

Last year in 2019 an organization called "[Secular Pro-Life](#)" posted a partial book review by Clinton Wilcox of [Thinking Critically About Abortion](#). It is over 9000 words, which is very long for a review. (The whole book is around 13,000 words, and Wilcox doesn't review the whole book).

I have been unsure about how to respond to this, but I think the most effective way would be to just add "comments" to it: a "*he says they say but I say about what he says about what they say*" type of response won't work here.

So, with Wilcox's permission I cut and pasted his reviews into a Doc and added comments [here](#). I don't, however, offer any "big picture" or summarizing reflections here, for better or worse: I'll leave it up to any readers to step back and reflect on that, if they want.

I sometimes slightly edit his posts by adding paragraph breaks to paragraphs with multiple topics, to try to make them easier to read.

His initial posts are here: part one is [here](#), part two [here](#), and part three is [here](#).

WEDNESDAY, SEPTEMBER 4, 2019

Why Abortions Are Still Wrong and Should be Illegal (Part One)

<https://blog.secularprolife.org/2019/09/why-abortion-are-still-wrong-and.html>

Nathan Nobis and Kristina Grob recently published a book called *Thinking Critically About Abortion: Why Most Abortions Aren't Wrong & Why All Abortions Should Be Legal*. The book was designed to teach people on both sides of the aisle, pro-life and pro-choice, how to have better conversations on the topic by pointing out bad arguments, showing why they are bad, and then showing better arguments that should be focused on. The authors then expounded what they believe to be better arguments against abortion and argued against them, then used arguments for abortion and used them to show why they believe most abortions are not wrong and why all of them should be legal.

In this article series, I intend to show 1) that the authors' arguments fail to show why most abortions aren't wrong and they all should be legal, 2) they fail to interact with some of the best arguments against abortion, and 3) even in the arguments they do give, they present strawman versions of some of the pro-life arguments they examine, and even then they don't succeed in refuting any of the arguments. Nobis and Grob's book has been made available to read for free on-line [here](#).

Nathan Nobis and Kristina Grob (hereafter NG) have done a service to the abortion debate. I consider any book or article which seeks to advance the discussion on abortion to do a service, but specifically books that help teach critical thinking skills are greatly needed. As such, I commend NG's desire to want to help people think critically on the issue so we stop hearing the bad arguments and focus primarily on the good

ones. Their book is relatively short (being based on an article they wrote together), so it could easily be read in one afternoon.

I want to start out by showing my appreciation to NG for helping elevate the conversation above simple slogans and talking points. It's an enterprise I wholeheartedly endorse and engage in, myself. However, aside from wanting to elevate the conversation on abortion, NG also attempt to show why most abortions are not wrong and why all abortions should be legal. Their book really starts to come apart here because they don't provide compelling arguments for their conclusion and they attack a strawman of some pro-life arguments while not looking at some of the strongest pro-life arguments. I am going to attempt to support these claims by going through their book as briefly as I can.

1. Preface

In the preface of NG's book, they claim their support for abortion rests on less-controversial claims: "adults, children and babies *are* wrong to kill and wrong to kill, fundamentally, *because* they, we, are conscious, aware and have feelings." But this is a seriously controversial claim.

Of course, the claim that adults and children are wrong to kill is pretty uncontroversial, but to claim it's because they are conscious, aware, and have feelings is very controversial. Pro-life people ground a person's right to life in their biological humanity, personhood, and/or underlying rational nature, and pro-life people are not a small subset of humanity. And considering that many philosophers view infanticide as morally permissible, their claim that babies are wrong to kill may also not be as uncontroversial as they think it is (although it should be).

NG go on to claim that even if fetuses have a right to life, it does not entail they have a right to someone else's body. In most cases I would probably agree with that. However, I would argue that there are mitigating factors in pregnancy that do grant the fetus the right to use the woman's body.

So I would define "right to life" as a negative right not to be unjustly killed. Abortion would be an unjust killing of the fetus. Unfortunately NG rely on their own understanding of "right to life" in the debate rather than relying on how pro-life people commonly define that term.

