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Invoking Embryonic Development and the Notion of “Personhood” to Justify Early Abortion: A Curious Argument

by

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Scientific knowledge about the process of embryonic development has provoked new and challenging issues for moral debate. The possibility of cultivating embryonic stem cells to alleviate neurological disorders, such as Parkinson's disease, has raised to new heights the ethical question of killing embryos for these purposes. In addition, proponents of abortion have invoked the process of embryonic development to challenge the views of those who contend that life is to be protected from the first moment of existence.

In this essay, I argue that embryonic development and the notion of personhood have been misused in order to justify utilitarian interventions upon embryonic life as well as to deny immunity from abortion to embryonic human life. I make this argument in reference to two different, but related, discussions of early abortion. The first discussion is that of Dr. Jean Porter in her essay on moral action, and the second is the stated position of a biotechnology firm that asserts a “developmental theory of personhood” in defense of early abortion to cultivate fetal stem cells.

Dr. Jean Porter has written an extremely insightful and thoughtful book¹ that deserves careful attention by those engaged in health care ethics. Her recovery of the contributions of Aquinas to contemporary moral debates regarding the moral act is especially timely and compelling. However, she introduces her own, in my view, problematic assessment of

the morality of abortion in the context of her discussion of the views of Aquinas on the issue.²

Acknowledging that Aquinas subscribed to the biological information of his time, she also endorses Joseph Donceel's view that the theory of "delayed hominization" is not harmed by newer genetic information and stands on its own merits. That is, the physical, emotional, and social contexts encountered by nascent life in its developmental odyssey are still "morally relevant" circumstances. These developmental stages, according to the theory, possess significant valence to withhold judgment that "animation" or "ensoulment" (scholastic terminology for the presence of unique human identity) has occurred at the first moment of conception.³

Dr. Porter argues that the allied concepts of non-maleficence (the cardinal principle of medical ethics, "first do no harm") and equality, notions ingredient and central to the moral perspective of Aquinas (and, thereby linking him to us moderns), do not constitute an outright prohibition of abortion. The burdens of an unwanted pregnancy or the plight of conjoined twins are among the conditions that can justify an early abortion, in Dr. Porter's perspective. The onset of brain activity constitutes an important benchmark for Dr. Porter and, to her credit, she is opposed to later term abortions.

I find this argument "curious" because it implies that the criteria of non-maleficence and equality are not fully applicable to embryonic/fetal life. Earlier in the book, Dr. Porter assesses the Thomistic tradition and argues, persuasively, that euthanasia is not permissible because the notion of equality, properly understood, entails obligations of respect that cannot be set aside. In other words, modern understandings of equality as a synonym for autonomy, fail to capture the denser, more textured moral commitments embedded in Aquinas's understanding of equality. The respect that is owed to human life cannot be surrendered or overridden even by "consenting adults." I find this rationale compelling, and am perplexed and even more "curious" that it is not extended to the abortion argument.

Dr. Porter, among many others who weigh in on the side of early abortion in some circumstances, is unduly impressed by biological development as a fact in fetal life, and concludes that these stages are somehow "morally relevant." It is unimpeachably clear that human life is genetically human from its conception. Let's grant that increasing complexification, the acquisition of ever more refined capacities including brain activity, is built into the process of development. Nonetheless, why is it that these stages are "morally" significant? Why should it be permissible to extinguish a living human being simply because debatable individuating characteristics have not *yet* appeared?

Each of these stages is genetically programmed to occur in the appropriate sequence at the appropriate time. Because human life is

ineluctably on a continuum of development, a continuum that will continue to flourish unless interrupted by accident or deliberate, willful intervention, why should particular stages of the continuum be privileged or, conversely, devalued? To answer my own question, it seems to me that the point of these diverse assessments of developmental stages is to provide a justifiable rationale for killing. Additionally, I think that it is a failure of moral imagination to see these stages as discrete moments of existence rather than as organic aspects of existing human life.

