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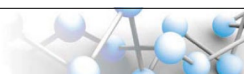
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RESPONSE

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Violinists, demandingness, and the impairment argument against abortion

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Email: dustin.crummett@gmail.com**Abstract**

The 'impairment argument' against abortion developed by Perry Hendricks aims to derive the wrongness of abortion from the wrongness of causing foetal alcohol syndrome (FAS). Hendricks endorses an 'impairment principle', which states that, if it is wrong to inflict an impairment of a certain degree on an organism, then, *ceteris paribus*, it is also wrong to inflict a more severe impairment on that organism. Causing FAS is wrong in virtue of the impairment it inflicts. But abortion inflicts an even more severe impairment (death), and so, *ceteris paribus*, is also wrong. Notably, Hendricks thinks that this argument does not require the claim that the foetus is a person. Here, I respond to Hendricks by arguing that the *ceteris paribus* clause of the impairment principle is not met in ordinary cases of pregnancy. Carrying an unwanted pregnancy to term is much more *burdensome* than is refraining from excessive drinking for nine months. This provides a *pro tanto* justification for obtaining an abortion that does not apply to causing FAS. If the foetus is *not* a person, it seems fairly clear to me that this justification is strong enough to render abortion permissible. Hendricks is therefore incorrect in claiming that the impairment argument can go without claims concerning foetal personhood. If the foetus is a person, then whether burdensomeness justifies abortion depends on certain questions relating to Thomson's famous violinist argument. I will not attempt to answer those. But anyone who is otherwise sympathetic to Thomson's argument should not be moved by the impairment argument.

KEYWORDS

abortion, impairment argument, Judith Jarvis Thomson, moral demandingness, violinist thought experiment

1 | INTRODUCTION

Perry Hendricks' new 'impairment argument' against abortion aims to derive the wrongness of abortion from the wrongness of causing foetal alcohol syndrome (FAS).¹ According to Hendricks' 'impairment

principle', 'if it is immoral to impair an organism O to the nth degree, then, *ceteris paribus*, it is immoral to impair O to the n+1 degree'.² Since death is a greater impairment than FAS, if causing FAS is wrong, so is obtaining an abortion, unless there is some relevant disanalogy between the two actions. Hendricks' paper aims to show, in the words

¹Hendricks, P. (2019). Even if the fetus is not a person, abortion is immoral: The impairment argument. *Bioethics*, 33, 245–253.

²Ibid: p. 247.

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of its title, that 'even if the fetus is not a person, abortion is immoral'. After all, the argument does not rely on any claims about foetal personhood. It instead relies on the claim that causing FAS is immoral, which will presumably be granted whatever one's views on foetal personhood.

I agree that causing FAS is ordinarily wrong. Furthermore, Hendricks' impairment principle seems plausible. Accordingly, I think the best bet for the pro-choice philosopher is to find some morally important difference between causing FAS in an ordinary case and obtaining an abortion, so that the *ceteris paribus* clause of the impairment principle is not satisfied. Here, I point out an important difference, which has not yet been entertained by either Hendricks or his critics.³ I note that carrying an unwanted pregnancy to term is typically far more burdensome than is abstaining from excessive drinking for nine months, and argue that this is a morally important difference. If the foetus is *not* a person, then I suggest that this burdensomeness is sufficient moral justification for having an abortion. Hendricks' claim that the impairment argument against abortion can go without a commitment to foetal personhood therefore fails. If the foetus is a person, then whether this burdensomeness justifies having an abortion depends on how we answer certain questions related to Judith Jarvis Thomson's (1971) famous argument for abortion's permissibility.⁴ I will not attempt to answer those questions here, except for one in Section 3 that is directly relevant to my argument. But I do claim that anyone who is *otherwise* sympathetic to something like Thomson's argument should not be moved by the impairment argument, even if the foetus is a person. The difference in burdensomeness provides an easy way of resisting the inference to the wrongness of abortion by way of the impairment argument.

In the next section, I explain the line of response to the impairment argument that I am defending. In Section 3, I explore whether the causing/allowing impairment distinction poses a problem for the argument of Section 2. In Section 4, I respond to a potential objection that asks about the mother's obligations in an odd scenario where refraining from drinking really would be as burdensome as an unwanted pregnancy.

