

The Evidence on Life Issues in Brief



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Preface Read me First

Most of the time, a book on a controversial topic such as this “makes a case” for its position in the way a lawyer does in court, putting the evidence that favors it in the best possible light, and ignoring or downplaying evidence that is on the other side, using “straw man” versions of opponents’ arguments that can be easily knocked down. Also like lawyers, that kind of book will tend to play to the readers’ emotions, making them, as far as possible, feel a sympathy for its position and antagonism for the opponents.

Let me give you an example. In 1973, just before the Supreme Court made its *Roe vs. Wade* decision, when I was teaching in a small Catholic college in Kentucky, I was asked by a principal in a local public high school if I would give the moral side on a panel dealing with the topic of abortion, while a lawyer from the area would discuss the legal issues involved—which at the time involved different laws in different states, some allowing abortions and others forbidding it altogether.

As it happened, just before we actually met for our panel, the Supreme Court handed down its decision,

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making the legal issue moot. I wondered what the lawyer would say. I, who was to go first, gave in essence the evidence you will see in the rest of this book, and finished by saying, “Abortions are now legal; but that’s not necessarily the end of the story. You’ll have to decide for yourself, now that you’ve heard what I said, whether you think you’re doing the right thing in having an abortion, or whether it’s a terrible wrong.” I sat down.

The lawyer got up, and began by saying how he had graduated from this school himself and what a wonderful school it was, and how great a country we lived in, where we had free speech and free public education, and so on. He added that one of the things that made our country great was the separation of Church and State, and then, looking over at me, he said, “You know, I’ve seen insurance salesmen that have everything you can think of on little cards, and whenever you have a question, they just flip up a card, and have all the answers right there at their fingertips. They can be very, very persuasive.

“But be careful when you hear people like this. They can sell you anything if you let them. And on the issue of abortion, you have to remember that one of the main things that holds our country together is the separation of Church and State, and you should never let religion interfere with matters of government.”

He went on in this vein for about twenty minutes, never once really talking about the actual issue of abortion, except in passing to say that it was legal, and finally sat down. I then rose, and said, “I’m sorry; I didn’t know this

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was to be a debate, and that we were opponents; I thought it was just supposed to be the evidence dealing with the legal and moral aspects of abortion. Not one of the things I said had anything to do with religion; it was just the facts about what it is to be a human being, and whether fetuses are in fact human beings or not. How does this involve the separation of Church and State? And the fact is, whatever your religion or lack of religion is, and whether abortions are legal or not, fetuses are still what they are, and if you kill a fetus, the evidence indicates that you're killing a human being; so if you ever consider having an abortion, you're going to have to face that fact."

The lawyer's presentation is the kind of thing I was talking about. It's rhetoric, and its purpose is persuasion, not discovering what the facts are. There's nothing wrong with rhetoric in itself; if you know that you have the truth, then trying to persuade people to act in accordance with the truth can be a good thing.

But still, it's apt to make people uncomfortable, because if all people give you is rhetorical arguments, how sure are you that they *are* persuading you of the truth, instead of just manipulating you by plausible-sounding reasons to adopt their side of the debate, whatever the actual facts are?

And it's really not true that if you hear the arguments on both sides of an issue persuasively presented, the truth will emerge. It's quite possible for the arguments on the side that is factually false to be far more persuasive and convincing than the ones on the side of the actual facts. After all, people are already inclined to believe as true what

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will give them a reason for doing what they'd like to do; and so a simple argument in that direction is almost bound to outweigh its refutation, if the refutation involves complexity and subtlety—as it very often does—not to mention having implications that can cause serious inconvenience and even hardship.

For instance, when you assert that the scientific evidence proves that a fetus is a human being and a person from the moment of conception, all a pro-choicer has to do is say, “Oh, please! You mean to tell me that four cells in a petri dish are already a human being, and not only that but a person like my twenty-year-old son John? Especially since you can divide them and they'll now become two persons instead of one? Use your head!” How do you answer that? It's not simple to do, and requires some sophisticated and subtle reasoning.

But still and all, the facts are the facts. And what the facts actually *are* is supremely important—it's literally a matter of life and death. So I think there's room for a book that tries as best it can to look at the data squarely and objectively, and is not interested in proving a position, but in letting the evidence lead to whatever conclusion is factually true. That's my purpose here; it's knowledge, not persuasion.

Now, of course, I've been through the examination of the evidence, and for the record I can assure you that in fact the basic pro-life position turns out to be the true one. Yes, from the moment of conception—when the organization of the woman's ovum is disrupted by the introduction

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of the man's sperm—what is there is a human being, and in fact a human person, who has the same right to life as a twenty-year-old adult; and that right to life persists intact until the body stops being organized as a functioning unit, which is what the word “death” really means.

But to deal with this, we have to get into thorny issues like what *is* a human being, and how do we know that something is a human being and not an elm tree or a human-looking statue? What is a person, and can there be human beings that aren't persons and persons that aren't human? What is a right, and why do we have rights, and what kinds of things have them and what don't? Can you ever forfeit your right to life? What do you do when rights are in conflict, such as the right to life of the fetus and the mother's right to control her own body? And are there objective answers to these questions, or do we just take the side we “feel most comfortable with”?

Not surprisingly, there's going to be some pretty rough going if we want to find factual answers to questions like this; so be prepared—or forewarned, if you will. But, you might say, “Wait a minute. There *aren't* actual, factual answers to some of these questions, are there? Who are you to say you know what ‘the truth’ is, and anyone who disagrees with you is wrong?”

Beware when you think this way. Who are *you* to say that there aren't answers? Who are *you* to say that the truth is that objective truth can't be reached, and all we can realistically hope for is opinions? What's your evidence for such a skeptical position, except that “everybody holds it”?

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Everybody held that the earth was flat once. Did that make it true?

I'm not going to pontificate; all I'm going to be doing is to present and analyze the evidence; and the conclusions I reach are as good as the evidence I present and the analysis I make of it. If new evidence presents itself, or if someone finds a flaw in the analysis, then the position has to be rethought, just as scientific theories are rethought in the light of new evidence.

But on the other hand, you don't throw aside what has evidence in its favor just because there *might* be evidence that would refute or modify it—especially if there's no evidence that there *is* such evidence.

But since you're going to have to follow me through some rather intricate analysis, I'll take it in slow, very small steps, and present it in such a way that there won't be anything that's beyond your power to understand, if you put your mind to it; you won't be facing triple integrals or the tensor calculus. But you *will* have to *think*. And you'll have to exercise some patience.

This book is for those who care about what the facts really are, in other words, and are willing to do some digging in order to find them. I conceive of it as mainly for those on the right-to-life side who have heard the arguments on the other side, and are astute enough to have realized that what they've heard in refutation of them have not really addressed the issue completely and cogently.

But it's also for those who aren't committed to any position, but who have heard the two sides debating and

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have realized that they are often talking past each other, and who have wondered where the truth really is, rather than whether they can find arguments to support what they hope the truth is.

And for you right-to-lifers, once you've assured yourself that in fact you hold the position that has the evidence on its side, and you know what's wrong with the "evidence" that's presented on the other side, then you'll not only be a lot more confident in presenting your position persuasively, but you'll be a lot more competent in doing so, because you'll know why the other side believes what it believes; and that will give you clues, I hope, as to how to get them to see the truth.

But I warn you right now that this might involve facing some facts that you're going to be uncomfortable facing—facts you'll get impatient with because they seem to argue against what you hold dear, perhaps against what you've been taught. But unless we confront all the facts squarely and honestly, we will, first of all, not understand why the pro-choice position sounds eminently reasonable to people of good will, and secondly, we will be doing exactly what we blame the other side for doing: glossing over or ignoring evidence that doesn't bolster our position. There's no point even in being right if you can't be honest about it.

1

Why are right-to-lifers hated?

The first issue I want to deal with is one of those which are apt to make many on the right-to-life side squirm. It has to do with something that tends to surprise and dismay right-to-lifers: that those who are in favor of allowing abortions don't just disagree with right-to-lifers, they actively hate and despise them; they regard them as crazy, right-wing fanatics, and want them silenced as evil and subversive of what our country stands for.

Oh, yes, the pro-choice side thinks that you are threatening humanity while you profess to be protecting human life. And so this has to be the first issue we should tackle. If you want to understand the other side to be able to deal with it, you have to know where they are "coming from," as the saying is.

The logic behind their position is this: To be human is to be equal to other humans; it is also to be free to control your own life. Now, when a man has sex with a woman, there are (barring diseases) no biological consequences to himself. So if he's promiscuous, nothing automatically

happens to complicate his life. But a woman, of course, is apt to become pregnant—which complicates her life a great deal.

So unless a woman can control pregnancy, then she's not the equal of a man, sexually speaking, because she can't afford to be promiscuous: she can't, like a man, have sex whenever she feels like it with any willing person she feels like having sex with.

But if a woman is not the equal of a man, she is therefore (by the "definition" above) less than really human, because she doesn't have human "reproductive freedom."

But since contraceptives, even the best of them, don't always work, then the woman who uses contraceptives is still not *fully* human unless she can take care of the instances in which they fail. And that means abortion. So without access to abortion, women are dehumanized.

For a woman who thinks this way, any talk that her fetus is a human being is not only irrelevant, but pernicious, because the very existence of the fetus, when "unwanted," takes away what she considers *her* humanity. She thinks of abortion in terms of self-defense; and that is why she regards any attempt to prevent it as a kind of moral equivalent of slavery or even murder. People who stand outside abortion clinics with pictures of fetuses that look like little kids are horrible perverts, trying to dehumanize women with their anti-choice rhetoric.

Right-to-lifers, in other words, are, in the pro-choicer's mind, trying to destroy her reality as human by their insistence that she should not have access to an abortion if she needs one.

Now the reason I said that this makes right-to-lifers squirm is that it really deals with contraception, which is, of course, a completely different issue and one that they regard as a personal, moral matter, not something dealing with the right of another human being not to be killed.

But what you have to recognize is that for a pro-choicer, abortion is nothing *but* a contraceptive issue; she refuses even to consider it as destroying a life, because if she does, then she's going to have to question whether she can have an abortion; and if she can't, how can she defend her own life (her humanity)? So she shuts her eyes to the whole issue.

But by the same token, when right-to-lifers "take no position" on contraception, they're also shutting their eyes to *that* issue, and to the link between the two. And solving the abortion question is going to involve facing its link with contraception—which involves facing the issue of contraception itself.

And the reason is that the pro-choice logic I outlined above rests on a hidden, false assumption: that recreational, promiscuous sex is the "really human" way to have sex. If it's not, then there's no inequality between men and women, because in that case, when a man acts promiscuously, *he* is the one who's being less than human. Far from being a model to be imitated, he's something to be despised.

Women already have a biological incentive for seeing the flaw in the pro-choice reasoning: their bodies lead them to recognize that true human sexuality does not ignore the fact that a child might result from the act of sex.

Not, of course, that sex is *only* about children, or that every act of sex necessarily *does* produce a child; nevertheless, its reality is that it's *also* a child-producing kind of act, one that *can* produce a child, that has a child as one of its natural functions.

Since this is so, the tendency of men toward promiscuous, recreational sex, as if sex had nothing to do with reproduction, is actually inconsistent with the nature of sex, and so is sub-human; it is the very opposite of the ideal of what sex "really is." For women to imitate men in this respect is for them to demean their own humanity.

And it doesn't even work at making them equal. When the "contraceptive attitude" takes over, the act in itself is not regarded as reproductive; reproduction is considered to be a kind of side-effect that one *decides* to "attach" to the act by not using a contraceptive. And in the last analysis, this decision is the woman's, in which case she and she alone is responsible for the resulting child. The man will claim he only had sex; he had no intention of having a child, and so wants nothing to do with it; that's *her* problem.

But the point is that *his claim will be legitimate* if this view prevails, because on this view, to have sex does not entail producing a child. You see, if you want to hold the man to the child as a consequence of his sex act, you have to admit that sex *in itself* is child-producing, and that you can't have sex as *just* a loving, gratifying thing. But if sex in itself isn't causative of a child, then the man is not responsible for the child.

So it turns out, ironically, that it is those women who

exercise “reproductive freedom” who actually make the woman unequal to the man, because they refuse to recognize part of the reality of sex. Instead of freeing themselves to be like men, they are freeing the *men* from the consequences of their acts when the contraceptives they adopted don’t work.

No, in fact it is the *lack* of “reproductive freedom” on the part of *both* men and women that dehumanizes no one. But what this means is that (since there are no biological consequences for the man) *society* has to exert social pressure on men to take the same responsibility for their sexual activity that women naturally have because of their biology. They have be made to recognize that their act might have consequences and be prepared to join the woman in rearing the child that might result.

Don’t just react to this. *Think*.

How else could men and women be equal? Is a woman now really *equal* to a man, if she not only has to be dishonest with the act she performs, pretending that it doesn’t “really” have anything to do with a child, when the very act of using a contraceptive shouts the opposite (why else use it?), but also in doing this, she has to fill herself with powerful chemicals to block what her body is trying to do, and sometimes even has to go so far as to kill her own child, to achieve it? That’s *equality*?

The absurdity of this position can be seen from the simple fact that if the contraceptive fails, the act succeeds. So the contraceptive was trying to prevent the act from being itself in the very exercise of the act. You only use a contraceptive because you know the act might reproduce,

and you want to perform it, but you don't want it to do what it does. Even though not every act of sex reproduces, its reproductive *dimension* is inherent in the act, and is *not* a side-effect. To deny this is a fantasy, and is essentially dishonest and hypocritical, and so not human.

Notice, this has nothing to do with "religion"; it's simply logic as applied to what the sex act is. What it says is that contraceptive sex is directly analogous to a lie, which is the communication of something you know not to be a fact as if it were a fact—which obviously directly contradicts the act of factual communication. Contraception, I am saying, is a sexual lie.

But I don't want to get into the whole complex area of sexual ethics, which would take a book in itself. I simply bring up this one issue because there's a logical link between contraception and abortion if contraceptives don't work perfectly, and that the pro-choicer's refusal to consider abortion as anything more than a kind of backup to contraception is apt to be very close to, and is in fact an outgrowth of, the modern culture's refusal to consider that there might be something wrong with contraception itself.

You see, once you close your eyes to the reality of what you are doing, it becomes frighteningly easy to close your eyes to all sorts of other inconvenient implications of your acts: whether abortions actually kill people, whether letting a defective infant die by not feeding him is anything but "compassionate," whether "death with dignity" is a "right" people have when their lives make other people miserable, and on and on.

And, as many women have discovered to their sorrow,

you are apt to have your eyes opened after it's too late, and you then have to live with the fact that, in exercising your freedom, you have slaughtered your own child, or perhaps your aged father.

But if we want people to see what they're doing to themselves and their children, we can't close our own eyes to why they're doing it, and what's wrong with what they're doing, however inconvenient we find the implications of this for our own lives. We have to try to be honest all the way.

But that's all I'm going to say on this subject. If I've made you uncomfortable or even angry, I'm sorry. Remember, I'm just presenting evidence and drawing the logical conclusions from it. What you should do about it and how you deal with it is not my job here.

We can now get into the real subject of the book: what it is to be a human being, and what the right to life entails. *Is* it the case, for instance, that having an abortion involves killing a person? *Are* those four cells in the petri dish really a person? That's the kind of thing we'll be investigating in what follows.

Does science really settle the abortion question?

Remember, we're going to be taking very small steps here, so don't get impatient. And the first tiny step on the road to whether abortions kill human beings is something else that right-to-lifers aren't going to like. One of the things they think they have going for them is that "science proves" that fetuses are human beings right from the first moment of conception.

Well, it's not true. Not only does science not prove this, the probability is very high that science *can't* prove it.

I once asked a simple question of an eminent pro-life philosopher, who held this position, that there was "incontrovertible scientific evidence" that a fetus was a human being: every cell of the fetus's body, he said, had the full human genetic structure, and the body was alive. "Then is a tissue culture of living human skin cells a human being?" I asked. "It's living, and every one of the cells has the full human genetic structure."

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“Well, but that’s just a tissue culture,” he said, “not a complete body.”

“True,” I answered, “but it fits your definition of a human being.”

“Well, but the cells are just a mass of independent cells, not a body.”

“Okay,” I said, “then take just one of the cells in that culture; it’s a single, organized unit, and it’s alive, and it has the full human genetic structure, so by your definition, it’s a human being.”

“But it’s only human *skin!*”

“I know that, and you know that. But it fits your definition. So are you going to call skin tissue cultures human beings, or will you admit that science has not proved that fetuses are human beings?” And he got angry with me.

