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ABORTION, INTIMACY, AND THE DUTY TO GESTATE \*

**ABSTRACT:** In this article, I urge that mainstream discussions of abortion are dissatisfying in large part because they proceed in polite abstraction from the distinctive circumstances and meanings of gestation. Such discussions, in fact, apply to abortion conceptual tools that were designed on the premiss that people are physically demarcated, even as gestation is marked by a thorough-going intertwinement. We cannot fully appreciate what is normatively at stake with legally forcing continued gestation, or again how to discuss moral responsibilities to continue gestating, until we appreciate in their own terms the goods and evils distinctive of gestational connection. To underscore the need to explore further the meanings of gestation, I provide two examples of the difference it might make to legal and moral discussions of abortion if we appreciate more fully that gestation is an *intimacy*.

**KEY WORDS:** abortion, intimacy, reproduction

1. INTRODUCTION: THE METHOD QUESTION

It is often said that the public debate on abortion, in addition to being politically intractable, is too crude: any reasoning proffered (as opposed to the more usual fist-pounding) fails to capture the subtleties and ambivalences that suffuse the issue. And indeed, anyone who has tussled with the issue in good faith should agree it is a thorny issue. In part, this is because the topic is plain old hard: it touches on an enormous number of complex and recondite subjects, requiring us to juggle bundles of distinctions that are themselves points of contention in morality and law. But evaluative questions about abortion are not just hard in the way a complex math or public policy question is hard. They are hard because *even* careful and clear-headed application of the usual tools seems to yield analyses that feel orthogonal to the subject. There is something about abortion that is not captured however carefully we parse counterexamples or track down the implications of traditional classifications.

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I want to argue that this is no accident. The topics that abortion touches on, including motherhood and intimacy, and again vulnerability and responsibility, are amongst those least explored by mainstream theory. Most profoundly of all, abortion is about a kind of interconnection that our inherited theories are particularly ill-suited to address.

Under mainstream political theory, it turns out, the *very notion of a person* is someone physically separate from others. As Robin West points out, central to the political and legal theory we inherit is the view that what a person *is* is someone physically demarcated from another (West 1993). When Locke and Hobbes discuss persons, or when modern day battles rage between libertarians and communitarians, the discussions almost always concern the sort of beings who are agreed to be “distinct individuals first, and then . . . form relationships,” and who, even then lead separate lives.<sup>1</sup> Political and moral theories were developed to deal with *this* sort of person, with the experiences paradigmatic for *this* sort of person, for the goods and evils, joys and fears that structure a life as lived by *this* sort of person. But abortion deals with a situation marked by a particular, and particularly thorough-going, kind of physical intertwinement. This means that the fetus, the gestating woman, and their relationship do not fit ready-made categories; the question we’re being asked to address falls outside of our theory’s comfort zone.

Let me put it more bluntly. The central figures in the abortion drama – fetus, gestating woman, and their relationship – are left out of the conceptual paradigm. When we reason about them, we appeal to analogies that are at best awkward, at worst dangerous, but always distorting, for we are trying to analogize to classifications that have at their root the denial of the situation we confront. Thus as Catharine MacKinnon says of the fetus – for whom life *is* physical interconnection: “As it is, the fetus has no concept of its own, but must be like something men have or are: a body part to the Left, a person to the Right. Nowhere in law is the fetus a fetus.” (MacKinnon 1991, p. 1314). And again, when entertaining the possibility that the fetus is a person, we have no way of acknowledging the kind of relationship that holds between the pregnant woman and this person: it turns up in the literature as either a relationship between strangers or with the woman dubbed a ready-made mother who is blithely assigned responsibilities of a kind and level unmatched by any other citizen. As MacKinnon again says,

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<sup>1</sup>The quotation is West’s quoting Michael Sandel.

if the fetus, or the pregnant woman, or the relationship embedded in gestation were paradigmatic categories, we would be analogizing other things to *them*. Rather than wondering if the fetus should be thought of as more like a tumor or a very small child, the gestational-fetal relationship more like a contract or a kidnapping, we might be having conversations about how well or poorly tumors, children, contracts and kidnappings match the category of gestation and its elements.

A question of method thus shadows all discussions of abortion, whether acknowledged or not. Abortion asks us to face the morality and politics of intertwinement and enmeshment with a conceptual framework that is, to say the least, poorly suited to the task. A tradition that imagines persons as physically separate might be expected not to do well when analyzing situations in which persons *aren't* as it imagines them. And this is, in fact, precisely what we find. Let me give as an example of this distortion the way in which the legal debate has proceeded in the United States.

