

# Abortion: A Covenantal View\*

\*This draft is a revision of part of chapter 2 and all of chapter 8 of *Christian Faith, Health, and Medical Practice*, co-authored by Hessel Bouma III (Biology, Calvin College), Douglas Diekema (Physician), Edward Langerak (Philosophy, St Olaf College), Theodore Rottman (Sociology, Calvin College), and Allen Verhey (Religion, Hope College), published by Eerdmans Publishing Co., Grand Rapids, 1989. As was the original chapter, this revision was drafted by Edward Langerak who incorporated comments from the others (with Scott Vander Linde, Economics at Calvin College, replacing the retired Ted Rottman) in the next draft.

Induced abortion is simultaneously one of the most controversial and one of the most common medical operations; perhaps 50 million abortions are performed in the world each year, half of them illegal (“Study: 200,000 women die from abortions yearly”). In the United States, although the abortion rate has been declining during the 1990s (from 25 per 1000 women aged 15-44 in the 1980s to 20 in 1995), it is still above that of other Western countries and it still resulted in 1.2 million abortions in 1995 (“US Abortion Rate”). In Canada, no new abortion legislation has been enacted since its Supreme Court struck down the liberalized 1969 code, but, in spite of its lower rate of 15 per 1000 women, Canadians still have over 100,000 abortions yearly (Millar, *et.al.*, 20).

What is it about abortion that leads 25 percent of Americans to think it should be legal in almost all circumstances, another 20 percent to think it should be illegal in all circumstances, and most of them to hold a position (often tentatively) somewhere in between?<sup>1</sup> Some believe that “despite its capacity to attract major public interest and to sustain bitter public debate, abortion is not a serious moral issue” (Engelhardt, *Foundations* 242),<sup>2</sup> whereas others believe that “the putrid decay in the open pits of Babi Yar and the sacrificial smoke that rose from Auschwitz were the effluvia of a spirit that now leaves like offerings in the pails of Pre-Term and the incinerators of the Center for Reproductive and Sexual Health” (Burtchaell, *Rachel Weeping*, 236).

Somewhere between these two viewpoints are the various middle positions held by those who believe that abortion involves deep moral perplexities, who write books with such titles as *In Necessity and Sorrow* (Denes) and *The Ambivalence of Abortion* (Franke), and who are viewed by those on both ends of the spectrum as trying ignominiously to be moderates on murder and mandatory motherhood. Emotions run deep in this dispute, and sometimes there is the temptation to dismiss opponents’ views with *ad hominem* slurs: for example, pro-life activists are sometimes portrayed as Catholic housewives trying to legitimize their lifestyle by

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<sup>1</sup> These statistics have not changed dramatically since 1975, according to polls (see, for example, “The Battle Over Abortion”; Yorkey and Stanton, 51; Coronin, 4). A majority of Americans do favor a ban on abortions except in cases of rape, incest, or danger to the mother’s life or health. Over one-third of those polled have doubts about their own position, although over half do not. Approximately the same percentage that would permit abortion only in the previously mentioned circumstances are also opposed to reversing the Supreme Court’s *Roe v. Wade* decision that allowed abortion choice (“Opinions on Abortion”). A scholarly and insightful summary and analysis of earlier American poll data on the abortion issue can be found in M.S. Lamanna’s “Social Science and Ethical Issues.”

<sup>2</sup> Engelhardt does not retain this quotation in his second edition (1996), where he makes it clearer that, given his theological convictions, he personally believes that abortion is a very serious issue. But from a secular point of view, which he thinks is the one we must use for legislation in a pluralistic society, it is not a deeply debatable moral issue.

imposing it on everyone else, and pro-choice activists are sometimes portrayed as hedonistic yuppies wanting the pleasure of sex without its responsibilities, selfish enough to put their careers or BMWs ahead of their babies' lives.<sup>3</sup>

Without implying that we are immune to such stereotyping, we will now try to explain our understanding of the main viewpoints on abortion, indicating where appropriate our agreement or disagreement. We see the main areas of dispute as involving (1) the nature and status of the fetus, (2) the nature of childbearing and its implications for conflicts of interest, and (3) the predicted effects of various policy proposals.

## **The Nature and Status of the Fetus**

When discussing the nature and status of human beings, those of us within the Christian tradition appeal to our being created in God's image. Such discussion often involves the idea of the soul. For reasons we give in the appendix to this essay, we think we should avoid speaking of the image of God as a separate entity—a soul—that human bodies passively receive at some point in their development, say at conception or quickening. Rather we should use such phrases as “imaging God” or “imager of God” to convey the thought that the image of God is less like something that human beings *have* and more like something they *are* and *do*. But even if we avoid asking when the soul enters or leaves the body,<sup>4</sup> we cannot avoid asking when human beings are or become embodied imagers of God. The human capacities referred to in the appendix as essential for imaging God (self-consciousness, moral and religious sense, symbolic interaction, and having and acting on desires about our desires) significantly overlap what many philosophers think of as “person-making capacities” (Frankfurt; Dennett; Tooley, 50-157; Warren; Feinberg, “Abortion”), because natural reason (even when biased by sin) can see that these sorts of characteristics are what give people a special moral status. Of course, there is at least as much debate by philosophers over what it means to be a person as by theologians over what it means to image God, so we do not claim that the concepts are interchangeable. However there is enough overlap that we will rephrase the question “When do human beings become imagers of God?” to “When does personhood begin?”

### ***Fetus as Nonperson***

One straightforward answer to the question of when personhood begins and ends is the assertion that a being must *actually* have and be able to use those capacities that distinguish persons from other creatures (Warren; Tooley, 50-157; Feinberg, “Abortion”). To protect itself from the charge of arbitrariness or of having “a do-it-yourself kit for constructing a ‘moral community’ to [one’s] own taste” (Donagan, 170), this view should specify nonarbitrary criteria of personhood such as those capacities the Bible implies are necessary to

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<sup>3</sup> Neither the pro-life nor the pro-choice side accepts the possible implication that it opposes what the other side is labeled as favoring. We use the terms to denote the positions that they are ordinarily understood to denote, without meaning to imply that either side is against life or against choice.

<sup>4</sup> What we say in the appendix (see footnotes 3 and 4) is consistent with believing that at death some separable part or aspect of a person can be sustained by God. And even thinking about the soul as a substance separate from the body is consistent with most of what we say in this essay.

imagers of God.<sup>5</sup> And to protect itself from implying that some people are lesser persons than others (because they have these capacities to a lesser extent than others), this view should specify a nonarbitrary “threshold” level of having personal capacities, a minimal level at which all who attain it are equally persons and beyond which one can have more of these capacities but cannot be thought of as more of a person. This view, which we will call the “actualist” view, implies that personhood does not consist of a substance (analogous to being a piece of iron); rather it is more like a state or capacity, a property or phase (analogous to being magnetized) that human beings achieve or acquire sometime after birth and lose when they irreversibly lose personal capacities. With modern medical technology, the latter point can be reached well before the death of the whole human organism.

The actualist view also implies that fetuses,<sup>6</sup> newborn infants, and those human beings with profound mental retardation are not persons. Of course, one holding this view might argue that there are some good reasons for *conferring* personhood on some of these human beings or for treating them *as if* they were persons. One might argue, for example, that not treating them as persons would put society on a slippery slope, with the result that the rights of persons would be endangered. Or one might argue that showing respect toward “near persons” cultivates the sort of dispositions that are important in a civilized society. But such arguments imply that the respect accorded some human beings is not what they are due, is not elicited by virtue of what they are, but is conferred on the basis of debatable human reasoning about the possible effects on other persons of respecting or not respecting these “non-personal” human beings. This implication seems morally dangerous to many people. Moreover, the actualist view implies a duality between human beings who are persons and those who are not, which is philosophically and theologically suspicious to many who do not accept the actualist position.

### ***Fetus as Person***

Anyone who believes that God is a person (or three persons) cannot believe that being human is a necessary condition for being a person. But can one argue, without merely assuming an arbitrary species chauvinism, that being human is a sufficient condition for being a person, that all human beings are persons or imagers of God from their conception until their death? We will discuss three ways of arguing that personhood (or being an imager of God, with all that implies morally and theologically) begins at conception.

One way to argue that human beings have the moral and theological status of persons is to appeal to biblical texts that imply that God establishes a personal caring relationship with human beings from the moment they are conceived. Whatever its *nature* may be, the human conceptus has the status of a unique *relationship* with God, who confers dignity and

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<sup>5</sup> Those holding this view would argue that slaves in the antebellum South and Jews in Hitler’s Germany clearly imaged God in the biblical sense and were persons under any criteria that the slave owners and Nazis could nonarbitrarily apply to themselves. Thus, they would claim, the discrimination against slaves and Jews was the result of deeply corrupted social consciousness rather than of an effort to arrive at reasonable criteria of personhood.

<sup>6</sup> Rather than *baby* or *product of conception* we generally use the comparatively less-loaded term *fetus* to refer to an unborn human being.

inviolability on it (Bajema 39). Consider, for example, Psalm 139, which beautifully portrays the believer's sense of God's providence (verses 15-16):

...my frame was not hidden from thee, when I was being made in secret, intricately wrought in the depths of the earth. Thy eyes beheld my unformed substance; in thy book were written, every one of them, the days that were formed for me, when as yet there was none of them.

Why do such texts not settle the issue for all Bible-believing Christians? Primarily because a better interpretation of such texts is that, rather than teach something about when human beings have the status of imagers of God, they instead celebrate God's prior gracious call extended to each of God's children. The latter interpretation seems to be required for Jeremiah 1:5: "*Before* I formed you in the womb I knew you" (our emphasis; see Smedes, 128). One might reply that this latter text does not imply God knew Jeremiah before he was conceived, but merely implies that between his conception and his taking on human form (say, six weeks after conception), God already knew him. The latter interpretation is certainly possible, but it cannot apply to such texts as Judges 13, where God announces to Manoah's wife that she "shall conceive and bear a son" and that this son will be a Nazirite and will deliver Israel from the Philistines. This text implies that God knew and called Manoah's son Samson even before he was conceived. But no one wants to argue that this fact implies that the sperm and unfertilized egg that later united to produce the promised child already had the moral status of persons. This is an important point for those who want to infer on the basis of texts such as Psalm 139 that fetuses are persons. Given texts such as Judges 13, the logic of such inferences implies that the unfertilized egg that becomes a human being already has personal status because God knows it and has a specific purpose for it. Thus, we think a better interpretation is that God has a call for all of us who are persons, a call that predated our existence. But these texts do not seem to speak to the moral or theological status of everything that goes into a person's formation or to imply precisely when a zygote, embryo, or fetus has the status of person, or imager of God.<sup>7</sup>

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<sup>7</sup> This point is relevant quite apart from our reservations (pp. \*\*\*) about using a proof-text approach to the Bible's message. Consider another text that has the distinction of being used by both those who assert and those who deny that the fetus is a person. The Revised Standard Version translated Exodus 21:22-23 as follows:

When men strive together, and hurt a woman with child, so that there is a miscarriage, and yet no harm follows, the one who hurt her shall be fined, according as the women's husband shall lay upon him; and he shall pay as the judges determine. If any harm follows, then you shall give life for life.

This version seems to imply that the accidental death of a fetus, while significant, is less serious than the accidental death of a woman. If so, the fetus would seem to have a different moral and theological status than that of a woman, so aborting a fetus could not be morally the same as murder. This is the interpretation in the Jewish tradition (Feldman, 82). But in the New International Version this passage suggests that the fetus has the same status as an adult:

If men who are fighting hit a pregnant woman and she gives birth prematurely but there is no serious injury, the offender must be fined whatever the woman's husband demands and the court allows. But if there is serious injury, you are to take life for life.

This version implies that a miscarriage would result in the death penalty and suggests that the fetus has the same status as an adult. The King James Version translates the phrase ambiguously as "and her fruit depart from her."

A second way to argue that a human fetus is a person from conception is to appeal to scientific facts. This approach does not rely on distinctive theological convictions and thereby has the advantage of persuasive appeal in legal and legislative discussions in pluralist societies. Several facts are frequently cited. It is a fact, for example, that conception is the beginning of a living, unique, individual member of the human species, and individual that, in the normal course of its development, will become an adult.<sup>8</sup> It may also be a fact that there will not be any later stages in an individual's development that compare with the dramatic shift in potential and character that occurs during the several hours of the fertilization process, when the gametes unite (Grobstein, "Early Development," 214).<sup>9</sup> But the problem with appealing to these and similar facts is that they can also be used by those who hold the actualist view. The latter typically distinguish between "human being" in a genetic sense and "human being" or "person" in a moral or legal sense. Actualists grant that zygotes are human beings in the former sense but argue that they are not persons in the latter sense because it is a scientific fact that they do not have the capacities that everyone associates with personhood. Rather than recite scientific facts that are compatible with the actualists' distinction between human beings and persons, those who believe all human beings are persons should formulate an argument that undermines any such distinction, which is the third way of claiming that human beings are persons from conception.

Perhaps the most powerful argument against distinguishing persons from human beings is one that appeals to the implications of membership in a "natural kind," a species. According to Donagan, "The principle underlying this reasoning is: if respect is owed to beings because they are in a certain state, it is owed to whatever, by its very nature, develops into that state. To reject this principle would be arbitrary, if indeed it would be intelligible" (Donagan, 171). Although Donagan phrases his principle in terms of respect that is due certain kinds of beings, we will see later in this section that his consideration seems consistent with what we will call the "potentiality principle"—namely, that what a being naturally becomes is relevant for what attitudes are appropriate toward it. A more direct way to argue for the "species membership" view is to assert that a being essentially *is* what it is meant (by God or nature) to be or become:

An individual who is a member of a species of persons, such as human beings, is still a person even if the person has not actualized those capacities. In fact, one should say that an individual human being is a person even if he or she cannot actualize those capacities. We must distinguish between being a person and functioning as a person.

(Evans, "Human Persons as Substantial Achievers," 15)

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The Hebrew words here (*yalad*, *yatsa*) are susceptible to any of the three translations. Those who think that enough study could arrive as the correct interpretation should notice that this passage is directly preceded by a passage which says that the mere beating of a slave is not cause for punishment (assuming the slave can get up after a few days) because a slave is property. It is doubtful that either of these passages should be the basis of moral or legal policy today. The same could be said about Numbers 5:11-28, which some interpret as inducing abortion in order to detect infidelity.