2. Introduction and Defining "Abortion"

NG start off the book proper by trying to find some criterion by which we might want to make an act illegal. They claim that it's not easy to do, but I would disagree with that claim. I think it is easy to do. If we understand that the role of government is to protect the natural rights of its citizens, then that gives us a pretty clear baseline to begin.

Now obviously, not every single act may be cut and dry. It obviously takes some philosophical reflection to determine what our natural rights are and what sorts of acts violate those rights. But this makes the question of abortion an easy one, at least as to the legality of abortion. Does abortion violate the natural rights of the unborn? If the

answer is yes, then abortion, like murder, ought to be illegal. If the answer is no, then abortion ought to be legal since preventing it would plausibly violate the natural rights of the woman who wishes to procure it. While NG didn't come to a clear conclusion on the role of government, they are arguing that abortion should be legal because it is not immoral, and the government does not make moral acts illegal (or at least it does not make illegal acts which are not seriously or extremely immoral). That would be a miscarriage of justice.

So I disagree with their conception of government, and I'm also not convinced by their claim that it is a miscarriage of justice to make acts which are generally moral illegal. For example, Thailand and India recently made commercial surrogacy illegal because too many children were conceived and then abandoned by their biological parents. Now I would argue that commercial surrogacy is highly immoral, but even if you think it to be a moral practice, I don't see how anyone could think Thailand or India to be wrong to outlaw it to protect children from being abandoned. But let's just say NG are correct about this. I'll accept those terms for the sake of examining their arguments.

NG continue on by wanting to define the term "abortion." I agree that it's always a good thing to start off by defining our terms. They present three definitions:

1. An abortion is the *murder* of an unborn *baby* or *child*.
2. An abortion is the intentional *termination* of a fetus to end a pregnancy.
3. An abortion is the intentional *killing* of a fetus to end a pregnancy.

They reject the first two definitions and accept the third as the best.

Definition 1. They reject definition one on the grounds that it is basically question-begging; murder is obviously wrong, so if abortion is murder then it is also obviously wrong. But whether or not abortion is an act of murder is what is up for debate, so calling it murder without arguing for it begs the question at issue. I agree with their assessment here, and so I, too, would reject this first definition as problematic.

However, their discussion about whether or not fetuses count as "babies" or "children" is also problematic, and results in their first real egregious error in the book.

They have three basic arguments against fetuses being babies: 1) The beginnings of something are usually not that thing (they use the examples of a pile of lumber and supplies not being a house and fabric, buttons, and thread not being a shirt); 2) If you do a Google image search for "babies" and "children", and then "fetal development" and "embryonic development", you'll see that babies don't come up for the latter two searches. So clearly they are not the same thing; and 3) If someone says they want a baby, they aren't saying they want a month-old fetus. All three of these arguments have major problems.

Regarding the "beginnings" argument, it's true that lumber and the house it builds are not the same thing and that thread and the shirt are not the same things. But here NG

are confusing the concepts of active with passive potential. It's true that the lumber is not the same thing as the house, but this is because that lumber could become anything. It could become a desk or a bookshelf instead of a house. And even if it becomes a house, there is nothing intrinsic in the lumber that causes the lumber to become a house. It requires an outside builder. Living things are not like artifacts. While artifacts (e.g. the house and the shirt) must be acted upon from the outside to become what it will become, living things don't. A living thing is what it is from the beginning. So a human being is a human being at all stages of its development.

Despite what NG allege, "child" and "baby" are not stages of development. Even if we consider "babies" or "children" to simply be young humans, these encompass several stages of development. Not just the embryo and fetus stage, but also the infant, toddler, adolescent, and teenage (or "young adult") stages of development. So arguing that things are not what they are from the beginning, aside from being mistaken in the case of living things, is also irrelevant to whether or not fetuses count as children. "Baby" and "child" are emotional terms. An adult is still a baby or child to his parents. When someone refers to a baby or a child, they are simply referring to one's offspring, and a human fetus is certainly the offspring of the mother and father who contributed genetic material to the embryo that becomes the fetus.