2 | BURDENSOMENESS, DRINKING AND ABORTION

Judith Jarvis Thomson famously asks us to consider the following scenario.

You wake up in the morning and find yourself back to back in bed with an unconscious violinist... He has been found to have a fatal kidney ailment, and the Society of Music Lovers

*has canvassed all the available medical records and found that you alone have the right blood type to help. They have therefore kidnapped you, and last night the violinist's circulatory system was plugged into yours, so that your kidneys can be used to extract poisons from his blood as well as your own. The director of the hospital now tells you, 'Look, we're sorry the Society of Music Lovers did this to you—we would never have permitted it if we had known. But still, they did it, and the violinist is now plugged into you. To unplug you would be to kill him. But never mind, it's only for nine months. By then he will have recovered from his ailment, and can safely be unplugged from you.' Is it morally incumbent on you to accede to this situation? No doubt it would be very nice of you if you did, a great kindness. But do you have to accede to it?'*⁵

Thomson's thought experiment is, of course, meant to illustrate the fact that it does not follow from someone's being a person with a right to life that they also have a right to use your body in an invasive and taxing way to survive. Unplugging the violinist does not violate his right to life in the same way as, say, walking up to him on the street and shooting him.

Famously, many people agree that you are not obligated to remain plugged in.⁶ And even philosophers who think I might be obligated to remain plugged into the violinist⁷ will likely agree that, at least ordinarily, I would not be similarly obligated to remain plugged in if we replaced the violinist with a non-person organism (even if that organism will become a person later if I do stay plugged in).⁸ So if the case is otherwise analogous to abortion, and if we accept that unplugging from the violinist is permissible, then abortion is also permissible; if we accept the even more common judgment about the permissibility of unplugging from a non-person organism, and the case is otherwise analogous, it follows that abortion is permissible if the foetus is not a

⁵Ibid: pp. 48–49.

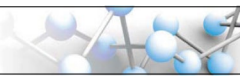
⁶This is in fact not obvious to me, which is part of my reason for being hesitant in the main text about whether Thomson's argument works, on the assumption that the foetus is a person. While I agree that unplugging would not violate the violinist's right against being killed, I think it might violate some welfare right that he has to my aid, even though aiding him would be very demanding for me. Of course, this does not imply that I should have a *legal* obligation not to unplug.

⁷See, for example, Singer, P. (2011). *Practical ethics* (3rd ed.). Cambridge, U.K.: Cambridge University Press, pp. 132–134; Fischer, J. M. (2013). Abortion and ownership. *Journal of Ethics*, 17(4), 275–304.

⁸The arguments of Singer, *op. cit.*, Chapter 6 imply that I would not be obligated to stay plugged into a non-person organism, even one that was a potential person. Given Singer's utilitarianism, notice how his view shows that the view to which I am sympathetic—that it is clear that I could unplug from a non-person, but not clear that I could unplug from the violinist—does *not* depend on the claim that the interests of persons carry more moral weight than those of non-persons. It might instead be, as Singer thinks, that persons generally have *stronger* interests in survival than do non-persons, even as their equally weighty interests are equally morally important. Fischer, *op. cit.*, pp. 290–291, in discussing Thomson's people-seed case, argues that agreement with Thomson's judgment regarding the case is often driven by illicitly thinking of the people-seeds as merely potential people, not, as they need to be for the case to do its intended work, as people. It is plausible that we may uproot merely potential people, but not full-fledged people. His argument requires that we reject Thomson's judgment about the people-seed case. While he does not explicitly say so, this does suggest to me that he agrees that staying hooked up to a mere potential person would intuitively be too burdensome to be a moral requirement.

³See, for example, Blackshaw, B. (2019). The impairment argument for the immorality of abortion: A reply. *Bioethics*, 33(6), 723–724.

⁴Thomson, J. J. (1971). A defense of abortion. *Philosophy & Public Affairs*, 1(1), 47–66.



person. Obviously, it is controversial whether the case is otherwise analogous to abortion. I will return to this later, but we can set it aside for now. The point I want to draw here is somewhat different.

Consider the following scenario.