You see, it’s not so simple, is it? The problem is that there’s no *scientific* way you can distinguish between the human skin cells living in a tissue culture and those four cells in the petri dish that are in fact a human embryo that is on the way to being a human adult—and which we’ll see (after taking a lot more steps) *is* a human being. True, any scientist will state the obvious fact that the skin cells reproduce nothing but skin cells, while the cells of the embryo (those famous “stem cells”) begin quickly to differentiate and form various organs. But those same stem cells put into a culture just keep reproducing stem cells; that’s what those “lines” of available stem cells are that President Bush said could be used for investiga-

tion—because they're *not* embryos.

But the difference of the culture from an embryo is not a *scientific* fact; it's just a fact of ordinary observation. There's nothing a scientist can actually point to which shows why the skin cells or the stem cells reproduce only themselves forever and ever, and why the embryo's cells differentiate in a special way—or, for that matter, why skin cells in a body don't just keep reproducing in the same way that they reproduce in a culture (they're regulated in the body, and only reproduce when the body as a whole needs more of them).

True, many scientists would say that they can't point to anything *now*, but someday they'll be able to; and you might think that maybe they're right. Maybe. Still, we know that corpses aren't human beings, and a recently dead corpse has all the material that the human being had five minutes ago. It didn't lose anything observable when it died—which is why the exact moment of death can't be scientifically pinpointed. Well, maybe someday it will be. Maybe. But if you ask a scientist how this is going to be done, he won't be able to answer you.

So the fact remains that in the present state of science at least, there's no *scientific* way you can distinguish between a human cell in a tissue culture and a skin cell in a human being. As far as the scientific evidence is concerned, a skin cell in the tissue culture *is* a human being; it has the full human genetic structure, and it's alive. But any sane person knows that it's clearly *not* a human being.

The fact, however, that something can't be *scientifically* proved doesn't mean that it can't *be* proved, and proved

objectively, by observable evidence available to anyone. It isn't just a question of opinion or, as some say, a "religious matter." Science isn't the only way to get at facts. In a lawcourt, after all, people don't rely on science or religion either; but they want the facts, and find them "beyond any reasonable doubt." So don't lose heart.

Still, it *is* time to stop being superficial and think. If we're going to claim that human fetuses, embryos, and zygotes (fertilized sex cells) are human *beings*, then we need a clear, objective view of what in fact makes something a human being.

And we have to be extremely sure of our ground if we want to say that other people who disagree with us ought to stop doing what they think they have reason to do—because, if we don't *know* that a fetus is a human being, with evidence that's good for *anyone*, then it *is* just a matter of opinion, and we had better stop trying to force our half-baked views on other people, who are acting on an opinion that's no worse than ours.

That's enough for now. In the next chapter, we'll take a closer look at corpses and living bodies (with a glance back, to check ourselves, at tissue cultures) and see if we can find out what the difference is. That won't get us all the way to what makes a human body a human *being*, but it's the next step on the road.

3

What's the difference between a corpse and a living body?

Now then, if it can't be scientifically proved that fetuses are human beings, how *do* we go about proving it? Because in fact, there *is* observable evidence that can settle the question objectively. And it is essential for us to approach that evidence very slowly and carefully, to be sure that we don't leap to conclusions.

For now, let's consider just what's the difference between a human corpse and a human being. Obviously, the corpse *was* a human being, and it has all of the human material—including the genetic structure of its cells; but it's not a human being any longer. What's missing? What did it lose? Not anything that any scientific instrument has ever been able to detect.

Of course, you might say that the corpse isn't alive any more; but what does that mean?— especially since some of the parts (organs or cells) may still be living even after the body as a whole dies.

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But because science can't observe what it was that was lost doesn't mean it's a matter for "religion" and it's up for grabs. There's an obvious fact that you don't even need an instrument to notice: the parts of the body aren't *interacting with each other* in the way they used to. In fact, they're not really interacting with each other at all. What they used to do is "cooperate" with each other, so to speak, in such a way that it was "really" the body as a whole that was acting. They don't do that now.

In other words, when Johnny's alive and hits Sally with his fist, it's *Johnny* who hits Sally, and when his mother calls, "Are you hitting Sally?" he's lying if he calls back, "No, I'm not," whispering, "My fist is," because what his fist does is first and foremost what *he* does.

That is, even though the motion of Johnny's fist is caused by muscle contractions brought about by nerve impulses emanating from the brain, all the mechanics of this is secondary. In the *primary* sense, it's *his* action: the action of Johnny *with* his fist. In fact, when Johnny decides to hit Sally, he doesn't even know how he does it; once he chooses to move his fist, he just moves it; he doesn't *cause* it to move.

In other words, Johnny is not somebody inside his body the way a driver is in a car; the driver knows is that what *he* is doing is stepping on the accelerator and turning the steering wheel to the right; and he is aware that this action somehow *results in* the car's turning to the right and speeding up. But Johnny doesn't make his body do the action, he *does* it, because what Johnny is is really the

whole unit; he is a set of interconnected parts only in a very secondary and insignificant sense.

In a living body, the parts *exist for* and *function for* the whole; in fact, it's the body as a whole (directed by the unifying energy) that built the parts in the first place. When the parts are no longer functioning in "cooperation" with each other, enabling the body as a whole to be what's "really" acting, the body is dead.

So a human being, like every other living body, has a *unifying energy* which makes the parts act together so that the whole functions as a unit. This unifying energy permeates the whole body and controls all the parts, so that they do what needs to be done at the moment for the good of the body as a whole, and shut down when the body doesn't need their particular contribution.

Note that the unifying energy isn't the reality of the body; that would make it like the driver of the car. The unifying energy is the controlling energy of the body, but it's the whole body that's the real thing; the unifying energy never acts except through some mechanism of the body.

Actually, this unifying energy, whatever it is, has three major functions: (1) It makes the body *behave as a unit* by integrating the parts; (2) it sees to the *replacement* of worn-out parts and (3) it keeps the body at an *energy-level* that is *above* what you would expect just from the physics and chemistry of the parts themselves.

Every body, living and inanimate, has a unifying energy (in atoms, for instance, it's called the "binding energy") that makes it function in *some* sense as a unit. But in

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addition to the fact that living bodies' unity is generally stronger and more obvious than inanimate ones, only living bodies' unifying energy performs the second and third functions above; and, in fact, it's the third function (the one that makes it behave "more energetically" than predictable by the physics of the parts) that is actually what prompted the philosophers in olden times to give it the special name of "soul." But the word "soul" has too many religious connotations nowadays, and so let's just stick with "unifying energy," which doesn't sound unnecessarily "mystical."

Actually, this third point is the other key difference between the living body and its corpse. When the unifying energy is no longer acting, the parts of the body decay: that is, they lose energy and organization, and go down to the state you would expect from the physics and chemistry of the parts. Soon, there's no longer a single body that even looks unified; there's only disconnected bones; the rest of the body has fallen apart and returned to being just ordinary chemicals.

This is a very important and significant point. It's obvious as soon as you mention it—but you would be surprised to find how often it's missed in scientific circles. Scientists tend to be people who think that you can explain things adequately if you break them up into their components and see what those are. But in living bodies, the components are not the crucial thing; it is what the components are *doing to each other* that makes the difference.

And what they *are* doing to each other is something *beyond* the physics and chemistry of the components themselves, because physics and chemistry is governed by what is called the Second Law of Thermodynamics, which, when you strip the scientific jargon away, means that any physico-chemical system has a special energy-level (a “ground state”) at which it is stable and tends not to change; and this ground state is always the *lowest* amount of energy compatible with that particular system.

In other words, physical and chemical systems always *give off* energy when they act, because they’re moving toward a lower energy-state. But living bodies start their lives *below* their real equilibrium as living, their “biological equilibrium,” and *increase* the energy-level of the body as a whole until this equilibrium (different for each body) is reached—and then “hover around” this high-energy state.

The reason they hover around it is that living bodies *are*, of course, also physical and chemical systems; and so, following the Second Law of Thermodynamics, they lose energy whenever they act. But the unifying energy of the living body *makes the body absorb from the surroundings* the energy lost and maintains the system at its biological equilibrium—which is what you do when you eat and breathe. Finally, of course, when you get old, this unifying energy loses its constant battle with the physics and chemistry of the system, and the body eventually dies.

So right here at the outset, we can say that a living body—any living body—is a very mysterious thing, definitely not just a complicated machine; and it’s the unifying energy which makes all the parts function first and fore-

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most as a single unit that is somehow responsible for its rising above its physico-chemical nature.

(Don't be fooled by scientists, by the way, when you hear them say that there's no difference between humans and machines. Science is fine as far as it goes; but as you can see, science hasn't by any means explained everything; science hasn't even *noticed* everything, because there are some things science just doesn't know what to do with, and so it tends to ignore them. It's just that some scientists pretend that, since science overlooks certain facts, then the facts aren't there.)

With that said, if we return for a moment to the tissue culture, the fact that this unifying energy is necessary to a body also explains why a tissue culture of living human skin cells is not a human being, even though each cell is alive, and each cell has the full human genetic structure. The cells in the culture just "do their own thing," and divide and reproduce more skin cells, but don't form themselves into a complex organized unit, as the human body does. This shows that the human unifying energy is not present in them, and so the mass is not a human being.

Notice, however, that each *cell* is alive, and *its* parts function together for the good of the cell—and yet that still doesn't make each cell a human being. The cell clearly is alive, but, even though it's got the human genetic structure, it's not living a *human* life.

And what that obviously implies is that its unifying energy is a *different kind* of unifying energy from the energy that unites a whole human body.

And *this* means that being alive and having the human genetic structure is not a *sufficient* condition for being a human being, even though it's a *necessary* one. That is, you can't be a human being unless you're alive—a dynamically unified body with human genetics in your cells; otherwise, you're a corpse. (That's the necessary condition.) But you can be alive and have human genetics, and still not be a human being (so this necessary condition is not sufficient).

So we have a way to go before we find out what makes a body a human being—though we seem to be hot on its trail. Notice, however, that following the trail might not be all that easy, because the unifying energy can't be directly observed from outside the organism—for the simple reason that, since its function is to unite the parts into a unit, it treats anything that's not one of its parts as a foreign object, and won't have anything to do with it; it makes the body reject it. The unifying energy always acts *through* the mechanisms of the body, and not directly (and that's why you can thwart the rejection); but it's not the mechanisms themselves; it's what directs these mechanisms, as it does every other mechanism of the body.

And that means that you have to argue to what kind of unifying energy you've got in a body by observing what the body as a whole does; and that can sometimes be tricky.

But before we go any farther, it turns out that even at this point we can answer some questions. For instance, when a woman says she has a right to do what she wants with her own body, does that include her fetus? Is the fetus in fact a part of the mother's body?

4

Is a fetus part of the mother?

Where are we, then? So far, we've seen that for something to be a human being, it has to be (1) alive, which means (a) that the parts function together so that the whole is a unit and what is "really" acting, and (b) that the energy-level of the whole is higher than what would be expected from the physics and chemistry of the parts; and (2) it has to have the human genetic structure in its cells. But since an individual human cell living in a tissue culture fulfills both these conditions, we still don't know what makes something a human being.

But, as I said at the end of the last chapter, we *can* settle the question of whether the fetus is a part of the mother. Since in a living body the parts exist for and function for the whole, then all we have to do is ask whether the fetus (or the embryo) functions for the benefit of the mother, or whether it's a distinct organism (with its parts interacting among themselves for *its* benefit) which happens to be attached to her, like a tick or a tapeworm.

Actually, this is an easy one. Ask most women who have been pregnant, and the answer comes back loud and clear: morning sickness is anything but a benefit to the mother.

But there is plenty of other evidence. At the very beginning, the mother's body tries to reject implantation of the embryo, but the embryo has chemicals that block this rejection. So the mother's body acts toward the fetus as it does toward any other foreign body. Farther along in pregnancy, if the mother does not take in extra calcium, the fetus will take calcium from the mother's bones to develop normally, giving the mother calcium-deficiency sickness. Obviously, here the fetus is acting for its own benefit at the expense of the mother.

Then there's *rh* (rhesus-factor) incompatibility. In certain cases, the fetus's blood is incompatible with the mother's—but since the two bloods don't mix until birth, nothing happens. But if the mother has previously been exposed to blood like the fetus's, she has developed antibodies against this blood, and at birth, when the bloods mix, her blood gets into the umbilical cord and poisons the baby, who will die unless he gets a complete transfusion immediately. This clearly indicates that the mother is a *different organism* from the fetus.

But some might think that the mere attachment of the fetus to the mother gives the mother the right to expel an unwanted fetus, even if it kills the fetus, and even if the fetus not technically part of the same organism. After all, the fetus "invaded" the mother without her inviting the fetus in, and it's *her* body.

This sounds very plausible. But consider the case of

Siamese twins: two people who are attached by some vital organ. Which of them has the right to detach himself, and which has to allow himself to be killed? Clearly, there's no answer to that question. If John decides after a while that he doesn't like James—this “foreign body”—attached to him, he can't remove himself, because he has to kill his own brother to do so; and after all, James could just as easily have been the one to make the decision; and how would John like *that*? So even if they don't *want* to be attached together, and even if it's a severe hardship, there's nothing they can do about it, because these are two equal human beings, with equal rights.

So, on the supposition that this other organism (the fetus) that is attached inside the mother is in fact a human being with a right to life equal to the mother's, then the mother is in exactly the same position as a Siamese twin. It doesn't matter if she wanted to become pregnant or not; once she *is* pregnant, she can't get “unpregnant” without killing the person who's living for a while inside her.

—But of course, that's quite a supposition. All we've established so far is that the fetus is *not* part of the mother. We haven't seen yet whether it's even a single organism, at least in the early stages. Remember the four cells in the petri dish; doesn't the fact that they can be divided and produce twins prove that at this stage we haven't got a single organism, let alone a human one?

And even if it is a single organism, we've already seen a case of an “organism” with human genes (one cell in a tissue culture of human cells) that is not a human being. So it might be that an embryo or fetus is “human” in the

sense that one of the cells in the culture is human, but it still not a human *being* yet, even if it's going to be one.

And that's an important point, because no one would call it homicide to kill off the skin cells in a tissue culture; and so if the fetus is analogous to them, then there might be no problem in killing it, even if later on it will become a human being. You're only violating the right to life if the fetus is *already* a human being.

Of course, maybe it *is* already a human being; but you can see why it's vital to find out what the objective evidence really is, because it's not obvious at a glance, given what we know about tissue cultures.

But don't give up; it's just that we've still got some more stages on our journey.

5

Is the embryo a single unit?

We're still pausing on our road to discover just what it is that makes something a human being, because we can answer a few other difficulties even at the stage we've arrived at: that for something to be a human being, it has to (1) have human genes and (2) be a unit with (3) parts functioning together (4) at a high energy level.

As I said, some scientists say that in the very earliest stages of human development, when "cell differentiation" hasn't taken place yet (that is, when all the cells are apparently the same—when they're just stem cells), the "mass" can't be human, because there's no organized unit.

But isn't it possible that we just can't see the organization? Remember, the unifying energy isn't observable from outside the organism; and so it might be there without our being able to detect it at the moment.

No, they answer, because, because there's positive evidence that it's *not* there. The unifying energy unifies; but at this early stage, if the mass is split in two, then *both* new masses develop into two separate human beings, with the same genetic structure—identical twins. So the original

mass couldn't have been a *unit*.

But that reasoning is invalid, as is obvious from the following: Take a cutting from a geranium (which everyone admits is a unit and not a "colony of cells") and put it in water, and what used to be just a branch will form roots and grow into a "twin" of the plant. Cut the arms off a starfish, and each arm grows into a whole starfish, and the starfish grows back the arm. But starfishes are certainly organized, living units.

And if you examine the "undifferentiated mass" in the petri dish carefully, you'll notice that it's progressing in a perfectly orderly fashion toward adulthood. If you don't divide it and let it alone, it will become what very soon will be recognized to be a complex unit, with human characteristics. Now *something* has to direct the progression, telling which cell to develop into an eye, which into a lung, and so on.

But this direction can't come from the *cell itself* that later differentiates, as we can see from the "twinning" described above. If the cell determined what it was going to turn into, then the division of the embryo would produce two separated halves of a human being, not two complete human beings. That is, if whatever made this cell in the undivided mass turn into a heart was in the cell itself, then when the mass was divided, the heart would be *only* in the half that this cell was in, and the other part of the mass would develop without a heart.

But that's not what happens; each half of the mass develops into a complete body, identical in every biological way with the other one.

So there's got to be a unifying energy in this apparently undifferentiated mass, directing its development as a whole, which means that from the very start, the embryo is a distinct organism, organized in a very definite way—not a simple mass of cells, however “undifferentiated” it may appear.