## 2. A TALE OF TWO POSITIONS

In the United States, it is fair to say that the landscape of mainstream public discussion on abortion is dominated by two positions: a pro-life position that likens abortion to murder, and the pro-choice position as it is developed in the famous *Roe vs. Wade* decision, which stresses a fundamental right to privacy. These two positions are obviously in deep conflict with one another, and the continued intractable public debate gives witness to just how deep the divide goes. It is all the more striking, then, to see that there are two key features they share in common.

First, both agree that the legal permissibility of abortion turns on the question of fetal personhood. That is, while they disagree vehemently about whether a fetus qualifies as a person, they agree on what would follow if it did. Persons have a fundamental right to life, after all; and abortion would be the type of action that violates such a right: if the fetus were a person, both sides find it obvious that abortion should be outlawed. Second, neither takes as pivotal the fact that gestation occurs inside of someone's body. *Roe*, indeed, barely mentions this fact. While it is concerned to defend a woman's right to procreational decisional privacy, that is, there is scant acknowledgement that the procreational decision at issue with abortion is a decision about whether a fetus will live inside her womb. The pro-life position, in its

turn, is simply unimpressed with the relevance of this fact to the legal permissibility of abortion. If women's interests are mentioned, they are mentioned as something that cannot counter the fetus's claims; and some pro-life treatments fail to mention that pregnancy involves women at all (reading some articles, the fetus might as well be a stranger attacked on the street or subsisting *ex utero* in a lab).

I mention this last feature not to cast aspersions of misogyny. I mention it, instead, to highlight a point of logic – a logic that is shared by both camps. On mainstream views, if abortion is the type of action that violates a right to life, and the fetus turns out to be the sort of creature that has such a right, then abortion must be prohibited whatever hardships unwanted pregnancies involve for women; for we simply don't take hardships as justification for murder.

Let me be more specific. The abortion debate is often described as a 'clash' that requires us to 'weigh' the competing rights held by fetuses and women. But the weighing metaphor is a distortion of how most tacitly regard the argument's structure. When people discuss a fetus's purported right to life, it is not invoked as something that *outweighs* women's fundamental rights, but as something that *circumscribes* their boundaries. It is a familiar point, though easy to forget, that rights – so broad sounding in the abstract – are highly circumscribed in shape when specified to take context into account. As the classic example puts it, my right to extend my fist ends at your nose: the point is not that I have a right to punch you, which must then be weighed against a claim of yours not to be harmed; I have no right, so specified, to begin with. Just so, women's rights come to an end when they reach the body of a fetus. If one doesn't mention the pregnant woman's hardships, then, it need not be from lack of sympathy, but because, tragically, there is no permissible way to end that hardship.

But there is something odd, on reflection, about this logic. It is absolutely true that rights need specifying: they sometimes bump up against considerations that mark the end of their boundaries. Having introduced this clarification about rights, though, we might fairly begin to wonder how we can be so confident that, if the fetus were a person, abortion would be wrongful killing. After all, this general clarification applies just as much to "the right to life." What sounds in the abstract like a right unlimited in scope (if not weight) is actually a highly circumscribed bundle of specified rights. It includes, for instance, the right not to be stabbed on the street for my money; it does not include the right to life-preserving aid from a stranger, say, or the right not to be stabbed by someone trying to ward off my malicious attack. This

reminds us that accompanying our easy allegiance to “the right to life” lie substantive questions about what contours that right has given life’s varied circumstances.

But it is puzzling then to think that one could settle whether abortion would be murder without addressing fetal ‘geography’ – without addressing the fact that fetuses live in other people’s bodies. For a fetus, to be alive is to be *occupying* someone’s body, to be using it, to be living in a particularly intimate physical relationship with another. Even assuming fetal personhood, that is, we have here a person in *extraordinary* physical enmeshment with another – a person whose blood is being oxygenated by another’s lungs, a person whose hormonal activity in turn affects that other’s brain and metabolism, a person whose growing size enlarges another’s physical boundaries. It’s a substantive question what we might say about the abstract right to life in this sort of circumstance, an open question whether the right to life includes the right to continuation of this relationship. On the received logic, that is, a fetus’s right to life circumscribes a woman’s rights to bodily autonomy; but it could go just the other direction: we could conclude that a person’s right to life is circumscribed at the point at which that life involves occupying and using another’s body. We could conclude that a woman’s right to bodily autonomy ends when her decisions reach the body of the fetus; alternatively, we could say that the fetus’s right to life ends when it relies inextricably on hers.<sup>2</sup>

