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# 'Rights' Are Not Enough: Prospects for a New Approach to the Morality of Abortion

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The approach taken in this essay to the moral issues involved in abortion starts from the proposition that a particularly frustrating impasse has been reached both in scholarly discussion and in public debate about abortion. If we strip the professional and academic discussion of its scholarly and scientific niceties, and dampen the heat and passion of debate in the political and legal arenas, we find that each side, whatever its pro- or anti-rhetorical label, holds a fundamental conviction which to those on the opposing side seems implausible. These convictions generally cluster the ideas of "rights," "person," and "choice." For instance, a fundamental conviction at the basis of a "pro-life" position is the fetus' early and definitive entitlement to the rights of a person, while a fundamental conviction of a "pro-choice" position is the pregnant woman's definitive entitlement to the unimpeded determination of the course of her future. Although those who hold these convictions adduce arguments in their support, to those on the opposing side of the issue the arguments rarely, if ever, seem adequate to carry the weight of the conviction. To those on the opposing side, it often seems that the conviction would be held even if there were no argument to support it.

Continued public discussion since the Supreme Court's abortion decisions has done little to overcome this impasse. Perhaps it is not yet time to abandon hope that further discussion of "rights," "persons," and "choice" could effect a consensus adequate for guiding at least some public policy decisions and even some personal moral decisions. While such discussion continues, however, the situation of impasse

makes it advisable to explore other perspectives on the moral issues involved in abortion in the hope that they might help us see our way through the impasse.

I am therefore proposing a perspective for analyzing the moral dimensions of abortion which does not focus upon questions of "rights," important as these questions are. The focus of this perspective, instead, is on the question of what is truly good for human persons. From the standpoint of the history of philosophy, this perspective is by no means a "new" one; some of its most important features can be found in the ancient philosophers Plato and Aristotle. It is, however, a perspective which generally has not been put to use in the contemporary discussion of abortion.<sup>1</sup> This perspective tries to win some clarity for our thinking about the nature of what is good for human persons and about the conduct which effectively serves that good. It does so by specifically taking account of the moral significance of the kinds of human good which have become ingredient in a situation as a result of the human conduct, practices and institutions which have brought it about. An account of the moral significance of these kinds of human good is of particular importance for discussion of abortion because judgments made about the morality of abortion — be they in general or in regard to particular cases — frequently presuppose judgments about the kinds of human good which are, or ought to be, served by some of the basic practices and institutions of our lives together in society. A perspective which brings to light these judgments about human good has the advantage of making plain to us more of what is morally at stake in such situations than can be seen from a perspective fashioned solely in terms of concepts such as "rights," "choice," and "persons."

An elaboration of this perspective will show how it brings these judgments to light and enables us to consider their significance for the moral assessment we can make about abortion. This perspective provides a framework of concepts which enable us to understand and to delimit in moral terms the situation (or the types of situations) in which abortion might be considered as a possible course of action, either in an individual case, or as a practice to be discouraged, permitted, or encouraged by public policy. In particular it views such situations arising at a point at which a set of important human institutions, practices, and patterns of conduct that ought to serve human good intersect with a set of actions and decisions by particular human beings which have resulted in pregnancy. Some of the institutions, practices, and patterns of conduct which intersect with the particular actions and decisions are patterns of sexual conduct both within and outside the structure of married life and the family; patterns and practices of marriage and family life; patterns of economic opportunity and the distribution of wealth, resources, and income; patterns of

statutory law, judicial interpretation, and executive enforcement which delimit the parameters of the legal exercise of rights; practices of medicine which delimit the parameters of physical and mental health.

To delimit the situation adequately in moral terms we must be able to identify and assess the moral significance of the elements of each intersecting set. From this, we can then go on to make a sound moral judgment about possible responses to the situation, including that of abortion. When discussion of the morality of abortion employs, as its basic perspective, the concepts of "rights," "choice," and "persons" (where "person" primarily signifies "entitlement to rights"), it views the situation along only one of its intersecting lines, i.e., the one framed by the set of actions and decisions made by particular persons insofar as they are bearers of rights and capable of choice. From this perspective, the institutions, practices, and patterns of conduct which enter into the fashioning of the situation, and the human "good" which they are to serve, are viewed obliquely: their moral significance is assessed and assessable only in terms of their bearing upon the rights and choices of the persons involved.<sup>2</sup> The perspective I am proposing enables us to take sight upon the situation also along lines provided by the other set of intersecting elements, i.e., along lines provided by human institutions and practices, and the good they serve. Such "sighting" asks of each of the elements of this set: What kind of human good does it serve and how does that good bear upon the situation?