And, as I said, this hidden unifying energy is the really important aspect of the living body—what makes the body this body. This is confirmed if you notice that in organ transplants, the *body* is the same body, even if it's got a new part that didn't belong to it before. If you can prevent it from rejecting this foreign heart or lung or liver—or even this plastic pump which does the same job as the heart—then the body will go on quite nicely, thank you, and John will be as good as new.

And this sort of thing, of course, actually happens all the time. When you eat, you take in foreign bodies, which your body breaks apart, using the parts to repair parts of itself, whereupon they become parts of you that are indistinguishable from any other part. In this sense, it's not true that you are what you eat; what's really true is that what you eat is you.

But this allows us to treat another issue. A *clone* is an organism resulting from replacing the nucleus of a fertilized ovum with the nucleus of any cell from some other member of the species. The altered cell, with this new nucleus, now develops into a “copy” of the “donor.”

But it's not really a copy; it's an identical twin. Ask an identical twin if he's just a copy of his brother, and see what answer you get. Identical twins are different people,

even if they're genetically the same, because biological sameness isn't all there is to a human individual. A human clone would be just an artificially produced twin, that's all. But he's a person in his own right, not a "copy."

But beyond that, think of the implications here: We saw just above that the unifying energy of the embryo is what makes it develop toward adulthood, and is really what makes the unit what it is. But since the unifying energy always acts *through* a part, it produces the distinctive individual not just "on its own," but by "reading" the genes to determine how the body is to build itself. The genes are the blueprint it has to use to make itself into its fully developed self.

What cloning does is take an organism *already* starting this directed development (because cloning won't work unless you've got a *developing* human cell—a one-cell embryo, if you will), and force it (by replacing its blueprint) into developing in a completely different direction. This is the equivalent of having some scientist infect you, without your consent, with a virus that would force your body to rebuild itself into a twin of the scientist.

Think of that. Short of killing you, there is no greater violation of personal integrity. Morally speaking, it's an outrage.

—Unless, of course, the fetus, though a distinct *organism*, is not yet a *human* organism. We haven't yet ruled out that it might be a single organism in a pre-human stage and only later *will be* a human being. And that's for the next chapter.

But here's something here that deserves pondering—a

great mystery, if you will. Supposing (as we'll be able to show) that the embryo, from the first, single cell, is in fact a human being, the fact that in the early stages twinning can occur shows that the unifying energy is not by itself the "individuality" of the unique individual—for the simple reason that, when twinning happens, it's obviously the *same* unifying energy that produces two distinct units from what was before a single unit. (Otherwise, you've got the problem of where this new unifying energy came from.)

That is, before the separation, the mass *was* a single unit (because if not, you can't account for how its development proceeds in an orderly way); but afterward it's two units: two individuals. But what organized the single mass before is clearly the same as what is now organizing each of the two masses.

The solution to this conundrum lies somewhere in a fact I mentioned earlier: that the unifying energy acts only through the parts. That is, this energy, while it's in *some* sense superior to the body as a physical system (because it controls that body, and also raises its energy above what the body's parts would predict), still is *intimately united* with the material it directs and governs—united to such an intimate degree that *it* is not what exists, but the whole body, which is the real reality; it is no more "independent" of the body than any of the parts are.

And it's the *body*, united with this unifying energy, that's the individual, not the unifying energy itself. In the early stages, this unifying energy, which permeates the whole body, can, like the unifying energy of a geranium or a starfish, still function if the parts happen to be sepa-

rated—in which case, it unifies the parts into whole new organisms. Apparently, the human body is complex enough that the unifying energy doesn't have the capacity to do this except at the very earliest stages.

But the fact that it *can* do this at the early stages shouldn't fool a person into thinking that there's not a single individual body there, any more than a starfish is just a mass of cells because it can regenerate a part.

As I say, it's a great mystery, and becomes more mysterious the more you study it. But that shouldn't blind us to the facts that we do know about this wonderful thing that is the human being.

6

Are human fetuses pre-human organisms?

We now can take the next step on our journey; and this step is crucial. Granted, to be a human being you have to have human genes and be a living unit, but as I've said so often, cells in a tissue culture have these properties and aren't human beings. Maybe the pro-choicers are right: "Fetuses are no more human beings than acorns are oak trees."

Do they have a point? We have to be careful here: what *seems* obvious might not be the truth. Look at what we just saw with twinning. There, the "obvious" conclusion was that the cell mass wasn't a unit, but closer examination showed just the opposite. What about this case?

First of all, why would anyone say that an acorn *isn't* an oak tree? Well, it sure doesn't look like one; but then, babies don't look much like adults either—and only kooks say they're not human beings; and one of the reasons people said in the old days that black people weren't human (yes, they really did, and believed it too) was that

they looked different from “us”; and let’s hope we learned our lesson there, at least. So looks are no criterion of whether something is a given type of organism or not.

Anyway, as I said earlier, what really makes a living body what it is is the unifying energy, because it is what makes the body behave as a unit; and therefore differences in the unifying energy make bodies behave as different types of units. But I also said that the unifying energy can’t be directly observed from outside, and so you have to *argue to* what it is from how the body behaves as a unit.

So here’s how we can decide the issue. An acorn doesn’t behave like an oak tree at all. If you leave it alone, it will stay an acorn forever; it won’t begin acting like an oak tree until it’s planted and water disturbs its organization; *then* it starts producing roots and a stem and leaves, just like a grown-up oak; and it is *headed toward* being an adult oak from that moment on; it either makes progress toward it, or dies. And that argues to the fact that the acorn’s unifying energy is different from the energy that unifies an oak. So even though in the normal course of events, the acorn later *will be* an oak tree, the pro-choicers are right that it isn’t one *now*. And pro-lifers admit something like this; I know of no one who says that a human egg that hasn’t been fertilized is a human *being*, even though, given the right circumstances, it might turn into one. I doubt if there are many people who have a problem in killing unfertilized human eggs or sperm.

But before applying this to the fetus, let’s stop a minute, because this is important. It says that, even though the acorn has the same *material* as the oak (and even the same

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genes), its unifying energy is acting based on (or is “reading,” if you will) only one part of the genetic blueprint, while the oak tree reads a different part. Water disturbs the body, giving it somehow a new unifying energy (in other words, making the parts interact in a new way), and so the body now forms itself into something different from what it was.

Caterpillars and butterflies are another example—one perhaps even closer to our question, since the acorn doesn’t grow, but just “sits there,” so to speak. A caterpillar has its own kind of body and metabolism (it lives on leaves, not nectar). And for the first part of its life, it just grows into a bigger caterpillar, all of whose parts and behavior adapt it to its caterpillar life. But then at metamorphosis, a new unifying energy takes over and builds a whole new body, now with wings and only six legs, which drinks nectar and will die if you give it leaves. So, at the two stages of its life, it’s one and the same *organism*, but two different *kinds* of organism; it lives two different kinds of life.

Note that biologically speaking, it’s the same *species*. So what biology calls a “species” isn’t exactly the same as the kind of thing something is; it’s the special class the thing belongs in, and the biological species is *related to* the way the body is organized, because organisms of a given species behave in basically the same way as units. But biologists face the dilemma that logic based solely on observation would then force them to classify caterpillars and butterflies as different species, when it’s clear (1) that one and the same organism is involved here, and (2) the different kinds

of organization reflect immature and mature states of the organism's life. So they say, "Well, *that* kind of difference isn't what we mean by a different *species*, even though far smaller differences between organisms can argue to different species. *We're* going to call something a different species if the two organisms can't produce fertile offspring together.

And that's fine; it works well for biologists. But we're interested in what actually is *responsible* for an organism's behaving in a given way as a unit, and so the biological species is not really adequate if you're trying to decide whether a fetus is really the same kind of thing as a human adult—because, remember, we have those pesky cells in the tissue culture which no one wants to call human beings.

So the real question is *not* the scientific one; it's whether the human embryo or fetus is like a caterpillar: a different kind of thing from the human it will later be.

But look closely at how we argued with the caterpillar. We concluded that there were two different unifying energies in the two stages by (1) examining the parts the different unifying energies built, and (2) noting the behavior, which in each case was adapted to a different sort of existence. If the unifying energy unites different kinds of parts, and if those united parts behave in a different way, then there must be two different unifying energies. How else would you account for the difference?

So what about the parts of the embryo and fetus, and the life they are adapted to? One of the very first parts you see forming in the embryo is—an eye. But what use has an embryo for an eye inside the uterus? There's nothing to

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see. How does the eye adapt it to its intra-uterine life? Also, what good are hands? Legs? Lungs? It's immersed in liquid. A stomach? It feeds through the umbilical cord.

In fact, the *only* organ that adapts it specifically to its life inside the uterus is the umbilical cord, which, when all is said and done, is just a kind of IV tube; every other organ makes sense only for the organism's life outside, and all of them are miniature versions of the organs it will have as an adult, including the sex organs, which don't get to be functional for over a dozen years.

And so what should we conclude from this? Obviously, if the unifying energy is building this body, that unifying energy must be the *same type* of unifying energy that the body has when it's born, when it's ten, or when it's fifty years old, because *that's* the kind of body it's building from the get-go.

So even if you concede to the pro-choice side the contention that an acorn is not really the same kind of thing as the oak tree it will turn into, and a caterpillar is really a different kind of thing from a butterfly, it's *still* the case that the fetus is *not* in a pre-human condition, nor is the embryo, nor is the "mass" of four cells in the petri dish—because *something* is directing what's there to build itself into what will be a human adult; and this can't be anything but the *human* unifying energy. So from the very first cell onward, what we've got is a human being.

If you say that fetuses aren't human beings, then you're engaging in exactly the same kind of superficial thinking that led people centuries ago to say that black people weren't human beings because they looked different. But

looks aren't what makes something human. True, they can be a *clue*, because the unifying energy built the body; but corpses look human too, and they aren't human any longer, and even wax statues look human.

Well yes, somebody might say, but fetuses don't *really* behave like human beings yet. Well, but sleeping human beings don't "really" behave like human beings at the moment either (in the sense of talking, walking, and so on); but clearly they're still human because it's obvious that they're still organized as human. So, even though behavior is another clue to what something is, humans aren't always behaving in a way that distinguishes them from other things.

Besides, you'd be surprised at how quickly a fetus starts doing things that make sense only outside the uterus: things like breathing the amniotic fluid, sucking its thumb, and so on.

Actually, the reason fetuses don't behave like human beings isn't because the body lacks the human unifying energy; it's because it hasn't got enough material as yet to be able to *exercise* its fundamental power to act in all the different ways humans act. The unifying energy can act only through the body's parts, as I said; and until those parts are complete and developed, it can't act. You might just as well say a man who's had his arm amputated isn't human because he can't pick up things the way he used to.

And after all, the human body was microscopically small when it started life, and it has to collect enough material gradually from the environment to be the six-footer that its genes demand of the unifying energy. That's a monumen-

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tal task in itself; but while it's at it, the organism has to figure out the whole universe from scratch, so to speak; it has no built-in behavior patterns, like bees; it has to learn everything, from how to move its hands, to what the meaning is of those funny sounds Mom and Dad are making. So there's nothing surprising in finding that fetuses don't act like human adults.

But all this shows that there's no evidence for saying that fetuses aren't human, and there's all kinds of evidence for saying that they are. So we've reached the end of our quest, haven't we?

—Well, no. We've taken a very large step, but there's still more to go. Maybe the fetus is (physically or biologically) a human *being*, but is the fetus a human *person*? And aren't *persons* what have rights?

But that's an even thornier issue than we've seen so far, and before we tackle it, let's take another pause and see what's implied in this new advance we've made.

What and when is death?

Anyhow, now we can confidently say that a human being is a living body that has a human-type unifying energy. In order to have this particular type of unifying energy, the body must have human genes in its cells.

Before getting into the question before us now of when the human body stops being a human body and becomes something else (when death occurs, in other words), let's consider a few more implications of the fact that the unifying energy isn't directly observable and has to be argued to from the behavior of the body as a whole.

As I hinted in the preceding chapter, things get a little sticky here. Consider walking. To walk, you have to have two things: "walking potential" in the unifying energy (a snake can't walk), and legs. If your legs get disabled, you can't walk, even though you're a "walker" as far as your unifying energy is concerned—which can easily be proved by those people who have an operation that restores the functioning of the legs.

So humans are not always exercising the acts they "can"

fundamentally exercise, because the relevant part might not be there, or might not be active, as when we sleep.

This is important. *The absence of "human" acts does not necessarily mean that the body is not human.* When we sleep, we're not just deciding not to talk; there's a real sense in which we *can't* talk, see, or do most of what humans can do. But there is obviously another sense in which we *can*: the sense in which the crippled man "can" walk if you can fix his legs. We still have the *fundamental* potential, because our body is organized in a human way; and this is obvious with sleeping people because when they wake up, they do the acts they "couldn't" do before.

On the other hand, you can't make a chair walk, even though it has legs, because it can't walk in *any* sense. It's not the kind of thing that can walk.

Notice that even people knocked out or in a coma still must have the same fundamental potential as sleeping people, because they sometimes come out of it. Clearly, they didn't die and come back to life, and so the body must have been organized in a human way all the time, and just couldn't express itself because the malfunctioning of some *part* of the body prevented the expression.

True, people knocked out or in a coma "can't" perform human acts in a stronger sense than a sleeping person "can't," because you can wake a sleeping person at any moment, and he'll begin acting in a human way again; and you can't wake up a person who's been knocked out until he recovers. But as long as the human body is alive, it has the human unifying energy, and that gives it the fundamental potential to act in human ways; and if it can't act,

that's because of the defective parts, not because it's not human any more.

Well, but what about an irreversible coma, that lasts until a person dies? The trouble with those is that there's really no difference between the two, except that in the "irreversible" ones, the person in fact dies before he comes out of it; there's no way you can tell beforehand whether the coma is irreversible or not. And so we can reasonably conclude that as long as there are vital signs, the person isn't dead yet, he's still a human being. True, it's *possible* that the body might have reorganized itself into a lower form of life. Since you can't observe the unifying energy, you can't categorically say that it *couldn't* have been replaced with a different one. But since we know of people in comas recovering and being obviously the same person as they were before, then it is *extremely improbable* that people in "irreversible" comas are not human beings.

But then just what *is* death, and when *does* a person die and stop being human?

Obviously, the answer is when the body is no longer organized by the human unifying energy. But since this energy is "hidden," you can't tell by direct observation when it's no longer there. But we *can* tell indirectly because of a known fact about the unifying energy: it's what keeps the body as a whole in a high energy-state. The parts tend to "run down" to their ground state unless they're held up in what is (to them) an unnaturally "excited" condition.

So it follows that when the unifying energy is not acting on the parts, they immediately begin losing energy; and

this process is the one called “decay.” So when decay of the body as a whole begins, there’s no unifying energy, and the body is dead. (Of course, sometimes one part of the body will get isolated and begin to decay—the condition called “gangrene”—while the body as a whole is still alive. Interestingly, however, the decay of this part will kill the body if it isn’t removed or checked somehow.)

But when does this “decay of the body as a whole” happen, and how do you know when it happens? Well, the brain is a very delicate instrument, and begins to decay very fast when left alone. And of course the brain, the body’s computer, is the most vital part of the body. And that’s why “brain death” is the indicator doctors use to determine as closely as possible the moment of the *body’s* death.

Some people say that medicine *defines* death as the lack of brain function. That’s a loose use of words. To “define” something generally means “to say what it is.” And we know that people can lose brain function for a minute or two (which shows up as a flat electroencephalogram) and recover; so clearly, they were alive when their brains weren’t working.

No, this particular “definition,” properly understood, does not presume to say that this *is* what death is (because, in addition to what I just said, we know that embryos are alive, and they don’t have brains yet). It simply points to the *clearest observable sign* of death; and the death itself is the absence of the unifying energy from the body.

In other words, “brain death” as “defined” by doctors is a “definition” of *when* death occurs (as nearly as can be determined), rather than a definition of what death is.

We've been able to see what death is; now let's consider this "brain death" as indicating it.

The reason this determination is crucial is that other organs don't decay so fast, and can still be kept alive, for transplanting into other people. But taking vital organ out of a living person is murder; so the body must already be dead before you can do it. But on the other hand, you want to take it out as soon as that happens, to prevent decay from attacking this organ too.

It gets complicated in practice, because, as I said, the brain can actually cease to function for a short time and the person still recover. So, depending on the condition the body was in as it was dying (for instance, a cold body can lack brain function for a longer time than a warm one and still recover), doctors have developed a set of safeguards by which they assure themselves that yes, by this time the body as a whole can't really be organized in a human way (in fact any way) any more.