<sup>8</sup> This statement needs some qualifications since "twinning" can occur up to two weeks after conception.

<sup>9</sup> The fact that there is an extended period of time between the penetration of the egg's cell by the sperm and the fusion of the paternal and maternal nuclei (see also Ford 105, and Kaplan and Tong 49-51) requires a non-arbitrary specification of precisely when "conception" occurs, since that may determine whether particular types of future birth-control technologies are contraceptives or abortifacients.

In this view, all human beings are essentially the kind of beings with the capacities, say, to reason or to see. When a human being actualizes the capacity to reason or when an operation restores sight to a blind person, the correct description is that the individual has actualized a capacity that, in an important sense, he or she always had by virtue of the kind of being he or she is. This view can be defended with an Aristotelian metaphysics, which asserts that personhood is a substance with an inner nature that *has* ultimate capacities even if, in a given human being, those capacities cannot be realized (Moreland 101-108; Ford 77-86; Ramsey Colloquium 18).

We think that the preceding view is intuitively plausible. And we appreciate the implications that profoundly retarded human beings are, in an important sense, meant by God to be reflective reasoners, and we have pointed out in an earlier chapter that this consideration should influence attitudes toward those with serious disabilities. On the other hand, we find it more plausible to say not that human zygotes are beings that already have human capacities (waiting to be actualized) but that they are the kind of beings that will acquire these capacities in the normal course of their development. We will argue that this latter fact certainly should influence our attitudes toward developing human beings; however, we do not think that we should disregard what seems to us to be an obvious distinction between what they already are and what they will become. Our view may or may not be consistent with those who hold to a substance metaphysics of natural kinds, but the latter is itself controversial. For example, it seems to contradict the beliefs of many people about the evolution of species. Therefore, although it could provide guidance for those with a particular philosophical commitment, legislating it in a pluralistic society would be as problematic as legislating the principles we will affirm in this chapter for believing that most abortions are wrong.

### ***Motivation for a Middle Position***

We noted earlier that a troubling implication of the actualist view (that human beings become persons when and only when they actually acquire personal capacities) is that infants are not persons. The view that human beings are persons at conception also has some troubling implications. It implies, for example, that the spontaneous abortion rate creates tragic prenatal victims of up to 75 percent of the people that are conceived. If a plague were causing that high a percentage of children to die, we would be obliged to launch a major effort to save them, an effort in which we would be obliged to use much of our medical resources. Thus, if zygotes are persons, we would seem obliged to spend much—perhaps most—of our scientific and medical resources in an effort to save the high percentage of them that die early.<sup>10</sup> Moreover, the use of intrauterine devices—which probably prevent implantation rather than conception and which are currently used by 60 million women, including 2 million in the

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<sup>10</sup> According to C. Grobstein (“External Human Fertilization,” 59), 75 percent of all fertilized ova are spontaneously aborted, usually as the result of genetic deformities (see also Boue et al., 3). Even prominent pro-life advocate B. Nathanson sees the problem:

Many [fertilized eggs] do not implant and are simply washed away. How would we deal properly with these lost conceptions?...Mourn and bury them?...Should we undertake a crash program to make sure all these fertilized eggs as ‘human beings’ are saved and implanted? The disarray of this whole approach to life boggles the mind (214).

Nathanson argues for the implantation stage position we discuss next.

United States (Miller-Catchpole; Fuchs and Perreault, 76-78)—would have to be viewed as a slaughter of innocent people much greater than the Nazis caused or than is allowed by current (post-implantation) abortion policies. With each IUD user killing up to twelve people every year, it would seem that anti-abortion forces should direct more of their efforts against the makers and users of IUDs than against abortion clinics. Finally, if human zygotes are persons, it would seem to call for a radical change in our practices with respect to the products of early miscarriages or spontaneous abortions, which we do not now treat the way we treat the remains of persons who die (Smedes, 133).

None of these alleged implications are, in themselves, refutations of either the actualist view or the view that human zygotes are persons, because holders of these views may be willing to accept such implications. But they seem problematic enough that, unless these positions can be defended with premises less debatable than those discussed above, many Christians are motivated to consider an alternative position, one that has implications somewhere between the implications of these two views and that can be defended with highly plausible premises. Middle positions on the beginning of personhood can be classified into at least three categories: first, various “stage” or “decisive moment” positions; second, various “conferral” and “gradualist” positions; and, third, the “potentiality” position.

### *Stage Positions*

The stage positions assert that there is a decisive point or stage in its development before which the embryo or fetus lacks personal status and after which it has an inherent moral status equal (or almost equal) to that of all other persons. Proponents of various stage positions differ over the location of this decisive point. We should note that the points most often suggested are also those commonly appealed to by the gradualist position, which argues that these points mark incrementally significant rather than decisively “all or nothing” changes. They also are appealed to by those who argue that stages are relevant to how we should be disposed to treat the fetus, even if these stages do not mark decisive inherent changes in the fetus itself. Thus much of what we say about the stage positions will be relevant to our later discussion of other positions.

The earliest suggested stage for the beginning of personhood (beyond conception) is that of implantation, which occurs approximately one week after conception, when the 150-cell zygote “roots” itself in the uterine wall. This position has what many people regard as the advantage of allowing the use of IUDs and “morning after” pills, but this implication is not in itself a good argument, because such convenience should be the result of justification, not the justification itself.

One argument is that we often think of the beginning of growing things as occurring when they are rooted and sprouting rather than when they are capable of being rooted; a flower, for example, probably begins its life no earlier than when it is rooted rather than when an ovule is fertilized by pollen. However, one may wonder whether this is a good analogy for the beginning of a human being; a zygote seems to have an inherent natural tendency to implant itself in a way that flower seeds do not seek fertile soil. So it is not clear that asserting this stage as morally crucial—vastly more significant than conception—avoids some element of arbitrariness.

A logically distinct consideration for this stage is that soon after implantation comes the last point at which a zygote can “twin,” or divide into separate individuals. Those who believe this stage is sufficient for personhood generally are sympathetic toward one or more of the arguments we examined for claiming that personhood begins at conception. They then apply the arguments to the implantation stage, because they see too many problems with the claim that conception is sufficient (Nathanson 214). Those who claim that this stage is necessary usually assert that a human being must be an individual in order to be a person, and that something cannot be an individual when it can yet become two individuals (Ford 120). We think that fascinating metaphysical problems of identity emerge here, and we are not sure what to say about them.<sup>11</sup> However, given what we said earlier about the conceptionist arguments and what we will say later about the potentiality principle, we believe that insofar as implantation marks a metaphysically and morally significant stage, it implies that potential persons begin at this stage.

Two logically distinct considerations are used to point to sometime around that end of the first trimester as the stage at which personhood begins. First, by this time the brain structure is complete. Although the cerebral cortex activity we associate with self-consciousness may not begin until after birth, electrical activity in the brain stem can be detected as early as eight weeks after conception. Some have argued that, since the absence of any electrical activity in the whole brain is the most plausible criterion for the irreversible loss or death of a person, we should use the presence of any such activity as a criterion for the beginning of the person. Both actualists and those who believe that personhood begins at conception worry about arbitrariness here. The latter point out that, unlike a human who has irreversibly lost brain waves, the early fetus has the potential for having them. And actualists point out that a criterion for death (absence of personhood) requires the irreversible absence of only one necessary condition for being a person, whereas a criterion for the presence of personhood requires a sufficient condition (or *all* of the necessary conditions) for being a person.<sup>12</sup> Thus if we were to accept electrical activity in the brain as the beginning of personhood, we would need a separate argument that brain activity is not only necessary but also sufficient for personhood.

The other consideration in favor of claiming the end of the first trimester as the point at which personhood begins is that by then the fetus has attained uniquely human shape and morphology. Of course, it is obvious how both those who believe that personhood begins as conception and the actualists will argue that human shape is neither necessary nor sufficient for personhood. But everyone must admit that human shape signifies something of

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<sup>11</sup> Does the mere possibility of twinning affect the status of the more than 99 percent of zygotes that do not divide? For that matter, what does actual twinning imply for the status of the pre-divided zygote? If a full-fledged person somehow divided into two persons, it would be at once fascinating and disconcerting, but would it affect the moral status of the pre-divided person? The same question applies to a similarly interesting phenomenon: some human beings, with the genetic karyotype of XX-XY, are the result of a combining of two genetically distinct zygotes (Hellegers, 4). N. Ford provides a scientifically informed and persuasive argument that a largely undifferentiated group of human cells cannot be an individual human being as long as it can become several of them. See also Catholic theologian R. McCormick’s argument that the “preembryo” has a different status than the implanted embryo (“Who or What is the Preembryo”).

<sup>12</sup> Both sides can make the same point about the proposal that the heartbeat (which can be detected a few weeks after conception) is a vital sign for both the beginning and the ending of persons.



importance; otherwise, pictures of second-trimester aborted fetuses would not have the emotional impact that they do. At minimum, a fetus that has attained human shape is an “icon” or “natural symbol”<sup>13</sup> of imagers of God, and mistreatment of it arouses at least as much revulsion and shock as that aroused in patriots seeing their country’s flag abused. And a flag is just a symbol; it is not a potential country the way a fetus is a potential person. So the shuddering and horror at the abuse of fetuses is even more understandable and appropriate. Thus, although human shape cannot be plausibly urged as a necessary or sufficient condition for personhood, it may imply something about how beings in the process of becoming persons ought to be treated.

A similar point can be made about a third suggested crucial stage—namely, the traditional appeal to “quickening,” the point at which the fetus begins to make spontaneous movements. It is easy to see how one can criticize the assertion that this is the point at which a fetus receives a soul<sup>14</sup> or becomes a person. And the ambiguity of when “quickening” occurs is worth noting: although the fetus actually begins spontaneous movements as early as the sixth week (Shettles 56), these movements cannot be felt by the mother until almost two months later. So appealing to when the fetus has achieved the capacity to move would imply that personhood occurs earlier than the traditional notion of quickening suggests. However, there is significance in the traditional notion of quickening as that point at which the movements are felt, since *feeling* the fetus as an active and reactive being is an important part of what begins to bond it as an interactor within the social community; though it does not communicate with symbols, it has begun simple interactions with parents (Shettles 90). So, as with attaining human shape, attaining the ability to move probably is not a necessary or sufficient condition for personhood, although it may imply something about the appropriate attitude toward the fetus.

A fourth possible stage is sentience, when the fetus acquires simple consciousness, or the capacity to feel sensations such as pleasure and pain. Some philosophers argue that *having interests* is necessary and sufficient for moral standing, and that sentience—thought to develop during the second half of the second trimester—is necessary and sufficient for having interests. So, for them, the fetus begins to deserve moral consideration sometime around the 18<sup>th</sup> week (Bassen, R. Dworkin 16-18, Steinbock 68-70, Sumner 227), although some claim that this stage occurs much later (Grobstein, *Science and the Unborn* 130). Thus the reasoning for the sentience stage is that the pre-sentient fetus cannot be harmed because it has no current interests, whereas the sentient fetus can be harmed because it has an interest in experiencing pleasure rather than pain. The problem we see with this reasoning is that at sentience much more than just the *current* interests of the sentient fetus must count, or else this stage grants the fetus no more protection than we grant to all other vertebrates, who also are sentient. And if the future of the sentient fetus counts heavily, it seems arbitrary that the future of the pre-sentient fetus counts for nothing. According to the potentiality principle (which we will affirm later), the future of the fetus is morally significant, but it denies that

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<sup>13</sup> See J. Feinberg’s “Sentiment and Sentimentality” and R. Selzer’s report of his feelings when he accidentally stepped on a discarded fetus (*Moral Lessons*, 153-60).

<sup>14</sup> The *fetus animatus/fetus inanimatus* distinction was used by some Roman Catholics, including Thomas Aquinas, in claiming that God infuses the soul into the fetus at quickening. This view opposed that traducianism of Tertullian, who taught that the soul is biologically transmitted (at conception) from Adam. In 1930 Pope Pius XI denied any importance to the distinction between pre-animated and post-animated fetal life.

there is a magic moment before which it counts for nothing and after which it counts for everything. We agree that the current moral status of the fetus, and not just its future, is relevant (*contra* Marquis). However, we believe that the type of future toward which a pre-sentient human being is developing is relevant to its current moral status. What makes abortion morally problematic is not just that a promising future is eliminated; that future is eliminated by eliminating a human being that is in the process of becoming a person and an imager of God.

Perhaps the stage between conception and birth which is most commonly suggested as the beginning of personhood is that of “viability,” the point at which the fetus can live biologically (though not socially) independent of anyone else. The United States Supreme Court, in its *Roe v. Wade* decision of 1973, designated this as the compelling point at which the state’s interest in protecting fetal life begins. The court seemed to recognize the problem implicit in the fact that this point is relative to available technology,<sup>15</sup> since it did not stipulate a particular gestational time for viability (currently somewhere around the end of the second trimester). The court’s reason for designating viability as the compelling point was that at the stage of viability the fetus presumably has the capability of meaningful life outside the mother’s womb. It is easy to fault this logic: if the phrase “capability of meaningful life” refers to “biologically independent,” then “meaningful” implausibly reduces to “biologically independent,” but if the phrase refers to its potential capabilities, then the fetus had such life well before viability. And it seems implausible that biological independence by itself can so dramatically shift the fetus’s moral status that the difference between killing it in the act of removing it one week and allowing it to die after removing it the next week amounts to the difference between therapeutic surgery and homicide. It is difficult to see how viability so radically changes the inherent status of the fetus. On the other hand, it takes little imagination to appreciate the psychological difference between a pre-viable and a post-viable abortion. If we want to nurture a sense of sanctity and avoid so callousing ourselves that we lose our ability to shudder<sup>16</sup> when human life is taken, then this psychological difference becomes morally relevant. And a similar point can be made about the difference between post-viable abortions and postnatal infanticide: even if the inherent status of those killed is not different, the different psychological and social effects imply that the fetus or infant should, at certain points, be treated *as if* its status were different. One can reasonably worry that a practice of infanticide could so erode a society’s respect for human life that the protection of children and even adults requires that infants be accorded personhood.