Regarding the "images" argument, no, a two-year-old toddler will not appear at the top of a fetal development chart. In fact, this argument begs the question by assuming that fetuses and embryos are not children (if they are, then babies and children do, in fact, appear at the top of the chart). What NG seems to mean is that infants and toddlers don't appear at the top of the chart, but why would they? These are later stages in development than the embryo and fetus stages.

Regarding the "I want a baby" argument, this is, in fact, what they are saying. If a woman tells her husband "I want a baby," unless the couple knows they are infertile, she is not saying "let's go to the adoption center and adopt a child." She is telling her husband "I want you to get me pregnant." So no, she is not saying "I want a month-old fetus" any more than she is saying "I want a two-year-old toddler," since toddlers eventually grow out of the toddler stage and get older.

So to sum up, I do agree with NG about rejecting this definition of abortion because it relies on emotional appeals, even though I think their view about what "babies" and "children" are is mistaken.

Definition 2. NG reject definition two because of the word "termination". The word "termination" is not informative so does not work well as a definition of abortion. There is also an issue with calling abortions necessarily "intentional," but I'll touch on that more in my examination of the third definition. To their credit, NG reject this definition because the word "termination" simply means to "end it in some way," which is technically correct as abortion does end the development of the fetus. But it obscures the fact that something is killed in an abortion, which is why there is an ethical debate over it. Not all acts of killing are wrong, so we need to have a discussion over whether or not abortion is an act of wrongful killing or permissible killing. So the definition doesn't work because "termination" is too vague a term. I agree with their rejection of this definition, also.

Definition 3. The third definition is the one NG likes best because, they say, it is “accurate, informative, and morally-neutral.” I agree that it is informative and morally-neutral, but I take issue with it being called accurate.

To the medical community abortions are not necessarily intentional. That’s why they call miscarriages “spontaneous abortions.” A woman who miscarries obviously did not intend to lose the life of her fetus but nevertheless it prematurely ended. This is why I tend to make distinctions between spontaneous abortions, elective abortions, and therapeutic abortions. I think this is a more specific and accurate way to understand abortions, at least if we’re going to keep in line with the medical community’s understanding of abortion.

Now granted, NG did state as a caveat that “spontaneous abortions” are not intentional actions that can be judged morally; they just happen. And this is true, so NG are using “intentional” to indicate that these are abortions specifically caused by the woman and her abortion provider, not accidental cases of embryo or fetus loss. But again, even if this is their intention, it is still not accurate because if miscarriages are a type of abortion (as the medical community considers them), then their definition excludes miscarriages from the set of abortions, which is inaccurate. Plus, as some pro-life people have argued, life-saving abortions are not really abortions at all; they are life-saving medical procedures. This is because they also view abortions as intentional acts (and think the medical community is wrong for considering miscarriages a type of abortion, even spontaneous ones), and since in life-saving abortions the intention is to save the mother’s life, not to kill the embryo or fetus, these life-saving procedures are not actually abortions because the intention is not to kill the fetus to end the pregnancy, it’s to save the mother’s life.

However, NG earlier stated that pro-life people even think abortions can be justified sometimes to save the woman’s life if her life is threatened. NG would have to agree that there is no inconsistency here if they insist on using this definition, as life-saving abortions would not count as abortions under their definition, since life-saving abortions are not “the intentional killing of a fetus to end a pregnancy.” The intention is not to kill the fetus to end the pregnancy; it’s to remove the fetus to save the mother’s life, such as using salpingectomy to resolve an ectopic pregnancy, which avoids directly killing the embryo, although the embryo’s death is an unfortunate foreseen consequence of the procedure.