In wondering whether abortion is murder, then, the issue is not just a matter of deciding whether or when the fetus is a person: it is a matter of determining the contours of the right to life in the rather distinctive circumstance of being gestated. It asks us how we should classify the action of “ending a pregnancy” (that there is no neutral terminology here is precisely the point). But we are encouraged by mainstream pro-life *and* pro-choice views to miss this question. It turns out, that is, that the two features I isolated above as shared ground of these mainstream positions are deeply related. In not highlighting the fact that gestation happens inside of bodies, we can end up thinking of fetuses, not just as persons, but as persons *atomistically situated*, as physically individuated and separate – as though the bundle of specified rights at issue for the fetus is the same bundle we commonly face walking down the street in everyday life. This is, of course,

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<sup>2</sup>This, of course, is the crucial question pressed by Judith Thomson’s famous article, *A Defense of Abortion* (1971). See also Frances M. Kamm, 1992.

precisely what we might expect given the background assumptions of our traditional political theory.

Of course, even if we decide that abortion isn't best construed as a violation of the right to life, the law might still have reasons for wanting to prohibit it, and ethics a basis for protesting it. Indeed, to my way of thinking, the most interesting sources of concern about abortion would still remain: these are concerns grounded in the idea that the woman who aborts is not so much violating the fetus's right to life as she is renegeing on *positive responsibilities* she has towards the fetus, either as a matter of general decency or in virtue of some special maternal relationship. The really interesting question about abortion, I think, are questions about whether or when one has a duty to continue gestating when one finds oneself pregnant. But, while this question is more interesting, it must also be handled with care. If we are to assess the positive responsibility to gestate, we must assess it in full appreciation of the fact that gestation is an *intimacy*. Let me explore the difference this appreciation might make to our views about the moral and legal status of abortion, beginning with the legal question.

### 3. INTIMACY WITHOUT CONSENT

What harm is visited, what burden imposed, when the state forces someone to continue gestating? If we read the standard literature, we'll find, of course, that some forget to mention any burdens. But many do – some in passing and some in great detail. The preoccupation of most, almost without exception, is the physical and medical risks that pregnancy and childbirth can present to women. Usually, what follows thereupon is a list of possible effects from a medical textbook (in which, somehow, 'swollen ankles' seems always to stand out as most memorable).

Now, not to put too fine a point on it, these considerations are a really big deal. For the risks aren't, of course, just about swollen ankles, and the neutral language of an obstetrics text hardly captures the lived reality. Anyone who has visited a friend who's landed in a psychiatric ward from pregnancy-related psychosis knows this all too well. Or my sister, whose first trimester 'nausea' – actually gut-wrenching dry heaves every 20-minutes and three hospitalizations – was the equal of many an experience of chemotherapy. Or another acquaintance, whose sudden onset of eclampsia during delivery brought her so close to dying that it left us all breathless.

On the other hand, there is something deeply incomplete about this usual focus. If one talks to women facing unwanted pregnancy, medical risks are almost always the *least* of their concern; whatever their worries, they are rarely ones captured by the language of biology. This analysis, moreover, leaves us wondering about the status of medically uncomplicated pregnancies (like my own, which went so smoothly and felt so good I remember thinking I could do it for a living). If we could somehow know in advance that a pregnancy would proceed smoothly, there is nothing as yet on the table to give us reason to pause, much less to forbear, from mandating it.

Next in line for those trying to articulate the burden of forced gestation are those who remind us of the social cost unwanted pregnancy can impose. Here the issues are presented in the language, not of biology, but of politics – with discussion of gender, power, and injustice. Again, these issues are no small matter; the problems here can be far more than extra difficulty in being taken seriously at work.<sup>3</sup> But again, while deeply important, these concerns are incomplete: at least part of what we find in women’s stories when abortion is not available has to do, not just with the (very real) social impediments to employment, reputation, or safety, but with the distinct meanings of gestation and motherhood. Let me focus here on the former – what it means to be pregnant.<sup>4</sup>

To be pregnant is to be *inhabited*. It is to be *occupied*. It is to be in a state of physical *intimacy* of a particularly thorough-going nature. The fetus intrudes on the body massively; whatever medical risks one faces or avoids, the brute fact remains that the fetus shifts and alters the very physical boundaries of the woman’s self. To mandate continuation of gestation is, quite simply, to force continuation of such occupation. To mandate that the woman remain pregnant is to mandate that she remain in a state of physical intertwinement against her consent. The fetus, of course, is innocent of malintent, indeed, of any intent; but the complaint here is not with the fetus, it is with the state. The complaint is with the idea of forcing a woman to be in a state of physical intimacy with and occupation by this unwitting entity. For, unwitting or not, it still intertwines and intrudes on her body; and whatever the state’s beneficent motives for protecting the interests of the fetus, it matters that the method used for that protection involves forcing others to have another entity live inside them.