### ***Conferral and Gradualist Considerations***

Distinguishing between when a human being attains personhood and when it should be treated as if it has attained personhood brings us to another common way of thinking about beginnings. This is the “conferral” position, which argues that, rather than debating about

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<sup>15</sup> This relativity can be minimized by defining viability as the capacity to survive and mature using only those treatments thought obligatory for full-term or nearly full-term neonates. Some might think this definition is a bit arbitrary.

<sup>16</sup> W. May discusses a brothers Grimm tale about a man incapable of horror. His ashamed father sends him away “to learn how to shudder” so that he can become truly human (“Attitudes toward the Newly dead,” 141). We can accept J. Feinberg’s criticism (“Sentiment and Sentimentality”) that sometimes these feelings must be “educated,” as in those performing autopsies, while accepting May’s point that sometimes they should be cultivated.

how we can *discover* when personhood begins, society must *decide* when to confer personhood on developing human beings. This need not be an arbitrary decision; one can appeal to the likelihood of bad psychological and social effects if personhood is not conferred by a particular stage and thereby argue that by conferring personhood at that stage society can protect itself, its character, the interests of those related to the developing human being, and those persons whose interests might be threatened if society and especially its medical practitioners became callous to the mistreatment of young human beings. Sometimes those holding the conferral position argue for a single stage as the crucial, all-or-nothing point at which personal status should be conferred (usually viability or birth [Lomasky; Brandt]), but more often they argue for a gradualist position (Bok, "Ethical Problems"; R. Green, "Conferred Rights"; Langerak, "Abortion"), claiming that the psychological and social effects of abortions become incrementally more serious and dangerous after each of the stages just discussed and that therefore it behooves society to confer on the fetus an incrementally more protected status. We endorse this gradualist version of the conferral position, and note that it helps account for the widely shared belief that the status of late-term fetuses and infants is more significant than, say, the status of zygotes. However there are two difficulties. Any conferral position requires the plausibility of empirical claims about dangerous psychological and social effects of abortions, claims that are almost as debatable as are claims about the inherent status of the fetus. And it does not account for the widely shared belief that something about the fetus itself, and not merely the consequences of how it is treated, grants it an inherent moral or theological status.

Some gradualists who hold the conferral position sometimes appeal to the principle that if some beings have a special status by virtue of certain characteristics, then any beings that possess those characteristics to some extent have a proportional claim to that status. This "proportionality principle" (Gewirth, 121) perhaps accounts for our feelings that chimpanzees, for example, should have a more protected status than fish, because their sign-using ability is so sophisticated that it perhaps begins to share in the symbol-using ability whereby persons image God. And this proportionality principle may also be relevant to the status of "beginning persons," such as young children who are beginning to be caring and not just cared-for members of the community. But it is doubtful that this principle accounts for the protected moral status of the fetus; although its *potential* for God-imaging characteristics is greater than that of, say, a chimpanzee, the degree to which it *actually* possesses those characteristics compares unfavorably with the degree to which many animals possess the same characteristics.

Other gradualists simply assert that the moral status of the fetus grows, in much the same way as does the value of a house under construction. When the stud frame is up, the potential house has grown in value even though it fails to perform any of the valued functions of a house, such as shelter or comfort (Quinn, 37). Likewise, as the frame of the fetus is woven together in the womb, the status of the fetus grows in strength quite apart from capabilities it exhibits. However, one can question whether the analogy is appropriate. Some may wonder whether the instrumental value of the house frame is analogous to the inherent status of the fetus, and others may wonder whether the internally directed and stimulated growth of a fetus is analogous to the growth of a house.

## *The Potentiality Principle*

The “potentiality” position attributes moral and theological status to the fetus from conception or, at least, implantation, but it does not claim that the fetus is an actual person from that point. We believe that attending to the implications of a developing human being’s potential is a less problematic way of accounting for its moral and theological status than is the effort to find some point before birth (or even after birth) when it becomes a person. We accept the following potentiality principle: if, in the normal course of its development, a being will become a person and an imager of God, then by virtue of this potential it already deserves some of the reverence due persons and imagers of God.

Perhaps, in its ordinary usage, the term potential is too weak to capture the implications of the potentiality principle. A friendly critic has suggested that “incipient person” would be better (Hare “Medicine and Covenant” 21). However, we are following traditional usage in the literature, so we will keep the term and clarify what we mean. Some people fail to appreciate the status of what we call *potential* persons because they confuse them with what we call *possible* persons. A possible person is an entity that *could*, under certain causally possible conditions, become an actual person (or at least part of one—for example, a human sperm or egg), but a potential person is a being that *will* become an actual person in the normal course of events or in the normal course of its development.<sup>17</sup> Most Americans are possible presidents, but we do not salute one another because of that. A potential president would be a candidate who has won the election and is preparing to be inaugurated (on a somewhat arbitrarily selected date). Potential presidents do get saluted, and some of this additional respect is a recognition not just of their current abilities but of the high office and sacred trust they are in the process of attaining. To dismiss the importance of potentiality by observing that a potential president is not yet commander in chief (Benn, 143; Feinberg, “Abortion,” 267) is to let a half-truth collapse the distinction between real potentiality and mere possibility.

We also distinguish “potential for personhood” from what we might call the “possibilities or potentialities of a person.” The latter refer to accomplishments a person might achieve that elicit admiration or esteem from others. These accomplishments are analogous to the carrying quality of, say, presidents’ performances while in office. However, the respect or awe due presidents (or other persons) by virtue of their office has to do with the type or authority and status they have, not with how well they perform. Of course, certain capabilities or characteristics that resulted in their achieving the office may be related to the capacity for gifted performance, but once a certain threshold of capacity is reached, one will never be

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<sup>17</sup> See Langerak’s “Abortion” for a defense of the potentiality principle. H. Stob (228-36) uses the phrase “in the process of becoming” rather than “potential.” L. Smedes uses both “potential” (129) and “fetus-on-its way” (133). We are indebted to both of these ethicists for some of what we say about potential persons. Our notion of “potential” is what others sometimes call “active potential” (Ford 110). The class of *future* persons is not identical with either that of possible persons or that of potential persons; it consists of those beings that *will* exist as actual persons. In the notion of “potential,” using the phrase “in the normal course of its development” rather than “in the normal course of events” emphasizes the teleological (“nature’s aim”) rather than the statistical-probability aspect of “normal development,” but one may presume that generally even a teleological notion of “normal” has statistical implications: if the natural end of (a) is to become (A), then it is highly probable that, without interference, (a) will become (A).

more of a person or a president, even if one becomes more capable of exercising the authority of one's office.

The appropriateness of granting increased respect because of what a being will become may be just a function of probabilities: although potential presidents might get assassinated or die of heart attacks, it is extremely likely that they will achieve the high office of president. This is not true of possible presidents. Likewise, although an embryo (or, especially a not-yet-implanted zygote) might be spontaneously aborted, the chances are very good that it will achieve the high office of imager of God. This is not true of possible persons.<sup>18</sup> The moral relevance of potentiality may also be a function of seeing the creation and its creatures in a radically temporal way. When we perceive things, especially interesting things like people (or even buildings), we see something of what they were and will be as well as what they are. Humans are temporal beings, and not just in the sense of having a history and a future; we are probably the only earthly creatures who internalize this temporality and make it a significant part of our subjective and intersubjective worlds. As we argued in Chapter 3, covenantal ethics incorporates this temporality; our obligations have a dynamic, historical, changing dimension to them, so that both the past and the future are directly morally relevant and, indeed, are an intrinsic part of how we perceive ourselves, others, and our privileges and responsibilities. This point is relevant to the observation that potential persons do not become actual persons automatically on their own; they need a lot of pre-natal and post-natal care, intervention and work from others, almost as much as some merely possible persons would need to become persons (J. Harris 11; Steinbock 64). And in a covenantal community that is the normal course of development for potential persons (though not for possible persons), a fact that gives additional meaning to our covenantal observation that we are our caring relationships. Even when the care is unilateral, it helps constitute what we become and thereby, given our temporality, what we are. Our status as potential persons is, in part, the normal gift from the parents God gave us. The covenantal appropriateness of so caring for potential persons and thereby helping them develop will be discussed again in the next section.

Can the potentiality principle be used to argue that the zygote has essentially the *same* moral standing as adults (Wade) and thereby to collapse any moral or theological distinction between potential and actual persons? Perhaps, but such an argument would need highly debatable premises about the metaphysics of potentiality, and it would be at odds with many of the analogies and examples people use to establish the plausibility of the potentiality principle. The status of a potential president is different from that of a merely possible president, but it is not the same as that of an actual president. And we pay for garden seedlings because of what they will be, not because of what they already are, but we do not price them the same as mature plants. (In fact, we sometimes pay even more for young plants than for those that are mature, which shows we must be cautious about analogies between the

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<sup>18</sup> A human female may be born with several million germ cells of which perhaps 400 become fertilizable eggs (Kaplan and Tong 40). Of these only a small percentage can become potential persons. The odds for sperm are much worse since a human male may produce several hundred billion sperm in his life-time, and may ejaculate up to one billion of them at once (Shettles 32). So J. Noonan ("An Almost Absolute Value," 56) is correct in seeing conception as the dramatic shift in probabilities. But he should not conclude from this that abortion is like shooting into a bush when there is an 80 percent chance (or even a 20 percent chance) of a person's being in it; abortion involves not a high probability of killing an actual person but a 100 percent probability of killing a potential person (one with a high probability of becoming an actual person).

status of potential persons and the value of other things in the process of their development.) So we believe that the burden of proof is on both those who deny that a being's potential is relevant to its current status and those who equate a being's current status with what it will become.<sup>19</sup>

### *Summary*

The relevance of the above discussion about the nature and status of the fetus is that there is a high--though not complete--correlation between one's view about the fetus and one's attitude toward abortion. Many--though not all--pro-choice proponents accept something like the "actualist" premise that, even if the fetus is an individual human being (in the genetic sense) from the time of its conception, it does not become an actual person until it either achieves the capacity to exhibit such person-making characteristics as self-consciousness and symbolic communication or has personhood conferred on it by its family or by society. Until then, as far as secular morality is concerned, it should be perceived as part of or, perhaps, the private property of the woman in whom it is growing or of the couple that produced it (Engelhardt, *Foundations* 219). The sorts of moral claims the fetus can make on others are like those of animals with similar levels of development and capacities for suffering (Engelhardt, *Foundations* 218). It has rights not to suffer and perhaps even not to be killed unjustly, but, as with pets, these rights can be overridden by the well-being or the nonarbitrary choices of its "owners." This position is compatible with society's conferring the protected status of personhood on infants and late-term fetuses, although such conferral is predicated not on the inherent claims of fetuses and infants but on empirical predictions about "slippery slope" dangers to society that would arise if killing late-term fetuses and infants were allowed.

Most--though not all--pro-life proponents accept one of the arguments that all individual members of the human species are actual persons from the time of their conception (or, at least, from the time of the fertilized eggs implantation). Many of those who believe personhood begins at conception favor a "right-to-life" amendment that would explicitly make their belief part of the U. S. Constitution. Some pro-life thinkers see their position as compatible with allowing abortion when the pregnant woman's life is significantly endangered, and some would even allow abortion in cases of rape, incest, or profound neurological defects in the fetus. Other pro-life proponents argue that such exceptions are

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<sup>19</sup> Some have rejected the potentiality principle because they think it implies that sperm and unfertilized eggs can be potential, and not merely possible, persons (Tooley 179; J. Harris 12, Steinbock 64). Consider the collection of the sperm and the egg that would unite if contraception did not interfere. Is that collection a being that, in the normal course of development (or, at least, in the normal course of events), will become a person? For that matter, consider the collection of the sperm and the egg that would have united if a couple had not abstained from intercourse? Did their decision interfere with the normal course of events and thereby interfere with the development of a collection that constitutes a potential person? If so, it would seem that the potentiality principle proves too much. One way to limit its implications is to restrict the principle to organisms and then note that, whatever else they are, collections of sperm and eggs are not organisms (Burke 505-12). However, Christians cannot restrict personhood to organisms, so it is not clear that we can so restrict potential personhood. It does seem reasonable to restrict the principle to individual beings and, if zygotes before the "twinning" stage cannot be individuals (as discussed earlier), then neither can collections of sperm and eggs. Even if a zygote can be an individual, it seems implausible that collections of entities (as opposed to a single being) can be individuals. If so, the potentiality principle does not prove too much. There is some room for puzzlement and border-line cases in the potentiality principle (Norcross), but at some point we have to affirm the position that, although not without its problems, is significantly less problematic than the known alternatives.

inconsistent with the belief that the fetus is as much a person as any other human being is. To them it seems wrong to kill one innocent person in order to protect another's life. It even seems wrong to kill an innocent person a few weeks or months earlier than that person would otherwise die in order to spare another's life. Thus some pro-life proponents argue that even in the "hard" cases we must let God decide or let nature take its course. In spite of—or perhaps because of—this intramural debate, it is clear that the belief that all embryos and fetuses are persons commits many people to an unambiguously anti-abortion stance. (In the next section we will examine the argument that the personhood of the fetus is consistent with a pro-choice position.)

We have stated our doubts about both of the preceding positions on the beginning of personhood and our doubts about the efforts to locate a stage or decisive moment during gestation at which the fetus moves from having (almost) no moral status to having (almost) the status of a person. Although we do not have a precise or unquestionable position on the status of the fetus, we noted our agreement with some aspects of a gradualist position that calls for an incrementally stronger conferral of protected status on the fetus as it develops. But our main point concerning the status of unborn human beings is that they are *potential* (not merely possible) persons; they *will* (not *can*) become persons in the normal course of their development, and by virtue of that fact they deserve some of the awe and respect due imagers of God. Although this view does not equate abortion with murder, it does yield a pro-life position since it implies that killing unborn human beings is always an inherent evil, one that could be justified only by overriding some serious moral and theological considerations. The question of whether or when we should tolerate or cooperate with an induced abortion cannot be answered until we have considered the argument that circumstances surrounding a pregnancy can sometimes make abortion an acceptable alternative. We turn to this issue in the next section, where we will argue that the primary issue is less whether fetuses image God and more whether we image God in how we respond to their presence and their needs.