### Failure to Raise Question

Failure to raise this kind of question manifests itself in a sadly ironic way in many discussions of abortion. In this discussion, considerations of "good"—especially of the human good which ought to be served by the human institutions and practices ingredient in the situation—are often presupposed and left unexamined in the very description offered of the situation. Such a situation is most frequently described as an "unwanted pregnancy"; packed into that description—and the judgment consequent upon it, that abortion is a possible response to the situation—are assessments about the kind of human good which ought to be served by the institutions, practices and patterns of conduct already ingredient in the situation.

Let me illustrate: the reasons which can be offered for a particular pregnancy or type of pregnancy being "unwanted" are numerous and varied; they range from a judgment of immediate danger to a woman's life, through considerations for the well-being or the economic pros-

pects of the family, to the inconvenience of interrupting a career or disrupting a personal relationship. Whatever the particular reasons or types of reasons may be, most, if not all of them presuppose some judgment about the kind of human good which ought to be served by the institutions and practices ingredient in the situation. For instance, patterns of economic opportunity or of economic expectations presumed to be worth pursuing can make particular pregnancies "unwanted." The "good" of marriage and family life is understood variously in our culture: it can be understood to serve as an ideal of self-fulfillment; it can be understood as a partnership to serve career ambitions or social expectations; it can be understood to be a partnership fostering a mutual concern for others extending beyond the couple's relation. The judgment that a pregnancy is "unwanted" in particular cases is one that frequently seems to be made in conjunction with which good one assumes marriage to serve. It is obviously a judgment which is more likely to be made when one takes that good to be simply self-fulfillment than when one takes that good to be a partnership fostering a mutual concern for others extending beyond the couple's relation. Patterns of sexual conduct, whether within or outside of marriage, are often determined in our culture by critically unexamined presuppositions about how that conduct serves the psychological "good" or "health" or "integration" of human persons, or the "good" of a particular relation between persons.<sup>3</sup> These patterns, and the assumptions about "good" on which they are based, frequently function as a basis on which a pregnancy is judged "unwanted." Patterns of medical treatment and of the availability and distribution of health care can play a role determining what we consider to be acceptable standards of physical and mental health. While functioning in the determination of whether a fetus is "normal," such standards can also more subtly function to determine the acceptability of particular forms of "abnormality" on emotional, financial, or social, as well as on medical, grounds.<sup>4</sup> As a result, these patterns and practices, and the assumptions about the characteristic good of mental and physical health which they support, can also play a role in forming a judgment whether a pregnancy is "wanted" or "unwanted."

These illustrations should make clear that a description of a pregnancy as "unwanted" typically carries with it judgments, made implicitly and uncritically about the kinds of human good that are at stake in the situation and which ought to be served by a response to that situation. These implicit judgments about human good are then further obscured by using "rights" and "choice" as the focus of discussion. As a result, discussion of abortion conducted just from the vantage point provided by these concepts is unable to make a full critical examination of the significance of these implicit judgments about good for our moral assessment of abortion.

### Point Put in General Form

This point can be put in a general form. Description of a pregnancy as "unwanted" presupposes a certain way of understanding human good: what is "good" is fashioned in terms of what we "want." This understanding predisposes us to see only certain moral possibilities for action when faced with a situation which has, or is likely to result in, an outcome which we do not want: the set of actions which can prevent, terminate, or mitigate the unwanted outcome. Analysis of the moral dimensions of such a situation from a perspective of "rights" and "choice" then reinforces this understanding of human good as a function of our wants, i.e., "rights" entitle us to take steps needed to pursue or obtain what we want; our wants and our choices in accord with such wants can be subject to constraint only when they come into conflict with the "rights" of others. Nothing fundamental to this concept of "rights" or of "choice," however, requires us to doubt that "good" is to be fashioned in terms of our wants, nor does constraint placed upon the pursuit of our wants in virtue of the rights of others require us to question whether what we want, or whether our wants themselves, are good. As a result, moral analysis conducted in terms of these concepts tends also to see the moral possibilities for action in such a situation to be constituted just to be actions which would prevent, eliminate, or mitigate the unwanted outcome.

A significantly different understanding of human good and its relation to wants, and a more inclusive and challenging set of possibilities for moral action can be formed from the perspective proposed in this essay. This perspective requires us to consider the possibility that we can fashion what we want in terms of what is good; it opens up for us the possibility of taking actions that make us realign or even change our wants. In its analysis of a situation of "unwanted" pregnancy it requires us to consider, as possible and morally appropriate responses, actions which would make the pregnancy wanted rather than eliminate it because it is unwanted.