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<sup>3</sup>For examples, see MacKinnon, *op. cit.*

<sup>4</sup>The other feature – the emotional trajectory toward motherhood and caregiving – is equally important; I pass over it here only in the interest of space.

If the conversations I've had with people are any indication, the protest will be immediate: this description demeans the meaningfulness and fulfillment of pregnancy. For many women, gestating their babies is experienced not as an intrusion but as wonderful and loving enmeshment; the intimacies involved (if not all the physical symptoms) are cherished. Indeed, not being able to become pregnant or to sustain pregnancy is a deep misery to many women. The picture above, it will be objected, expresses a distorted and, indeed, hostile picture of the relationship involved in gestation.

But this is to miss the point *completely*. I know all too well how wonderful and meaningful pregnancy can be: my own stood as a wonderful contrast to the stories of difficulty above; and the intimacy of the experience was one of the aspects that meant the most to me. But mine was a *willing* gestation – a gestation under consent.<sup>5</sup> Just as sexual intercourse can be a joy under consent and a violation without it, gestation can be a beautiful experience with it and a harmful one without it. To think that the above concern insults the meaningfulness of pregnancy is simply to misunderstand the point. We don't impugn how meaningful it is to have willing sex when we protest against a rape; the fact that sexual intercourse can be wonderful doesn't mean we would think it appropriate for the state to conscript people into serving as prostitutes. Or, as Andrew Koppelman puts it, "Plantation slavery obviously cannot be justified on the grounds that many people find gardening deeply satisfying, but the objection is really no better than that" (Koppelman 1990).

For consent determines valence on matters of physical integrity. As Eileen McDonagh reminds us, a trip to a beautiful country turns into a kidnapping, a surgery into an assault, when they are done against one's consent.<sup>6</sup> With pregnancy, of course, matters are especially loaded, because it taps into expectations of motherhood: women are *supposed* to want this sort of enmeshment. But this is just to point out the ideal (if it is one); whatever she is supposed to want, the point remains: it's what she *actually* wants and agrees to that determines

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<sup>5</sup>The notion of consent to pregnancy is central to Eileen McDonagh's book, *Breaking the Abortion Deadlock: From Choice to Consent* (1996). McDonagh herself presses the point as a complaint against the fetus: her book presents a self-defense argument in favor of legal, and indeed, publically funded abortions. I mean to direct the complaint against the state. For an assessment of McDonagh's self-defense argument, see chapter 4 of my forthcoming book, *Abortion, Intimacy, and the Duty to Gestate*.

<sup>6</sup>McDonagh, *op cit*.



the status of the enmeshment. It can be a wonderful intermingling; it can also be an invasive occupation in which the self feels subsumed.<sup>7</sup>

Mandating gestation against a woman's consent is *itself* a harm – a liberty harm. *Even* in medically uncomplicated pregnancies – even when one's ankles remain thin and one's hair turns luxurious; *even* in a society in which pregnancy is not a marker for subordination. However joyful pregnancy under consent may be – yearned for or tolerated as a means to an end you endorse – gestation mandated against consent is itself a harm.

Of course, many who have sympathies for this point when contemplating pregnancies resulting from rape or incest have far less sympathy when it comes to cases in which the woman is (jointly) responsible for conception. I am constantly surprised at how quickly people conclude that liberty concerns with mandating gestation evaporate when pregnancy results from voluntary intercourse. It's just false that consent to sex means consent to gestate. If I consent to sexual intercourse and I'm informed of the risk of impregnation (my partner hasn't claimed a phantom vasectomy, say), we can say that I consent to sexual intercourse knowing the risk of impregnation; but this doesn't mean I then consent to gestate should I become pregnant. For one thing, it's the wrong party: to consent to a man for him to have sexual intercourse with me doesn't mean I consent to the fetus for it to occupy my body – as McDonagh puts it, consent just doesn't travel across parties like that. Moreover, it confuses the assumption of risk with commitment about what one will do if the risk is realized. To assume the risk of impregnation is not the same as consenting to gestate rather than abort if I do become pregnant, any more than assuming the risk of lung cancer by smoking means that I consent to surgery rather than palliative care should I get the disease.<sup>8</sup>

