attacker to save you from a serious beating. Your rights of self-defense are transferred to your agent. I suggest that we should similarly view the doctor as the pregnant woman's agent in carrying out a defense she is physically incapable of accomplishing herself.¹⁷

This is a claim that the fetus is an innocent threat and can be killed in self-defense. The problem for such a view is that one's parts cannot be unjust threats towards one's self. So, while people may have rights against innocent threats, they cannot defend the fatal elimination of fetal parts upon such grounds. It does not make much sense to say that one has a right of self-defense against oneself. What could that be like? You have a right of self-defense

¹⁶ Frank Beckwith wrongly thinks that it is significant for the case against fetal parthood that the IVF embryo was once not a part of the mother; see his *Defending Life: A Moral and Legal Case Against Abortion Choice* (New York NY: Cambridge Univ. Press, 2007). But most of the fetus's eventual matter was earlier distinct from it but that independence doesn't rule out it becoming a part of the fetus.

¹⁷ Jane English, "Abortion and the Concept of the Person," *Canadian Journal of Philosophy*. 5/2 (1975): 233-43 at pp. 237-38.

against a part of yourself? Or is it more accurate to say that part of you has a right against another part of you? Why is it not the case that both organisms – the fetus and the woman of which it is a part – have a self-defense right against each other? It is problematic enough to maintain that one has a right to self-defense against the innocent devoid of intentions, agency, and responsibility,¹⁸ but to have such a right against oneself borders upon being unintelligible.

We can certainly have parts that bother us and that we might want removed, but that does not qualify as exercising a right to self-defense. Your beard may rub against your face and irritate your skin but it has not violated your rights. It cannot violate your rights. If your arm, while holding a gun, starts to spasm and it becomes likely that you will suffer a self-inflicted gunshot wound, cutting off your hand grasping the gun is not self-defense. If you are a doctor and could cure yourself from some pathology infecting your parts, that is not an exercise of a right of self-defense even if it saves your life.

It is not just that these are the wrong kind of thing to violate your rights (non-agents being in the same category as tornadoes, heavy rains, and poison ivy), but because they are not external to you. To see that it is not the lack of agency of your parts that makes self-defense against yourself impossible, imagine that you knew you were going to attempt suicide later that night and so set a booby trap that would then cut off your arm preventing the suicide. That would not be self-defense even though you would be stopping an agent. The problem is that defense against yourself makes little sense. Self-defense requires an external threat.

It also seems conceptually possible for self-defense to be lethal, disproportionate, unjust, and punishable. But these are not possible in the alleged cases of self-defense against oneself. That makes me suspect that self-defense against oneself is conceptually impossible. If I knew you were going to attack me tonight, the booby trap that I set would be self-defense. It would be self-defense, even if the booby trap was disproportionate to the threat and killed you when you were just going to pinch my arm. It would then be unjustified self-defense, but that is still a form of defense of self. However, it obviously would not be self-defense if I killed myself to prevent myself later in a depressed and masochistic mood from breaking my fingers. Taking one's own life, i.e., destroying oneself, is not a defense of self.¹⁹ And it would not be self-defense,

¹⁸ See McMahan.

¹⁹ Even if one thought that suicide could be in one's interest, it is a conceptual stretch to claim that doing so would be exercising one's right of self-defense against

not even be unjustified self-defense, if I cut off my arm to prevent myself later from masochistically inflicting the lesser harm of breaking my fingers upon myself. While I can commit unjust disproportionate self-defense against you, it makes little sense to act unjustly and disproportionately towards oneself in self-defense. Just as it is not self-defense to kill myself to prevent myself from breaking my fingers, I cannot commit disproportionate self-defense against myself. Attacking oneself with more force and inflicting a greater harm upon oneself to prevent oneself from inflicting a lesser harm hardly sounds like defense of oneself.

I also could be punished for disproportionate self-defense against you. But I cannot be punished for inflicting such a disproportionate wrong upon myself because the victim and the wrongdoer would both be punished. Moreover, I would always waive any right against unjustified self-defense against myself, which makes such rights moot. Since unjust self-defense and punishment for it seems a conceptual possibility, the impossibility of unjust self-defense against oneself and punishment for it suggests that self-defense against oneself is a conceptual impossibility.