And, of course, once the body is a corpse, then it's not a human being any longer; and so the parts can legitimately be used to save other human lives. It's reasonable to show respect for corpses because that same object once was a human being, and a person who was loved. But the fact is, it's not actually a human being any more, and so there's no violation of human rights by taking its parts and using them for humanitarian purposes.

It turns out that what we know so far can also help us with another issue: The dependence of the type of unifying energy on the genetic structure gives us a clue to what are called "monster" births, such as anencephalic children,

who, because of defective genes, have no brain, and yet are alive because they *do* have a brain-stem, which gives the body vegetative functions. But they can't do what humans can do. Are they human?

Since the unifying energy built a body without a brain, *it could be argued* that this is because the unifying energy is different from the "human" one. But *it is also possible* that it's a human unifying energy that just couldn't find the part of the "blueprint" (the genes) it needed to "read" to build the correct organ. Remember, you can't directly observe the energy to tell what it is.

Hence, there will always be a real doubt whether the body is a human being or not in cases like this. And since we're dealing with human life here, *the benefit of the doubt goes to the organism*. To choose to kill such a being is to be *willing* to kill a human (because you're killing it *even if* it is human).

Yes, I'm saying that there isn't and there never will be a way to settle whether anencephalic children are really human beings or not, because there isn't and never will be a way to get at the unifying energy directly, to observe whether it's the human one or a different type of unifying energy.

But, as I said, precisely because you can't rule out that it might be human, you have to give it the benefit of the doubt. We've had too much horror throughout history from people who acted the other way—and because they could trump up some "doubt" whether black people or Jews or some other "different" person was human, they presumed to treat them as if they weren't. No, the only

moral way to act on a doubt like that is to presume that the doubtful body is human.

But it's time to go back to the question of whether, even if fetuses and so on are biologically human beings, they're persons, with rights. And what *are* rights, anyway?

8

What are rights, anyway?

We have to leave the relation between fetuses and humans for a moment, and consider what a right is, to find out if the fetus, as a human being, has a right to life, restricting the woman's rights to act. Like all the other questions we've been considering, here we have a whole nest of issues, and there are almost as many opinions on this subject as there are writers. So we'll have to tread carefully to avoid slipping in into the swamp.

Actually, the "restricting" I mentioned above is the clue to what rights are. When you have a *right* to do something, you *can* do it, not in the sense of a physical power, but in the sense that *no one is permitted to stop you*. A right is a *social* power to act (or, of course, refrain from acting). Rights would mean nothing to Robinson Crusoe alone on his desert island, because there's no one around to violate them.

True, he still *has* rights, such as the right to life; but all this means is that any person who might come along and try to kill him is forbidden to do so, and can be

stopped—either by Robinson or any other human being. But the tiger that attacks him is not “violating his right” in any meaningful sense, since it hasn’t entered into a *social* relationship with him which says, “I’ll let you alone if you let me alone.” It’s no more violating his right to life than gravity is if he falls off a tree and dies. Violation of a right, strictly speaking, can only be done by another person.

So when you assert a right and say, “no one can stop me from doing this,” what you are really saying is that everyone has an *obligation* to curtail their *own* actions and let you do the act, *whether they recognize this obligation or not*. That’s why we have things like police; when we have rights and they’re not recognized, the ones who try to stop us can be *forced* to desist, because *in fact* they have the obligation, even if they don’t know they have it.

Notice this first point: *In spite of the fact that rights are social powers, they do not depend on whether anyone else, even society as a whole, “recognizes” them*. The black people had a right to be free, even though once our society thought they didn’t. Basic rights don’t even depend on laws, as slavery also shows. The law must allow basic human rights, or the law must be changed.

Rights, in other words, go beyond society’s laws or its opinion. The obligation to respect rights, therefore, is *greater* than the obligation to obey laws, because if the law allows a violation of someone’s right, the law is an unjust law and must be abolished; if a government violates people’s rights, then the government is a tyranny, and can be overthrown. That, of course, is the basis of our being a separate country, and not a colony of England, as was

spelled out in the Declaration of Independence.

This is another way of saying that rights really rest on the *moral* obligation people have.

But morality is a subjective, personal thing, isn't it? This is important. No, it's not; and in fact no one really believes it is, because people in fact think they have rights.

You see, you can't say that "morality is a personal matter" and then turn around and claim that you have a right to do something—especially something that the law happens to forbid. On what grounds would you then impose the *obligation* to respect your rights on someone who didn't feel like accepting it? On what grounds could you change tyrannical laws, if the society didn't happen to believe that you had a given right? *Rights show (1) that morality is something objective, not "personal," (2) that it is very serious, even more serious than laws, and (3) that it does not even depend on what "society" or "the culture" thinks.* So, for example, Apartheid in South Africa was wrong, even if the South Africans believed it was all right; what Hitler did to the Jews was wrong, even if the Germans went along with it.

And everyone, as I said, actually recognizes this, even moral relativists, because in spite of their theories to the contrary, in fact they're among the loudest in standing up for their rights.

The second point is this: *Rights never extend to the violation of any right of anyone else.* This is the basis of the old saying, "Your right to swing your arm stops short of my nose." Why? Because if not, the exercise of the right contradicts itself. If you claim a right, you are saying to

everybody else, “You must not try to stop me.” But if in exercising that “right” you are engaged in stopping someone else, you have no grounds to expect others to respect *your* right.

Be very clear on this: Very important people’s rights do not extend to the violation of the least right of the most insignificant person, for the simple reason that if they did, then this would be giving permission to someone still more important to trample on *their* rights—and in the last analysis, this would make rights meaningless. We would have a “social power” which was no power at all, because it could be taken away.

And of course, what this means in the case we’re considering is that *if* fetuses are distinct human beings, different from their mothers (and they are, we saw), and *if* they in fact have the right to life (something we still have to determine), it automatically follows that the “right” of a woman “to do what she wants with her own body” does not extend to any act that violates the fetus’s right to life. That “right” of the woman, in this case, would be a sham and a self-contradiction, and would not exist, even if she sincerely believes that she has it, and even if the law gives it to her. “Sincerity” is irrelevant here.

One other point about rights in general: *a right carries with it the legitimacy of using force to defend it.* The reason is simple: a right is a power to act. But if the right could not be defended, then in practice the power would vanish, since anyone stronger than I could prevent my exercise of it. That is, since it is a power to *act*, then it’s a practical thing, not just something I have in theory. *A right that*

cannot be exercised is no right. That will become important later.

This, then, is what a right is; but what is its basis? How do you find out whether some person has a right, and what those rights are? It's vital to know this, because you can't go around asserting any old right, because by doing so, you're imposing a very serious obligation on everybody else.

Before you leap to the conclusion that "Well, we have rights because we're all equal," don't be too hasty. Imagine some extra-terrestrial being, far more intelligent than we are, came down to visit us. Would that mean that we'd immediately lose our rights, just because he's superior to us? Or if rights depend on equality, would that mean that *he* has no rights because he's a higher kind of being? Because he's our superior, not our equal, we can kill him if we feel like it. That's absurd.

Of course, the notion that rights depend on equality is ingrained in us because of what Thomas Jefferson wrote in the Declaration of Independence. But in fact that's *not* the basis of rights. Actually, what he was saying is that there are no "natural classes" of human beings (as the English thought), so that if you were born a noble, you had rights that a commoner didn't have. Jefferson didn't deny differences between human beings; what he was saying was that they're *individual* differences, but that rights *don't depend* on the differences between people.

But when *does* something have rights? And what is it that gives it a right?

That's the next issue.

What is the basis of rights?

I said that the question before us is what the basis of rights is; but it turns out that this is a twofold issue. First, there is the basis of rights in general, and secondly, the basis of some definite right that a person happens to have. For instance, my right to drive a car is based on my fulfilling the conditions for a driver's license in my state—and in this case, the state's laws are the basis of that particular right.

But that still doesn't answer the more fundamental question of how it is that people have rights in the first place, especially since we have rights that go beyond any law or opinion of society.

Let me expand a bit on what I said in the last chapter, that rights are not based on equality. Let us face it: we are *not* equal to each other in all sorts of ways; we are not equally strong, equally intelligent, equally talented, equally tall, equally healthy, and so on and so on. There is, for practical purposes, no empirically definable way in which we all exist at the same *level* of humanity—and that's what "equal" means. We just sort of take it for granted that we know what we're talking about when we say that all human beings are "equal," but the only *meaning* you can give this

is that we all “equally” have rights. But not even this is true, since some people have rights, like driver’s licenses, that other people don’t have.

The answer is in something a bit esoteric. We have rights because we are *persons*. To make a long story short, a person is a being who can *choose*, which means to set goals for his life and actions. And what does *that* mean? It is not that we *have* goals; animals and machines have goals that they act toward; the ability to choose means that I can *set* myself goals. And what this in turn means is that I can (a) imagine myself as different from the way I now am, (b) tell myself that this imaginary self is the “real me,” not what I now am, and (c) direct my actions toward making myself into that self I have chosen. I can “create my own self” into the image I have of myself.

And I can choose to be anything I want; and this is our *fundamental freedom*. Your choice itself is absolutely unrestricted; you could choose to be a crocodile if you wanted to. The trouble, of course, is that you can’t actually *be* a crocodile, no matter how hard you try; and so there are limits to your ability to *carry out* the choice you make.

And these limits are what is spelled out in the *moral obligation*. It says that, within the limits of your humanity, you can choose to be anything you want and work to achieve that goal; but you are forbidden to choose to do something *inhuman*, for the simple reason that if you try, you will fail, since you are only human. You must not attempt something that *contradicts* the humanity you have. For instance, you are a living being; and therefore it is immoral for you to use your living activities to try to stop

living. You are a communicating being; and therefore it is immoral for you to communicate as a fact something you know is not a fact.

Now then, the reason persons have rights is that it is inconsistent with me as a being pursuing my goals to do so in such a way that I prevent someone else from pursuing *his* goals. In that case, my personhood would deny personhood to my victim—and then how could I expect others not to do the same to me? We have to agree to let each other be free for our own freedom to be meaningful.

This in itself has nothing to do with equality. It doesn't matter if another person is stronger or smarter or richer than I; it is still inconsistent with him to pursue his goals at my expense, because then he's giving permission to anyone stronger than he to do the same to him. In other words, *it is inconsistent with someone who is free to use his freedom at other persons' expense.*

But how can this work, since exercising my freedom necessarily limits others' freedom? I said earlier that when I claim a right, the claim itself imposes an obligation on others not to do anything that would prevent my exercise of it.

The solution is that you can restrict others' *freedom* when you claim a right, but you can't *lessen another's reality*. And so the basis of a rights *claim* is not your desire to be something-or-other (that imaginary self in the future), it is *your own present reality*. You're going to prevent others from doing what they might want to do, and so your claim has to be more serious than that you just want to do it.

For instance, if the mere fact that Johnny wanted to play with some toy gave him the right to do it, then Sally couldn't play with it. But if *she* wanted to play with it, she'd also have the right, and so *Johnny* couldn't play with it. In this case, because both had the right to play with the toy, neither could actually do it. This is absurd, because a right is supposed to be the power to act.

What this means is that *you can only claim a right when you can show that harm will come to your present reality if you can't do the act*. This aspect of your reality is called the "title," and the "harm" is some kind of contradiction of the way you now are. For instance, to prevent a citizen from voting is to try to make him a citizen who isn't a citizen, because citizens are voters.

The difference is that what you want to be doesn't (yet) exist, and so you can't impose an obligation on others because of something that is now a figment of your imagination. When you make a rights claim, you are saying to others that if they try to prevent you from doing whatever it is you have a right to do, they are actually acting as if you weren't what you are; and that is clearly a contradiction. Think of the civil rights movement; Dr. King was essentially saying that segregation as practiced was making the black people act as if they weren't really human beings; and you can't treat human beings as if they're not human.

And notice that you have to be able to *show* this title to your right, because others have to be able to find out that in fact you are the kind of person you claim to be. If you can't show the title, there's no way another person can

distinguish your right to do something from your mere desire to do it. That's why we carry drivers' licenses; we have to be able to demonstrate to others that we in fact have the right to drive a car.

And the different titles, these different demonstrable aspects of our humanity, are, of course, the basis of the definite rights we actually have, as opposed to the basis of rights-in-general.

For instance, the title to human rights is our humanity. Since it is obvious that we're human beings, and all human beings have certain characteristics, then you we have the rights that are based on these common characteristics. For instance, you can't be human if you're not alive, and so your humanity automatically gives you the right to life. The rights to liberty and the pursuit of happiness are based on the title that humans are choosing beings. Since all human beings are unified bodies, the right not to have your physical integrity violated is a human right. And so on.

Other titles depend on the particular situation you are in. As citizens of the United States, we have the *civil rights* that come with citizenship: the right to vote, to move about, to hold public office, and so on. These civil rights depend on the laws of the particular society. Actually, the "civil rights" movement was in fact a *human* rights movement, since its purpose was to make the country's laws conform to what the human rights of some of its citizens are. Every society's laws must make all human rights civil rights; it is just that there are some civil rights that aren't human rights, like the right to vote.

To apply this now to the issue this book is dealing with, it follows that *if* a fetus is in fact a human person, *then* the fetus automatically has the right to life, and the mother's right to liberty does not extend to depriving him of that right.

So we're not at the end of the road yet. There are several burning questions still before us: Is the fetus a person, or are we talking about what is biologically a human being which hasn't achieved personhood as yet? Secondly, what do you do when rights come into conflict, if no right of any person can violate any right of another person? Thirdly, how can I use force to defend a right, if my use of force in fact is going to violate the physical integrity of the violator, and thus violate *his* right?

10

When is something a person?

The question of when something is a person is another thorny one. Pro-choicers are quick to say, “Well, you may have some reason for claiming that fetuses and embryos are biological human beings, but you can’t possibly think that that mass of cells in a petri dish is actually a *person!* There’s no way that thing can make a choice and set goals for itself.”

But not so fast; it’s not quite that simple. What does “can” mean, in “can make a choice”? After all, a sleeping person “can’t” make a choice in the sense that a person who’s awake can. But surely you don’t want to say that people lose their personhood and therefore all their rights every time they fall asleep.

And obviously, the reason is that a sleeping person still *can* choose, in the sense that you can wake him up, and he can then make a choice if he wants to. He’s still a “chooser” when he’s asleep, even though he’s not in a *condition* to be able to choose at the moment.

But then let’s give him knockout drops, so he can’t be waked up for four hours. Is he still a “chooser”? He

“can’t” choose now in a stronger sense than that of a person merely asleep. But still, after four hours, he’ll wake up and be able in the fullest sense to choose; and so it’s silly to say that during this time he’s lost his personhood and all his rights.

It’s time now to stop and think. What is it about this unconscious person that keeps him “able” to choose, even if he can’t actually choose? Doesn’t it have to be that his body is still organized as a human being, which is a choosing *kind* of thing? It’s the corpse that “can’t” choose in any sense of the term. Our unconscious person isn’t a “chooser” because he’s got some special “choosing organ” that’s functioning while he’s unconscious. No, it’s just because of his reality as a whole. That is, his unifying energy is the *fundamental* power to choose; his brain in the waking state is only the *proximate* power.

It follows from this that *whenever a body is organized with the human unifying energy, that body is a person, even if it can’t actually choose anything at the moment*. So even if the brain isn’t there yet, the *fundamental* ability to choose is operating, because that ability *is* the unifying energy.

Are there persons that aren’t human? We have no observable evidence of any, since all the attempts that have been made with apes and porpoises have so far not established that they have the ability to understand relationships (not *make* relationships—connections—but know *what the relationship is*; there’s a difference). You have to be able to do this to be able to choose, because you have to be able to see the relationship between the imaginary self you want

to be and your present self, and evaluate it. Conceivably, some day we'll discover that some animal has this power; but as I say, so far there's no evidence. Consider just this: no animal other than the human being engages in *conversational* behavior, the back-and-forth kind we engage in where we share information for the sake of knowing what the information *is*, not what we can do with it. So no, none of the animals we know have rights. (Which is a good thing, because then they couldn't be neutered, for instance.)

Still, if some animal or extra-terrestrial being or whatever can really make choices, then he's a person, and has all the rights that belong to his nature.

But let's look a bit harder at the objection to saying that it's the *humanity* of the fetus (or any human being) which establishes his personhood. All we've argued to above, it seems, is that a human *with a brain* is a person, even if the brain isn't functioning as it normally would.