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<sup>7</sup>In speaking of "gestation with consent," I don't mean to refer only to those pregnancies where conception was actively sought or the experience positively enjoyed. Just as one can consent to sex for reasons other than one's own current sexual pleasure (to have sex because, say, it will make one's partner happy or offer her comfort), one can consent to gestate for reasons other than one's own positive desire to be pregnant – say, as a dreary means to the end of having a child, or a child your partner wants more than you. The point is that, if one doesn't agree to it after one has weighed all the considerations, to then be forced is a violation. Or again, if one agrees to gestate but only under coercion then, like agreeing to give over one's money when the burglar demands it, the activity is not done under consent.

<sup>8</sup>Many who focus on the difference made by voluntary intercourse have tacitly in mind a quite different thought: that responsibility for conception means *responsibility* to gestate.

However joyful, meaningful, or just plain fun sex under consent may be, sex against consent is itself a harm – even if there are no bruises or broken ribs. So, too, forced gestation against consent is a liberty harm, however meaningful pregnancy under consent – even if there are no further harms such as medical complications or social cost. The extent to which this harm is absent in the mainstream literature is startling. I don't mean that it is mentioned and too quickly disregarded; I mean it is rarely on the table. But while startling, it is not, on reflection, surprising. What we see readily as the harms of imposing gestation are those that fit most smoothly the terms of the tradition we inherit. Easiest is the neutral language of medical risk, captured in biological language. Next is the language of interference: getting in the way of goals and plans. But the evil of unwanted occupation is not reducible to the evil of medical risks, nor is it simply a different way of talking about the evil of interference. As West emphasizes, the metaphors expressive of the former are about an invasion of self, not a thwarting of its plans; they are about, not the annihilation of self that so concerned Hobbes, but the occupation of an extant self; about the transgression, or the blurring, of boundaries, not the frustrated reach of a demarcated self's will (West, o.c.). Traditions have their central issues, and while ours does well representing issues of interference, issues of unwanted occupation and invasion fare less well. Note for instance the common objection to Judith Thomson's famous violinist case that the woman gestating the fetus is not as violated as the man attached by tubes to the violinist because she can "continue to work and function efficiently in the world." (Feinberg, 1992, p. 67). But this, while (usually) true, notices only one kind of violation: it measures the two against the evil of interference with plans. I, too, am always tempted to point out the disanalogy between the two cases, but what tends to draw my attention is that, measured against another evil – unwanted occupation – hers is of course much worse.

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This is a much more interesting issue, though not without its own snags. My point here is a narrow one. Even if one believes that women pregnant after voluntary intercourse have some responsibility to gestate, state enforcement of that responsibility would violate deeply important liberty constraints; the point of the above paragraph is not to decide how to weigh the liberty violation with purported responsibilities, but to insist that voluntary intercourse does not obviate the liberty violation.

## 4. MORALITY AND INTIMATE DUTIES

The matter of lived urgency to so many women, of course, is not so much whether they should have a legal right to abort, but whether and when it is moral to *exercise* that right. In my experience, mainstream discussions of this question are disturbingly off-base. To be asked to gestate is to be asked to share one's very body – and likely, by the end, one's heart. To gestate is to be engaged in an *intimacy* of deep proportions. The ethical issues salient to questions of intimate actions, though, have been almost universally ignored in traditional philosophy.

A good example can be found in discussions that urge gestation under the rubric of beneficence. It is certainly true that there can be profoundly strong reasons of beneficence to gestate a fetus – reasons that can be acute even before one thinks the fetus is a person. But the literature discussing the point has a curiously abstract quality to it. It isn't just that the many possible countervailing reasons for declining this "opportunity to assist" are summarily dispensed with reminders that the duty is "merely prima facie."<sup>9</sup> It's that the qualitative differences between gestating and giving money to Oxfam, say, or again between gestation and soldierly heroism, are ignored. There are special facets to a decision about charity when the beneficence is a matter of sharing one's body, heart, and soul, not just one's pocketbook or general energies, when the sacrifice contemplated is measured, not in degrees of risk, but in degrees of *intertwinement*. Illumination on these facets will not be found in discussions of volunteering at homeless shelters or falling on grenades in foxholes (if anything, we need examples from, say, sexual ethics or the morality of foster care). What we need in thinking about abortion is a moral approach that does justice to the ethics of intimacy; what we have is a moral approach that rarely uses the word.