Drinking while plugged in: *I am plugged into the violinist, as in Thomson's case. I willingly consent to remain plugged into the violinist for the required nine months, and I do so. However, with an hour remaining, I down eight shots of liquor to celebrate the imminent unplugging, knowing that some of the liquor will make it into the violinist's body. This will cause him, in his compromised state, to develop a condition analogous to FAS. He survives, but with a severe cognitive impairment.*

I obviously do something wrong by drinking in this case. Something about this may seem puzzling. After all, my actions were overall better for the violinist than what I was required to do, assuming that his condition still leaves him better off than he would be if he were dead. Most people think I could have permissibly unplugged him and let him die, but I instead saved his life at significant cost to myself. Why would unplugging him be morally better than doing what I actually did?

I suggest that at least a large part of the difference between unplugging and drinking while plugged in is accounted for by what we can call the *demandingness* or *burdensomeness* of the two courses of action. There is a question about exactly what determines the demandingness of an action, and this will come up in Section 4. However, I take it that the intuitive idea is clear enough for now. It is a familiar thought that some actions—such as volunteering at a charity in my every spare moment—might be *good*, but are nonetheless supererogatory rather than required, precisely because they ask too much for them to be part of our moral *duty*.⁹

Staying hooked up to the violinist for nine months is extremely burdensome for me, and this provides me with a fairly strong justification for unplugging. However, conditional on my bearing that cost, the further, *marginal* cost of putting the drinks off for an hour is trivial. Accordingly, though I can give a fairly strong justification for unplugging, I cannot give such a justification for drinking, given that I am not unplugging. On this understanding, Thomson's case and *Drinking while plugged in* are in an important way analogous to the following case from Derek Parfit:¹⁰

Suppose that I have three alternatives:

A: *at some great cost to myself, saving a stranger's right arm;*

B: *doing nothing;*

C: *at the same cost to myself, saving both the arms of this stranger.*

Parfit suggests that, if the cost in question is great enough, (B) might be permissible even while performing (A) rather than (C) would be impermissible. After all, 'If I am prepared to bear this cost, why do I not save *both* the stranger's arms?' Or, as Jeff McMahan explains the point:

...if the agent decides to accept the cost, thereby excluding the option of doing nothing, his choice is then between providing a certain benefit and providing that same benefit and another equally great benefit at no additional cost. While the agent has a good and sufficient reason to decline to prevent either harm, there is no reason for him not to prevent the second harm if he is going to prevent the first. To prevent only the loss of one of the stranger's arms would be gratuitously to allow this person to lose an arm. And to allow a great harm to occur when one could prevent it without the slightest cost is clearly wrong.¹¹

Of course, there is a disanalogy in that, in Parfit's case, there is apparently *no* reason to not save the stranger's other arm once you save one, whereas in *Drinking while plugged in*, there may be a *small* reason to go ahead and drink, if that is what you want to do. But of course, the reason in that case is small enough as to not matter much in comparison with the severe impairment one inflicts on the violinist.¹²

So: by way of Hendricks' impairment principle, if it is wrong to cause FAS, then it is also wrong to procure an abortion, *unless there is some relevant moral difference between the two*. I suggest that this is an important moral difference: carrying an unwanted pregnancy to term is extremely burdensome, whereas refraining from excessive drinking for nine months is, by comparison, not very burdensome. What does this imply about the prospects for the impairment argument?

Suppose the foetus is a person. Return to Thomson's case. One way to resist Thomson's pro-choice conclusion is to reject the popular judgment about the violinist case and to say that I am obligated to stay plugged in after all. Another is to search for a disanalogy with the violinist case: perhaps it is different because, say, pregnancy usually results from a voluntary action on the part of the mother that she knew had some chance of resulting in pregnancy, or because abortion involves killing while unplugging merely involves letting die, or because the violinist is a stranger whereas the foetus is one's offspring. Obviously, it is controversial whether these methods of resisting

⁹See, for example, Sinnott-Armstrong, W. (2003). Consequentialism. In *Stanford encyclopedia of philosophy*, Section 6. Retrieved from <https://plato.stanford.edu/entries/consequentialism/> [Accessed Jul 19, 2019].

¹⁰Parfit, D. (1982). Future generations: Further problems. *Philosophy & Public Affairs*, 11, 113–172, p. 131.

¹¹McMahan, J. (2015). Doing good and doing the best, p. 3. Retrieved from <http://jeffersonmcmahan.com/wp-content/uploads/2012/11/Doing-Good-Doing-the-Best.pdf> [Accessed Jul 19, 2019].