## **Conflicts of Interest and the Nature of Childbearing**

Probably for most Christian couples, questions about the nature and status of the fetus are not normally at issue. Although how and when a human being is conceived may be a matter of the parents' stewardly choice, once a human being is in the process of developing, it is usually received and nurtured as a gift from God. This response is probably derived from the perception of the fetus as one's child, from such deeply embedded feelings as gratitude, awe, and protectiveness, and from the belief that the family is the institution that God uses to continue the line of his covenant. Even if a pregnancy is a surprise or a very mixed blessing, the nurturing response normally overwhelms any worry or frustration over whatever sacrifice may be required by the pregnancy and the resulting child. Christian couples perhaps rarely feel compelled to consider abortion as a way out.

But unfortunate circumstances can raise the question of abortion. This is especially the case for unmarried women, who have 80 percent of the abortions in the United States. What are Christians to say when the fetus is perceived not as "our developing child" or as a surprise that can be coped with, but as a stranger or even as a catastrophe in one's life? Very few people argue that the threat of catastrophe motivates a high percentage of abortions today, but

many pro-choice advocates—some of the most ardent of whom are willing to agree that if social conditions were properly supportive of pregnant women, abortion could be legally proscribed (B. Harrison, 18)—are “pro-choice” primarily out of sympathy for the relatively few catastrophic cases. In our view, a responsible position on abortion must not merely generalize that more abortions are sought to avoid inconvenience than to avoid catastrophe; it must also respond to those cases in which the developing fetus is understandably perceived as a stranger and a threat—and the pregnancy as a catastrophe.

But even when the fetus is a threatening stranger, it is also an innocent and extremely vulnerable stranger, and a central thrust of the Bible is that vulnerable strangers are to be treated hospitably—are to be treated, in fact, as neighbors. To some extent, this response brings us back to the question of the previous section: Does the fetus have the nature and status that call for its recognition as a neighbor? We believe that, as a potential person in the vulnerable process of becoming a person, it has such a status. But what are we to say to those people, including Christians, who not only fail to recognize the fetus as a child but also fail to perceive it as neighbor? How do we answer the question “Who is my neighbor?”

### *Appeals to the Parable of the Good Samaritan*

Jesus’ answer to the preceding question should help us decide which human beings are within the scope of our covenantal responsibilities. When the lawyer asks this question of Jesus in Luke 10:25-37, Jesus responds by telling the parable of the good Samaritan. This parable broadens our concept of who our neighbor is, but it does not do so by directly asserting that vulnerable strangers are neighbors that deserve our help. Rather, it suggests a revolutionary way of deciding the question—namely, that by *being* a neighbor to “outsiders” we will sometimes perceive them as neighbors in need. The Samaritan’s willingness to be a neighbor to a vulnerable stranger—flowing from compassion toward him—enables the Samaritan to see that the man who has fallen among thieves is his neighbor. One thing this the story teaches might be stated like this: When in doubt, do not consult your categories of which human beings have what status; rather, respond in a neighborly way to a human being in need of help and see whether, during that response, you clarify your perception of who that being is. When in doubt, do not first classify and categorize; be neighborly toward the stranger in question and then see how your classifications are affected. The parable seems to apply the principle we noted in Chapter Two when we discussed person with frailties and disabilities: how we perceive others often depends on how we respond to them and not just the other way around. In philosophical terms, ethics sometimes precedes epistemology and metaphysics.<sup>20</sup>

The boundaries of the covenantal community are not discernible in the abstract. One must act in certain ways to discover what they are. This does not mean that the actual boundaries are relative to how we act, that we must simply decide who is included, or that personhood

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<sup>20</sup> That is, the question, “How should I act?” precedes the question “What do I know?” and “What is the nature of that which I am encountering?” A similar point is persuasively made by O. O’Donovan (“Again, Who Is a Person?”), who gives a similar interpretation of the parable of the good Samaritan. O’Donovan argues that the appearance of human form commands a committed humane response, and the ensuing interaction (or lack of it) will determine the appropriateness or inappropriateness of the response. Even if a criterion other than human form is used, it will rely on something that we can sense about the other, so it may be more correct to say that ethics, epistemology, and metaphysics are in reciprocal relationships.



depends on a social decision to confer it. Rather, it means that how we know what the boundaries are depends on the correlation between what we do and what we see. There are some kinds of beings—pets, for example—that no amount of anthropomorphizing can transform into persons or imagers of God. There are others—including fetuses in the process of becoming persons—who as a result of neighborliness will be perceived as fully human and will be welcomed into full membership in the human covenantal community. If we nurture those who are in the process of becoming person—even when we cannot do it out of instinctive love, or out of gratitude for a gift, or out of awe at what they are, or out of a sense of responsibility for their existence, but simply out of neighborliness to a vulnerable individual member of our own species—we will discover the appropriateness of welcoming them into the community of imagers of God. The point is not simply that, by the nature of the case, if we nurture potential persons until they become persons, we will then perceive them as such. The point is also that by nurturing vulnerable humans in the process of becoming persons, we will perceive their humanity and the appropriateness of treating them as neighbors.

Does this point imply that refusing to so nurture human beings in the process of becoming persons is tantamount to murder? Before we can answer this question, we must consider the analogy with which some pro-choice thinkers interpret the parable of the good Samaritan. The fetus is like the man in the parable who fell among thieves: for survival, it needs the mother's nurturing womb, just as the man in the ditch needed help from outside himself. The mother, they say, can choose to be either like the Samaritan or like the Levite. (For brevity, "the Levite" will be understood as including the priest.) The Samaritan, it must be noted, is commended by the parable, but the Levite, it must also be noted, is not necessarily condemned. For any Jew hearing this parable would recognize that the Levite was not violating his own code when he passed by on the other side. The Levite was committed to a strict code of behavior that included regulations against coming into contact with a corpse (which the wounded man could have been or could have become, as far as the Levite knew). Because of his career—an honorable one, in Jewish tradition—the Levite had an acceptable motive to avoid the vulnerable stranger alongside the road. It is true that in certain cases "uncleanliness" was reversible, but even then the delay caused by the cleansing rites required for a Levite who touched a corpse could be very costly to his career. Thus one might understand his decision that he did not have a strict duty to help the stranger. To be a good Levite, he must simply keep some very strict laws; to be a bad Levite, he would have to violate one of those legalistic obligations. He could be a good Levite if he did not risk making career sacrifices to provide help beyond the call of strict duty. Analogously, pro-choice advocates could allow that the epithet "Levite" applies to any pregnant woman who declined to nurture the vulnerable stranger growing within her when continuing to nurture its development involved risking her career or making sacrifices beyond the call of duty. But even the parable of the good Samaritan, they would say, does not necessarily condemn a Levite.

Of course, pro-choice advocates can also admire a woman who chooses to be like the Samaritan of Jesus' parable, choosing to sacrifice significantly in order to give the gift of life. However, pro-choice advocates argue, giving birth is and should be a matter of giving a gift. It should be a matter of obligation only if a woman has explicitly assumed pregnancy as an obligation, such as by signing a "surrogate mother" contract or by intentionally inviting a

fetus to depend on her. If she has not assumed such an obligation, then if she decides not to make significant sacrifices in order to provide that gift, she fails to be a good Samaritan (Thomson, 184). But that, pro-choice advocates would say, is not to be a bad Levite—one who fails to honor her previous obligations and commitments.<sup>21</sup>

According to this pro-choice view, it is wrong to make the status of the fetus the primary issue in the abortion debate; the primary issue is whether any woman should be coerced into making significant sacrifices to give a gift to someone else (though perhaps she should be encouraged to do so). According to this position, the beginning point of the debate should be the woman's point of view, and to assume that, because the fetus is a person, it can appropriate a woman's body without her consent is intrinsically sexist (B. Harrison, 16). Nowhere else in law (or even in morality) does society coerce the continuation of such an impingement. (This point is illustrated by the McFall-Shimp case discussed in Chapter Three, pp.\*\*\*). Unless society would be willing, for example, to coerce a father to donate a kidney to his daughter who would die without it, it certainly ought not to coerce continued pregnancy just because the woman is a uniquely qualified organ lender (Mattingly).

### *Pregnancy and Sacrifice*

The preceding pro-choice position claims that the notion that pregnancy involves only minor inconvenience (less, say, than bone-marrow or kidney transplants) and not significant sacrifice ignores both common sense and the scientific discoveries that bear on the responsibilities of a woman giving the gift of life to another. Common sense recognizes that pregnancy is not just a matter of letting the fetus grow on its own; it reminds us that “labor” is just that—labor; moreover, labor can involve great pain and varying risks to life and health, often preceded by months of discomfort such as nausea, backaches, cramps, loss of sleep, and dramatic body changes that can be regarded as highly undesirable. All of this, of course, will be very visible to society, whose reaction, depending on circumstances, can range from solid support through amused tolerance to vengeful punishment. Furthermore, recent scientific studies recognize the many ways the fetus can be affected by the pregnant woman's lifestyle and career. Of course, many restrictions on activities during pregnancy have long been regarded as reasonable and inevitable, and the list of such restrictions is growing. For example, we now know that smoking causes perhaps 50,000 miscarriages each year in the United States—and low birth weight when it does not kill (Ravenholt, “Addiction Mortality,” 711), that drinking while pregnant can be as harmful as drinking while driving, and that both recreational and therapeutic drugs can cause fetal defects.

A patronizing response might be that it would be good for a woman to immediately cease such habits anyway, but we should appreciate the effort that such change involves. Moreover,

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<sup>21</sup> In accord with much of the literature on good Samaritanism, we interpret it as the willingness to make significant sacrifices to help others, including strangers, and we interpret Levitism as the restricted ethic of helping friends, family, or tribe and not harming strangers, including not causing harm to them in the act of refusing to help them when contractual relationships create legitimate expectations to be helped. (Chapter Three explains how not helping can sometimes be a form of harming, and later in this chapter we refer to an argument that much of what passes as good Samaritanism could be construed as good Levitism.) Alternatively, one could interpret Levitism not as a minimal ethic, but as an alternative ethic that has strict requirements which forbid Samaritanism in certain circumstances. We do not discuss this interpretation because it is rarely relevant to the abortion debate.

the occupational risks (to the fetus) can be even more difficult to avoid. Women constitute close to 45 percent of the civilian work force and heavily populate occupations that are hazardous to fetal health because of exposure to radiation and to substances such as benzene, lead, anesthetics, and hair spray.<sup>22</sup> So, in addition to the traditional requirement to leave her job for at least a few weeks (often with no benefits and no guarantee that she will get the job back), today's pregnant woman must struggle with her own conscience or with her employer over leaving or changing her job for the entire pregnancy. The economic implications could be severe for career women and those who need their jobs for survival or self-respect. In fact, surveys find that 94 percent of pro-choice women work outside the home, whereas only 37 percent of pro-life women do (Luker, *Abortion*; see also Ginsburg), which may be the reason why many women regard an unwanted pregnancy not as a surprise that can be coped with but as a tragedy that threatens to drastically undermine their well-being (O'Connor, 108).

Today women are often asked to sacrifice even more extensively than in years past because perinatology has made the fetus into the "second patient" whose medical interests can call for therapeutic interventions that are costly to the woman. Already women have been legally coerced into having Cesarean sections to protect the baby being born, and the New Jersey Supreme Court has ruled that a Jehovah's Witness may be coerced into violating her religious beliefs by being forced to have a blood transfusion to protect her fetus's life (Annas, "Forced Cesareans"). The growing prospects for fetal surgery could force this "consent" issue much more often. Even if our society avoids legally enforceable "prenatal contracts" that spell out maternity conditions, a caring woman who is bringing a fetus to term will increasingly feel a responsibility not just to change her lifestyle to avoid harming the fetus but also to submit to surgical and other therapeutic interventions to help it—truly significant sacrifices.

Given the preceding considerations, the conclusion of many pro-choice advocates is that society may and perhaps should encourage pregnant women to be good Samaritans and sacrifice in order to give the gift of life to someone else, but that, at least until the sacrifice is more equally distributed, the decision should be the woman's. Otherwise, her autonomy is violated in a way that male autonomy is not violated in such analogous situations as the McFall-Shimp case.

### ***Responsibility and Sexuality***

One difficulty with the preceding pro-choice argument is that in most cases of pregnancy the couple willingly took the chance to create a human being who would neither exist nor be vulnerable if they had not taken that chance. Even if they took reasonable precautions against pregnancy (and there is plenty of room for debate about what is "reasonable" (Luker, *Taking Chances*, 110)), they seem to be responsible for the fetus's vulnerability in a way that Shimp was not responsible for McFall's need or a father for his daughter's bad kidneys. If we alter the transplant analogies so that the prospective donor is responsible for the prospective recipient's distinctive needs, we may well agree that the former should be required to sacrifice to help the other, whose specific vulnerability he or she caused. Of course, in the case of pregnancy, the male can escape responsibility in a way that the female cannot. This fact may

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<sup>22</sup> For a perceptive analysis of how growing knowledge regarding the fetus is affecting the abortion debate, see D. Callahan's "How Technology is Reframing the Abortion Debate." We discussed conflicts of interest between the fetus and the pregnant woman more fully in the previous chapter.

imply that society should be willing to provide the support that some irresponsible males evade, but it does not seem to eliminate the woman's responsibility except in such cases as rape.

Some pro-choice writers raise questions about the lengths to which a woman must go to avoid such purported responsibility (H. Smith). Judith Thomson approaches the idea by analogy. She asks us to imagine that "people seeds" float in the air like pollen and that, in spite of our putting up fine-mesh screens, a seed gets in when someone voluntarily opens a window. Would we say that person is responsible for the seed's "rooting" just because she took the small but real chance that a seed would get through the protective devices if a window were opened for fresh air, which she does not absolutely need? Thomson's implication is that of course the window opener is not responsible for the seed's rooting; after all, she even cooperated in installing the protective screens. When someone else declares the window opener to be responsible for the seed's "rooting" because the protective screens were not adequate for the job, Thomson asks how far we have to go to ensure perfect protection. That is also her question about sexual responsibility: What measures does a woman have to take to be considered sexually responsible? Does responsibility require that she go so far as to "avoid pregnancy due to rape by having a hysterectomy, or anyway by never leaving home without a (reliable) army"? (182).