Let me explore the issue by focusing on what is one of the strongest – if usually tacit – concerns about the morality of abortion. If truth be known, many reservations about the permissibility of abortion are grounded in an idea of what mothers owe their children; for many people, moral questions about abortion are, if you like, a species of the ethics of parenthood. If this is true, then we need an adequate ethics of parenthood: we need to understand what makes someone a parent in a thickly normative sense, and what the contours of the responsibility

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<sup>9</sup>See for example Michael Wreen (1992).

really are. I want to argue that parenthood can have different layers – biological, legal, but also personal relationship – and that, crucially, different moral responsibilities attach to different layers. Let me give the general framework and then show how it applies to the special case of gestation.

In its paradigmatic form, parenthood is a lived, personal relationship, not just a legal status, one that, in the ideal, involves a restructuring of psyches, a lived emotional interconnection, and a history of shared experiences. It is because of that lived intertwinement, indeed, that parents' motivation to sacrifice is so often immediate (why parenthood thickly lived is one of the few sites of genuinely virtuous, as opposed to merely contingent, action). But it is also because of the lived intertwinement that the child has legitimate expectations of enormous sacrifice, and why failure to provide such assistance would, absent unusual circumstances, be so problematic – it becomes a betrayal of the relationship itself.

Thus imagine that a child needs a kidney and the father is the only good match for the transplant. When we think of this case in the abstract, we think first, of course, of the father's clear responsibility to donate the kidney – it's an action, indeed, that most parents would find it unthinkable not to do. But contrast our intuitions about two particular fathers: a man who is the child's lived, social father (whether or not he has a biological connection as well), who has a history, a life, a *relationship* with the child, and a man whose sperm was used in the child's conception – unwittingly (it was stolen) or blithely (a casual one night stand). Or compare, again, our intuition if the man is genetically related, has acknowledged the child, and maintains regular but infrequent contacts. What sort of legitimate claims or expectations does the child take to each of these men? Whatever the details, we surely agree that the social father, the one in lived relationship with the child, would need reasons altogether more compelling to decline use of his body than would a man whose sperm had been stolen, or even a genetic progenitor in casual but caring contact.

This is not to say that all the responsibilities of parenthood are functions of personal relationship – far from it. Parenthood is full of weighty deontological obligations that persist whatever the tone of the lived relationship – or lack thereof. Examples range from paternity support to injunctions to seek out support from the state when one's own resources come to an end. But some responsibilities, I want to suggest, are functions, not of the social or legal status of parenthood, not of brute biological connection, but of the lived and personal

relationship that so often accompany them, and that responsibilities to share one's very *body*, like responsibilities of the heart, are paradigmatic of those that are relationship-based.

This isn't, though, the end of the story. In ethics, if we notice relationships at all, we tend to focus only on questions about what morally flows from or governs relationships once they have been entered.<sup>10</sup> But there is another layer to the ethics of relationships: considerations surrounding whether one *ought* to enter – or be open to entering – a relationship, and again, when it is permissible to exit. There are some very general virtues at the level of entering: it is a sign of good character to be appropriately open to new relationships (a mild requirement, to be sure, given that one can be open but decline because, as it were, one's dance card is full). But there are also very important considerations that turn on who comes knocking on one's door.<sup>11</sup> Some people arrive with a *claim* to my openness: they have a prior connection that serves, as it were, as a substrate to the fuller one. When a faculty member faces a request that she serve as dissertation mentor, it morally matters who the student is (a member of the department or an outsider, someone who works in her area of specialization, etc.): one needs weightier reasons to decline depending on which student is doing the asking. So, too, with personal rather than formal relationships. If a stranger asks me for a date, I need no reason at all legitimately to decline; but if my cousin, lonely and new to town, seeks my friendship, I owe him an openness to that possibility. (I say an *openness* to the relationship because personal relationships are partly constituted by emotions and interconnection of psyche. The claim someone presents thus cannot be a direct claim that I enter the relationship, fully formed, but a claim that I be open to those connections – to interactions, say, that could lead to their development.) None of this is to say I *must* pursue the relationship or the interactions; there are all sorts of legitimate reasons for declining, including, crucially, how much space I have in my life. The point is that I need better reasons for legitimately declining when it is my cousin rather than a random stranger.

If biology *per se* carries any relevance, I want to argue, it is at this level. The biological connections definitive of what we might call thin parenthood count as a substrate of parenthood thickly understood –

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<sup>10</sup>Barbara Katz Rothman briefly discusses the crucial difference between entering and exiting relationships in her article *Redefining Abortion* (1989).