There are a couple of answers here: First, we know that corpses have brains and aren't persons any more (because the brain isn't functioning); but living human beings can be deprived of brain function—have a flat electroencephalogram—for a couple of minutes and recover. So they must be like sleeping or unconscious people. They didn't die and come back to life again. Secondly, we know the unifying energy built the brain in the first place; and so the *driving force* behind there being a brain and its functioning is the unifying energy—which means that it must be the fundamental “power to choose” that makes a human being a person.

You either say this, or you logically have to say that people who are asleep or knocked out aren't persons, because (for the moment) they don't have brains that can function to choose, or that corpses are persons because they have brains.

So the "four cells in a petri dish" *is* a person, because as we saw in Chapter 5, it's actually organized as a unit, or it wouldn't develop systematically as it does; and as we saw in Chapter 6, this unit is a *human* unit, not a pre-human one.

This also applies to someone in coma or a "persistent vegetative state," as long as the body isn't decaying, even though the person gives no evidence of any of the specifically "human" acts. As we also saw in Chapter 7, whether the person will ever come out of the coma or not is irrelevant, because the lack of observable behavior is no indication that the unifying energy is not organizing the body.

I should mention here, however, that it is possible to keep various *systems* of the body functioning artificially, even when the body as a whole is no longer organized as a unit and is no longer maintaining itself at the high energy level that is its life. The parts of the body (as we can see from tissue cultures) have a kind of life of their own, which in the body is subordinate to and directed by the unifying energy; and so it is possible to take those parts and make each of them function (to keep *them* alive) even without the unifying energy.

So it may sometimes be the case that the person is dead, even though the body's systems are still artificially functioning. A clue that this is happening is if the systems that

are not kept alive are decaying. In any case of doubt, of course, we must give the benefit of the doubt to the person's still being alive, but too weak to maintain all the body's functions—because otherwise, the choice to kill him would involve *being willing* to kill him *even if he really is still human*, and that's murder.

For those who question whether this is true, let me give a clearer example. A person is handling a gun, pointing it playfully at others. The thought occurs to him, "Wait a minute; maybe this gun is loaded; if it is, then you'll kill somebody doing this." Then, without checking, he says, "No, it's probably empty," and points it at his friend and pulls the trigger. The friend dies. Was he willing to kill him? Yes, because he in effect was saying, "Well, if it's loaded, so be it." So you don't actually have to *intend* something in order to *choose* it.

—But then wait a minute. Does that mean that you can't "pull the plug" on a dying patient who's hooked up to life support? Do you have to artificially force him to stay alive, or can you just have nature take its course and have him die?

That's another question we'll need to investigate.

Anyhow, we've finally got an objective answer to our original question. Yes, from the very beginning, the human fertilized ovum, the human embryo, the human fetus, the human baby, and the human adult, are all basically the same kind of thing: a human being; and if a human being, automatically a human person with the full complement of human rights, including the right to life.

And so abortions are never justifiable for any reason,

right? Well, not so fast; there are still complications. What of incest? Rape? What if the mother will die if she tries to carry the fetus to viability? In this last case, wouldn't she be in effect committing suicide if she didn't abort—in which case, both she and the baby will die, because he can't survive outside her?

So, even though we now have the solution as to whether fetuses and people in comas are people with a right to life, we've still got quite a few questions to deal with. After all, practically everyone thinks that if a man comes at you with a knife and is intent on killing you, you can shoot him dead if that's the only way you can save your life. Are they right?

11

What is the “Principle of the Double Effect?”

The example of shooting an attacker in defense of your own life should show that there must be circumstances in which we can *choose* an act that involves something wrong without actually choosing the wrong.

The reason in this case is that the person being attacked is faced with a dilemma: If I choose to shoot, then in effect I’m choosing to kill my attacker; if I choose not to shoot, then in effect I’m choosing to kill myself, since if I don’t shoot, he’ll kill me. But since we are living beings, it’s as inconsistent with our reality (as immoral) to choose to kill ourselves as it is to choose to kill anyone else. And killing yourself by proxy is still killing yourself.

And remember, *his* rights don’t yield to yours; you never have a right to violate any right of anyone else. But then if there weren’t a way out of this, you’d be choosing evil no matter which course of action you took.

But notice that when you’re dealing with morality, it’s the *choice* that is relevant, not the act. If you happen to do

some wrong act in your sleep, or in some other circumstance when you don't realize what you're doing, then you're not *morally* responsible for it—any more than you'd be morally responsible if you were pushed out of a window and fell on someone ten stories below and killed him. You *did* the act; but you didn't *choose* to do the act.

And here's the solution to dilemmas like self-defense. In some situations, you can choose an act without choosing its consequences, even though you know that they will happen; you are positively *unwilling* to have them happen, but you can't do anything about it.

Ordinarily, when we choose an act and know what its consequences are, we are also choosing the consequences; but there are certain times when you can keep the consequences out of the choice itself.

Let me give a different example to illustrate this. A woman is forced to the ground by a rapist, who tells her, "You just lie still, or I'll slit your throat!" She lies there and lets the rapist rape her rather than struggle and be killed—and probably also raped. Does the fact that she chose to lie still mean that she was *willing* to be raped?

Clearly not. He is forcing himself upon her *against* her will. All she is choosing in this act of lying still is to stay alive; she is not in favor of having sex with this man in any meaningful sense. So she has chosen something she knows will *result* in having sex with him without choosing the sex itself.

But what *are* these special circumstances that allow this? The way you can assure yourself that you're not choosing an evil connected with an act is called the "Principle of the

Double Effect.” It consists of five rules:

1. **The act must not be wrong in itself.** The wrongness must lie in the *effect* or consequences of the act. The reason for this rule is that the act is *what you choose*, and obviously if that is evil, then you have chosen evil—even if it has a good effect.

In the two examples, the woman who lies still is choosing an act which *in itself* is not evil; if the rapist weren't there, then there'd be no problem. In the case of shooting in self-defense, the *act* you perform is pulling the trigger on the gun; and if the gun isn't loaded, then there's nothing wrong *in itself* with pulling the trigger. The evil is what happens if the gun is loaded and the bullet kills the person—which is the effect of the act you perform, not the act itself.

2. **The act must have at least one known good effect.** The reason here is that if the act is in effect totally evil, you can't avoid choosing the evil. You choose the act for its good effect and *not* for its evil one. This is why the Principle is called the “Double” Effect, because it lumps all the good effects together as one complex good effect and the evil ones together as one evil effect.

Obviously here, the woman being raped is aware of a good effect: she stays alive; and the man who shoots his attacker is aware that *he* stays live, which is a good effect. In both cases, what the person is choosing is to stay alive, not the other effect.

3. **The good effect can't depend on the evil effect.** It may be that both effects are inevitable in practice, but if the evil effect *brings about* the good one (and isn't just a side-

effect of the act), then you have to be willing for it to happen in order to achieve the good effect.

Of course, all this says is the familiar, “the end never justifies the means.” If the end won’t happen unless the means brings it about, then you can’t avoid choosing the means, even though it’s secondary to the end you really want to accomplish.

This is a little tricky. What you do to assure yourself that you’re abiding by this rule is ask yourself, “Well, suppose the evil effect didn’t occur. Would the good effect occur anyway?” If it would, then clearly the evil effect didn’t cause it, and you can avoid choosing the evil.

For instance, the woman who is raped can ask, “If he gets scared off before he rapes me, will I stay alive?” As I say, there may be no real possibility of this actually happening, but the answer is obviously Yes. So *if* the rape (the bad effect itself) didn’t actually occur; the good effect (staying alive) would occur anyway, which shows that staying alive in this case isn’t actually caused by being raped.

Or to take the case of shooting someone in self-defense, then you can ask yourself, “If the gun is loaded with blanks and he gets scared, thinking I missed, and runs away, do I stay alive?” Again the answer is Yes, and so it isn’t *his death* that saves you, but that your action *blocked his attack*, and it *also* had the (unchosen) side-effect of his death.

4. You can’t *want* the evil effect to occur. That is, if the woman actually wanted to have sex with the rapist, or if you hated the attacker and wanted him dead, then, since what you want (your intention) is what you choose the act *for*, then you would have chosen the evil. Even if the evil

effect is a secondary motive for the act, you've still chosen it. If the woman, for instance, wanted primarily to stay alive, but was *also* desirous of having sex with the man, she couldn't use his rape as an excuse for having sex with him. She has to be *unwilling* to have the evil effect occur, even if she knows it is going to happen.

Beware here, however. This is a question of the effect you *choose*, not the way you *feel* about things. Our emotions are not completely under our control, and they can sometimes make us like something that we don't want to happen. If, for instance, the rapist is the woman's boyfriend whom she loves deeply, it may be that she feels sexual gratification in the act; but that doesn't mean that she wanted it to happen. If she wouldn't have done it in other circumstances, she can assure herself that her emotional reaction was not reflecting her choice.

5. Finally, the evil connected with not doing the act must be at least as great as the evil effect of the act. If this isn't the case, then the act you have chosen is more evil than good, and so your will is oriented toward evil—because you could have chosen the other way, which wouldn't have been so bad.

The woman being raped correctly considers that the evil of having sex with this man is a lesser evil than that of dying; in the case of self-defense, each of you has a right to life, and so the evil of the other person's dying is no greater than the evil of your dying.

Note that here, you're not really "choosing the lesser of the two evils"; you're choosing *away* from the greater of the two—otherwise, the fourth rule is violated, and you've

actually *chosen* the evil. So you're really choosing to *avoid* evil, here; and so your choice involves "Which is worse?" rather than "Which is better?" And since you can't be in favor of what you're explicitly choosing to avoid, then you can be confident that if all five of these rules apply, your choice was moral, not immoral.

This Principle can allow us to solve all kinds of moral dilemmas, and even though it can sometimes involve splitting hairs, it shows that it is always possible to make a moral choice.

12

Are *all* abortions unjustifiable?

Can we ever apply the Principle of the Double Effect to abortion? First of all, let's clarify a semantic difficulty. "Abortion," in medical terminology, is the termination of a pregnancy in such a way that the fetus dies, whether this is a "spontaneous abortion," (what we call a "miscarriage") or an "induced abortion," where the fetus is removed from the uterus before he can live on his own.

No one has any moral problem with miscarriages, since these were not chosen. The question then is whether a woman can ever choose to induce abortion, for any reason. We know this much by now: since the fetus or embryo is a human person, then the *choice* to kill him is as wrong as the choice to kill a human adult, because both have the right to life.

I should stress that there aren't *degrees* to the right to life, as if you have the complete right at certain stages of your existence and only a partial right at others. The reason for this is that *human rights do not depend on the degree of humanity we have, but on the fact that we are human.*

Yes, there is a meaningful sense in which you can talk about “degrees of human existence” or life, because the *level* of life you live is shown in the number and quality of human acts you can perform. So children and retarded people can meaningfully be said to be *less* human than fully developed adults; but since human rights depend on the *qualitative sameness* of humans and not on the degree of humanity we have, these differences are irrelevant; any human being has “just as much” of a human right as anyone else.

With that said, let’s first consider pregnancies due to rape or incest. It may seem heartless and cruel for a woman to have to bear a child that was forced upon her, to which she gave no consent; but does that justify having an abortion not to have such a child?

First of all, notice that she *already* has the child; it’s not a “potential” human being, as if it were a caterpillar that will later turn into a butterfly; it’s already a human being, and if a human being, a different person, living inside her temporarily. So whether she “invited him in,” so to speak, or not is really irrelevant, because the fact is that he’s there, and that the only way to get rid of him is to do something that causes his death.

To make it clearer what we’re dealing with here, let me give an example of a slightly different situation. Suppose a woman is in an accident, and winds up in the hospital, unconscious, for a couple of days. A man comes into her room and rapes her unconscious body. A month or two after this, she discovers that she is pregnant, and she and her husband are overjoyed that finally they are able to have

a child. She brings the child to term and gives birth; and a year later, for some reason, has the child's DNA tested, and learns that her husband is not the father—and later learns of the rape that happened while she was in the hospital. She then wants the child killed, because he reminds her of the rape, and she can't stand to look at him.

I know of no one who holds that abortions are wrong in the case of rape who would say that you could kill a one-year-old if you found out he was the result of rape. But what's the difference? The fetus has just as much of a right to life as the baby, doesn't he?

"Well yes," someone might answer, "but you can give the baby up for adoption." Yes, but you can give the fetus up for adoption too, once he's born. "Yes, but the pregnancy takes nine months before you can do this." So? You can't give a child up for adoption the day after you decide to do so; it takes a while to go through the procedure. And while you're waiting for the adoption to go through, you have all the inconvenience of acting as the mother of an infant you can't bear to look at—which is arguably greater than the inconvenience connected with the pregnancy itself.

This example shows clearly that people who would allow abortions in the case of rape don't believe in their heart of hearts that the fetus is really a human being and a person as yet—or not "as much" of a person as a baby is. But human rights, as I said, don't depend on the level of humanity you happen to be living at, or you lose some of your rights when you go to sleep.

To apply this to incest, let us consider the case of

Oedipus in ancient Greece. He was abandoned by his parents when an infant, and raised by a farmer; and then when he grew up, he killed his father, a tyrannical king, without knowing him to be his father, and married the dead man's wife, and became king in his place. He then discovered that he has married his own mother without knowing it; but by then his children were young adults.

Can he kill them to rid the world of this abomination? Clearly not. Antigone did not lose her right to life because of who her father and mother were. But *she* would be no different if the incest had been discovered while she was still a fetus; and so if you can't kill her as an adult, the fact that she's the result of incest doesn't allow you to kill her while she's a fetus.

But then what if the mother is going to die if the fetus is allowed to stay in her? Here we have to assume that you're talking about the fact that she will die before the fetus becomes viable and can live outside the uterus; because otherwise, there would be a way to save the mother's life without having the fetus die—she could have a Caesarian section and remove the baby as soon as he could survive on his own.

But suppose that she'll die before she can do this. Can she have an abortion to save her life? After all, if she doesn't, then *both* the baby and she will die.

Well, let's apply the rules of the Double Effect. First of all, the act of removing the fetus is not wrong in itself; the mother expels the fetus at birth and there's no problem, and in a Caesarian section, the fetus is, as Shakespeare says, "untimely ripp'd" from the mother before his natural time

is up, and no one has a problem with this. The evil is in the death *after* the fetus is removed (because he can't survive); so the woman doesn't *have* to choose the death of her fetus in this case.

Second, the act has a good effect; the mother stays alive. And clearly, she chooses the act *in order to* stay alive, and not in order to kill her fetus.

Thirdly, the death of the fetus does not *cause* the mother to stay alive; if the fetus happens to survive the abortion (and after all, some do), then both stay alive, and no evil effect occurs. So it's not *by the fetus's dying* that the mother stays alive.

The only time this rule would be violated is if you had to kill the fetus before removing him. Of course, most actual abortions are performed in such a way that the fetus is killed first and then removed; he's either already had his skin burned off, or he's pulled apart limb from limb, and the pieces removed.

But it's possible to remove the fetus without destroying him first; if in no other way, by an operation that would be analogous to a Caesarian operation. This, of course, is more dangerous and harmful to the *mother* than the usual kind of abortion; but in this case, the death of the fetus is the *result* of the act of removing him, and in the usual abortion, the death is part of the *means* by which the abortion is accomplished. So in the usual abortion, you *would* be choosing to kill the fetus, whereas in the case of the mere removal of the fetus, the death, which happens afterward, need not be part of your choice; it's just an independent side-effect of the act which saves your life.

Fourth, the mother cannot *want* the fetus's death. This can happen, of course. In the case of abortions where the fetus survives and the mother then orders him to be killed, she obviously wants a dead child, not a child that's no longer a threat to her life.

Finally, the only time you can remove a fetus before viability is when the mother's *life* is threatened, because otherwise the evil effect (death) is greater than the evil of not removing him (for example, severe hardship; you're better off alive and suffering than dead).

Just as you can't shoot someone to defend your property or your health, but only your life, you can't remove a fetus for any reason short of this. But since it's possible for all five rules to be fulfilled, there *are* circumstances when it is morally legitimate to remove a fetus.

But since the fetus *is* a person, it must be stressed that *the removal must do a little damage to the fetus as possible*. Granted, he's going to die; but if you can remove him with little pain on his part, then it's wrong to take a more painful way to do this than is necessary.

"But wait a minute," I hear many right-to-lifers counter. "The fetus is innocent and doesn't deserve to die. This is different from an attacker, who is not an innocent person and so deserves to die."

This is a fallacy, on several counts. First of all, you don't have a right to life because you're a *virtuous* human being, you have it by the mere fact that you're human; and so you don't lose it by your evil act. So even a person attacking my life has the right to life. The morality of defending myself does not depend on whether he's innocent or guilty, but

on the mere fact that he is a human being: *that's* his title to the right to life.