This is why I tend to define abortion as “*premature termination of a pregnancy with the result of the fetus’ death.*” I think this is a more accurate and informative definition than even NG give, since it covers all the bases. I also think this is what most people tend to have in mind when they actually talk about abortions, even if they’re not quite sure how to articulate it. And this way, if we have a distinction between spontaneous abortion (miscarriage), therapeutic abortion (to save the mother’s life), and elective abortion (a procedure that is not medically indicated to save her life), only elective abortions would be morally problematic. A woman obviously should not be held responsible for a miscarriage beyond her control, nor should a woman be held responsible for a life-saving abortion if her life is in immediate jeopardy. But if her life is not immediately

threatened, then having an abortion for any other reason makes her culpable for the act, even if not as culpable as the abortion practitioner who performs the abortion.

In the next part of this series, I'll respond to NG's chapter on fetal consciousness and facts of fetal development, and their chapter on bad arguments, if it doesn't make the article too lengthy.

Posted by [Clinton Wilcox](#)

at [8:05 AM](#)

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WEDNESDAY, SEPTEMBER 18, 2019

Why Abortions Are Still Wrong and Should be Illegal (Part Two)

I recently began a series looking at a new article/book released by pro-choice philosophers Nathan Nobis and Kristina Grob (hereafter NG). You can read the article [here](#). And if you'd like to read the book before you read my responses to it, you can read it for free on-line [here](#).

3. Fetal Consciousness and Facts About Abortions

In this chapter, NG make the case that what matters morally is when the fetus becomes conscious, aware, able to feel, etc. So they make the claim that when a fetus becomes conscious or aware is the most important information about the development of fetuses.

Of course, one wonders why this information is considered more important than when the fetus was conceived, as if the embryo that eventually becomes the conscious/aware fetus was never conceived, the conscious/aware fetus would never come to be. So it seems like this is, at least, information as important as when the fetus becomes conscious/aware.

NG allege that consciousness likely emerges after the first trimester, at the earliest. To support this statement, they allude to information from the *U.S.*

National Library of Medicine at PubMed.gov, assuming that if you are interested enough you will go search for the information yourself. This is unfortunate as it does not properly justify their claim. It is up to the one making the claim to adequately justify it, not to the one considering your claim to go out on a scavenger hunt to find your information.

But not only is their claim not adequately sourced, a major problem is NG do not actually define what they mean by “consciousness” or “awareness,” nor do they tell us exactly how much is necessary in order for the fetus to matter morally. This is surely an important point, as some philosophers who weigh in on the abortion issue believe that you don't have a sufficient amount until well after birth (e.g. Michael Tooley, Francesca Minerva, Alberto Giubilini, and Peter Singer).

I'm not very interested in debating when, exactly, consciousness, awareness, or feeling develops in fetuses. This is because I reject their personhood framework. So I'm much more interested in refuting their arguments for why they believe consciousness even matters morally in the first place. If their arguments fail, then they have not sufficiently made their case. Needless to say, I think their arguments fail.

The first argument they give is that “concerns about consciousness and feeling in fetuses are most important for *them* because they are fundamentally what's most important for *us*” (italics in original). Consciousness is what enables us to experience good and bad things in life; after all, without a viewpoint, then things can't get any worse for us.

But this argument is specious. It subtly equivocates on the term “important.” We consider consciousness to be important because we are already having conscious experiences; we would not want to lose our consciousness because of these experiences we can value. But when it comes to fetuses, consciousness does not lack value just because they can't *appreciate* these experiences. Consciousness is important for the fetus because without it, the fetus will not be able to properly flourish as a human being. To paraphrase Christopher Kaczor, we don't find it a tragedy when a rock fails to develop consciousness. This is because rocks are not the kinds of things which are oriented toward being conscious. We *do* consider it a tragedy when someone is unable to be conscious because humans *are* the kinds of things which are oriented toward being conscious, so a human needs to have conscious experiences to fully flourish as a human being. NG's argument doesn't work because it trades on the second meaning of “important” in the first case (consciousness is important to fetuses because it enables them to flourish as human beings), and the first meaning of “important” in the second case (consciousness is important for us because it enables us to have good and bad experiences).

