

The Moral Status of the Foetus

Dr Helen Watt, Senior Research Fellow, Anscombe Bioethics Centre, Oxford

Thank you very much for the Assembly's invitation: it's a privilege to have this opportunity to contribute to your very important deliberations. I'm particularly grateful for this invitation, having written and published from a philosophical perspective both on the woman's rights and guardianship of her baby,¹ and on the status of the foetus, in sickness² and health, which is the topic we are now addressing.

Let me begin with three questions I think we should be asking: questions not in the first place about the foetus or unborn child as such, but simply about ourselves. These questions relate to our own moral status and/or existence, and begin with *what*, *when*, and *how*.

The first question is perhaps the most fundamental: *what am I* – what kind of being or individual? The second question follows closely from it: *when did I begin* as that individual being? And the third question, on which we will mostly focus, follows from the first two: *how was it right to treat me* as that individual being at my very earliest stages?

What am I?

To begin with the first question: what I *am* is surely a *human animal* – a *living, bodily being* or *organism*. By saying that, I do not mean to say that human beings lack any kind of spiritual dimension. Rather, I simply want to stress the *embodied nature* of the unified beings we are throughout our lives: we are *bodily* beings, not disembodied ghosts. I am my living body and my living body is me.

Moreover, I am not just alive but a member of one very special *kind* of living being: a thinking, choice-making, *rational human* kind of being. Because I am a *human being*, I *should* be able to think and choose when awake and mature enough to do so. I am that kind of being, whether or not I am *actually* thinking or able to think rationally as things are now. Just as a canary is a flying kind of animal, so a human is a thinking kind of animal, even if some canaries are too young or sick to fly, and some humans are too young or sick to think.

Mental capacities and thoughts come and go, but I exist before I have thoughts, in between my thoughts, and while I am too sick to have thoughts at all. Thoughts and feelings come and go, but the living human being who has or ought to have thoughts and feelings when awake and old enough to do so will persist throughout. Eventually I am likely to lose my mental faculties, whether just before I die or some time before that, but there is, and always was, much more to me than my level of mental awareness at any one time.

When did I begin?

As with other animals, the question of *when* we begin as human beings is not a moral but a scientific question, on which human embryologists broadly agree. We begin at fertilization –

¹ *The Ethics of Pregnancy, Abortion and Childbirth: Exploring Moral Choices in Childbearing* (Routledge, 2016); *Life and Death in Healthcare Ethics: A Short Introduction* (Routledge, 2000).

² Abortion for Life-Limiting Foetal Anomaly: Beneficial When and for Whom? *Clinical Ethics*, August 4, 2016, <http://journals.sagepub.com/doi/full/10.1177/1477750916661979>

or at least, that is true of the vast majority of us who are not who not twins or clones. Fertilization combines two living *parts*, sperm and ovum, to form a new living *organism*: a living *human whole* that survives many changes of size and shape, but is soon recognizable as a smaller version of ourselves though with some features we have lost, like the umbilical cord and placenta. Again, such changes are normal: many living beings look different at different stages of their lives. A chick embryo looks different from an adult bird; however, it is not a *potential* bird but an *actual* bird, albeit a very young one. In the same way, a human embryo or foetus – or indeed, a baby just delivered – is not a *potential* human but an *actual* human in its younger stages.

How was it right to treat me in my first weeks/months?

Now for the third and crucial question: if I am a human being or human animal, including in my prenatal stages, *how should I have been treated* in those earlier stages of my existence? The answer to that question depends on what I *am* (a special, rational, *human* kind of being) and also on what is *good* for that kind of being: my *interests* or *what I have a stake in*.

You sometimes hear it said that in order to have interests, people need to understand what they have an interest in. However, this is untrue: *having* an interest in something and *taking* an interest in something are two quite different things. I *have* an objective interest in taking enough vitamins, even if I *take* no interest in that at all. I have an interest in being loved and cared for, not rejected and discarded or looked down on. And of course, if I am a newborn baby, there is almost nothing in which I *take* an interest – though I have many interests in my survival and well-being which those around me should respect.

