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## On Abortion and Defining a ‘Person’

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*The Stone is featuring occasional posts by Gary Gutting, a professor of philosophy at the University of Notre Dame, that apply critical thinking to information and events that have appeared in the news.*

The recent referendum in Mississippi showed that many Americans — including many strong opponents of abortion — are [reluctant](#) to treat a fertilized egg as a human person. They are, in particular, unwilling to extend the full protection of our laws against murder to a fertilized egg. This might seem to be just a common sense reaction to an extreme position, but rejecting the personhood position has important consequences for the logic of the abortion debate. (In formulating these logical consequences, I am not taking a position on the morality of abortion. As always, logic can only force a choice between accepting a conclusion and denying the premises from which the conclusion follows.)

The standard critique of abortion asserts that it is murder: the intentional killing of an innocent person. The typical starting point for this critique is the obvious fact that killing a baby right after its birth is murder. What the argument then must show is that, as far as the morality of killing goes, there is no essential difference between the newborn baby and the child at earlier stages of development. Here one approach is to cite more advanced features of the newborn (like consciousness, the capacity to feel pain or the ability to survive outside the womb) that might be thought to give it moral standing. But this limits the case against abortion, since for any such feature, there are stages where the fetus (or, earlier, the embryo) does not have these features.

Accordingly, the case against the morality of *all* abortions, no matter how early, needs to appeal to features of the newborn that are present at *every* stage of development beyond the fertilization of the egg. Here the only plausible feature seems to be *having the DNA characteristic of the human species* (the structure that, in the natural course of things, will lead to the newborn baby).

The problem, however, is that a fertilized egg itself has this DNA. Therefore, if we grant that killing a fertilized egg is not murder, we must also agree that the mere fact that a fetus or embryo possesses human DNA does not show that killing it is murder. It also seems to follow that at least some early-term abortions are not murder, since it's hard to see any moral difference between a fertilized egg and, say, an embryo of two or three weeks.

A possible response is to claim that there is a person with full moral standing only once the fertilized egg has been implanted in the uterus (about five days after fertilization). But why think that implantation confers personhood? The only plausible reason seems to be that an implanted egg is on a natural path that will, if all goes well, lead to a full-term birth. But the same is true of a fertilized egg. So it's hard to see that the potential to develop into a newborn morally differentiates a fertilized egg before and a fertilized egg after implantation.

The basic problem is that, once we give up the claim that a fertilized egg is a human person (has full moral standing), there is no plausible basis for claiming that all further stages of development are human persons. The DNA criterion seems to be the only criterion of being human that applies at every stage from conception to birth. If we agree that it does not apply at the earliest stages of gestation, there is no basis for claiming that every abortion is the killing of an innocent human person.

Those convinced that abortion is murder can, of course, maintain that this entire line of argument merely shows that we must hold that the fertilized egg is a human person: abortion is always wrong and it wouldn't be if the fertilized egg weren't a person. But what the Mississippi referendum showed was that many of those strongly opposed to abortion do not believe this. They were not willing, for example, to forbid aborting pregnancies that result from rape or incest or that are necessary to save the mother's life. Many were also unwilling to charge fertility doctors who destroy frozen embryos with murder or to forbid after-fertilization birth control devices such as I.U.D.'s.

Couldn't proponents of a personhood amendment allow exceptions for such cases? Yes, but this would destroy the logic behind the amendment. It is, for example, obviously wrong to kill a newborn on the grounds that it was conceived through rape or incest. But then, given the rape/incest exception, it is not true that the fetus before birth has the same moral standing as the newborn. There are conditions under which it may be killed and the newborn may not. This contradicts the basic claim that there is a human person present from the time of fertilization through the birth of the baby.

I am not claiming that those who reject the personhood of a fertilized egg have no grounds for opposing abortion. But they cannot consistently claim that all abortions, even at very early stages or in special circumstances, are wrong. They can still regard some (later-term) abortions as the killing of an innocent human person, although, to establish this, they need to provide a criterion for personhood beyond that of having human DNA.

The above analysis does not settle the vexed question of abortion. That would require

answering the question of what makes a person a person. But the analysis does show that those who do not agree that a fertilized egg is a person cannot argue that abortion is wrong because an embryo or fetus has human DNA. To maintain a strong anti-abortion position, they must find some other reason for thinking that abortion is murder.