Second, they ask us to imagine a human who is born unconscious and lived their entire existence in that unconscious state. That human would have no perceptions or awareness, no relationships, knowledge, etc. From this they conclude that this human never actually *was* — any bad thing that happens to that human's body never actually happened to *them*.

But this argument merely begs the question — why assume that because a human was born permanently comatose that the person never actually existed? Why couldn't their being born comatose *be* a bad thing that happened to the person? In fact, it seems more reasonable to say that a person *has* been harmed by being born permanently unconscious. It doesn't make a whole lot of sense to say that the body has been harmed but no person ever existed there. For whose body has been harmed? The person's, obviously.

Third, they argue that if you died prematurely in some way, or even just went into a permanent comatose or vegetative state, for any undisclosed amount of time and then died, then either option would be bad for you — either dying or entering a permanent comatose state.

I definitely agree with the authors that either situation is bad and neither situation is desirable. In fact, I might even agree for the sake of argument that neither situation is more preferable than the other. [1] This would simply be because if I am permanently unconscious, it would be like I was dead. I wouldn't know either way because in both situations, I permanently lose consciousness.

However, does that mean I cease to be a person in both situations? Certainly if I die, I would cease to be a person. But would I cease to be a person if I enter a permanent coma? That is much more debatable. If your answer is yes, then there would be no reason to keep me alive at all via life support. But if the answer is no, then one should not be so hasty to pull the plug on me.

Doctors are not infallible, and people have been known to come out of comas and even diagnosed persistent vegetative states. So it seems reasonable to keep me alive just in case the doctor's diagnosis about me was wrong, or I might come out of it sometime in the future because something doctors don't understand happened to me (after all, the brain is still one of the least understood organs in the human body). So it seems like NG are dedicated to the proposition that one should pull the plug on me so that I don't take up valuable hospital space or become an unnecessary burden to others rather than keeping me alive since I may actually come out of the coma someday.

Aside from the logical problems with their argument, it is still quite debatable whether brain death counts as actual death, at all. After all, even if a person is brain dead, the person's body can still be kept alive via life support. As bioethicist Maureen L. Condic has shown, "brain death" was proposed as the criterion of death in 1968 by doctors for the purpose of being able to preserve organs for harvesting and transplantation, a criterion of death widely accepted today (though not universally). But a person's true death is not when the heart stops beating or when the brain stops functioning, it's when the person's cells cease being able to function as a unified whole. So if we are going to take a symmetrical view of human life, rather than arguing from the cessation/beginning of consciousness, we should argue from the cessation/beginning of when the person's individual cells start being able to function as a unified whole, and this begins at fertilization.

Finally, they argue that rocks and plants aren't conscious and that's why they lack rights. The fact that embryos and fetuses completely lack minds, as rocks and plants do, is why they lack rights.

Here, NG simply commit a category error fallacy. Rocks and plants are *non-conscious entitites* — embryos and fetuses are *pre-conscious entities*, and this difference matters. Rocks and plants are never conscious (in the way NG want them to be, which is difficult to assess since they never actually define what they mean by consciousness).

However, human fetuses and embryos *will be* conscious — they are on a self-directed path of human development toward being presently conscious. This means that embryos and fetuses do not lack consciousness. In fact, they are conscious entities. They simply lack the necessary organs to be able to immediately exercise their capacity for consciousness. And this matters morally for rights because rights are inherent to us as human beings, and since all of the changes the embryo and fetus undergo are within its internal programming to undergo, none of these changes are substantial changes — in other words, none of these changes change the embryo or fetus from one thing into something else. It remains the same thing throughout all of its changes, a human being.

So as we can see, NG do not adequately make the case for why consciousness matters. In fact, they seem to assume that the person doesn't even exist unless one is able to immediately exercise their consciousness. But they don't argue for this, it is merely assumed, making their personhood case as question-begging as several of the arguments they reject. Perhaps they do argue for this elsewhere in their writings, but as it is germane to the case presented here, it should have been included here, as well.