In other venues the mischievous lure of "biological development" takes on particular resonance in ethically questionable appropriations of the philosophical notion of "personhood." Paradoxically, an appeal to a certain construal of "personhood" has become a convenient device to justify killing of embryos for stem cell research. In fact, at this writing the Geron Corporation, a bio-tech firm in Menlo Park, CA, relies on its own Ethics Advisory Board's endorsement of a "developmental theory of personhood" to support its embryonic research program. According to this understanding, the embryo/fetus "earns" the protectability and immunity associated with personhood as it acquires greater developmental complexity. Adopting an explicitly "pluralistic" approach to the criteria of personhood, the Geron Ethics Advisory Board contends that "the principle of respect for human life entails different considerations and entails different obligations at different developmental stages."⁴

Excluded from this protectability, of course, is the embryo with its valuable stem cells. I contend that "personhood" offers no meaningful protection from harm if it is understood "developmentally." If personhood does not, at the very least, mean "immunity from harm at any stage of development," then it is a dangerous philosophical abstraction that jeopardizes nascent human life. An entire literature has emerged around the question of the "personhood" of the early embryo. James McCartney's study is quite useful in summarizing much of the scientific and ethical perspectives on this topic.⁵ The phenomenon of twinning, segmentation, the emergence of the "primitive streak," and other early embryonic structures, among others, have contributed to divergent ethical assessments about the applicability of the term "personhood" to embryonic life. McCartney insightfully points out that the philosophical and religious intuitions of Pope John Paul II lead the pope to a different conceptualization about the meaning of personhood.⁶ Much of the discussion in this literature about the moral status of the embryo is directed at the applicability of the notion of personhood to embryonic life. My point in this essay is that the more fundamental issue is not the applicability of the notion, but the criteria that govern the conceptual understanding of personhood itself.

I do not think that the biological complexity of embryonic development constitutes a warrant for the killing of embryonic/fetal life.

Killing is the critical issue, and the mask of "personhood" should not obscure this reality. The notion of personhood needs to be rescued from the distortions imported into its meaning by the Geron Ethics Advisory Board and those who subscribe to the "developmental theory of personhood." At the very least, personhood requires the concrete embodiment of the values of non-maleficence and equality that Dr. Porter has identified as central to the moral vision of Aquinas. Otherwise, embryos are subjected to the kind of harmful selectivity inherent in the "developmental theory of personhood" embraced by the Geron Ethics Advisory Board.

Stanley Hauerwas offers a salutary caution against reliance on abstract notions like "personhood" in his short but pointed essay, "Must a Patient be a Person to be a Patient? Or, My Uncle Charlie is not Much of a Person, but He is Still My Uncle Charlie."⁷ The point of Hauerwas's deceptively whimsical essay is that among the "givens" of human life are relationships and moral connections to others that are not grounded in our personal choices and desires. "Uncle Charlie," warts and all, may not demonstrate the attributes desired in a nice "person" but he is, nonetheless, an undeniable "fact on the ground" who has claims of family upon us, and to whom we owe certain obligations, regardless of his unsavory "personhood." Relying on a notion like "personhood" to determine who is to count as a morally protectable subject is risky business if the criteria for "personhood" are developed in isolation from the moral practices, attitudes and commitments that are concretely fleshed in the Christian story about the meaning and purpose of our lives.

Alasdair MacIntyre's observation that we inhabit a world of moral "fragments" without a coherent and unifying moral center lies at the heart of the intractable lack of moral consensus in our liberal, post-enlightenment contemporary culture.⁸ The notion of "personhood" is one such fragment that has lost its ancestral philosophical and religious moorings originally designed to name the unrepeatable dignity of each human subject.

In MacIntyre's account of moral philosophy, our moral notions and principles are not immune from the influence of historical and cultural forces that shape the vision or "story" of the values by which we order our lives. Our contemporary world, whether we characterize it as "modern" or "post-modern," or even "post-Christian," prizes the values of technical reason, autonomy, and efficiency as components of its "story" of moral order. According to this ethical narrative, moral reason is largely "instrumental," that is, a process of reflection and judgment that is pragmatic, utilitarian and directed towards the achievement of the desired outcomes and goals of human action. It is not surprising, then, that a notion like "personhood" detached from its philosophical and religious tradition is molded to achieve purposes not foreseen in its original architecture.

Regrettably, the notion has now become a fortuitous tool for abortion advocates and the biotechnology industry. In contemporary parlance, "personhood" is not so much a description of intrinsic, inviolable worth as it is a "something extra" ascribed to a member of the human species to justify its existence. That "something extra" may be intelligence, brain wave activity, mobility or a host of other "individuating" qualities that have served as candidates to ground the ascription of maximum protectability and immunity from harm. Personhood, in other words, is understood as an "ascribed" status, whereby those who are powerful set the rules concerning those who are to count as members of the human species.