<sup>11</sup>I owe this phrasing to James Nelson.

of parenthood as personal relationship. They provide children with a moral claim that the person so related be open toward developing a deeper relationship. What further connection is desired by the child is, of course, far from monolithic (mere acknowledgement, active presence in one's life, nothing at all . . .), and settling what type of expectation is appropriate is a notoriously difficult question, leaning on our rather inchoate intuitions about the meanings of biology and kinship.<sup>12</sup> And the point isn't that one must pursue the relationship, but that one must be open to doing so: there will certainly be cases in which a person biologically related to a child may legitimately decline to pursue any further relationship. My point is only that, if biology is morally salient, it is salient as a claim toward a further relationship – our intuitions on the subject are often intuitions about the moral legitimacy of yearning for personal relationship with those of biological connection, and sense of betrayal if the reasons for declining are too casual or callous.

There are, then, moral claims that flow from extant personal relationships and also moral claims about being open to entering such relationships. My suspicion is that some of the passions about the morality of abortion stem from our tendency to confuse the two. We tend to conflate the claims one faces to enter a relationship with the claims one *would* face if one were within it. One who declines to enter a relationship, even for bad reasons, does not owe what he would have owed if he had entered it. Responsibilities that attach to personal relationships attach to the relationships themselves; and if one did not enter it – whether for good or for ill – the fact is that there is no such relationship. We must take care, then, to keep separate the reasons for entering a relationship and the reasons incumbent upon those who have entered them.

This matters especially for the responsibilities – and the abnegations – of parenthood. The anatomy of parental abandonment is a complicated thing. It is a form of abandonment callously to refuse openness to a child with whom one stands in biological connection, and it is a form of abandonment blithely to refuse a sacrifice that would, against a lived relationship, be reasonably expected: but they are not the *same* abandonment. The sperm donor, or again the one-night stand, does

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<sup>12</sup>It is far from clear what expectations on a person are morally legitimate if I am biologically the product of his stolen sperm – or her egg donation, or their one-night stand, or one who gave me up for adoption. The point here is that whatever relevance biology has, it is as substrate to a greater claim for openness to a richer personal relationship.

not need the same sorts of reasons for declining to donate the kidney as does the father whose lived life is intertwined with the child's. Either one, if approached, may well have more motivation for providing the kidney than would a generic stranger – perhaps to honor the biological connection, or even as a way of beginning a personal relationship he now thinks he ought to have. But his set of reasons are not equivalent to the ones faced by someone who is already in a lived relationship of intimacy.

Let me now apply this general framework to gestation. Gestation, I've claimed, is an intimacy of the first order – it is even more intimate than donating an organ, for it involves an intertwinement and on-going occupation. This means, on the above approach, that a responsibility to gestate does not arise merely from the fact of being in biological relationship with the fetus: pregnant women do not have an automatic, role-based moral duty to gestate.<sup>13</sup> But this doesn't mean that pregnancy is not a moral moment. For one thing, just as there are mild virtues of openness to relationship, it is a general virtue to be welcoming of germinating human life that comes one's way (a virtue that is perfectly consistent with using birth control – one may try one's best to avoid guests and yet think it a virtue to welcome them if they show up on your doorstep). More importantly, the biological substrate of being connected to the child in one's belly grounds a special claim of openness to further relationship. What this virtue demands depends on context: in particular, like the virtue of welcome, what the virtue of openness asks of us depends on what *space* – material, psychic, emotional – we have in our lives (a theme deeply embedded in how women talk of the decision of whether or not to abort). One may have good reasons to dig deep and open the door; one may have good reasons to decline if there is little room at the table.

What I now want to suggest is that this framework of relationship ethics helps to make sense of what can otherwise seem to be rather puzzling features of certain intuitions about the moral responsibilities of gestation. More specifically, it can help to capture and to make sense of the fact that intuitions about the moral responsibility to gestate are, at one and the same time, *varied*, *urgently felt*, and curiously *underdetermined*. For if responsibilities to share one's body turn on the specifics of the lived relationship at hand, the lived relationship

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<sup>13</sup>This is not meant to settle whether she has a perfect duty of beneficence to gestate, only to urge that she does not have a special duty grounded in the role of motherhood.

accompanying gestation is itself varied, urgently felt, and curiously underdetermined. Let me explain.