I have argued that their arguments for the moral relevance of consciousness, awareness, etc., have not succeeded. As such, I will not address their points about why and when most abortions occur, as it's not really relevant to the overall argument.

4. Bad Arguments

In this chapter, NG address several bad arguments. They begin by addressing question-begging arguments and I generally have no issues with this section. I do agree that the pro-life arguments they present beg the question by assuming the immorality of abortion; consequently, they are not arguments that I use.

NG then go on to address common "everyday" arguments, and these bear closer examination. First they address everyday pro-life arguments. Some of the arguments on this list were also on the question-begging list and others I have addressed in my comments above or in the previous part. So I will not address every argument exhaustively here.

Argument: Abortion ends a life. NG's response here is true, as far as it goes. Many things are alive, like mold, bacteria, and mosquitoes. But these are things people generally don't have a problem with killing. So not all acts of killing are wrong. But what NG fail to consider is that few pro-life people oppose abortion simply because it's taking a life.[2] Saying that abortion takes a life is part of a cumulative case for the value of the unborn. It's not simply that the unborn are alive, but that they are living members of the human species. So to address the argument "abortion ends a life" on its own terms is to misrepresent how the argument is usually understood by pro-life people. Therefore it should not be on the bad arguments list, as it is not usually used in the way NG alleges that it is.

So yes, fetuses are *biologically alive*, NG agree, but this fact, alone, does not grant value to the fetus. To be fair, though, NG do end the section by conceding that pro-life people might mean something more, like "morally significant life" or "life with rights," but if that's what pro-life people mean then they should say it since we need to be clear and accurate on this issue. And to this I give wholehearted agreement but pro-life people are not the only ones to fall prey to unclear and/or inaccurate statements. I have engaged many pro-choice college students on college campuses, and even many college students have difficulty articulating why they think abortion is moral or should be legal. Hopefully books like NG's will help to elevate the conversation.

Argument: Abortion kills innocent beings. NG allege that the word "innocence" cannot apply to the unborn because it is a concept that applies

to beings who can do wrong and choose not to. Fetuses are neither innocent nor not innocent. But this is a faulty view of innocent.

Traditionally, children have been seen as innocent because they cannot understand right from wrong. A toddler is innocent of any wrongdoing for this reason, so he is not morally culpable for any acts that he does (such as hitting his sister for no reason). He has to be taught right from wrong. But even the severely mentally handicapped are still seen as innocent of wrongdoing if they do something ordinarily perceived as wrong. In this case, as we're talking about something that would ordinarily be a breach of a person's human rights, i.e. to have their life taken without due process, the argument is the unborn are innocent because they haven't done anything to warrant losing their life. They have not committed a capital crime so they are not deserving of capital punishment for simply existing.

Argument: Abortion hurts women. I generally agree with NG's rejection of this argument, even if I disagree with their individual claims. It's true that this is not a good argument against abortion. All surgeries have elements of risk; if there is nothing morally problematic with abortion then women should be allowed to take on that risk. However, their claim that the medical research shows that abortions are generally not medically dangerous is dubious. Again, they provide no evidence for this claim (although they do cite a source for their claim that racial minorities have increased health inequalities, a claim I'm not interested in debating). The evidence usually relied on for this claim comes from the Centers for Disease Control and there are good reasons to doubt the conclusion of their research (see the article linked [here](#)). How abortion affects women physically and psychologically are issues that deserve further research and study, from scientists who are objective and not setting out to bias the research.

Argument: The Bible Says Abortion is Wrong. I generally agree with the conclusion here. I reject this argument, generally, because one must first accept God exists and the Bible is God's divine word in order for this argument to have traction. So it's not always a bad argument; it could be helpful when discussing abortion with a pro-choice Christian. But when discussing abortion with a pro-choice atheist or person of a different religious faith, I don't use the Bible.

There are reasons to doubt NG's handling of the Bible passages in their book. However, as this is a secular blog, I won't go into them here.