Human equality

If I was once a newborn, and before that a foetus, I already had a stake in my own future. Any baby, born or unborn, has objective interests in her own future life: interests of a kind no less real for the fact she cannot yet assert or understand them. All human beings have full human status and basic human rights, in that all human beings have an important stake in their own future as beings of the special, rational kind they are. Morally speaking, there is *no such thing as a 'subhuman human' or a human 'non-person'*; rather, *human beings are equal* in their basic interests, and in their basic human rights and status.

To say that human beings are equal in their basic interests in their own well-being does not mean these interests can or should be promoted on every possible occasion. What it *does* mean is that everyone's interests must be *respected* and not unfairly attacked or impinged on. We can't always save everyone we would like to save, but that does not entitle us to *attack or assault* an innocent person, to try to benefit ourselves or someone else. (To give just one example, if we cannot save a dying person in hospital, that does not mean we may lethally harvest his organs while he is alive to use them to treat some other patient.)

Foetuses with life-limiting conditions

Does the status of the foetus change if it has a serious disabling condition – perhaps even a life-limiting condition? Very sadly, foetuses can be found to be terminally ill, just like born children and adults. That does not, however, affect the status and basic rights of either the born or the unborn human being. Babies in the Sudan do not lose their human rights just because

they may be doomed to die. Nor does your elderly father lose his human rights when he becomes terminally ill. Certainly, it would be wrong to take his life – even if he is now unconscious or semi-conscious – just because he will die in the coming months and you find it distressing to wait for that, whether because you are afraid of his possible suffering or your own. After all, even those who believe in euthanasia do not normally call for patients to be euthanised without their having asked for it or as yet experienced any suffering at all. In fact, the sheer presence of a human being has value: each of us is valuable not just for what we *do*, but for what we *are*. And our basic rights are affected neither by a terminal prognosis nor by relatives' wish to end our lives: a wish born often out of fear, despair, misinformation and lack of positive support. Distressed family members need real and life-affirming support from others – perhaps especially from others who have 'been there' themselves. They do not need to have the life of their child or elderly relative taken by a doctor, leaving them perhaps with extremely traumatic memories and feelings of guilt, remorse and/or regret.

Foetus seen as a child

One striking aspect of abortion for disability, including life-limiting conditions, is the extent to which it is admitted, not just by the parents but by the medical team, that the foetus is a child. The foetus is, at any rate, *a child for the purpose of being grieved for* – hence the taking of photos, footprints, etc – even if somehow *not* a child for the purpose of being protected from the abortion. Unsurprisingly, such abortions can be a shattering experience for the woman, while research suggests that those who continue their pregnancies tend to do better, especially with perinatal hospice support, than those who have abortions.³ Quite apart from the fact that we should surely not be taking innocent lives to try to benefit family members, we need to ask if there is any evidence whatever that abortion for foetal anomaly or even life-limiting anomaly is actually beneficial to women's health.

We can and do treasure the last moments of those we know will not be with us for very long. Many of you will have had the experience of having an older relative die with you at home, or in a hospice, which can be a very peaceful experience for the family, even if still a deeply sad one. The same is true of giving birth to a terminally ill baby: support organisations such as One Day More and Every Life Counts have many beautiful stories from parents in this situation, as does the book *A Gift of Time*⁴ on perinatal hospice care which I would strongly recommend.

Conclusion

Clearly, human beings are different in very many ways – we are not all equally capable, flourishing or fortunate. That said, we are *morally equal* in all being members of the human family with a stake in our own future as the special, rational kind of being we are. I am not, and never was, a 'thing' or something owned by someone else: neither age, size, location or level of development makes anyone a moral subperson. The foetus was *me* – this is where I began, and I was always morally important. If we want to take seriously both human equality, and our bodily nature as the kind of being we are, we will take seriously the rights of *all* our fellow humans – able-bodied or disabled, healthy or terminally ill, young or old, in or outside the womb.

³ For supporting references, see www.perinatalhospice.org

⁴ *A Gift of Time: Continuing Your Pregnancy When Your Baby's Life is Likely To Be Brief* (Johns Hopkins University Press, 2011).