Thomson's point raises fundamental questions about sexuality and its relation to childbearing and the family.<sup>23</sup> Most Christians agree that procreation is not the sole or even the most important function of sexual intercourse. Indeed, most agree that Christian couples have the stewardly responsibility to use contraceptives (or, at least, calculated timing) so that they can enjoy and strengthen their emotional bonds without overwhelming their or the earth's resources by having numerous children. The question is whether sexual intercourse should be completely separated from procreation and childbearing so that it may be enjoyed even when there is not or cannot be any commitment to giving birth to a human being that, despite reasonable precautions, may be created. Is there a natural and appropriate connection between sexual intercourse and possible procreation—say, like the connection between eating (even careful eating) and possible weight gain—or is it an accidental connection so bothersome that its severing can be accepted even when the means involves the death of the fetus? If a strictly erotic model of sexuality is recommended, then abortion can be celebrated as the technological fix that finally allows human choice to dominate natural reproductive processes: it severs the inconvenient connection between eager orgasm and undesired offspring.

Of course, one need not accept the preceding model in order to desire sexual activity without procreation. Loving couples can have good moral and theological reasons for wanting to postpone or avoid having children, and they may and should take all reasonable precaution to

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<sup>23</sup> Thomson's point raises related questions about the concept of responsibility. In a sense, the victims of crime are (partly) *causally* responsible for being in the wrong place at the wrong time. But if they had the right to be there and if they took reasonable precautions against being victims, they in no way are *morally* or *legally* responsible for what happened (see Carse for the difference between causal and moral/legal responsibility). To think otherwise is to engage in the all-too-common practice of blaming the victim, a practice that confuses the above-mentioned senses of responsibility. The question of whether a couple is morally (and not just causally) responsible for the existence of a zygote when they took reasonable precautions to prevent conception cannot be answered without the discussion about sexuality and its relation to childbearing.

avoid conception. What “reasonable precaution” involves probably depends on how important it is to avoid conception, but personal control can be combined with contraceptives to all but eliminate the chance of conception. We admit that insisting on such discipline as an alternative to abortion requires a model of sexuality that takes seriously the connection between sexual intercourse and the possibility of procreation. And we favor a model that sees covenantal wisdom in connecting most sexual activity and passion with the sort of long-term commitment that is interested in or at least can cope with procreation. This wisdom does not view the threat of pregnancy as the “price one should pay for sexual pleasure.” Rather, it expands the idea of sexuality to include the feminine experiences of childbearing and nursing, and it refuses to allow a violent technological fix to substitute for policies and institutions that can support women in their childbearing and nursing roles.

A number of feminists writing about the threefold sexuality of women—orgasm, birth, and nursing—have wondered why it is only orgasm—the dimension of female sexuality shared with males—that tends to be glorified, while the others tend to be denigrated as bondage to nature (S. Callahan, 237). One obvious response to this query is that, even if childbearing and nursing are uniquely feminine (and perhaps pleasurable) aspects of a broadened notion of sexuality, they do “bind” women in ways that orgasm does not. Pro-choice advocates, arguing that women should be no more bound by their sexuality than men are by theirs, contend that society should not force women to risk birth and nursing whenever they experience orgasm. Why should women, they ask, be forced to risk what men are not forced to risk for the same kind of experience?

Abortion on demand is a way of ensuring that women are not forced to accept the highly sacrificial, uniquely feminine dimensions of sexuality whenever they experience the dimension of it that men do. But it is also a way of ensuring that men and the rest of society are not forced to share the sacrifices. White, upper-middle-class males constitute the group most consistent in favoring abortion on demand (and men as a group favor it more highly than do women as a group) (Elshtain, 59; D. Callahan, “Abortion Debate” 372). Feminists need not be overly suspicious to wonder whether this statistic is due to these men’s undying commitment to equal opportunity for women or to the fact that these men have much to gain and little to lose with abortion on demand.

Mary Meehan, a pro-life feminist, connects the Playboy philosophy and strong male support for abortion:

Feminists often say that women should have a right to abortion on request because all of the burden of bearing children falls on women and because most of the burden of rearing them falls on women. The first point is undeniably true, the second often so (although it need not be). But many feminists overlook the point that abortion is a men’s solution. This is especially the case when children are conceived outside marriage. So much stress is placed on the social and financial difficulties of women in this situation that we tend to overlook the problems of the men who are involved. Abortion is a much simpler solution for them because they do not have to undergo it. They merely have to encourage their female partners. Sometimes,

they must pay for it, but \$150-\$200 for an abortion is far cheaper than paying child support for 18 years. As Juli Loesch said, “In the bad old days, if an unmarried women got pregnant, the father-of-the-child was expected to accept some degree of accountability.” She added, “Now the responsible thing is to put up the cash for an abortion (‘No hard feelings, OK?’); and if the man actually goes to the clinic with the woman—if he holds her hand—Why, he’s a prince.” This is the easy way out, the cheap way out. Pro-life feminists believe it is no coincidence that the Playboy Foundation has put a great deal of money into groups supporting legalized abortion. The Playboy dream of carefree, no-fault sex has been realized at last. For men. (Meehan, 157-58)

We do not claim that the Playboy philosophy is the only or even the main motivation for the pro-choice position. But we agree with pro-life feminists that society should notice the coincidence and should also notice that abortion on demand is likely to impede rather than encourage the sort of laws, policies, and institutions that would help women with the burden of childbearing. “Is it entirely accidental that our country combines the world’s most liberal abortion laws with the poorest social support systems for women, mothers, and children?” (D. Callahan, “Abortion Debate” 373). When abortion is available as a relatively cheap and easy (at least for men) technological fix, there is much less motivation for society to reorder its structures to provide such measures as pregnancy leaves, day-care centers, homes for unwed mothers, and legal means for requiring male progenitors to live up to their responsibilities. These measures are harder and more complicated than abortion—they seek to recognize that sex is often connected to possible procreation and seek to institutionalize the commitments required to cooperate with natural processes—but we agree that they operate more in the long-term interests of women than do policies that encourage women to kill the fetuses growing within them.

Abortion not only entails medical and psychological costs suffered mainly by women; it also encourages “short-term-commitment sexuality,” which is probably not in women’s long-term best interests. Men seem to be able or at least willing to play low-commitment sex games (often with younger women) much longer than women can, and easy abortion enables them to provide a “choice” that, if declined, can leave a woman to struggle on her own with the consequences of her own choice. Then the choice of abortion becomes a pressure, because the easy availability of abortion enables society to avoid the more difficult measures that recognize the link between sex and possible procreation.

We have argued for a view of sexuality that requires either a high degree of sexual discipline or some degree of mutual responsibility for the life of the potential person when pregnancy results. This conclusion is at odds with a pro-choice view that abortion is simply the refusal to give the gift of life. Usually abortion ends a life that, at least to some extent, a couple is responsible for having begun.

### ***Failing to Help versus Harming***

That abortion results in the death of a fetus creates another difficulty for the pro-choice view, one that is independent of the issue of responsibility. Certainly it is a difficulty for those who believe that their obligations extend beyond their voluntary contracts, that they may have a responsibility to make sacrifices when circumstances thrust vulnerable strangers upon them, and that God calls them and gives them the resources to live up to those wider covenantal responsibilities, which the commercial contracts of possessive individualism do not recognize. In short, those who accept the covenantal ethics we outlined in Chapter Three would feel a responsibility to sacrifice in order to prevent the death of the fetus. This wider notion of responsibility is sometimes translated by the Anglo-American legal tradition into obligations with legal force, a point we raise here only to emphasize that our appeal to wider responsibilities is hardly a narrow sectarian ethic. For example, many states have what are sometimes called good Samaritan laws.<sup>24</sup> Given what we have said about good Samaritanism, it should be obvious that translating it into legal obligations is very controversial. Generally these laws apply to special situations, such as injury-causing accidents, and they protect aid-providers or (rarely) require persons to provide the reasonable sort of help that would prevent significant harm to the victims. John Kleinig argues that the rationale for most of our laws—preventing harm—is also a rationale for some good Samaritan laws that require strangers to help the vulnerable even when there is no institutionalized relationship between victim and helper (p.398). Likewise, Robert Goodin boldly but persuasively argues that the principle of “protecting the vulnerable,” rather than the principles of voluntary contractualism and utilitarianism, is at the foundation of Western ethics and law. He sometimes calls this expanded notion of obligation “good Samaritanism,” in order to argue in favor of the “good Samaritan laws” discussed by state legislatures. But he realizes that often the refusal to sacrifice in order to prevent harm to others is a violation of a duty more narrowly defined than what we call good Samaritanism. He believes that once people see the true foundation of their common moral sense, they will see that “what would ordinarily be described as merely ungenerous acts are actually far worse than that. They show us morally to be bad Levites rather than merely bad Samaritans” (p.26), quite apart from any legal issues.

So those who accept covenantal ethics, which includes the responsibility to be a good Samaritan, will avoid abortion even if it is thought of merely as the refusal to make significant sacrifices to help a vulnerable stranger. And those who accept Goodin’s justification for good Samaritan laws, which might more accurately be called “good Levite laws,” will avoid abortion insofar as it is thought of as the refusal to provide reasonable aid that prevents significant harm to the vulnerable. Some feminists have made these points on the basis of virtue theory (Hursthouse) and the “feminine voice” in ethics (Wolf-Devine).

Meanwhile, even those who believe that they have no responsibility to aid strangers should not assume that they may actively harm strangers in avoiding giving them aid. And most abortions involve actions that kill the fetus. Pictures of aborted fetuses and sonograms of abortions are sometimes used to show that the killing is violent and bloody. But, although that fact may be relevant to the bad psychological and social effects of abortion, it is not relevant to the main harm done to the fetus, which is death, no matter how painless and clean

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<sup>24</sup> Actually, the label “good Samaritan laws” should perhaps apply to laws (in 40 states) that provide protection against liability in case something goes wrong when help is being given. “Bad Samaritan laws” would then apply to the legal requirement (in only 3 states—Minnesota, Rhode Island, and Vermont) that we provide elementary aid for others in grave peril, such as notifying the police or shouting a warning (Malm 4-5).

it may be. We will not here defend the claim that death harms the fetus; the pro-choice use of the good Samaritan analogy does not question whether death harms the fetus but whether one must sacrifice to avoid allowing harm to occur. Abortion, however, usually *causes* harm rather than merely permits it. Generally it does not merely foresee that harm but even intends it; it intends harm to the fetus as a means of relieving someone from other harms or burdens.<sup>25</sup>

Pro-choice advocates might object that the preceding point assumes that a positive action (a commission) that causes harm is somehow morally worse than a refraining (an omission) that merely allows harm to occur. They might go on to argue that, when all other morally relevant factors are the same, quite likely there is no big moral difference between harming through omission and harming through commission. Therefore, the objector might say, we should not attach any moral importance to the fact that abortion results in harm through commission rather than omission.

We could agree with this claim that omissions and commissions are morally equivalent when all other relevant factors are the same (which they seldom are). But this point is more troublesome than helpful to the pro-choice use of the good Samaritan analogy. Suppose the Levite could not continue his journey without stepping on the wounded man and thereby killing him. Even if people were convinced that killing the man (by stepping on him) and merely abandoning him were morally equivalent actions, they would be more likely to believe that it would be wrong to abandon him than to believe that it would be all right to kill him. (Indeed, both Goodin and Kleinig use this belief in their arguments that helping vulnerable strangers is a strict moral obligation.) Therefore, we are not convinced by the pro-choice argument that abortion is merely the refusal to be a good Samaritan and not the violation of a moral obligation that even a Levite must obey.

At this point, pro-choice advocates might object that something has gone seriously wrong in our argument. They might fear that somehow our somewhat reasonable opposition to killing the fetus has resulted in the right of the fetus to appropriate someone else's body and "without the woman's consent, to suck her very life's blood; to use her kidneys and respiratory and endocrine systems; to sap her strength, drain her energies, interfere with her basic mobility, and eventually send her to the hospital" (Hilbert, 18). The author of this letter has a point, and the reasons the pro-choice side can elicit popular support that is as highly charged and as morally indignant as the pro-life support is that it, too, is protecting a fundamental value. Even those states or countries that have good Samaritan laws recognize definite limits to the sacrifices one person is obliged to make in helping another. The abortion issue arouses moral indignation on both sides because it is one of the few dilemmas (the only one confronted by many people) in which forbidding a person to cause harm to another human being simultaneously coerces her to nurture the other, sometimes at great risk or sacrifice and always at the cost of having her body significantly and intimately changed.

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<sup>25</sup> Some abortions can be described as merely foreseeing rather than intending the death of the fetus. In our later discussion of the principle of double effect (pp. \*\*\*), we will argue that this is a morally important difference. However, we should note here that most of the abortions that can be so described arguably fail to meet the "proportionality" criterion of the principle of double effect: the evil that is merely foreseen arguably outweighs the good that is intended.



Pro-choice writers can use other analogous (though hypothetical) situations besides the parable of the good Samaritan to convey their intuition that, given the costs of pregnancy to women, abortion should be seen as a permissible refusal to sacrifice rather than a wrongful causing of harm. Suppose, for example, that medical practice involves the risk (despite reasonable precautions) that patients' survival sometimes requires that they or some organism they need be physically united with their physicians (a given physician being the unique person whose body is required by a given patient) in relationships that cause and require significant bodily changes in and restrictions on the physicians analogous to those experienced by pregnant women.<sup>26</sup> Suppose that such a condition requires that physicians make appropriate changes in their work habits and that it requires their taking a leave for at least a few weeks. Suppose further that sometimes it is discovered that the condition threatens the physicians' physical or mental health and perhaps even their lives. Would physicians violate their duty and their patients' rights by insisting on having the choice, at least in some circumstances, to eliminate such a condition even if it meant the death of the patients?