Just as women differ in their conceptions of the fetus's status, they differ in how they conceptualize the relationship they are in with that fetus. Some women feel from the start that they are in a special personal relationship with the growing fetus. They conceptualize themselves as a mother, thickly construed, in relationship with an entity that is "their child," whatever the further metaphysical details. The structure of their psyche has already shifted, the fetus's welfare is inextricably bound with their own, and it is unthinkable not to gestate – or it would, at the least, take enormously weighty reasons to refuse. For others, the sense of relationship grows, as most personal relationships do, slowly: the pregnancy begins as mere biological relationship but, as the day-to-day preoccupations of decisions involving the welfare of another (of mediating what she eats, how she sleeps) accumulate, and she finds herself in personal relationship. For other women, the relationship is never one of motherhood thickly construed: she is simply in biological relationship with a germinating human organism. For still others, the sense of relationship shifts throughout pregnancy: a conception of motherhood is tried on, then dispatched, or arrives fully formed out of the blue.

For purposes of the woman's *integrity*, her conception is determinative. Her own sense of what type of reasons she would need to end a pregnancy is in large part a function of how she understands the particular relationship she is experiencing in gestating (including its other relatum). For a woman one who conceives of herself as already intertwined as mother, and the fetus as her child, it would take reasons approaching life and death to decline gestating; for one who conceives of herself as in a biological relationship with burgeoning life, lesser reasons will suffice.

From an external or objective perspective, though, it is very difficult to get a foothold on what expectations and claims we might press on behalf of the fetus – to determine, as it were, which woman's conception is correct. And this, crucially, is not just because it's hard to garner evidence, but because there *isn't* much to determine what the relationship is. The problem is not just that one of its members is unconscious. Relationship-based responsibilities can exist towards those who are unconscious: if one's mother lies in a coma, part of what one owes her flows from the relationship. But in this case, we can (if we are sufficiently close to the details) assess what in particular the mother might be owed because there *has been* a full-blooded lived



relationship: what particular expectations it would be reasonable to hold on the mother's behalf, as it were, would be grounded in that history – the shared experiences, the texture of the emotional connections, the parties' subjective conceptions, that filled in and defined the relationship. With gestation, though, it is hard to determine what reasonable expectations we might press on behalf of the fetus; and this is because there simply *is* little to the relationship, *as* a relationship, other than the biological substrate and the woman's experience and conception of it.

Now mentioning the woman's conception of the pregnancy and fetus makes many people nervous. It can sound as though we are ceding far too much power to her subjective experience (as do some crude conventionalists, according to whom the woman's view of the fetus determines its metaphysical and normative status). But the claim here is not that the woman's assessment of the pregnancy determines the fetus's status and hence gives her some absolute dominion (as though she could permissibly torture the fetus if only she regards it as an object) any more than parents' sense of their relationship with a newborn determines whether they may smother it. The point here is a specific and contained one. Not everything about one's moral duties to fetuses (or again to newborns) trades on personal relationship. There are all sorts of duties that have nothing to do with those particulars. But some responsibilities, including, I've urged, responsibilities of gestation, do. The only claim about the woman's conception is that it's the only thing we have, other than mere biology, to tell whether there is a personal relationship extant and what its textures are like. We might say that her conception is largely determinative of what the relationship is, and that her moral responsibilities follow its suit; or – better, I think – we may simply say that there is too little going on for there to be a fact of the matter of what responsibilities are objectively owed.

This analysis captures a sort of moral Catch-22 that seems to me accurate to the experience, and the morality, of gestation. I have said that the ethics of relationships encompasses more than the moral expectations that flow from an extant relationship: it includes considerations about when one ought to enter or to be open to entering relationships. I pointed out that, with personal relationships, such claims are not claims to a relationship itself, but claims that the other be open to the relationship, open to taking measures and activities that leave its development possible. But with the fetus, of course, what you would need to do to leave open the possibility of developing a personal

relationship is precisely what you have no special responsibility to provide until you have entered the relationship: the use and occupation of your body. By its biological connection, the fetus has a claim to the woman's openness toward a thicker relationship; but until such a thicker relationship exists, it has no strong claim to the intimacy involved in bodily gestation.

One of the most common reasons women seek abortions is that they do not have room in their life just then to be a mother, but they know if they continue the pregnancy they will not be able to give up the child. What has seemed paradoxical (and indeed ethically confused) to many strikes me as a perfectly sensible, and often wise, appreciation of the different moral contours involved with entering, existing in, and exiting relationships. One may decline to enter a relationship that, once extant, changes the contours of your psyche such that you couldn't leave it; and one may have reasons morally adequate to declining a relationship that would not be adequate to refusing the sacrifices legitimately expected of those in it.

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