The introduction into public discussion of the perspective I have sketched out will not be an easy undertaking. I will conclude this essay by suggesting two ways in which such an introduction could be made. These two ways require a more careful and detailed articulation than can be given here; I offer them now in outline in the hope of provoking more extended discussion which would provide the needed articulation.

The first way would be to propose to the various parties in public and scholarly discussion that there is a need for them to offer a critically justified account of what constitutes human good in general, and of the various kinds of particular human good, in virtue of which judgments are made about whether a pregnancy is "wanted" or "unwanted." These accounts should also be shown to require consid-

eration of the social character of the good served by the human practices and institutions ingredient in the situation.<sup>5</sup> Two areas of human conduct in which such accounts of "good" are especially needed for the discussion of abortion are in regard to the institutions and practices of marriage and family life and in regard to the patterns and practices of sexual conduct. In particular need of critical elucidation is the social character of the good served by marriage and family life and the consequences which this has for the way we are to understand the good to be served by human sexual conduct.

### Resources in Theological/Philosophical Underpinnings

There are, I believe, resources within both the philosophical and the theological underpinnings of a position which judges a fetus to be human life from the beginning which can be developed to say true and significant things about the social context in which such life is to be introduced and fostered. Some of the things such a position could say are clearly "countercultural" in a society which has increasingly fostered, by its practices, an understanding of the "good" of marriage and family life in terms of its service of personal self-fulfillment and economic well-being, and an understanding of the "good" of sexual conduct in terms of its service of an ideal of psychological "integration" and "adjustment." It is quite obvious that as such an understanding of the good of these institutions and practices becomes ever more deeply embedded in our culture, the less likely abortion will be seen to be even morally problematic; it is even less likely that grounds will be found for a general agreement on public policy discouraging abortion and offering effective support for alternatives.

Development of the kind of account I am suggesting could, on the other hand, allow persons whose convictions are "pro-life" to spell out more clearly the elements of human good, both personal and social, served by marriage, family life, and sexual conduct, which lie at the basis of their conviction. Such an account would introduce into public and academic discussion a pointed and thoroughgoing critique of the underlying presuppositions about the human good served by these practices which form the basis for the cultural and societal conditions that have tended to make abortion morally unproblematic in late 20th century America; insofar as those same presuppositions are often operative in the articulation of "pro-choice" positions, such a critique would require those positions to set forth for critical discussion their understanding of the human good which is to be served by those institutions and practices.

A second way for introducing this perspective in the discussion of abortion would be through the formulation of the kinds of questions

which point out the inadequacies of a moral analysis conducted solely from a perspective of "rights." Such questions would help show the rather ironic fact that, for all the rhetoric which connects "rights" to "persons" and the respect due them, this perspective for moral analysis most frequently functions in terms of a highly abstract understanding of human persons: the exercise of rights is given value in abstraction from the history, the future, and the concrete set of social relations in which the person exercising the right stands. Human good is focused down to the good of the exercise of rights. As a result of this abstract understanding of the human person, one rarely finds posed the questions of what human good is served by the exercise of particular rights, or of how the exercise of this (or any other) "right" fosters the establishment of the dispositions and traits requisite for becoming a good person.

Once such questions are raised, it would then enable us to form our moral judgments on the basis of the set of moral concepts which allow us to specify the kinds of concrete human good served by the exercise of rights: these are the concepts of "character," "virtue," and "moral skills."<sup>6</sup> These concepts enable us to bring to bear upon the concrete decisions and actions of individuals the perspective we gain by sighting along the idea of good. They are concepts which enable us to anchor the exercise of particular human rights to considerations of human good and to the concrete history, future, and social relations of the persons in the situation.

Let me offer in conclusion an illustration of how one of these concepts, "moral skill," can be of use in sorting out the moral significance of one kind of situation to which abortion, or the exercise of a "right" to abortion, has been proposed as a desirable solution. The rise in the incidence of pregnancy among young teenagers has recently gained attention in public discussion. Inevitably, discussion focused upon "rights," e.g., in the light of Supreme Court decisions, is a young woman to be granted the "right" to seek an abortion without her parents' consent? That issue, in turn, generates more discussion focused on "rights," be it about parental rights, rights of access to birth control information, or rights of confidentiality in a physician-patient or counselor-client relation. Such discussion from the perspective of "rights" does not require (nor frequently even allow) us to examine whether misperceptions of human good, or whether failures in the effective fashioning of what is authentically good for the persons involved, have brought the situation about; neither does it require us to raise the question of how a morally appropriate response should address itself to remedy the moral misperceptions or moral ineffectiveness which have brought the situation about.