We are not at all sure how to answer this question, which may say something about the usefulness of such analogies but may also say something about the dilemma posed when forbidding a person to harm someone else (for whom the former has some role responsibilities) simultaneously coerces that person to nurture the other even if doing so requires great sacrifices or risks. We suspect that, if the physician example we just outlined arose frequently, there would be a major social effort (involving paid leaves, career protections, etc.) to share the burdens of physicians, even in a society with an individualistic voluntary-contract model of ethics. Certainly a society with a communal model of relationships and a covenantal model of ethics would help physicians bear the burden, not just with inspiring stories but also with adequate concrete help. Such encouragement and help would likely make physicians feel obligated to bear their part of the burden. However, even in a covenantal society, it is doubtful that physicians would get charged with murder if they refused the burden, at least in the hard cases. Indeed, there would most likely be a great deal of debate over the extent to which the sword power if the state should get involved in coercing physicians to live up to their covenantal responsibilities. This debate would be especially vigorous if—to stretch the analogy—the patients were in a deep coma during the time they needed the physicians' bodies, a coma they would survive only if the physicians accepted the risks and sacrifices (analogous to those of pregnancy) that would give the patients the gift of life. And there would be legalistic questions about whether these human beings were still truly persons, since they would not have the experience of personhood and never would regain it unless the physicians accepted the sacrifices involved in “resurrecting” them.

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<sup>26</sup> Imagine, for example, that some sort of organism has to be implanted in the physician's body, an organism that will do roughly what fetuses do to women's bodies and that will have to be surgically removed after nine months for transplantation into the patient's body. This example is an adaptation of J. Thomson's (p. 174) famous violinist example, in which you are asked to imagine that you wake up some morning and discover that a talented violinist has been hooked up to you and that he needs your body for nine months in order to survive. This adaptation seeks to capture some of the role responsibilities that Thomson's does not. Why try to gain insight into an already complex issue by using such far-out examples? Those who use them believe that the special demands of pregnancy suggest such analogies for those who seek to sharpen their intuitions about the abortion issue.

A Christian covenantal approach, as we argued earlier, would not insist on settling the issue by asking legalistic questions about the moral status of such human beings or by asking what are the relevant, enforceable rights and duties. The primary question would be not whether they are imagers of God with certain rights; rather, it would be whether we are imagers of a God who has a bias toward welcoming vulnerable human beings into covenantal fellowship and who sacrificed himself even unto death to give life to those who did not deserve it or have a right to it. Such a covenantal attitude is definitely pro-life. But such an attitude assumes distinctive moral and theological beliefs. In a pluralist society, the legalistic questions about enforceable rights and duties do get raised, and we believe that the pro-choice position is correct in asserting that nowhere else in law or morality do we mandate that people accept the kinds of risks and sacrifices that are sometimes coerced when abortion is forbidden. For that reason we believe that abortion cannot be the moral or legal equivalent of premeditated murder.

### *Summary*

We began this lengthy section by observing that Christians normally perceive unborn human beings as precious gifts in the process of being welcomed into the covenantal community. The question of whether the fetus's status as a potential person grants it rights that cannot be overridden by those of the pregnant woman normally does not even arise. But we noted that circumstances can cause that question to be raised. Next we used the parable of the good Samaritan to suggest that, even when the fetus is perceived as a threatening stranger, treating it in a neighborly way will usually enable a person to perceive it as a vulnerable neighbor deserving of life and respect. We then asked about the morality of not treating the fetus in a neighborly way, explaining a pro-choice interpretation of the same parable. This interpretation suggested that, given the costs of pregnancy for many women, abortion often amounts to the refusal to make significant sacrifices to give a gift to someone else; having an abortion under these conditions is the failure to be a good Samaritan, but it is not a violation of strict moral obligation. Our first objection against this pro-choice view raised the issue of responsibility for pregnancy. In countering a pro-choice argument that people are not responsible for pregnancy when they take reasonable precautions to prevent it, we endorsed a pro-life feminist view of sexuality, a view implying that it is unwise to completely sever sexual intercourse from responsibility for possible procreation. Our second objection to the pro-choice use of the parable raised the point that abortion causes fatal harm to the fetus and that therefore it seems to violate not only covenantal ethics or the rationale for "good Samaritan" (or even "good Levite") responses but also the obligation not to inflict harm on others. In reply to a pro-choice argument that forbidding abortion simultaneously coerces a woman to accept an amount and types of sacrifice that is mandated nowhere else in law or morality, we agreed that this consideration implies that abortion cannot be the moral equivalent of murder. This point holds independently of our argument in the previous section about the status of the fetus, which also implies that abortion is not the equivalent of murder. But that section and this one both imply that at least some abortions are gravely immoral; the policy implications of this view still need to be considered.

## **Policy Implications**

According to the sense of “respect” we discussed in Chapter Two, it should be clear that we respect particular ways of developing both the pro-life and the pro-choice positions. Perhaps sometimes ignorance, selfishness, thoughtlessness, or the refusal to understand the opponent’s position is what determines an activist’s view on the abortion issue. But strong positions on both sides can be held by intelligent and knowledgeable persons of goodwill who are defending basic values and insights. We think that recognizing this fact could raise the quality of the abortion debate and help avoid reducing it to slurs or shrill rhetoric. As we noticed in Chapter Two, however, one sometimes has to be uncooperative with or intolerant of a position one respects because one believes that position to be, in fact, dangerous, even though it can be rationally defended. So we must ask not only whether we respect a position but also whether we can cooperate with it or tolerate its being acted upon.

### *Areas for Cooperation*

We begin on the positive note: all sides can agree on a number of measures and policies that could reduce the tendency to think of abortion as a necessary, even if tragic, alternative.

First, it is time for unions, insurance companies, employers, and the government to recognize that women are close to one-half of the work force, that nostalgia or even good arguments for the single-worker (male) nuclear family are not going to change that fact, and that provision ought to be made to help women workers in their childbearing and nursing roles. It is easy to pretend that the latter are private matters, and one can give respectable arguments against paid pregnancy leaves, nurseries on the job, and public funding of policies that increase population in an overpopulated world. But we believe these arguments are overridden by the facts that 85 percent of working women become pregnant (Taylor) and that until they can combine job or career with having children (as males can), there will be substantial pressure for abortions, whether legal or illegal. Moreover, one can find good covenantal reasons as well as frankly prudential ones for society’s sharing the joys and burdens of childbearing and child rearing, especially when so much of the child rearing is done in single-parent families. So we think all sides should support such measures as pregnancy leaves, nurseries on the job, flex-time and part-time job arrangements, and day-care centers.

A second area for cooperation is the discouraging of sexual activity among young teenagers. Children having children and children having abortions are both scandals. Rather than arguing about which one is worse, we should work against the causes. Sex education is necessary but not sufficient. It will prevent pregnancies due to sheer ignorance (and ignorance about sex is surpassed in young teens by only pseudo-sophistication about it), but by itself it will not necessarily discourage sexual activity. Among other things required is sexuality training that nurtures in girls the self-esteem that makes them abhor being treated as sexual toys and in boys the consciousness of what a perversion of manhood it is to associate self-esteem with scoring sexual points. The task is huge and complicated, of course, especially given the high-hormonal character of so much of the popular music, movies, and cultural values affecting teenagers. But there is some evidence that enough people are deeply enough disturbed that the epidemic of teen pregnancy could get the sort of attention the drug epidemic does. Both epidemics require alternative sources of fulfillment, which implies an educational and nurturing task that begins with early childhood. The size and complexity of the task, while daunting, should also underscore its importance and the need for cooperation.

When discouraging inappropriate sexual activity by young people, Christians must be careful about measures that will also result in more abortions. For example, the stigma associated with dismissal of pregnant girls from school probably scares as many girls toward abortion as away from sex. And avoiding frank discussion about how to use contraceptives and other “safer-sex” measures is a dangerous way to avoid sending a mixed message. “Don’t drink; but, if you do, don’t drive,” is a more responsible message than one that ignores the need for multi-leveled injunctions in a fallen world. To recognize that violations of the first level will occur is not to approve of them; it is simply to acknowledge that even worse things can happen.

Perhaps we are naïve, but we hope that another area of cooperation is the discouraging of hedonistic egoism and possessive individualism, which reduce one’s responsibilities to the rights and duties for which self-interested parties voluntarily contract. We fear that this mentality not only makes choosing abortion much easier than it should be, it also undermines the sense of communal support and responsibility that creates conditions in which abortions are not perceived as necessary.

Other areas for cooperation include supporting measures for holding the male progenitors responsible for their share of the burden; supporting adoption as an alternative to abortion (this requires providing psychological and institutional support for unmarried pregnant women); supporting basic research into genetic diseases, which are often the reason for abortion; supporting many types of genetic counseling; and providing insurance or institutional support for families of children born with disabilities or serious medical needs.

Although there is much room for cooperation and although the energy spent on this cooperation may well do more to prevent abortions<sup>27</sup> and provide choices than alternative expenditures of pro-life and pro-choice energies, when it comes to abortion itself, there obviously is less room for cooperation or even tolerance. We cannot agree with those who are either intolerant or tolerant of all abortions. Our views on the status of the fetus and on covenantal responsibilities imply that, although abortion is not murder, it often is the sort of serious wrong that ought to be both morally and legally restrained. So we cannot support either the right-to-life amendments or abortion on demand. We admit that these positions do have a type of clarity that our position lacks. The policy implications of our view, we admit, are rather general, and they become more debatable as they become more specific. But we agree with a statement in an excellent study that independently reaches a position similar to our own: “General advice is better than bad advice” (Wennberg, *Life*, 122). So we will state what we believe can be reasonably inferred from our views about the fetus and about covenantal responsibility.

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<sup>27</sup> We agree with D. Callahan: “Our society is one that makes it difficult to avoid unwanted pregnancies, on the one hand, or gain the necessary social and economic support to bear and raise a child on the other. That is a combination guaranteeing a demand for abortion” (Abortion Debate” 373). It is possible that 84 percent of women that have had abortions would have given birth had social circumstances been better (Rearden 12). Since many decisions to abort are so ambivalent, Christians should take the lead in making the difference that will change the decision (Pohl 221).

### *Proposed Grounds for Abortion*

Suggested grounds for abortion generally fall into four classifications: 1) therapeutic (the woman's life or health is at risk); 2) traumatic (cases in which rape or incest results in pregnancy); 3) genetic and development (the fetus is deformed); and 4) socio-economic (giving birth would impose too great a burden on others). In certain tragic circumstances involving the first three categories we would regretfully recommend an abortion; in the sense defined in Chapter Two, we would sometimes cooperate with an abortion we would not recommend; and we would sometimes tolerate and even (rarely) cooperate with an abortion while recommending against it. In all four categories there are examples of abortion that we would both tolerate and cooperate with, but we would not necessarily be willing to cooperate with every abortion we would tolerate. The abortions we would cooperate with or even recommend are what are often called the "hard cases," which probably amount to only a small percentage of abortions actually performed. Unless otherwise stated, we are referring to first-trimester abortions or (rarely) those performed at least several weeks before viability.

We would sadly but strongly recommend abortion when a woman's carrying a fetus is a serious and undeniable threat to her life, because we do not believe God desires the probable sacrifice of a covenant member (especially one with many relationships and responsibilities) as the means of welcoming another being into the covenant, and we do not think that society should recommend such a trade-off. But such a risk is extremely rare. More often, therapeutic abortions are performed when there is slight or debatable risk to life or health. We would cooperate with abortions when there is significant threat to life or health on the grounds that the decision should be between a woman and her God whether she must take such risks in living up to the normal covenantal responsibility to nurture rather than harm a developing human life. Our concept of health as the well-functioning of the organism as a whole (Chapter Two) prevents us from specifying risk to physical rather than mental health; we see no sharp separation. Even so, not all mental stress should be thought of as a significant risk to health; it would have to threaten to cause some long-term or irreversible impingement on the well-functioning of the woman if we were to cooperate with an abortion on this ground. We admit that the impossibility of drawing clear lines here makes our position difficult. We rely more on the covenantal dispositions of the decision-makers than on unambiguous criteria for precise line drawing.

The use of reproductive technologies has resulted in demand for a rather different type of therapeutic abortion, one that aims at protecting the life or health of other fetuses, in addition to that of the mother. In spite of highly publicized births of six or more siblings, there are cases where allowing all the fetuses to continue gestation presents a high risk of death or injury. In such cases, elective abortion of one or more fetuses reduces or eliminates that risk. We would cooperate with selective abortions if and only if there were strong evidence of a high risk, appealing to some of the same reasons we gave for cooperating with abortions that protect the life or physical health of the mother. But we would not cooperate with the use of reproductive technologies that entail the likelihood that such selective abortion would be indicated. Sometimes abortion is the least bad way out of an intolerable situation, but cooperation here does not condone actions that have a high risk of resulting in that situation. We do not reject the use of reproductive technologies, but we believe that covenantal people

should use only those that are reasonably safe from causing or requiring injury or death to persons or potential persons.

In cases of rape, we would cooperate with abortions and, at least in the cases of some young teenagers, recommend them.<sup>28</sup> If the woman had the maturity, strength, and willingness to continue the pregnancy, she would be a heroine in our view. But generally in cases of rape, the responsibility to welcome developing human life into covenantal fellowship is overwhelmed by the violence of the act of rape and the scars that can result from a women's being forced to continue to sacrifice her bodily integrity when it was so brutally violated.

We would cooperate with abortion on genetic grounds in those cases in which the fetus is not a potential person because deformities prevent it from coming even close to acquiring God-imaging capacities. Therefore, we would cooperate with abortion for anencephaly, a condition that causes the lack of a brain, which occurs 4,000 times per year in the United States (President's Commission, *Deciding*, 1811), as well as Trisomy 13 and 18 (Jones, "Abortion," 181; VanDeVeer, 214-23).<sup>29</sup> We would recommend abortion in those rare cases in which life would inevitably be short and subjectively indistinguishable from torture (such as cases of Tay-Sachs disease (see pp.\*\*\*). It is an empirical question whether a given biological abnormality would preclude the possibility of the developing human being's ever being welcomed into covenantal fellowship or would make its experience for its entire brief life subjectively indistinguishable from torture. In the former case—when the fetus is not a potential person—the pregnancy would lead to what is appropriately called “meaningless life.” In the latter case—when the infant would experience overwhelming suffering—continued pregnancy would lead to what is appropriately called “wrongful life.” Of course, such suffering can sometimes serve social goods, such as giving a family or society a focus for loving concern. But it can also cause social evil, and, in any case, a fetus ought not to be brought to term simply because its suffering would serve others. One should not argue for aborting Down's syndrome fetuses on the preceding grounds: they almost always can be welcomed into covenantal fellowship as persons and also generally have special ability for such God-imaging capacities as honesty and appreciating what one has. We are not here claiming that Down's syndrome fetuses should never be aborted on socio-economic grounds (see what follows); we are simply saying that such grounds should not be confused with abortion “on behalf of the fetus,” which would apply only to those rare causes of wrongful life. It is doubtful that aborting in cases of spina bifida or hemophilia can be justified as

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<sup>28</sup> In all cases of rape, we recommend immediate medical attention, including the recommended use of a “morning-after” pill.