¹²Chan, R., & Crummett, D. (2019). Moral indulgences: When offsetting is wrong. *Oxford Studies in Philosophy of Religion*, 9, 68–95.

Thomson's argument succeed.¹³ Apart from the killing/letting die objection, which I discuss in the next section, I will not attempt to evaluate whether they do. What I want to claim here is just that *if* one was otherwise sympathetic to Thomson's argument, one has little reason to worry about the impairment argument. The difference in burdensomeness provides an easy way of resisting the inference to the wrongness of abortion by way of the impairment argument.

Now suppose that the foetus is *not* a person. In that case, my own inclination is to say that even if one or more of the objections to Thomson's argument do work on the supposition that the foetus is a person, they do not work on the supposition that it is not. I think it really is pretty clear that a burden equivalent to an unwanted pregnancy would be too great for me to be obligated to bear it to keep a non-person organism alive, even if I am obligated to do so for the violinist. And I think the same is generally true even if I voluntarily did something that I knew had a small chance of creating this organism in a state of dependence on me, and so on. So, if the foetus is not a person, I think it is fairly clear that the burdensomeness of an unwanted pregnancy justifies an abortion. But refraining from drinking is much less burdensome, and so does not justify causing FAS.

3 | CAUSING AND ALLOWING IMPAIRMENT

There is another feature of *Drinking while plugged in* that might seem to make it worse than unplugging in Thomson's case. In Thomson's case, I allow the violinist to suffer a bad fate (by withdrawing support), but in *Drinking while plugged in*, I directly cause the violinist's impairment by drinking. One might think the latter is worse. I framed *Drinking while plugged in* as a case of causing impairment to make it analogous to drinking while pregnant, which also directly causes an impairment when it results in FAS. But it is also in this way more like abortion than Thomson's original case, since abortion generally does *kill* the foetus, rather than simply withdrawing support from its mother's body and allowing it to die. This mirrors a classic criticism of Thomson's violinist analogy: namely, that unplugging the violinist merely lets him die, while abortion directly kills the foetus, which is worse.¹⁴

Of course, this would not show that the difference in demandingness is not a morally important difference between unplugging and drinking while plugged in. However, it might show that the difference is not *as* important as I claimed, if much of the difference between the cases is instead explained by the causing/allowing impairment distinction. If much of the difference is explained by this distinction, and if abortion is ordinarily, in this respect, more like *Drinking while plugged in* than like unplugging, this might call into question whether the burdensomeness of carrying

a pregnancy can justify procuring an abortion. This might seem especially compelling in light of the objection presented in the next section, which directly targets what I say about the significance of burdensomeness.

My response is that the causing/allowing impairment difference is not very morally important here, which can be seen by altering *Drinking while plugged in* to eliminate it. Consider:

Malfunction: As before, I am plugged into the violinist. I willingly stay plugged in for nine months, and then down eight shots of liquor an hour before the unplugging, with the result that the violinist develops an FAS-like impairment. However, in this case, the mechanism by which the violinist develops the impairment is different. No alcohol enters the violinist's system. Instead, the alcohol causes the machine connecting us to temporarily shut down, resulting in the build up of a toxin produced by the violinist's own body that would otherwise have been filtered by my kidneys. Had I waited an hour, the violinist's own kidneys would have recovered and there would be no threat.

In this case, my drinking works, mechanically speaking, more like unplugging. It interferes with the medical equipment so that I fail to provide aid that would prevent an impairment, rather than directly causing an impairment myself.¹⁵ However, it seems clear to me that drinking in the modified case is as, or almost as, wrong as in the ordinary *Drinking while plugged in*. So modifying the case introduces a disanalogy with drinking while pregnant. I now allow, rather than directly cause, the impairment. But this disanalogy does not seem to make a substantial moral difference. So the causing/allowing impairment distinction cannot be the main reason why drinking while plugged in is morally worse than unplugging the violinist, since the moral difference between the cases is about the same even if we eliminate the causing/allowing disanalogy. Of course, it does not follow that the causing/allowing harm distinction *never* makes a substantial moral difference, which might seem an implausible result. It may be that the relative unimportance of the distinction *here* is dependent upon special features of this case.¹⁶ Whatever the reason, I take it as fairly clear that there is not a substantial moral difference between *Drinking while plugged in* and *Malfunction*.