Secondly, it's absurd to say that I can't defend myself against an attack before I've examined my attacker and decided whether he's doing this deliberately or whether he's insane or attacking my life by accident, without even being aware that he's doing so. The *fact* is that he's attacking my life; and I can block the attack whether he's formally innocent or guilty. He's *materially* an aggressor threatening my life, even if he's not consciously making a *choice* to do it. So, for instance, if someone loses control of his car and it's going to kill me, I can save my life even if it involves the fact that he will die.

And in the case where the mother will die before the fetus reaches viability, then clearly the presence of the fetus is in fact an attack on her life, and his innocence is irrelevant.

So yes, there's one circumstance in which a mother can remove her fetus, even if the fetus will die as a result. If you want to call this an "abortion," then there are times—very restricted times—when a mother can have an abortion—but a very restricted type of abortion.

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Can we “pull the plug” on a dying person?

Let's look at the other end of life now, and see if the Principle of the Double Effect can apply here. We all know that modern technology can keep various systems of the body functioning, and the question before us is whether we have to use these means to keep a person alive. Are we choosing the death of the person by removing his life support? We're not talking here about the case I mentioned earlier, when there's reason to believe that the person is already dead. What about someone who's definitely alive, but needs life support to go on?

It should be obvious here that you can't *actually kill* a person, even if he's dying, to put him out of his misery; because that is clearly to choose his death as a means of saving him pain. It's his *death* that makes the pain stop in this case, and that violates the third rule of the Double Effect.

The real issue here is whether there's a moral difference between killing someone and “letting him die,” as the

saying is. If you remove the life support, then he's going to die a lot faster than if you kept him on it; and so are you really *letting* him die, or just using this as a way of justifying your conscience in killing him? It would seem that at least *in effect* you're killing him, since you're doing something that will hasten his death. So the only way you could justify this, if at all, would be by using the Double Effect.

And you can't weasel out that by removing the life support, you're not *doing anything*, on the grounds that you're just *not* continuing to supply him the means he happens to need to live. That's sophistry. After all, we all need *some* kind of life support every moment of our lives; deprive a person of food or breathable air, and he'll die. To deprive a person of air or food is clearly in effect to kill him. And so, morally speaking, *sometimes choosing not to do something is the moral equivalent of actively choosing the opposite*. A mother, for instance, who refuses to feed her infant might just as well choke him to death; she isn't "letting him die." In a case like this, that's obvious.

But notice that it's not perfectly simple, since you're not just supplying food and water, which everyone needs; you're doing something to *make* him ingest the food or feeding him intravenously—or you're forcing oxygen into his lungs, when he can't breathe normally, you're making his kidneys function when they won't by themselves, and so on. What about things like this? Are you always *deciding* in favor of his death when you choose to stop these extremely expensive, extremely painful measures that seem to be torturing him just to keep him alive?

The usual distinction here is that one must not with-

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hold the “ordinary” means of life, but the “extraordinary” ones can be withheld without choosing the death, when not withholding these means is as bad as withholding them; in other words, when the Double Effect applies.

But this distinction is itself a bit simplistic. Most of the “ordinary” means we use for staying alive involve some pretty sophisticated technology: the water we drink is processed in various ways and brought to us by a complicated system of pumps and pipes. Most of the food we eat is raised by farmers who use scientific principles to grow it; it’s processed by others; it’s sold in supermarkets with fancy cash registers and accounting systems that you have to go through before you get it; and of course in most cases, it’s cooked, and this can be a very elaborate procedure. Ask Julia Child.

So the distinction between “ordinary” and “extraordinary” can’t mean “natural” as opposed to “technologically sophisticated.” So we have to dig a little deeper. The answer, actually, will clarify itself if we go through the five rules of the Double Effect.

First, is the act of removing the life support evil in itself? No, because if the person didn’t need it and happened to be attached to it for some reason, then taking it from him would be no problem. Even an act of withholding the “ordinary” means of life support is not in itself wrong, if it does no damage to the person. You can punish Johnny by making him go without dinner, as long as you don’t do it often enough that his health is harmed. In the case of the dying person, it’s the *effect*, the death, that is the evil here; and that happens later—sometimes minutes later, some-

times days or weeks.

Secondly, is there a good effect of removing the life support? There's obviously *some* good effect; the machines are freed up to use for someone else, the patient himself has less prolonged pain than otherwise; his family is saved the expense of keeping him on the system, and so on.

Third, is his *death* the means by which these good effects are achieved? This rule, as I said, is what forbids killing a person with a morphine overdose to put him out of his misery. But isn't this also the case with removing life support? The suffering and expense and so on also end at his death.

But a distinction has to be made here. The supposition is that the person can't survive without the life support; why else would he be on it? So what you're talking about is *a person who is in the process of dying*. He can be kept alive with life support, but his body is actually "trying to die," so to speak.

In this case, the decision doesn't have to be between his *death* and his *life*, but *when* he's going to die—which means that the decision is not necessarily "I choose to have him live a painful life" or "I choose his death." You choose between a painful, prolonged life and a less painful, shortened one. Put it this way: your choice is whether or not to *postpone* his death.

Then when you remove the life support, you let his body do what it is trying to do; and *this* is what is meant by "letting a person die."

But in the case of the morphine overdose, if you ask yourself, "Suppose he doesn't die from it, what then?"

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Then he'll continue suffering, so the good effect isn't achieved. So it's the *death itself* that brings about the good effect. In the second case, however, suppose you remove the life support. Will he necessarily die? No. So the evil effect might not occur; and in fact, it's *possible* that he might be cured and the suffering end.

The point is that in this second case, even though ordinarily his death *does* end his suffering, it isn't *necessarily connected* with it; and so it's not necessary to choose the death itself if you remove the life support.

The rule of thumb for assuring yourself that you're letting the person die and not killing him is this: If the person dies from whatever he was dying from in the first place, you're letting him die; if he dies from what you did to him, you're killing him.

So if you refuse to give food or water to a person dying of cancer, then he dies of starvation or thirst; and so it's *by dying of starvation* that he escapes the agony of dying from cancer; and the death is a means, and you've killed him.

Of course, in the case where the person's disease involves the digestive system itself, it can sometimes be legitimate to withhold food. If a person's body is rejecting food (and he's dying *because* his body is rejecting food), you can keep him alive sometimes by forcing nutrition directly into his stomach. If you withhold *this* type of “feeding” in this case, the person dies of whatever was killing him, which involved his body's refusing food; and so you're letting him die and not killing him by starvation. That is, if the body is dying by starving itself and you can forcibly prevent it from doing so, then stopping the force

is letting nature take its course. In other cases, however, withholding hydration or nutrition is to choose the person's death.

Applying the fourth rule of the Double Effect, you cannot *want* the person to die, using the peculiar circumstances as an excuse to get rid of him. The death has to be something that you would prefer not to happen, but you can't do anything about.

And the reason "you can't do anything about it" deals with the fifth rule: It must be at least as bad *not* to withhold the life support as to withhold it. In the case where the person is dying anyway, and the only life he has to live on the life support is one of pain, torture, and agony, then prolonging this kind of life gives him no benefit.

If he is living a happy, productive life on the life support—a life which is better prolonged and worse when shortened, then clearly this rule is violated, and you would have to keep him on the life support. You can see that if you "unplugged" him in this case, you would be in effect killing him, because no good purpose would offset the evil of the shortening of his life.

But if the prolonged life is significantly worse than the shortened one, you can choose the shorter life, and remove the life support without choosing his death.

Now then, there is actually a case where you can actively *do* something that will kill a person, using the Double Effect. You can in certain circumstances give a person a lethal dose of morphine without choosing his death.

Suppose a person is in excruciating pain, and the only dosage of morphine that will make it bearable is one that

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will kill him. Is giving him the dose he needs to stop the pain (which will kill him) the same as the ordinary case of killing a person by a morphine overdose?

In the ordinary situation, the person does not need so heavy a dose to relieve his pain; and so if you give him a lethal dose, the *only* effect of that much morphine is the person's death, and so you've chosen to kill him.

But in this particular case the lethal dose has *two* effects: (1) it is the smallest amount that will make the pain bearable, and (2) it will result in his death.

This is a different application of the Double Effect. First, giving the dose is not in itself wrong, because if the person could stand it, then there'd be no problem; it's the *effect*, the death, that is evil. Second, there is a good effect in this case; the pain is stopped. Third, it is not *by dying* that the pain stops, because the *morphine* is what does this. If the person should happen to be able to stand the dosage, then the good effect would occur and the evil one would not; so the death does not *produce* the good effect, but is a side-effect of the act which produces it. You are giving him the “correct dose” to stop the pain, which has the *independent* effect of his death, without also choosing the death.

As should be obvious here, your *sole* intention for giving the dose of morphine has to be the relief of the pain, and you would be overjoyed if he were able to survive it, and continue living without pain.

Finally, the effect of continuing in pain has to be at least as bad as the effect of dying. Of course, it's not. But does this mean that a lethal dose can't ever be given?

Sometimes it can. In the case where the person is dying anyway, the choice again is between a life of pain and a life without pain—because if you don't give the person the morphine, you're not saving his life, because whatever is causing the pain is also killing him. So it's the shorter, painless life rather than the more prolonged, agonizing one which is what you're choosing, not a painful life or death.

It might even be that the person is not actually dying of something, but whatever is giving him the pain will not go away for the rest of his life; and this case is essentially the same as the one I just mentioned. The choice is between a (long) life of pain and a (short) life without it; but the choice is life, not death.

In the case, however, where the pain, though excruciating, is going to end, then you can't give a lethal dose to get rid of it; you would have to give the greatest *non-lethal* dose to *lessen* the pain as much as possible for the duration of the illness, and the person would have to use the Double Effect and permit the lessened pain rather than choose his death.

Notice that in all these cases, it is the choice not to postpone the death that keeps the death itself out of the choice. That makes the operative question "What kind of life is he going to be living in the interval before he dies?"

Notice that it is *only in this case* that the quality of life matters; in the case where the choice is between life or death, the quality of life is irrelevant. You never have the right to choose the death of any person, however much he might be better off if he's dead—because it's inconsistent with you as a person to make a living person stop living,

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since life’s nature is to go on indefinitely. As the instinct of self-preservation shows, *life’s nature is to prolong itself as long as possible*.

Well, but what difference do all these fine distinctions make? If the person is better off dead, then why get into all of these complications? Why not go ahead and kill him—humanely, of course?

This is just a variation on the question, “Why shouldn’t I do what’s wrong if I and everyone around me will be better off for it?” That’s a very serious issue, and I just want to raise it here, and discuss it in the last chapter. Notice that, unfortunately, there are many women who decide to have abortions just on these grounds. They know they’re killing their children; but if they don’t, then they can’t achieve their ambitions, and the children will only suffer by being brought up by a mother who hates them for destroying her life. So isn’t it better to do this, and save everybody concerned pain and suffering?

No it’s not. But why it’s not will have to wait. Just don’t dismiss it as something too disgusting even to consider.

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Can the Double Effect justify killing abortion providers?

The answer is No—which is probably what you thought anyway. But there are some people who say, “Well, I can kill somebody in self-defense, or even in defense of someone else’s life. So why can’t I kill an abortion provider? I’m defending the fetus against being killed; and whether the provider realizes it or not, he’s killing a person, whose life has a right to be defended.”

Remember the rule here, however, which is the rule for all moral actions: *You may never choose to do anything evil, even for a good purpose.*

Again, this is the old saying, “The end never justifies the means.” You can’t make a choice good by saying that your intention is good, because the choice includes more than just the goal you want to achieve; it also contains the act you choose to perform to achieve it, and the consequences of that act, even if they are consequences that you’d rather not happen. Thus, for instance, if you choose to begin an exercise program, you know that for a while you’re going

to get tired, and your muscles are going to be sore. You have to be *willing* for this to happen if you choose the program, because, even if you don't want it, you know it's going to happen—and to be willing for something to happen is identical with to will for it to happen. The point is that what you choose is a *concrete* act, with all of its ramifications, not just the abstract part of it you want.

Actually, if we say that the end justifies the means, then for practical purposes anything goes in morality. No one ever chooses anything except that he thinks he's going to be better off somehow for it—and so *every* choice has a good purpose. If the good purpose alone made the choice good, then an immoral choice would be in practice impossible.

And, of course, when people choose what they know is an evil means for a good end, the end they want is generally much better than the evil—which to their mind, pales in comparison. The terrorists who destroyed the World Trade Center clearly thought that the promotion of Islam (and its protection from the “evil influence of the United States”) was a good that far outweighed the loss of a few thousand American lives—and even their own. The worse the evil, the greater the good, ordinarily speaking, that is supposed to justify it. But this is all sophistry. You may never *choose* an evil, however insignificant it may seem to you, for any good purpose, however good it may seem.

The real reason for this goes quite deep; and we should discuss it, now that we have become a bit sophisticated in our thinking. It turns out that good and evil, benefit and

harm, are not really on the same scale, so that one can offset the other. When we talk of “good” in the sense, not of morally good, but of *benefit* (what is called “ontological goodness”), we’re talking about *what makes me more the kind of person I want to be*. That is, our future self is free and in our control, to a great extent. When we choose, we pick out a possible self that we find desirable, for some reason, and work to make that possible self a reality. Thus, when I decide to go to college, I have picked out the self that has a higher education; and so I go and study and finally graduate, and I am, in this respect, what I have chosen to be. If I fail to graduate, then I have to give up this possibility, and can’t be what I *want* to be; but in reality, I’m no worse off from the way I am now. Failing to be what we want to be is *frustration* or *disappointment*. It isn’t exactly suffering, however acute it may be.

The reason will be clear if we look at harm, or “evil” in the sense of “damage” (“ontological evil”). We all have certain characteristics that we share as human beings, that we’re given simply by our genetic structure: our human nature. Thus, every human being can talk, can see, can hear, can walk, can smile and laugh, can think, and so on.

Wait a minute. You say “every” human being? What about blind people? Well, blind people *can* see, insofar as they are human—and the proof of this is that sometimes blindness gets cured, which proves that, even while the person couldn’t see in the practical sense, he *could* see in this fundamental sense. You can’t “cure the blindness” of a desk; it’s not the kind of thing that could ever see. But humans can be cured; and what this means is that, even if

the blindness of a human being is not curable *in practice*, it is curable *in principle*, simply because the person is human.

Or take the case of deafness. Rush Limbaugh lost his hearing completely, and his hearing loss was irreversible; there was no cure that would restore his ears to health. So what happened? He had a cochlear implant, a technological gizmo with computer chips and so on, put into his ear—and lo and behold! He can hear, not because his deafness was “cured” in any normal sense, but because there was a technological work-around that enabled him to hear without curing the disease that deafened him. And why could this happen? Because, as human, he could hear.

So Yes, every human being can see, and hear, and talk, and pick up things, and walk, and so on.

What has all this to do with the “evil” of harm? Simply that when we *lack* a characteristic that *belongs to us by nature*, then we are in the contradictory position of being a person-who-can-(in principle)-do-X and a person-who-cannot-(in practice)-do-X. We both can and can’t do the same thing.

So *ontological evil* or *harm* is the *lack* of something *that we could be expected to have simply because of our nature as human*. What it amounts to is that we are “less than human,” or are in a kind of “inhuman” situation, while still staying alive and being human. I mentioned that there are different levels or degrees of being human, since some humans are more gifted than others. People suffering evil are *so* limited that they are below the *norm* (the “zero,” so

to speak) for human beings as such, and so are in a state of “negative humanity” in some respect. (We know they’re human beings, of course, because they’re above zero in most other respects. If they were “below zero” in *all* respects, they’d be dead.)

Anyhow, this is the kind of thing that we *suffer* over, as opposed to being frustrated or disappointed. Granted, harm *also* involves a good deal of frustration, because a person who is in this situation obviously also *wants* to do a number of human things that his handicap prevents him from doing. But the point is that it’s the *handicap itself* that is the object of our suffering, because it makes us less than human without actually being other than human. We are *more limited* in our humanity than a human being *ought* to be; there’s something *wrong* with this.

Now then, the reason benefit and harm can’t be measured on the same scale is that *no amount of benefit can actually remove the evil*. If you are blinded, no amount of “compensation” can restore your sight. Giving you a hundred thousand dollars allows you to do a lot of *other* things that you might have wanted to do but couldn’t; but it doesn’t get rid of the evil. So just as if you fail to graduate from college, this is disappointing but not evil, because you’re still above the “zero” of humanity; so if you are suffering evil, a benefit does not remove the suffering.