<sup>29</sup> Trisomy 13 (also known as Patau's syndrome) results when the fetus receives an extra copy of chromosome 13. Infants suffering from this syndrome have very abnormal brains and usually defects of the eyes, heart, kidneys, gastrointestinal tract, and urogenital system. Affected infants nearly always die within the first few days to first few months of life. (See p. \*\*\* for further discussion.) Trisomy 18 (also known as Edward's syndrome) results when the fetus receives an extra copy of chromosome 18, which occurs in approximately 1 in 3,500 births. The condition is characterized by congenital heart disease, difficult breathing, and retardation. It often involves both painful physical problems and an early death; it may be an example of a condition that involves both the lack of potential personhood and a life subjectively indistinguishable from torture. Most afflicted fetuses die before birth. Of those born alive, 50 percent die in the first two months; 90 percent die in the first year. (See p. \*\*\* for further discussion.)

preventing wrongful or meaningless life. Even in clear-cut cases of wrongful life we would not *require* abortion (to prevent useless torture), simply because some people think every abortion is murder and because abortion is usually a technologically invasive procedure that requires informed consent. Chapter Nine gives a further discussion of genetic conditions and genetic abortions.

Can abortions ever be justified on the grounds that the fetus's future life would be too burdensome, not to itself (wrongful life) but to the woman, the family, or society (socio-economic grounds)? We cannot recommend abortions on socio-economic grounds as long as society will help women bear the burdens. However, it is the pregnant woman who bears and will bear most of the burden even when others do everything they can, so we would cooperate with abortion in those cases in which the pregnancy genuinely threatens to overwhelm the woman's or the couple's ability to meet the covenantal responsibilities already assumed. Before deciding that such a situation can never arise, one should talk with parents of a burdensomely disabled child who are asking about the impact of a second significantly disabled child.

### ***Legal Issues***

But hard cases like these probably represent only a small percent of current abortions. Abortion today is often being used as a means of birth control and as a matter of convenience, not as a necessity. This is wrong because it devalues human beings who are in the process of becoming persons and it violates or at least fails to live up to the responsibilities of covenantal fellowship. We believe Christians should argue and counsel against abortions of convenience and should simultaneously support those measures previously mentioned that would reduce the perceived need for them. Still, we do not believe abortions should be made illegal, certainly not during the first trimester. Our primary consideration is that they do not constitute murder, for the two reasons already mentioned several times: a human being in the process of becoming a person is not yet a person, and to forbid harming that human being is to coerce a woman to nurture it with the amount and type of sacrifice that not even the strongest "good Samaritan" laws require.

However, a wrong does not have to be murder in order to be criminal, so why not criminalize abortions of convenience, serious wrongs that they are? There are three reasons. First, the reasons we give for reverencing potential persons and for the covenantal model of the moral life require distinctive premises not widely shared in societies oriented toward individual achievement and voluntary contracts. In Chapter Two we argued against using moral or theological beliefs that are not widely shared as grounds for criminalizing behavior. Second, as Andrew Kuyvenhoven argues, there is a limit to using the law to regulate behavior even if the majority think a particular behavior is immoral: "The laws of our temporary society are not intended to...convert the lives of the citizens. That work is done by the Word and the Spirit of God. Laws are intended to protect the life of society" (p.7). In a moment we will use this point to argue for regulating late-term abortion, but we do not believe that first-trimester abortions threaten the very foundation or life of society. We understand, however, that those who believe all abortion is murder would disagree with us; if we agreed with their view of abortion (which we have argued against), we would probably agree with their efforts to outlaw it.

We understand that, in spite of the observation that actions must usually be “out loved” before they are outlawed, sometimes the law can be used as an educational and not just a protective device. However, it should not be so used if that would create chaos, which brings us to our third reason against criminalizing early abortions. Some pro-life advocates believe that, since the majority of Americans are repulsed by the abuse of easy abortion and oppose abortion on demand, it may be possible to get a right-to-life amendment into the U.S. Constitution (Andrusko, 9). Other analysts believe that, if Americans have to choose between pro-choice and the criminalization of (almost) all abortions, the majority will choose the former (Lamanna, 13). We believe the latter prediction is correct. But suppose we are wrong. Suppose that, through the judicious use of one-issue voting (and surely a perceived massacre of infants warrants one-issue voting), almost all abortions were criminalized. This would no doubt result in massive civil disobedience and, we think, insurmountable difficulties in enforcing the law and applying appropriate penalties, especially regarding early abortions. We believe that the law could not be enforced without serious invasion of privacy. We believe this prediction to be correct even if the law managed to avoid treating the use of IUDs as assault with a concealed weapon. And depending on how severe or lenient the penalties would be, one activist group or another would find them totally unacceptable. Both of these results would seriously undermine respect for the law. So we believe that early abortions should not be criminalized.<sup>30</sup>

At the same time, we believe that no health professional or private health institution should be required to cooperate with induced abortions. If one’s opposition to abortion is such that one cannot in good conscience even refer those seeking abortions to cooperative professionals, one is obliged, we believe, to make that very clear at the beginning of relationships with pregnant patients and those able to become pregnant. Patients should also be informed about one’s possible refusal to cooperate with prenatal testing. (Since the issue of informing patients about prenatal testing is legally disputed, professionals would be prudent to consult with knowledgeable lawyers about how to state their stance to patients.) Also, we believe there are limits on the extent to which taxpayers in a pluralistic society should have to help fund abortions they find intolerable. No taxpayer can have veto power over disagreeable government spending, but some of the very reasons we give for limiting legislation when controversial moral and theological issues are involved are also reasons for limiting coercive taxation in these areas. This is a complicated issue that we cannot here develop to the extent it deserves except to note that reasonable limits on coercive legislation in a pluralistic society applies to tax law as well as other laws.

In objecting to (at least some) tax-funded abortions, we must not by extension refuse to cooperate with family planning organizations that provide birth control as well as privately funded abortion services. The U.S. Congress, under pressure from anti-abortion groups, in 1996 made deep cuts for family-planning programs abroad. The reason was that, although these programs use U.S. funds only for non-abortion methods of birth control, they also use other funds to provide abortions. But, as a result of the cuts, we may expect many more abortions as well as 4-10 million additional infant and child deaths, and at least 8000 (perhaps

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<sup>30</sup> Although we earlier expressed some doubts about the arguments that implantation marks the beginning of personhood, we believe those arguments are strong enough to leave the use of IUDs up to the informed conscience.



tens of thousands) additional maternal deaths (Scommega; Moffett). This is a horrible price we are forcing others to pay because we reject appropriate cooperation with those with whom we disagree.

Some have argued that, if early abortions are not made illegal, it is inconsistent to make late abortions illegal, because from day to day there are not enough changes in the fetus that would justify making illegal at a particular point what was merely a therapeutic procedure the previous week. One must be careful with such arguments, as they can be abused. For example, it is fallacious to argue that, since children should not have the right to vote as soon as they are physically able, and since there are no dramatic shifts in development that would prevent arbitrary line-drawing, therefore there is no point at which they can justifiably be given the right to vote. Although there is some arbitrariness in deciding precisely at which birthday society should grant the right to vote, there is no arbitrariness in agreeing that the appropriate age span is the late teens rather than the pre-teens or the middle twenties. Likewise, we are convinced that the “stage” and “conferral” considerations we discussed earlier, combined with the potentiality principle and the appropriate restrictions on causing suffering when avoiding the burden of nurturing, yield the conclusion that society should grant personhood to the fetus around the end of the second trimester of gestation. After that point the natural revulsion to killing what amounts to tiny babies could be overcome only by a callous disrespect for developing human life that would quite likely endanger the sanctity of young persons. The bloody history of the human race shows how fragile the respect for personal life is and how difficult it is to regain that respect in a society that loses it. Thus it is not arbitrary to insist that the line be drawn early enough to protect reverence (especially in medical personnel) for personal life, even if one argues that the capacities for personhood are not achieved until after birth. We admit that, even if we could fully develop our argument here, it would involve using the empirical slippery-slope argument (see pp. \*\*\*), which means it would involve predictions about the social effects of practices. These predictions do not have the decisiveness that alternative positions on abortion have. But decisiveness is not the only or even the main virtue for a position on a very complex issue.

We agree that some of the “stage” and “conferral” considerations that imply the wisdom of granting personhood around the end of the second trimester can also be used to argue for an earlier time. Although fetuses neither have reached “quickening” nor are capable of being biologically independent by the end of the first trimester, they have developed the shape, organ differentiation, brain activity, and other characteristics that some have argued are relevant to their inherent or conferred status. Although we do not believe that such facts imply that abortions soon after the first trimester threaten moral practices or the health of society (as we believe they could in the third trimester), we do believe that they could be used to argue for laws that express society’s concern for developing human life. Insistence upon an “indications” policy (allowing abortion only for the sort of “hard cases” we discussed previously) after the first trimester would avoid many of the legal and social problems we claimed would result from granting personhood at conception, and at the same time it would express respect for human life that has developed the organ differentiation and biological capacities that are the physical foundation of personhood.

However, there are some reasons for wondering whether, in the United States and Canada, the political fight for an indications policy after the first trimester would be worth the energy it

would require, energy that might be taken away from other efforts to reduce abortions. It would take much political work because it would be vigorously opposed by both the 25 percent who support abortion on demand and the 20 percent who support the right-to-life amendment (see footnote 1 of this chapter). The former tend to compromise only to the extent of allowing an indications policy after the second trimester (the Supreme Court's 1972 *Roe v. Wade* decision), whereas the latter tend to compromise only to the extent of allowing an indications policy up to the end of the first trimester. The introduction of a policy for second-trimester indications would probably cause almost all women to seek first-trimester abortions and thereby to avoid the need to meet the requirements of the policy. The relatively few women seeking later abortions would likely meet whatever indications the policy required, which would no doubt be quite inclusive, or the policy would not have the political strength to be passed. It is doubtful, for example, whether a politically feasible indications policy could exclude abortions for cases of Down's syndrome or spina bifida discovered through amniocentesis. Moreover, an indications policy might increase illegal abortions among women who feel it is demeaning to have to argue their cases before screening panels, panels that inevitably would vary in how they applied the law. So we doubt that it is wise to work for an indications policy applicable during the second trimester, and the reasons we have given against criminalizing most abortions prevent us from arguing for an indications policy that would be applicable significantly earlier in gestational development. We think that most of what we say here also argues against Christians striving to have the *Roe v. Wade* decision overturned and then fighting for an indications policy on the state level.

We do not think the legality of abortion is all or nothing. We agree with Sandra Day O'Connor and other judges that there may be reasonable restrictions on legal abortions as long as they serve a legitimate purpose and do not impose an undue burden on pregnant women, especially poor women. It is debatable whether the most commonly proposed restrictions, including waiting periods and parental (or paternal) notification, meet these criteria. But it is a legitimate debate, not one to be dismissed by claiming that there may be no restrictions on the right to choose an abortion. All or nothing thinking on this issue, whether pro-life or pro-choice, is simple, clear, and wrong.

### *Summary*

Our views on the status of the fetus and on covenantal ethics imply to us that people should choose abortion only in certain hard cases. Those same views imply to us that abortion cannot be equated with murder and that sometimes we should tolerate and even cooperate with abortions we would not recommend. Those views, combined with our views on the role of law and the effects we predict if most abortions were made illegal, imply to us that we should not support a right-to-life amendment that would grant personhood to fetuses from conception or implantation. All of the preceding views and a number of conferral considerations imply to us that personhood should be morally and legally granted to the fetus around the end of the second trimester, a position that seems to us to allow third-trimester abortions only when the fetus poses an undeniable and significant threat to a woman's life or when it is certain that the fetus is either not a potential person or would have a brief life

subjectively indistinguishable from torture.<sup>31</sup> We question the wisdom of an indications policy for abortions during the second trimester.

We conclude this chapter by recalling the areas of cooperation that would reduce the demand for abortion. We support measures that enable women to combine childbearing and child rearing with jobs and careers. We support educational measures that help children and teenagers understand the implications of sexual activity, the shortsightedness of associating it with popularity and self-esteem, and the immorality of being irresponsible about it. We encourage personal and institutional commitment to covenantal ways of thinking that expose the poverty of reducing one's responsibilities to those rights and duties for which self-interested parties voluntarily contract. And we support measures that enable women to see adoption as a viable alternative to abortion, as well as other measures that help families cope with long-term burdens of rearing children with disabilities. A covenantal community can do more than all of this, but given the dispositions that characterize covenantal ethics, we believe it should see to do no less.

### ***Appendix: Created in God's Image***

During the 1960s, civil-rights marchers would sometimes carry signs saying "God made me and God doesn't make junk." This message is a good place to begin. The biblical story of creation, fall, and redemption tells us that what is happening in our world is not a struggle for survival among the fittest of animals that randomly developed from a chance coalition of atoms. Instead, we were made—by a God who does not make junk. Remembering both that we are creatures and that God declared the creation to be fundamentally good is enough to help us avoid both the self-deification and the self-debasement that are common though contradictory tendencies of secular thinking. But to understand our place in creation and to avoid lowering ourselves to mere stimulus-response mechanisms or to machines made of meat—a reductionism that is all too common in science and medicine—we must constantly recall the biblical theme of being created in God's image (Evans, "Healing Old Wounds"). This theme establishes some "control beliefs" (Wolterstorff, 67) about how we should perceive ourselves and other persons, beliefs that can have great importance for how we relate to others and for our ideas about health and human flourishing.