For the unfortunate embryo selected for stem cell cultivation, the "developmental theory of personhood" is a slim consolation for its deprivation of life. Moreover, a public policy grounded in such an understanding threatens the lives of all that are similarly vulnerable. Consider the plight of the developmentally disabled, to cite but one example. Does the embryo/fetus deserve to be included among those who are entitled to non-maleficence and equality? I think these notions, prized by Aquinas, are most certainly applicable to our "developing" human kin.

I have deep appreciation for Dr. Porter's astute assessment that the analysis of the moral act is not "theory-driven," but rather a dialogical process requiring analogical construal of significant elements. Conclusions are not deduced with apodictic certainty. Moral notions are "open-ended", but do have normativity deriving from a focal point of pertinent considerations. Dr. Porter locates this "focal point" for Aquinas in the allied notions, mentioned above, of non-maleficence and equality. Since it is clear from the tradition that Aquinas did not endorse abortion in spite of the Aristotelian biology he inherited, it appears to me that these notions of non-maleficence and equality logically should be extended to embryonic/fetal life.

I think that prudence is required to prevent the risk of unwarranted harm to the embryo/fetus as well as to assure its equality as a member of the human species. On this score, the Church in its 1974 *Declaration on Abortion* strikes the right balance by deftly avoiding the philosophical question of when "ensoulment" takes place.⁹ Relying on the principle that "what will be human is still human," the Church places the burden of proof on those who support early abortion. In my view, the supporters of early abortion have not made their case. Developmental stages are interesting, even compelling, but they do not constitute morally relevant factors to justify killing a being that is unarguably human as it negotiates its developmental history. I am not convinced that Dr. Porter's construal of Aquinas's commitment to non-maleficence and equality supports her justification of early abortion. Moreover, I am equally unconvinced by the pluralistic criteria for "personhood" endorsed by the Geron Ethics

Advisory Board. Unless there is a moral "firewall" to protect our embryonic cousins from the misuse of the process of biological development and the related moral notion of "personhood," utilitarian appropriations of their lives will tragically and sadly continue.

References

1. Jean Porter, *Moral Action and Christian Ethics*, (Cambridge: Cambridge University Press, 1995).
2. This discussion occurs on pages 118-125 of Dr. Porter's essay.
3. Joseph Donceel, "Immediate Animation and Delayed Hominization," *Theological Studies* 31(1970): 76-105.
4. Geron Ethics Advisory Board, "Research with Human Embryonic Stem Cells: Ethical Considerations," Hastings Center report (March-April, 1999): 32.
5. James J. McCartney, *Unborn Persons: Pope John Paul II and the Abortion Debate*, (New York: Peter Lang, 1987).
6. McCartney, op cit. pp. 120-125, as well as the epilogue, pp. 135-139.
7. Stanley Hauerwas, "Must a Patient be a Person to be a Patient? Or, My Uncle Charlie is not much of a Person but He is Still My Uncle Charlie," in *Truthfulness and Tragedy* with Richard Bondi and David B. Burrell (Notre Dame: University of Notre Dame Press, 1977): 127-132.
8. MacIntyre makes this point in many of his essays, most recently, "The Recovery of Moral Agency," *Harvard Divinity Bulletin*, Volume 28, n. 4, 1999, reprinted in *The Best Christian Writing 2000*, edited by John Wilson and Philip Yancey (New York: Harper Collins, 2000): 111-137. A more extensive conversation occurs in MacIntyre's *Three Rival Versions of Moral Enquiry: Encyclopedia, Genealogy, and Tradition*, (Notre Dame: University of Notre Dame Press, 1990).
9. Sacred Congregation for the Doctrine of the Faith, *Declaration on Abortion*, November 18, 1974, footnote 19, "The present Declaration deliberately leaves untouched the question of the moment when the spiritual soul is infused. The tradition is not unanimous in its answer and authors hold different views: some think animation occurs in the first moment of life, others that it occurs only after implantation. . . the moral position taken here on abortion does not depend on the answer to that question. . .