Granted, of course, you may have the evil cured or at least, like Rush Limbaugh, have found a work-around so that for practical purposes you don’t have it any more. What I was talking about in the previous paragraph was supposing that some benefit *offset* the harm, in the sense

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that it brought the person back up to zero, as far as his humanity goes. That's what's wrong with evil, and why we suffer about it.

So now you can see that this distinction is the basic reason why a good purpose can't justify an evil action. The evil, in one sense, is irremediable; and what right have you to make someone, in any respect, less than human just because you want to be a particular *type* of human being? It doesn't make sense.

With that out of the way, let's look at killing someone in self-defense, and see if it can be justified by the Double Effect, keeping the actual harm to the attacker out of the choice itself. Remember, with the Double Effect, you're *doing* something which will actually do harm, but you're not *choosing* the harm; you're choosing *to avoid the greater harm* that would happen if you didn't choose the act. So your will is *away* from evil (that's why the fifth rule is couched negatively; it isn't that the good "overbalances" the evil effect; it's that the *lack* of performing the act is *worse*.)

We went through this before, but I want to stress a point that is relevant to the question of killing abortion providers. First of all, then, the act of pulling the trigger on the gun (or throwing the hand grenade, or whatever) is innocent in itself. As I said, if the gun were loaded with blanks, or the grenade were a dud, no harm would ensue to the attacker. So even if the gun is loaded or the grenade is armed, the act you actually perform is the same, and so *in itself* it's all right.

But here is where we have to be careful. Supposing that the gun *is* loaded, the *only* time you can pull the trigger is *if the attack has actually started*. You can't kill someone to "defend yourself" against his verbal threat on your life, because he might not carry it out; and then you would be *choosing his death* as a means to keep yourself secure.

In other words, *all* you are morally allowed to choose in this case is *to block the attack*. You can't choose *any* harm to your attacker without choosing evil. Notice also that *if anything short of killing the person is in practice possible, then you have to choose that rather than the act which will kill him*. Otherwise, you have *also* chosen to kill the attacker, since you could have blocked the attack without doing that much damage.

As to the second rule, the act *does* have a good effect; you survive. So this is fulfilled.

The point, however, is in the third rule, that the *death* cannot bring about your survival. Shooting the person kills the person, but shooting also stops the attack. And notice that it's the *shooting* that stops the attack, not necessarily the death. Ordinarily, the person does not die instantly; and sometimes he does not die until weeks later; but you are no longer under attack once he feels the bullet and stops or falls. It's even possible, as I said in the previous discussion of this, that you might miss, and he would stop attacking you because he's afraid that if he keeps up, the next shot will get him; in that case, the evil effect hasn't happened at all, and the good effect has. So the good effect of stopping the attack clearly does not depend on the evil effect, and so this rule is fulfilled.

And of course, as I stressed earlier, the harm to the attacker cannot be *any part* of your motive; you must *solely* want to stop the attack. I need say no more on this.

And, for the fifth rule, to let the person attack you means that you will die. Obviously, you can't kill someone to block an attack on anything short of your life, because then the damage you inflict is greater than the damage you are trying to prevent, and on balance, your choice is more evil than good.

Now then, what of "defending the fetus" by killing the abortion provider? Clearly, the only conceivable time you could do this is when the provider is actually *in the act* of performing an abortion, because it's *then* that he's actually attacking the life of the fetus; and only in this situation would stopping him by something that killed him be even in theory justifiable.

Any action you would take to kill the abortionist beforehand can't be justified on the grounds that "all I was trying to do was block an attack on a person," because at the time you murdered the man, he wasn't actually engaged in attacking anyone (even if he was on his way to the clinic); and so you would have to choose his death as a *means* of saving the fetuses he would kill in the future. But to choose his death makes you no different from him; both of you choose to kill human beings. The fact that he chooses to kill many and you're killing only one is irrelevant. Evil is evil, no matter if other evils happen to be greater.

But in the case of actually warding off an attack in

progress against a fetus, which theoretically *might* seem to be justifiable as analogous to self-defense, you'd actually have to be in the operating room itself; but realistically speaking, you undoubtedly could stop the abortion without actually resorting to something that would kill the abortionist.

And even if you couldn't—even in this extremely far-fetched situation—you *still* would not have actually protected the life of the fetus, if the mother wants to have an abortion, because the only thing that will happen is that she will find some other place where nuisances like you aren't there to interfere with her wishes. So even in this case, the death of the abortionist would outweigh the *possible* survival of the fetus. If the fetus is going to die anyway, what have you gained by killing this particular killer?

But there is more to it even than this. There is *another* bad side-effect to *any* act of damage to abortionists and abortion clinics: the bad publicity that only hardens those on the other side, making them think that right-to-lifers are crazed fanatics who will stop at nothing and commit mayhem just so that their view of morality will prevail. People will not think of what you're doing as protecting the particular fetuses you claim to be defending; they'll see it as trying to destroy those who don't agree with you.

So instead of *protecting* fetuses, in fact you're actually *putting more of them in danger*, by making it more and more difficult for those who have not really made up their minds on the issue to see the right-to-life side of the story. Just as you don't convince someone of your position by

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slapping his face, you don't convince the pro-choice side by doing damage to abortion clinics. Just the opposite; you convince them that *you* are a menace that should be put behind bars. (And in fact, in this respect, they're right.) And while you're at it, they tar all Right-to-lifers with the same brush.

And since this last evil effect is always far worse than the evil of the loss of the life that was protected by your action, the action of doing physical damage to abortionists and clinics and so on always is more evil than good; and so it is never legitimate, even in the extremely far-fetched situation in which you're in the abortion chamber and are trying to stop the abortionist.

A long discussion to come to an obvious conclusion. But now you know your way through all the twists and turns people can use to try to justify mayhem against abortionists. Abortion is a great evil; but choosing evil to prevent evil is still choosing evil.

What about the death penalty?

Now that we've had some practice using the tools for threading our way through moral labyrinths, let us take a look at the complicated issue of the death penalty. Is it ever justifiable? The answer is not a perfectly straightforward one.

First of all, let me take note of the fact that most—practically all, in fact—of the usual arguments against the death penalty are arguments against enforcing *any* penalty for violation of a law.

For instance, it is pointed out that the death penalty's application is discriminatory; more blacks receive it than whites. But this is also true of most violent crimes; the percentage of blacks in prison is far out of proportion to their percentage in the general population.

This has two interconnected causes that don't necessarily have anything to do with hating people just because of the color of their skin. Blacks tend to commit a disproportionately high number of violent crimes like murder (partly because of their repression by society, and partly because

they are disproportionately in the disadvantaged class); and because they do so, and because their social situation gives them more reason for being violent, young black men especially are *perceived* to be a greater menace to society (by both blacks and whites) than white people are. And the result is that juries are more prone to believe that a black youth committed a crime than that he didn't. Therefore, more of them are found guilty. This is not going to change until behavior among the blacks and perceptions about it change. But it's no reason for saying that laws shouldn't be enforced. Society must be protected.

Another argument against the death penalty is that it's irrevocable. Once you execute someone, you can't resurrect him if you find out you've made a mistake. But this applies also to any penalty. Put someone in prison for twenty years, and then discover that you jailed him wrongly, and release him—and you've corrected the situation? What do you say when he tells you, "Give me back the twenty years of my life that you took from me! Give me back the peace I would have had and take away the torment I went through all these years!"

As I said, no amount of benefit can actually undo any harm that has been committed. So *no* penalty is actually revocable; even if you revoke it, the damage has been done. Granted, you may not do *as much* damage as you were originally intending to do; but the fact is that once you damage a person, you've done it and can't undo it. *Any* penalty is in this sense "final." And so the fact that you can't revoke the death penalty is no argument in itself that the death penalty is wrong.

Some arguments *for* the death penalty are not, I think, really valid either. In the middle ages it was thought that the government, instituted by God for the well-being of people, had the power, given by God, of life or death over individuals, in order to protect the “common good.” Hence, if the common good could be preserved at the expense of a person’s death, then the government could choose to kill the person. It would not be violating the person’s “right to life,” because the person *had* no right to life against the government, just as we don’t have any right to life against the God who made us.

There aren’t too many people nowadays who think this way; that the government sort of “owns” us and can do what it pleases with us, and we have no rights against the government itself. That, in fact, was one of the things that we as Americans rebelled against when we formed our nation. We asserted the principle that our rights did not come from the government, and that government had to respect them.

And the view was not even very cogent back then. If I had no rights against the government, then why did the ethicists of that time assert that *only* to protect itself—that is, to prevent greater damage to the society than the harm done by execution—could the government actually kill someone? In other words, the government could not do just what it pleased to a person. But why, if he had no rights against it? No, it sounds very much that in spite of their theory, the moralists of the time believed that the only real justification for punishment had to come from the Double Effect somehow, keeping the harm to the criminal

out of the choice. And this, of course, implies that the criminal *does* have rights against the government. So it looks as if that line of reasoning doesn't work.

As to the pro-death penalty argument that the criminal has "forfeited his right to life" by his crime, the problem with this is that you have a right to life because you *are in fact a human being*, not because you're a *virtuous* human being. Human beings are living beings, and it's inconsistent with such a being to choose to make him not live—no matter what he does; because no matter what he does, he's still human. Even if he does an "inhuman" act, all that means is that he's acted inconsistently with his humanity, not that he has turned into another species. Just as I can't make myself a dog by barking like a dog, I can't take off my humanity by acting inconsistently with it. And if I'm human, I have all my human rights.

So if the death penalty—or any penalty—is to be justifiable at all, it has to be justifiable on the basis of the Double Effect, keeping the harm done to the perpetrator out of the choice, and *only* choosing the protection of society.

Laws are passed, of course, to motivate people not to perform acts that are damaging to society: either directly to the people in it, or to their necessary interactions with each other, which indirectly damages the people. But since people can find it advantageous to perform such acts (if you steal someone else's money, you've got a lot more than you had before), the law has to *add a motive* that *makes it disadvantageous* to perform the act.

This is called a "sanction," which is a threat of punish-

ment. “If you steal X amount of money, then you will go to prison for X number of years.” Obviously, for the sanction to work, it must be *sufficient* to make it *objectively disadvantageous* to disobey the law. (There are other requirements, but this is not a course in legal ethics, and we can ignore them.) If it’s less than sufficient, then people will disobey the law, and there might as well be no law at all.

Notice that, in giving a motive, you presume you’re dealing with someone who’s *rational*: who weighs the advantages and disadvantages of what he’s going to do, and takes the more advantageous course of action. A threat of punishment will not motivate someone who simply does not care about what happens to him, or someone who’s insane, or someone who just doesn’t know where his advantage lies. All these people are “outside the law,” in some sense, because the threat of punishment is meaningless to them. With them, it doesn’t matter how great a punishment you threaten, you won’t change their behavior by it.

Fortunately, however, by far the vast majority of people are rational; and so society can get by with laws and their sanctions. The laws are obeyed “practically all the time,” and society can function. (It deals with the irrational people by saying, “Well, they *ought* to have considered the threat and not done the act, and so we’ll protect ourselves against them by punishing them too. It doesn’t deter future irrational people, of course, but it gets rid of the menace.)

There’s a fly in the ointment, however. If people for

some reason find out that a given law has been violated and the punishment was not in fact carried out, then rational people see that *in practice* the threat is no threat, and so the violations of the law begin to be widespread. That is, *a sanction that is not enforced becomes insufficient* to motivate obedience, and the law ceases to exist, for practical purposes.

So where are we? Human beings can't live even minimally human lives without society—because we're not completely self-sufficient. But society can't exist without laws, because without them people would violate others' rights with impunity. And laws can't exist without also involving a threat of punishment. But a threat of punishment that isn't carried out is in fact no threat at all. So without the ability to carry out the threat of punishment, there can be no laws, and without laws, society can't function; and without society, human beings in practice can't live minimally human lives. So the ability for government to carry out the threats implied in the laws—the ability to actually punish criminals—is necessary for human beings to live human lives.

The problem comes, however, in how you can *morally* carry out these punishments; because a punishment is always some *harm* done to the perpetrator; and harm by definition violates some human right that the person has. Why would he be motivated if it weren't to avoid damage to himself? But no human being—even those representing government—can *choose* damage to another person. That's why police brutality, for instance, is wrong; it's clear that the brutal cop wants to harm the perpetrator.

Well, you might say, the perpetrator asked for it himself when he chose to violate the law. À la Red Skelton's "mean wittle kid," "If I dood it, I get a wippin'—I dood it!" Meaning of course, "I choose the act, and the 'wippin' along with it." But the fact that the person *asks* to have his right violated doesn't take his right away, because in fact you can't give up your human rights, for the simple reason that you can't give up your humanity. So even though he asked for it, he still has the right not to be harmed, and so choosing the harm is still choosing evil.

Well, you say, so what? You're choosing to protect society. It's society's self-defense. But not so fast. When you shoot someone in self-defense, you can legitimately say, "*All* I was trying to do was block the attack; I wasn't also trying to kill him." The death was an unfortunate side-effect, completely unchosen, even though you knew it would happen. You can't punish someone who's already done you harm and justify it by saying that "I was only trying to block his attack." The attack is over.

And here's the problem with punishing crime. Granted, you issued the threat with the hope that because of the threat everyone would obey the law and no one would actually suffer the punishment. But once someone *does* violate the law, the damage has already been done. How can your choice to punish him *after the fact* be a choice to "protect" society? And how can it be *only* to protect society and not *also* be the choice to do harm to the perpetrator?

The answer is very subtle, but extremely important. Let us go back to the fact that once people see the law violated with no punishment carried out, the law ceases to have any

effect, and loses its force from then on.

What the government, then, chooses is *to protect the threat of the law in the future* by carrying out the threat for the violation in the past. True, what it's *doing* is punishing the perpetrator for the crime he already committed, but that isn't what it *chooses* if it's moral. It doesn't *want* the harm done to the perpetrator; but *if no attempt is made to punish him*, the law loses its force and is inoperative in the future. So the action has two effects: It punishes (harms) the perpetrator for his past act, and it keeps the threat as a meaningful threat to motivate future potential violators to keep the law.

This lets us now apply the Double Effect. First of all, the *action* by which the attempt is made to enforce the law is all right in itself; it's the resulting harm to the perpetrator that's the problem. That is, if the attempt for some reason fails—say, if you try to put a person into prison and he escapes before he gets there—then the attempt has been made, and the perpetrator is unharmed.

But, following the second rule, there's obviously a good effect here: the threat remains a viable threat, because now people see that you really meant it when you issued it—and so the law stays in force, for the good of society. This is true even if the perpetrator escapes, because it's clear that it's not *your* fault that he got away; if he hadn't been lucky, he would have been punished.

Thirdly, is it the *harm itself* that keeps the law in force? Not exactly, because if, as I just said, the perpetrator escapes by some fluke, it's still clear to rational people that you meant what you said by the threat; they will realize

that they can't count on happy accidents like that to occur, and so they will be motivated to obey the laws. So it's at least *possible* for the good effect to occur without the evil one. And once we see this, we have shown that the good effect does not depend on the *actual harm*, and so it's possible to keep the harm out of the choice.

Now please be clear on this: You are *not* really punishing the offender to "send the message" that you mean it when you threaten punishment if the law is violated. That would be to use the harm as a means to the good effect you want to achieve.

No, what you're doing is more subtle than this; but subtle or not, it's crucial. What you're choosing in punishing the perpetrator is *to avoid* sending the message that it's all right to disobey the law. That is, you know that if you *don't* punish him, you're "sending a message": the message that you don't really care if people violate the law. You must avoid giving people that impression, and so, reluctantly, you carry out the threat against the violator.

Let me give you an example of the difference in attitude I am speaking of. Back in the old days, one year when the Cincinnati Bengals were headed for the Super Bowl, a man named Ross Browner, a very valuable member of the team, was caught doing drugs. Paul Brown, the owner, got up in a news conference and said that he was going fire Browner from the team. "But won't that destroy your chances of making it to the Super Bowl?" a reporter asked him. He answered, "It very well might; but if I don't do this now, then I'll be telling every highly paid member of the team that he can do drugs if he wants." Clearly Paul Brown

didn't want the harm he was doing to his own team, but there was no way to avoid it but to carry out the sanction against doing drugs.

“Well yes, I suppose,” you say, “but really, now, what difference does it make?” Just the difference between doing the right thing for the right reason and violating somebody's rights because you can find an excuse for doing so and you have the power. In practice, the two attitudes look the same; but in principle, there's all the difference in the world. If you actually *choose* the punishment to send the message, then you've chosen the harm; but if you realize that all you want is to avoid sending the opposite message, you don't have to choose the harm you know will also result from your act.