What is it to be an imager of God? One way to answer this question is to notice that the Bible portrays God as making people in God's image *after* the creation of the other animals, and to infer that we image God in and only in the way we are different from the rest of creation. One can combine this inference with the observation that God does not have a body and conclude that the way we image God can have nothing to do with our bodies. This conclusion would then lead us to look for creaturely features that are non-

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<sup>31</sup> We believe that these latter, rare conditions could also call for only ordinary medical care after birth, care that would seek to relieve pain but would not seek to prolong life with what are often called heroic or extraordinary measures (see pp. \*\*\*). Among the important morally relevant differences between a late abortion and infanticide is that forbidding the latter doesn't simultaneously coerce a woman to continue nurturing a fetus within her own body. What we said about profoundly retarded human beings (pp. \*\*\*) implies that ordinary care should always be provided to them by a covenantal community.

bodily and are unique to persons. If we conduct this search within an intellectual tradition that interprets biblical talk about flesh, body, soul, and spirit in terms of the dualisms deriving from Plato and Descartes, we may too quickly infer that to be made in the image of God is to have an immaterial and immortal soul that loosely resides in a disease-prone mortal coil.<sup>1</sup> Fortunately, this view will conclude, a person's true essence—the real “I”—is the soul, which is immune to the diseases of the body and which can be graciously saved from the sin that infects it. The consequence is that the health of the body is perceived as distinctly secondary to the health of the soul. Medical missionaries subscribing to this view may be tempted to use the wonders of modern medicine mainly as a means to an end—perhaps as miraculous signs that confirm the truth of the message, or perhaps as a means for getting sick people to listen to the preaching of the Word, or perhaps even as a witness of what Christian discipleship involves—the real goal being the salvation of souls.

This view goes well beyond and largely against much of what the Bible teaches about imaging God. First, the initial inference is invalid: the fact that God created God's imagers last does not imply that they image God solely in their uniqueness. It may just as well imply that something about them enriches or transforms, in a God-imaging way, some of the very features and capacities they share with other creatures. And the fact that God lacks a body is compatible with our imaging God in a fundamentally embodied way. God may have chosen to incarnate God's own image in bodies, in a way analogous to that in which an artist uses material to convey to us a nonmaterial element, such as the mysterious amusement in the smile of the *Mona Lisa*.<sup>2</sup>

Second, the anthropology required by the previously mentioned inferences contradicts what we know about human nature. We share some of our finer features with animals, and it has turned out to be difficult to specify a human capacity that is not, in some sense, possessed by some other species. Some researchers have argued that playfulness, imagination, deceptiveness, friendliness, tool making, reasoning, language using, the expressing of emotions, the capacity to mourn the death of others, and perhaps even having a self-concept—capacities that were once thought to be uniquely human—have been discovered in other species (Midgley, 203-317). Of course, there is room for debate about these “discoveries” in animals, and, in any case, there may be uniquely human ways of exercising these capacities—ways that have to do with imaging God. But we have no biblical or scientific reasons to think we image God only in those features we do not share with other animals. Moreover, it seems that we image God in a fundamentally embodied way. What we know about biology and how it relates to the choice-making involved in stewardship and covenantal love implies that human beings need brains and bodies to carry out these God-imaging activities. We do not merely *have* bodies; we *are embodied* as organisms whose integrated functioning involves God-imaging capacities, perhaps as a

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<sup>1</sup> This view is not that of many, perhaps most, Christian theologians today, who believe that the Bible is best interpreted as implying that persons are unified wholes rather than conjoinings of two separate types of substances. For discussions of the Bible's language about persons, see J.R. Nelson's *Human Life*, Hoekema's *Created in God's Image*, C. Van Peursen's *Body, Soul, Spirit: A Survey of the Body-Mind Problem*, and Cahill and Farley's anthology *Embodiment, Morality, and Medicine*. See C. Taliaferro for a defense of dualism that avoids devaluing the body.

<sup>2</sup> This analogy comes from discussions with Harry Boer; see his *An Ember Still Glowing: Humankind as the Image of God*.

characteristic that emerges when the organism's functioning reaches a certain level of complexity and integration.<sup>3</sup> Some Christians might even say that human beings *are* bodies, that what we essentially are dies with our bodies, though some of these same Christians may also have the hope of being resurrected as spiritual bodies. This view generates some interesting questions about personal identity with respect to bodies (If I completely disappear at death, is it *I* who will be resurrected, or a replica of me?), and it also contradicts the belief of many Christians that we exist in some sort of intermediate state between death and resurrection. This latter belief seems to imply that, at a minimum, God can separate some aspect of persons from their original embodied state and sustain them at some level of existence while they await spiritual bodies.<sup>4</sup>

For purposes of this essay, we need agree only on two things: first, that the resurrection hope implies that, in some significant sense, death is not our end, and, second, that the embodied way by which we image God implies that our physical health is directly and importantly related to what God calls us to be and do. In other words, we must avoid any dualism that suggests that the real "I" is separate from the body, that ill health affects the body without affecting the person, or that the image of God in the person is a soul serenely unconcerned with and unaffected by death.

What the Bible says about the image of God reveals a number of important points. First, it gives embodied human beings a special moral status, as Genesis 9:6 makes clear, by prohibiting murder because persons are imagers of God: "Whoever sheds the blood of a human, by a human shall that person's blood be shed; for in his own image God made humankind." Wrongfully spilling human blood is viewed as the iconoclastic desecration of God's image. In fact, even cursing persons is forbidden because it is a contradiction to praise God and curse God's image: "With [the tongue] we bless the Lord and Father, and with it we curse those who are made in the likeness of God...this ought not to be so" (Jas. 3:9-10). And the Heidelberg Catechism (Q. and A. 105) forbids insulting our neighbors in deed or in thought as well. In other words, not just certain behaviors but also certain attitudes are unfitting toward other human beings. Or, to put it positively, some of the attitudes we have toward God we should have, in a derivative way, toward God's imagers. Thus, some of the same kind of fear we have toward God is also appropriate toward those who bear God's image. Experiencing the fear of God should not be reduced to being scared, but it should be associated with feelings of reverence and awe, feelings elicited by God's goodness, majesty, and authority. It is true that creatures who image God should be

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<sup>3</sup> Of course, one can talk about "my body" just as one can talk about "my mind." I can move my body, and I can change my mind. But in both cases it is I as an embodied mind that act. It is not just my face that frowns; I frown, though I need a face in order to do it (Sprague, 47). See W. Hasker (72-76) for a theory of how a person's God-imaging capacity could be an emergent phenomenon, one that is produced by but is distinct from (and not reducible to) the brain's neural activity.

<sup>4</sup> W. Hasker (74-75) argues that the emergent mind could be a self-sustaining substance of some sort, just as the gravitational field of a black hole (or collapsed star) continues to exist after the star's matter apparently disappears. Christians, of course, can appeal to sustaining activity of God to argue that some aspect of a human being is *separable* if not *separate* from the body (Evans, "Separable Souls"). John Cooper ("Dualism") argues that the Bible and Reformed creeds teach at least this sort of minimal dualism. In *Body, Soul, and Life Everlasting*, Cooper gives a very helpful survey of the dualism Debate in biblical studies, theology, and philosophy, making a persuasive case for a "holistic dualism" that is biblically instructed, consistent with what science tells us about subatomic indeterminacy, and avoids the pitfalls of Platonic dualism. See also Taliaferro for a persuasive defense of "integrative dualism."

valued and loved; love of God and neighbor, after all, is Jesus' basic ethic. And seeing our neighbors as being God's image can help us love them, even when they are otherwise unlovable. As John Calvin advises, we should "...look upon the image of God in them, which cancels and effaces their transgressions, and with its beauty and dignity allures us to love and embrace them" (*Institutes* X.vi.31). But it is equally important to notice that Christian love is influenced by awe for the nature of its object—an imager of God. "Sanctity" is a term many religious persons use to characterize that which elicits their reverence. As Richard Stith writes, the sanctity of personal life calls for a love that has a "stand-backish" element and not just an urge to value, to nurture, or to control:

Reverence, by contrast [to valuing], eschews domination. It steps back before the "sanctity" of that which is revered, and thus necessarily before every particular which has sanctity. A limit is given to us and to our schemes of domination. We can no longer destroy and rebuild as we wish, but must accept and accommodate being, even the being of individuals. If I revere human life, if I say it has sanctity, then rather than making and controlling it, I acknowledge and defer to it, I let it be (p. 6).<sup>5</sup>

Thus, those who image God are to be loved reverentially, even deferentially, a point that will be relevant when we discuss such topics as violating a person's right to informed consent or killing a person out of love. Of course, there may also be secular reasons for reverencing the sanctity of persons and perceiving them as having a dignity beyond price (Kant, 103), but the biblical theme of being created in God's image implies that the basis of a Christian's disposition toward people is fundamentally a religious feeling and responsibility.

The second biblical point to notice is that God's decision to create human beings in itself designated their suitability for a specific role: "Let us make humankind in our image, according to our likeness; and let them have dominion over the fish of the sea, and over the birds of the air, and over the cattle, and over all the wild animals of the earth, and over every creeping thing that creeps upon the earth" (Gen. 1:26). The psalmist celebrates both the human role and the special nature of those called to it: "You have made them a little lower than God, and crowned them with glory and honor. You have given them dominion over the works of your hands; you have put all things under their feet" (Ps. 8:5-6). The implication of these passages is that God did not arbitrarily select a species of creatures for special status, conferring on its members an "alien dignity."<sup>6</sup> Rather, we human beings

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<sup>5</sup> Stith himself seems to contrast reverence with love, as if the sanctity of life were a religious or moral disposition separate from that of loving one's neighbor. But reverence can also be interpreted as a quality of the type of love appropriate to persons. The phrase "sanctity of Life" comes out of the Hindu tradition, where it refers to all life. As L. Smedes argues, Christians should probably use the phrase "sanctity of personal life" (*Mere Morality*, 105). Sometimes, especially in the Jewish tradition, "sanctity" is interpreted as infinite value (see H. Brody, 249; Veatch, *Theory*, 30). In addition to confusing the distinction between valuing and revering, this interpretation would seem to imply that one could never risk one's life no matter how small the risk or how great the potential benefit, and that no costs or pain should ever be spared in squeezing one more minute of life out of a person's dying process. It is more coherent to think of personal life as *incommensurable* with mere valuing or pricing than as valued infinitely or at an infinite price.

<sup>6</sup> "Alien dignity" is a phrase used by some writers (Ramsey, "The Morality of Abortion," 72; Thielicke, 231; D. Callahan, "The Sanctity of Life," 186-87; Verhey, "Body and Bible"; Lebacqz, "Alien Dignity") to convey the idea that it is our relationship with God rather than our inherent worth of characteristics that gives us special

are specifically constituted for the role of representing God both in the sense of *mirroring* God as rulers and in the sense of being God's *delegates* and having authority to be stewards over creation. Since our suitability for this stewardly role requires the capacity for reflective choice-making, one should infer that we image God by virtue of our being givers and hearers of reasons, beings who not only make choices but also reflect on them and make choices about our choices, who not only have desires but also have desires about our desires, who not only evaluate but also evaluate our evaluations, who not only think but also think about our thinking. These capacities, in turn, require not just consciousness but self-consciousness, the sort of "reflexivity" (Van Leeuwen, 127) that provides us with the freedom and creativity that enable our choices to be more than previously determined responses to stimuli. Other organisms may, in some sense, think and choose, but the integrated functioning of the human organism provides for a reflexivity that provides much of our capacity for choosing how to choose. With this capacity comes the responsibility to exercise it in the way that our good Creator intends, and consciousness of this responsibility is the foundation of our moral sense. So an important part of imaging God is recognizing and accepting the exhilarating freedom and the sobering burden of making moral judgments about proper stewardship. Indeed, our freedom and responsibility, which are related to our self-consciousness and capacity for deliberation and evaluation, can be said to make us "created co-creators" (Hefner, 326), a status that must be kept in proper perspective so that neither the creativity nor the creaturehood be denied.

The third biblical point to note about the image of God is that God's imagers were created both male and female, implying both that stewardship will be exercised in community and that communities will be created in part through human sexuality. As with other creatures, this sexuality is natural and instinctive, but in self-reflective humans it is also controllable by the very stewardly responsibilities and moral sense by virtue of which we image God. This responsibility is part of the larger responsibility that we have toward one another as communal individuals—that is, as individuals whose identities are not just those of individual atoms but are constituted by deep, caring relationships with one another. We are not simply individuals who happen to have relationships with other individuals; in an important sense we *are* those relationships. Our identities can overflow into others because our relationships involve not just the capacity to sympathize, to feel *for* others, but also the capacity to empathize, to feel *with* others, to transcend ourselves and "get inside" the viewpoint of others. We are "embodied" not just as individuals in physical bodies but also as "relatives" in a moral and spiritual body of which we are members. The depth, creativity, and character of these caring relationships are in turn shaped by our ability to symbolically interact with each other. We do not merely exchange signs but we communicate by infusing these signs with infinitely rich and textured meanings, meanings that can be passed on and developed into profoundly interesting and distinctive cultures. Genesis portrays Adam's naming of the creation as the beginning of his caring for it. This caring involves our ability to envision reality, to imagine how it might be different, and to use aesthetic and moral sensitivity to desire and create changes in it (Gaylin, "In

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status. Everyone can appreciate the point that our dignity is not earned; it is bestowed by God's love. And it is wise to use "image" as a verb to indicate that "*imago dei*" is not a substance that we have; it does involve relationship (Hall, 98). However, this relationship is granted to creatures whom God created with a nature and characteristics specifically suited for it (Smedes, 163).

Defense”). These characteristics enable us to converse with God, and they presumably have to do with why God wants to converse with us, although they may not entirely answer the Psalmist’s question “What is man that thou art mindful of him?” (Ps. 8:4).

So the Bible implies that human persons are all in a fourfold relationship: we are in relationship with God as created representatives, with the rest of God’s creation as stewards, with each other as community members, and with ourselves as self-reflective creatures. And these relationships interpenetrate and condition one another: it is as self-reflective, free, and responsible beings that we recognize our caring relationships with others, our stewardly relationship with creation, and our creaturely but imaging relationship with God. Losing sight of any one of these relationships or misconstruing its character will warp<sup>4</sup> the rest of them, as we will notice when discussing the covenantal ethic that flows from these relationships.

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<sup>4</sup> As will tend to happen in our fallen condition ; we still represent God, but too often in a twisted way. Fallen nobility can often be recognized both as nobility and as fallen (Cornelius Plantinga, 11).



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