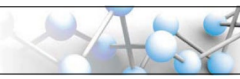
Endorsing the causing/allowing distinction as the main explanation of the difference between *Drinking while plugged in* and Thomson's case would also have awkward consequences for the proponent of the impairment argument. As David Boonin notes:

¹³See Boonin, D. (2002). *A defense of abortion*. Cambridge, U.K.: Cambridge University Press, Chapter 4.

¹⁴See Boonin, op. cit., pp. 188–211.

¹⁵If we want to claim that drinking in the modified case still directly causes, rather than merely allows, an impairment, then I imagine we will have to say the same about unplugging the violinist, so that there is never any disanalogy to begin with. See Boonin, op. cit., p. 195.

¹⁶See Boonin, op. cit., pp. 199–211.



...there is at least one method of abortion, hysterotomy, that is more plausibly described as a case of letting die rather than a case of killing. Hysterotomy involves removing the living fetus through an abdominal incision of the uterus and then allowing it to die. This procedure is more invasive and more dangerous to the woman than are other procedures, and for this reason it is typically reserved for later stages of pregnancy when other techniques are no longer feasible. But there is no reason in principle why it could not be performed much earlier, if other methods were thought for some reason to be morally impermissible.¹⁷

This puts the proponent of the impairment argument in an infelicitous position, if they claim that the main disanalogy between unplugging and *Drinking while plugged in* comes from the causing/allowing impairment distinction. For if the fact that one is causing the impairment in *Drinking while plugged in* is a very important difference between that and unplugging, then it will also be a very important difference between causing FAS and procuring an abortion via hysterotomy. The impairment argument then might not really be an argument against abortion as such; it might instead just be an argument that any abortions need to be performed via a more dangerous and invasive procedure.¹⁸ Further, Boonin argues at length that, if abortion via hysterotomy is permissible, then, given that other methods impose an additional cost on the mother and given certain other special features of the case, abortion via other methods that directly kill the foetus will be permissible, too.¹⁹ If the impairment argument leaves abortion via hysterotomy untouched, then Boonin's line of reasoning may provide a way of resisting its conclusion even about other abortion cases.

4 | THE RELATIVITY OF DEMANDINGNESS

I have conducted this discussion on the assumption that an unwanted pregnancy is far more burdensome than refraining from excessive drinking for nine months. While this is no doubt true, it is not necessarily true. In light of this, someone might offer the following objection:

You suggest that the greater demandingness of carrying an unwanted pregnancy to term, as opposed to refraining from drinking for nine months, is a

morally important difference—one great enough to justify procuring an abortion, but not causing FAS. But it is not necessarily true that refraining from drinking during pregnancy is more demanding. We can imagine, say, a severe alcoholic, or someone whose identity and leisure time are structured entirely around drinking fancy wines and craft beers, or around going to wild parties. Suppose the impact of temporarily giving up drinking on this person's ability to fulfil their desires and enjoy their life equals that typically involved in carrying an unwanted pregnancy to term. If the demandingness of pregnancy can justify inflicting the impairment of death, the demandingness of not drinking could, for this person, justify inflicting the lesser impairment of FAS. But it would be absurd and perverse to say that causing FAS is morally permissible as long as you are a severe enough alcoholic, or a dedicated enough wine snob or party animal.

There are at least six things to say about this objection.

The first is the least important. I never claimed that the difference in burdensomeness is the *only* morally relevant difference between abortion and causing FAS. In fact, I think it is not. So I am not committed to claiming that causing FAS would be permissible if avoiding it was sufficiently burdensome. However, I do want the account I have presented here to be able to stand on its own, without *needing* there to be other disanalogies in order to avoid implausible consequences. So I will not rely on this point in what follows.