On the other hand, analysis from a perspective of human good, brought to focus upon the fostering and exercise of moral skills,

would enable us first, to locate those failures in moral perception which contribute to the phenomenon of increased teenage pregnancy, and then to determine their significance for the judgment we can make about appropriate moral responses. We can locate one major type of moral misperception of what is good for human persons and subsequent failure to exercise the moral skills required for fostering such good in the attitudes and patterns of conduct which commonly and unreflectively define parent-to-child, person-to-person, and person-to-institution relations in our culture. Instances of such misperceptions can be found in attitudes and patterns of conduct which conceive of the parent as "pal," or in which rivalry is unconsciously fostered by parents making their children the focus of their own unfulfilled life expectations; these all seem to view awry the human good which parent-child relations should serve. As a result, they prevent the fostering of the moral skills of mutual trust and respect requisite for adequate moral perception and conduct both in the relation itself and in other activities significantly touched by it. Another form of misperception is one that tolerates or encourages patterns of social relations, among young persons and adults alike, which places a premium on sexual attractiveness, makes it definitory of the worth of the relation, and makes the test of such relations the adequacy of sexual promise or performance; another misperception of the authentic good for human persons which can be located from this perspective is the perpetuation of economic and social practices which create for certain groups in our society conditions of such unrelieved desperation for which escape can be found only in pitiful and often tragic self-assertions of violence and promiscuity.

The list of items which could be picked out as elements indicative of massive moral failure at the roots of this phenomenon of increased teenage pregnancy is depressingly long and cuts across social and economic distinctions. Each item of failure points to the fact that in our culture's frenetic pursuit of the goods of economic well-being and psychic self-satisfaction, we have paid no attention to, and allowed to wither the institutions, practices and customs that signify a commitment to basic trust in one another and which enable us to develop and exercise the skills to care for one another's total well being: marriage as a school for self-giving and fidelity; the family as the locus for a life infused by trust and mutual respect; and the civic and religious community as the realm in which our hopes and aspirations for each other are given stable form and entrusted to the future.

To situations which result from these forms of moral blindness and the failure to develop the effective moral skills of trust and care, a moral perspective formed by a consideration of "rights" and "choice" can only offer a counsel of despair: It allows and encourages us to let

others — particularly the most helpless others — bear the burden of our failures. We must be able to do better than this; it is my hope that the development of a perspective focused on the concepts of human good, and moral skills will enable us to do better.<sup>7</sup>

## REFERENCES

1. A notable exception can be found in the work of Stanley Hauerwas. For his application of this perspective to the moral issues involved in abortion, see "Abortion and Normative Ethics" and "Abortion: The Agent's Perspective," *Vision and Virtue* (Notre Dame, Ind.: Fides, 1974), pp. 127-165.

2. The difficulty with this perspective comes out in a striking fashion in discussions which attempt to form moral judgments about abortion on the basis of a developmental understanding of the fetus. Such discussions try to locate a point at which the fetus can be judged to bear rights sufficient to challenge or to be weighed against the rights of the mother. Examples of such discussion can be found in Richard Brandt, "The Morality of Abortion," *The Monist*, 56 (October, 1972), pp. 503-526; and H. Tristram Engelhardt, Jr., "The Ontology of Abortion," *Ethics*, 84 (April, 1974), pp. 217-234. Some of the difficulties with this form of a "rights" perspective have been noted by Lawrence C. Becker, "Human Being: The Boundaries of the Concept," *Philosophy and Public Affairs*, 4 (September, 1975), pp. 334-359.

3. Vitz, Paul C., *Psychology as Religion: The Cult of Self Worship* (Grand Rapids, Mich.: Eerdmans, 1977), provides a thoroughgoing criticism of psychological categories such as "self-realization" which have become part of our current cultural patois about human good.

4. For an exploration of some of these issues, see Stanley Hauerwas, "Suffering, Medical Ethics, and the Retarded Child" and "The Demands and Limits of Care: On the Moral Dilemma of Neonatal Intensive Care," *Truthfulness and Tragedy* (Notre Dame, Ind.: Notre Dame University Press, 1977), pp. 164-183.

5. Basic to this consideration is the fundamentally social character of human existence and the consequences this has for our moral practice and thinking. H. Richard Niebuhr, *The Responsible Self* (New York: Harper and Row, 1963), employs this as an essential basis for his elaboration of a Christian moral philosophy.

6. For the concept of "moral skill" I am indebted to Stanley Hauerwas and David Burell, "From System to Story: An Alternative Pattern for Rationality in Ethics," *Truthfulness and Tragedy*, pp. 15-34.

7. This essay is based upon a talk presented at the invitation of the Department of Medical Humanities, Southern Illinois School of Medicine. I wish to thank George Agich, Patrick Coffey, Peter Marchetti and Richard Roach for their comments and criticism in the preparation of this essay.