Fourthly, and connected intimately with this, you can't *want* the harm to the perpetrator, however heinous his crime may have been. Even if he's the very dregs of humanity, he's still a human being with all his human rights; and to choose any harm to him is to make an evil choice, however much he might “deserve” it. In other words, *vengeance is never legitimate, even on the part of government*. We are not God; we are other human beings, no different in our humanity from the perpetrator. And to choose his harm, even as a secondary motive, puts us in the same position as the perpetrator himself: that of deliberately deciding to do something inhuman.

Sorry about that, but there it is. Either you're going to be moral or you're not; you can't justify being immoral on the grounds that someone else is immoral too.

Finally, the punishment inflicted can't be worse than the

harm the law is protecting the society from. Now since this harm is the harm that comes from the law's not existing at all, it's the potential damage to society from allowing the sort of action that the law forbids—and this, if the action is widespread and the action is damaging, can be extremely great.

Hence, in general, *Any punishment that is the smallest damage necessary to avoid some action detrimental to society is justifiable as less than the damage to society if the law didn't exist.*

Note, however, that *if there is a lesser punishment that for practical purposes will result in the same level of obedience, the greater punishment becomes illegitimate.* The reason for this is that in choosing to enforce the law, you're supposed to be choosing nothing but the protection of the law, simply permitting the damage to the perpetrator. But if you could protect the law just as well with a lesser punishment, then in choosing the greater one, you're *also* choosing the harm to the perpetrator.

With all of that by way of preliminary, we finally come to the death penalty. The whole crux of the matter is in this last point: Is in fact the death penalty the *least* severe punishment that will motivate people to obey certain laws, whose violation does severe damage to society?

Here, actual statistics aren't much help. It's been said, for instance, that states that have the death penalty don't have a significantly lower rate of capital crimes than states that do. But that's a fallacy, since those states that *have* the death penalty don't carry it out very often, certainly not with the degree of frequency that a rational person would

say, “If I do this and get caught, I’m for practical purposes certain to be killed”—so that when the person chooses the violation of the law, he’s in effect choosing to die. Remember, we’re talking about rational people here, not people who convince themselves they’ll never be caught. *No* state, with the death penalty or without it, has a death penalty that actually functions as a penalty should.

Anyway, the question is really a more theoretical one: “What would be the least punishment that would deter a *rational* person from doing the deed in question?” In other words, is it ever the case that *nothing short of* the death penalty makes it *objectively disadvantageous* to disobey the law? That with any lesser punishment, you’d be better off disobeying the law and taking the punishment?

Reasonable people can differ on this, but like Justice Antonin Scalia, I am inclined to think that imprisonment, even for life, especially in the conditions of modern prisons, is not enough to motivate people who live in certain conditions. I’m not speaking of insane people or fanatics, now; I mean rational people who are looking to their advantage and disadvantage.

Take a person who lives in the slums of our inner cities, and for some reason can’t just move away. The conditions he now faces are absolutely horrible; he’s poor and without enough food, living in filth, without a job, with strife all around him. He’s apt to get shot if he walks out into the street, and so he’s in constant fear. Now suppose he can better himself by killing someone, and he thinks, “Yes, but if I do this, I’ll go to prison for the rest of my life.” What does that mean to him?

It means that he'll be confined, to be sure, but in a prison which is clean, where he has all his meals, where he has an exercise room, television, books, recreation, and so on. Granted, he has the society of no one but prisoners and guards; but is that much worse than the society he's in now?

A case could even be made for saying that objectively he's *better* off in prison than he is on the outside. True, he's not free; but how "free" is he anyway, trapped as he is in the ghetto? But even if he's not better off, is he *significantly* worse off—significantly enough to offset the gain he might have by getting rid of the father who was making his life a living hell, and whose money would have got him out of his miserable situation if he didn't get caught? A rational person might think that it's worth the risk; because even if he loses, he loses very little.

On the other hand, if he says, "If I do this, I'm dead," then how could he argue that he's objectively better off for doing it? If he chose this way, he'd be being irrational.

So Yes, I think the death penalty is sometimes justifiable as the only sufficient punishment that will actually deter certain types of people from committing very heinous crimes; and if so, not to impose it would be *to be willing* to put up with the damage to society that would come from all the crimes that were committed because of the improper enforcement of the law.

The interesting conclusion here is that if this is true, *the death penalty is then a pro-life position*. The reason is this: First, you're not *choosing* the death of the person you execute; just as in shooting someone in self-defense, *all*

you are choosing is the protection of society from the killings that would happen if you refused to enforce the law sufficiently. Secondly, if you *don't* enforce the law sufficiently to motivate obedience, then *you are permitting all the deaths that will result from your insufficient enforcement.*

What I'm saying is that you're saving more lives by imposing the death penalty than lives that are lost by imposing it; and once it's imposed swiftly, justly, and consistently, people will "get the message" and the number of capital crimes will drop drastically.

My concern is that society's sentimental sympathy with those on death row, it's "humaneness and compassion," have made it unable to protect the people in it from the predation of those who have nothing to lose by being put into prison.

You may say, "Well, but if we put them into prison for life, we've removed them from being able to do further damage." True, you've protected society against *that* criminal, but what I'm talking about is all the *other*, rational people who know what it's like on the "inside" and realize that it's not all that horrible, and so have no qualms about committing these crimes? There's nothing to give them a sufficient reason to obey the law. And these laws *must* be obeyed "practically all the time" or society can't function and the people in it can't be safe.

I suppose you *could* argue that life in prison would be a sufficient objective deterrent to capital crimes if prison conditions were once again made so horrible that they would be a fate as bad as death. But if the alternative is in effect to torture a person for the rest of his life or to kill

him, then—always supposing that the harm itself is kept out of the choice—I would contend that the death penalty is more humane.

As I say, reasonable people can differ on this, and I myself have gone back and forth as I have thought the matter through; but upon serious reflection, it seems to me that the death penalty is not only justifiable, it is necessary to protect the lives of the citizens. And that is why I, as a pro-lifer, am not being inconsistent in favoring the death penalty.

Well, but so what?

I have almost been able to hear potential readers saying to me, “Well sure, all this that you’ve said, from beginning to end, is a fine exercise for a classroom, but what difference does it make in the real world? We live in a pluralistic society, after all, and what’s the use of trying to foist moral absolutes on people? And anyway, supposing someone agrees with you in theory, why should he try to put it into practice if he’s only going to suffer and be miserable for it?”

First of all, bosh on your “pluralistic society” and the moral relativism that it’s supposed to imply. Just open your eyes, and you will see that some of the most virulent moral absolutists are those who call themselves “moral relativists.” Try to convince *them* that “intolerance” is okay in some cases, for instance, and see if they don’t shout you down, and possibly jail you for a “hate crime” of some sort. If they’re “tolerant” of all points of view, why aren’t they tolerant of the intolerant?

Besides, no one, as I said earlier, really believes that morality is a purely personal matter—because a person who

does this can't make a rights claim. And notice that it's the "moral relativists" who are loudest in demanding that their rights be respected and enacted into law—which means that anyone who violates what they've legislated as their rights is to be punished—even if he doesn't happen to agree that they *have* them. Some tolerance!

No, the fact is that everyone recognizes that we're human beings, and that no human being should act as if he's not what he is. That's why hypocrisy is universally regarded as the sin of all sins: the pretense that you're not what you really are.

And everyone knows that there are many characteristics of being human which are not up for grabs and are simple questions of fact: that we're living beings, that we do make choices, that we have certain physical traits in common, and so on. The old saying, "How would you like it if someone did that to you?" is enough to show most people that what they're doing is inhuman and therefore ought not to be done. That's what gave the Civil Rights movement its moral push: Dr. King simply showed that what we were doing without realizing it was treating black human beings as if they weren't really human. As soon as we realized this fact, then the moral climate on race changed.

Now granted, there *are* aspects of human reality that are not obvious at a glance—the humanity of the fetus being a case in point—and which it takes some digging to find out about. But when we know what we are, we automatically know that we are somehow forbidden to violate our own reality. And since our reality is qualitatively the same as the reality of other human beings, we can't violate their

reality either. And that, of course, is the reason why rights are universally recognized to exist, even by those who call themselves “moral relativists.” They just have a theory that they themselves don’t follow in practice.

So the question is not that different people have different opinions. Basically, we all have the same one: Never deliberately choose to do anything inhuman. The disputes come in trying to spell out what is objectively meant by “inhuman.”

But there’s a different issue lurking behind all of this: the issue of what difference it all makes. We have all had some experience of being in a situation where we were faced with suffering some very serious harm which we could avoid by doing something wrong. Who hasn’t lied, for instance, to get himself out of a jam?

More to our point, take the case of a single woman who is on her way to the career of her dreams. She needs only to finish college, and then she can fulfill her every wish. Then she finds herself pregnant. True, she should have been careful, but what’s done is done. The question is what does she do now?

Let us say that she has heard the evidence, and knows that if she has an abortion, she is killing her child, and in a very horrible way. But if she *doesn’t* have the abortion, then she can kiss the rest of college and the career she dreams of goodbye. Her whole life suddenly faces her as a disaster—unless she kills her child. She agonizes over it, and then decides to have the abortion.

So what happens to her? Does she go to jail? No. Is she vilified by everyone around her? Far from it. All the pro-

choice people applaud her courageous decision; and practically all the pro-life people pity her and are willing to help her come to terms with the tragic “mistake” she has made. We’re all sinners, after all. Who can cast the first stone?

So the only thing that happens is that she “puts it behind” her, faces up to her guilt feelings, and gets on with her life, launches herself on her career, and winds up, just as she hoped, rich and famous. True, there’s that nagging realization that wakes her up some nights, but which one of us hasn’t done something at some time that we regret and wish we didn’t have to do? After all, do you suppose that if she’d done the *right* thing and given up her career, she’d never wake up nights regretting her decision?

If morality is merely a matter of “feeling good about yourself,” then the world is full of situations where no matter what you do, you’re going to feel bad about yourself. You don’t escape bad feelings by being moral.

So, thinking back to the preceding chapter about laws and their punishments, why would a rational person *not* have an abortion in the circumstances of this woman? True, something very bad has happened: a human being has been killed. But what bad thing has happened to *her*? How is she so much worse off than she would have been if she hadn’t had the abortion?

This is a very serious issue. What it means is that morality is fine in theory, but in practice it is meaningless. We should do what is to our advantage, not the right thing. Of course we should do the right thing as often as possible, because the right thing is the human thing, and

we *are* human beings—but not when it's significantly to our advantage to do the wrong thing. When morality leads to harm, it's bad for us, and when immorality leads to a benefit, it's good for us.

This points up the fact that *right and wrong are not the same as good and bad*. Good and bad deal with benefit and harm: ways in which I can be greater than I am now, or less than the minimum to be expected of a human being. Right and wrong deal with actions that are consistent or inconsistent with the humanity I now possess. It does not follow that if I act consistently with my nature, I will be benefitted, or if I act inconsistently, this will damage my actual reality.

But still, it certainly *ought* to be the case that those who act consistently with what they are—those who aren't hypocrites—should be better off than if they pretended by their actions that they weren't what they really are. Those who act wrongly *ought* to suffer for it, to show them that they can't reach human goals by performing inhuman acts.

The problem is that it doesn't work out that way in practice. If your immoral action prevented you from reaching the goal you wanted to achieve by it, no one would ever choose to be immoral. If the woman facing the decision to have an abortion realized that she would guarantee that she'd never be able to pursue her career if she *had* the abortion, she wouldn't decide to have it. The sad fact of this world is that very often the exact opposite is the case: it is quite often impossible in practice to achieve your goals *unless* you choose something immoral to get there. Nice guys finish last.

So let's abandon morality, then, and act smart. But still, there's something inside us that won't let us do that. At least until we've practiced immorality enough that we've stifled our conscience, there's the nagging feeling, "Well, I got away with it *this* time, but in the long run, it's going to catch up with me." And the reason is that becoming more human by doing what is inhuman is clearly a contradiction: to try to fulfill yourself by pretending that you're *not* yourself shouldn't really lead to fulfillment. How can I be more myself by being untrue to myself? Yet it happens all the time.

It does, so often, ladies and gentlemen; it does. Open your eyes. And it isn't even true that "in the long run" your sins catch up with you. Sometimes they do. But sometimes they don't and sometimes virtuous people suffer for no known reason. That's what the *Book of Job* is all about.

So this is not a modern problem, by any means. People in Old Testament times were often struggling with it. For example, Psalm 73: "I was envious of the arrogant when I saw them prosper though they were wicked. For they are in no pain; their bodies are sound and sleek; they are free from the burdens of mortals, and are not afflicted like the rest of men." And the book of Ecclesiastes essentially says that we should do the right thing, but not because we'll gain anything from it, because what happens to us doesn't depend on whether we're virtuous or not.

The result is that many, many people take the "practical" view and do what is to their advantage; and if it happens to be moral, fine, and if it happens to be immoral,

well, that's just something you have to put up with that doesn't really make any difference in the long run. That's the intelligent way to run your life; do what's best for yourself. Why should you suffer for some abstraction?

But think a minute about the implications of this. What it means is that people like Hitler and Saddam Hussein and Stalin are the models for how we ought to conduct ourselves. After all,

look at Stalin; he was rich, powerful, and had everything he could desire, even the love of vast numbers of his people; and he died in bed, and was mourned by millions. And yet he was responsible for the deaths of millions of his own people in places like Georgia, not to mention the torture of hundreds of millions in the Gulag Archipelago that Solzhenitsn wrote so eloquently about.

This is the kind of thing that a human being *ought* to aspire to be? One who tramples all over anyone who gets in his way? Who doesn't care if hundreds or even millions of others suffer unspeakably, as long as *he* has everything his little heart desires?

This cannot be. It *must* be the case that it's better to be moral than immoral. But there's no evidence that it happens, if for no other reason than that morality deals with our *choices*, and what happens to us in this world is the result of our *actions* and their consequences, which may or may not be what we actually chose.

Then what's the solution? There's only one, ladies and gentlemen. Either life simply doesn't make sense, and the human thing to do (because it's human to try to achieve your goals) is often to do what is inhuman—or life does

make sense, which means that it doesn't end with death, and the life after we die is such that a moral person is always better off than he would have been if he were immoral, no matter how much he might have to suffer in this life for choosing to do the right thing—and an immoral person is always worse off for being immoral, no matter what benefit it may have gained him in this life.

As I say, that's the only thing that can make sense out of life. Many of you already believe it, of course. What I'm saying here is that if you look at life as it actually exists, you can *conclude* to it, just as scientists look at what happens in the broadcast studio and your radio at home and conclude that there is some invisible, odorless, tasteless, totally imperceptible link between the two that they call "radio frequency radiation." Otherwise, your hearing what is being said in the broadcast studio just doesn't make sense.

"Well sure," you say, "it wraps up everything neatly, but like all theories it could be wrong." True. But it *could* be right. And the problem every person faces is that you have to bet one way or the other. You can bet that there's no afterlife, with a real heaven and, yes, a real hell, and live your life accordingly, looking to your advantage and not bothering with morality—or you can bet that there *is* an afterlife, and that hell is real, and you can choose always to do the right thing, no matter whether you suffer in this life or not.

And of course, you can't get through life without making the bet at least in practice, because we all constantly face situations in which we have to choose between being moral or immoral. So which will it be? You pays your

money and you takes your choice.

And don't be bamboozled by Pascal's claim that if you bet that there's an afterlife, you have everything to gain if you're right and nothing to lose if you're wrong, and if you bet the other way, you have everything to lose if you're wrong and nothing to gain if you're right. It's not that simple.

People who are always moral have a great deal to lose if they're wrong and there's no afterlife: all the advantages they could have had if they were willing to lie, cheat, steal, and even kill to get them. So if they bet wrong, they bring on themselves a life of misery and suffering, for nothing except the meager satisfaction that they never chose to violate their humanity. They're often not even admired by those around them, because they look like complete fools—and there's no reward for their virtue. Of course, if they bet right, they have heaven, whatever that is, that more than compensates them for any disadvantage they had in getting there.

And on the other side, people who bet that there's no afterlife can get all kinds of advantages in this life that would be closed to them if they were moral. And if they're right and life ends in nothingness at death, then they've made the best that can be made of this one chance we have to go through here (never mind the damage they've caused to others). But if they're wrong, then this means that what faces them after they die is something that makes them worse off than *any* suffering they avoided or could have avoided by their immorality.

So which is it? Does it make sense for you as a human

being to act in a human way—and hope that there’s a reward for this after you die that will make you better off than if you had been immoral, or does it make sense for you to act in inhuman way as long as it gets you where you want to go, hoping that there’s *no* life after death to show you what a fool you really were?

It’s up to you.