Second: note that this is not a *special* problem for my account of the relative moral status of abortion and causing FAS, as long as we agree that burdensomeness sometimes means that we are not obligated to do certain things that we would otherwise be obligated to do. For instance, suppose we hold the common view that we are sometimes obligated to help others when we can achieve a very great benefit for little cost to ourselves, but that we are not obligated to devote every spare penny and moment to helping those in need, because of how demanding that would be. An objector could ask us to consider a rich person who is so greedy that giving away even a cent is extremely demanding for them, claim that the view commits us to saying that this person has no obligation to do so, and then claim that it is perverse to think that we are ordinarily required to do something for others, but not if we are greedy enough. Most readers will agree that there is some satisfactory response to this objection. Whatever that response, I suspect it will also work for my account here. For the rest of this section I will give my own view about why this objection fails, but even if *my* view does not work, most of us are committed to thinking that *some* view does.

So: on to the question of why the objection actually does fail. Consider a third point, which requires that we return to the question that I briefly noted in the last section about the exact determinants of 'demandingness'. The objection as I have expressed it assumes that the

¹⁷Boonin, op. cit., p.193.

¹⁸Hendricks realizes that not all abortions directly cause impairment. Though he sometimes says simply that his conclusion is that 'having an abortion is immoral', at other times he says that 'abortion (in most cases) amounts to killing the fetus' and that the conclusion of the impairment argument is that 'abortion (in most cases) is immoral' (Hendricks, op. cit., p. 245). When he is speaking in the qualified way, I am not sure what his response is to the worries I express in the main text. Presumably, he would not really be content with showing only that abortion is immoral, if not done via hysterotomy (cf. Boonin, op. cit., p. 189, fn. 41).

¹⁹Boonin, op. cit., pp. 199–211.



sole factors determining how demanding something is, in the sense relevant to whether I am obligated to do it, depend in some way on my subjective mental states—on how much the action would frustrate my ability either to satisfy my desires or enjoy my life. But this is not obvious. I think that a more promising account might appeal, for instance, to something like the notion of ‘personal reasons’ defended by Scanlon. Such reasons ‘have to do with the claims and status of individuals in certain positions’, where the individual, in this case, is the agent from whom something is being demanded.²⁰ Scanlon defends the view that we can have such personal reasons apart from desire-based or hedonic considerations.²¹ And within his moral theory, it is the strength of these reasons that determines how demanding, in the relevant sense, an action is, since it is the strength of my personal reasons against performing an action that determines whether I could reasonably reject moral principles obligating me to do it.²² It may be that I have reasons for objecting to the invasive and incapacitating use of my body by the violinist besides just the hindrance it poses to the satisfaction of my desires or my enjoyment of my life, without there being comparable reasons for objecting to an interruption in my drinking. So, suppose that the cost to an individual of refraining from alcohol for nine months, *as measured by desire satisfaction and hedonic level*, is as great as that involved in carrying an unwanted pregnancy to term. It would not follow that refraining from alcohol was as demanding, in the morally relevant sense, for that individual.

Of course, it seems plausible that *among* the personal reasons we have are reasons to pursue enjoyment and the satisfaction of our desires, and to avoid misery and the frustration of our desires. And perhaps such reasons could always, in principle, outweigh any other reasons to object to the invasive and burdensome use of one’s body by the violinist. So perhaps we can simply stipulate that for the individual in the example, the cost of giving up alcohol, as measured by desire satisfaction and hedonic level, would be *much, much* greater than the typical cost of carrying an unwanted pregnancy, measured the same way. This is fine, as far as it goes. But it will make some of the following points more powerful.

Fourth: the case we are being asked to imagine is highly unusual, and it is important to make sure that our intuitions are really being responsive to the highly unusual nature of the case. Carrying an unwanted pregnancy can be *very* burdensome, much more burdensome than giving up drinking for nine months would be for any ordinary person.²³ There is a risk that, in considering the case, we are really imagining what refraining from drinking would be like for, say, someone we know who is just really into parties, and thereby underrepresenting the burdensomeness that the objector stipulates is supposed to be involved. This is especially true if, in response to the previous point, we further stipulate that the cost

to desire satisfaction and enjoyment is *much, much* greater than that typically involved in carrying an unwanted pregnancy. I think it is extremely difficult to imagine what a person for whom this was true would have to be like. Below, I will alter the imagined scenario in a way that I think makes it easier for our intuitions to be responsive in the right way.