Perhaps a reason why we do not consider such acts to be the exercise of a right to self-defense is that the right to self-defense is justified when your rights against bodily intrusion and trespass and integrity are violated; ergo, self-defense would not be possible, given the conceptual impossibility of those other rights being violated by your parts. The right of self-defense in response to the other rights violations is expressed in the following passage by McMahan:

When it (pregnancy) is unwanted, it can plausibly be regarded as a form of *bodily invasion*. In these respects it is like the act of sex itself. And, in some respects, pregnancy is even more invasive than rape. Another individual's entire body becomes lodged within the pregnant woman's body and draws sustenance from it. And, unlike, rape, the invasive process continues for nine months unless it is forcibly arrested. If, therefore the threat to *bodily integrity* from rape is sufficiently serious to warrant a lethal *defensive* response, it seems that the more deeply invasive and enduring threat

one's disease. While it is true that a diseased life not ended by suicide may mean that one lives a longer life than one would have preferred, opting for suicide does not seem best defended in terms of self-defense, for this act destroys the self. It is better defended in terms of autonomy, for someone chooses to live a shorter life over a less attractive longer life. If others may not interfere with the patient's choice, that would be on the basis of an autonomy right.

from pregnancy should as well.²⁰

So, since your own body parts cannot intrude or trespass and violate your own bodily integrity, you cannot *defend* yourself against them. You and your parts are not the type of things that you have a right to apply *self*-defense against precisely because the threat is not external to you but is identical to you or to part of yourself. Thus it does not seem to make sense to say you may eliminate parts in self-defense. Perhaps others not allowing you to remove them violate an *autonomy*-right of yours, but that is not violating your right to self-defense.

Autonomy Rights Over One's Parts? It might seem then that the best strategy for those defending the abortion of a fetus that is a part of its mother is to claim that people have an autonomy right to do what they want with their body's parts. If so, the idea would be that if the fetus is a part of your body, then it is a part that you can permissibly remove just as you could remove an inflamed appendix or undesirable facial hair.²¹ Here an appeal is made to autonomy – control over oneself. So, even if we cannot exercise a right of *self*-defense against an unwanted part of ourselves, we can exercise a right of autonomy over what to do with unwanted parts of our bodies. Prohibiting surgical removal of parts of someone who is judged competent will typically be seen as violating the rights of the autonomous patient.

My autonomy allows me to cut my hair or remove a wart. But fetuses, unlike all of our other parts, are human beings with their own interests and value that is not derivative upon our value or worth. We typically think the value of your parts lies in their use for you – or for someone else in the case of organ transplant.²² However, fetuses have their own good and interests. So, unlike with other parts, we must consider their interests when discussing our autonomy rights. It does not seem as your hair or warts have interests that can be harmed by their removal. Only living entities – cells or organisms – would seem to have such interests.²³

²⁰ McMahan, p. 399.

²¹ See n1.

²² For an account of fetal interests, see Rose Hershenov and David Hershenov, "If Abortion, then Infanticide," *Theoretical Medicine and Bioethics* 38/5 (2017): 367-409; David Hershenov and Rose Hershenov, "The Potential of Potentiality Arguments," *Current Controversies in Catholic Bioethics*, ed. Jason Eberl (New York NY: Springer, 2017).

²³ David Hershenov, "Self-Ownership, Relational Dignity, and Organ Sales,"

I suspect that the most illuminating analogy for understanding the exercise of autonomy over one's body is not hair, appendices, kidneys, eggs, blood, or fat but conjoined twins. They are living human beings. They share parts. Imagine conjoined twins who share parts that are essential to the life of each. Neither should be able to control that shared part and, say, take it with them upon surgical separation, even though it is one of their parts.²⁴ Nor if the shared part is essential to just one of the twins, should the other be allowed to destroy it in the separation procedure. I think that is true even if one conjoined twin is autonomous but the other is not because of a mental impairment. It is hard to believe that if adult conjoined twins were both autonomous but one ceased to be so on account of a blow to the head resulting in a childlike mind, then the diminished twin could be killed. It seems that a proxy is called for, not a disregard of its well-being for which it cannot advocate. What holds for the minimally minded twin should apply to the fetus. So, parthood *per se* does not provide the autonomous with control over shared parts.

Matters get trickier if one conjoined twin is dependent upon organs of the other that are parts of just the latter. That is more akin to the relationship between the fetus and the mother. The pro-life argument would have to involve a claim that the mother's autonomy did not provide a right to kill someone dependent upon her body. But that is another task and my aim here is just to show that considerations of autonomy do not provide a right to fatally control *shared* parts.

Conclusion

I have considered various reasons to deny that fetuses are parts of their mothers and have found them all to be wanting. However, my ultimate aim is not to make a decisive case for fetuses as maternal parts. I am more interested in exploring the consequences of fetal parthood for the abortion debate. I find it revealing, even rather rich irony, that fetal parthood does not strengthen the case for abortion despite what many pro-lifers fear and pro-choicers expect. It turns out that three well-known arguments given in the defense of abortion depend upon fetuses not being parts of their mothers. Thus there turn out to be

Bioethics (forthcoming).

²⁴ Likewise, imagine that only part of the fetus was a part of the mother. The mother could not do what she wants with that part because it is also a part of her. I do not see why a different treatment would be called for if the fetus was completely a part of the mother or one twin was completely embedded within another.

conceptual reasons to reject arguments in support of abortion based upon considerations of trespass, bodily integrity, and self-defense.