Fifth, the case the objector is asking us to imagine involves other relevant considerations that make it disanalogous from the abortion case. Realistically, the severe alcoholic probably has decisive reasons to stop drinking anyway, even apart from the effect on the violinist. This may not be true of the party animal or wine snob. But their cases raise issues analogous to the classic ‘problem of expensive tastes’ from the distributive justice literature. The problem of expensive tastes is, roughly, the problem of when and to what extent the fact that one person needs more resources to enjoy the same level of well-being as other people can justify diverting extra resources to them. Such diversion sometimes seems justified and sometimes it does not. Suppose I have a chronic pain condition and need a special medicine to achieve an ordinary level of well-being. Suppose you are a dedicated coffee snob, despising normal drinks, and need Kona coffee imported from Hawaii to achieve an ordinary level of well-being. The cost to me of not having the medicine is the same as the cost to you of not having the Kona coffee. Under normal conditions, it seems more justifiable for the government to spend extra money on me to provide the medicine than to spend extra money on you to provide the coffee, even if the medicine and coffee are equally expensive. The exact reasons why are controversial, but it is not too hard to identify clear-cut cases where diverting resources seems justifiable and where it does not.²⁴

The objection here raises an analogous problem: under what circumstances does the fact that an action is more demanding for one person excuse them from doing it, when doing it would be obligatory for an ordinary person? Again, the answer seems to be that they will be excused in some circumstances and not in others. I think the cases of the wine snob or the party animal will, under realistic conditions, be circumstances where there is not much excusatory force. We would tell them that they needed to toughen up, to find ways of enjoying their lives that did not depend on alcohol. And I think this is part of why the objection, as I initially framed it, might seem compelling. The party animal and the wine snob are not excused, and if my account implied that they are, this would be a problem. But my account does not imply that they are excused. Their not being excused does not show that burdensomeness could not excuse drinking; it instead shows (among the other things I have mentioned) that not drinking, for them, is burdensome *in the special, non-excusable way*. In the next paragraph, I will alter the scenario so that the burdensomeness of not drinking is not due to the intuitively non-excusable kind of expensive taste.

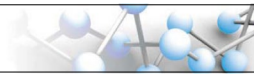
²⁰Scanlon, T. M. (1998). *What we owe to each other*. Cambridge, MA: Harvard University Press, p. 219.

²¹Ibid: Chapter 1.

²²Ibid: Chapter 5.

²³For a discussion of the burdensomeness of pregnancy (and how it compares with the burdensomeness of staying hooked up to the violinist), see Boonin, *op. cit.*, pp. 236–241, esp. pp. 239–240.

²⁴See, for example, Cohen, G. A. (1989). On the currency of egalitarian justice. *Ethics*, 99, 906–944; Cohen, G. A. (2004). Expensive taste rides again. In J. Burley (Ed.), *Ronald Dworkin and his critics* (pp. 3–29). Oxford, U.K.: Blackwell.



Finally, point six: suppose we take the previous three lessons on board. We are confident that we really have described a case where refraining from alcohol is as burdensome as carrying an unwanted pregnancy, we are confident that we really are accounting for this fact in our intuitions, and we have constructed the case so as to avoid morally confounding factors. If we really do this, the conclusion that I am permitted to drink no longer seems like a counterexample to me. Suppose I am hooked up to the violinist in Thomson's case. However, in this variant, I have a rare, congenital, otherwise untreatable medical condition that is such that, if I do not occasionally drink some liquor, I will be stricken with excruciating and incapacitating fits of pain. (One can adjust the frequency and severity of these fits until the demandingness of not drinking for nine months seems comparable to that of carrying an unwanted pregnancy.) If I do drink, the violinist will develop an FAS-like impairment. Staying plugged in and drinking will nonetheless be better for him than unplugging and letting him die, which, we can suppose for purposes of argument, I would be permitted to do. For some reason I am unable to communicate with him about any of this—for instance, I cannot ask whether he would consent to my staying plugged in and drinking. I am willing to save his life, and I stay plugged in. Am I now also obligated to refrain from drinking at the cost of the incapacitating fits of excruciating pain? I doubt it. So: as far as the explanation of the difference between abortion and causing FAS that I have presented here goes, if refraining from drinking *really* was as burdensome as carrying an unwanted pregnancy, drinking might not be wrong. But once we account for

all the difficulties involved in imagining a scenario like this, the implication is not a problem for the account. It is the intuitive result.

CONFLICT OF INTEREST

The author declares no conflict of interest.

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