Argument: Abortion stops a beating heart. This is another argument that really doesn't belong here. The argument is not simply that stopping a beating heart is wrong (which also means that NG's responses miss the point of this argument). The argument is that a beating heart is a sign of life, so if

you stop a beating heart, it is seen as evidence that you are killing the embryo.

Additionally, NG's claim that embryos don't have a beating heart is absurd. Yes, critics of recent heartbeat bills have alleged this point but I was surprised that NG would agree with it, considering that earlier they were very much concerned with information about human development. The fact is that no pro-life person says that the heart is fully formed by the 22nd day after conception. The argument is that the heart starts beating at that time. Just as the fetus is not fully formed even after birth, the heart is not fully formed at 22 days, and no pro-life person thinks that it is. But there is a definite heartbeat at that time. Secular Pro-Life has published an excellent [article](#) describing this bizarre argument and showing why it doesn't refute the science involved in fetal heartbeat bills.

NG give one more argument against abortion they view as bad, and I generally agree it's not a good argument. So I won't engage it here, nor will I engage the bad common pro-choice arguments they examine since I agree with those, too.

In the next part, I'll finish this series by analyzing their critique of the good pro-life arguments and critique their defenses of the good pro-choice arguments.

[1] I say "for the sake of the argument" because this assumes that there is no life after death which is better than our life here on earth. So for the sake of the argument I'm assuming there's no afterlife.

[2] Some, like pro-life vegans, would be opposed to killing most life just because they are alive.

Posted by [Clinton Wilcox](#)

at [9:39 AM](#)

FRIDAY, NOVEMBER 1, 2019

Why Abortions Are Still Wrong and Should be Illegal (Part Three)

I recently began a series looking at a new article/book released by pro-choice philosophers Nathan Nobis and Kristina Grob (hereafter NG). You can read part one [here](#) and part two [here](#). And if you'd like to read the book before you read my responses to it, you can read it for free online [here](#). This next section is quite lengthy, so I'll split it in half.

5. Better Arguments

Now we get to the portion of NG's book where they set out to justify the subtitle and show why most abortions are not immoral and why all of them should be legal. I will begin by defending the pro-life arguments they criticize and finish with criticizing the pro-choice arguments they defend.

Pro-Life Argument #1: Fetuses are human. NG begin by attacking an argument that fetuses are human and are, therefore, wrong to kill. NG are right to criticize this argument as easy to find counterexamples to. After all, not everything that is human (in the adjective sense) is wrong to kill. Tumors are human but are not wrong to kill, nor are human cells or tissue in a petri dish. The problem with NG's rebuttal, though, is that no one actually makes the argument they criticize. Pointing out that fetuses are human is only one step in a cumulative case of showing that fetuses are wrong to kill. Human fetuses and embryos are living, independent organisms of the human species. All of this goes in to show why it is wrong to kill them because fundamentally, a human embryo is no different than the adult that he eventually becomes. So NG have subtly erected a strawman to attack and knocked it down.

Instead, let's take this argument from Scott Klusendorf's book *The Case for Life*, which makes a better, stronger argument against abortion based on the humanity of the fetus:

- It is wrong to intentionally kill an innocent human being.
- Abortion intentionally kills an innocent human being.
- Therefore,
- Abortion is wrong.

This argument better explains why humanity is so important to pro-life advocates and weighs so heavily in their arguments. If it is wrong to kill an innocent human being in uncontroversial cases, such as adults and children, in which even NG have expressed agreement in the preface to their book, then if it turns out that human fetuses and embryos fit the definition of "innocent human being," it would be wrong to kill them, too.

Of course, such a claim needs to be defended but the pro-life advocate will do so. That's why even the humanity argument is, itself, used in a cumulative case against abortion. That case goes something like this: 1) All human fetuses are human organisms, 2) all human organisms are persons, 3) all persons have fundamental rights such as the right to life, so 4) human fetuses have fundamental rights such as the right to life.

Before moving on, NG try to address the concept of human rights and how they think pro-life people have gotten the concept of “rights” wrong. But all this discussion does is show how NG have fundamentally misunderstood this basic pro-life argument. No, cells in a petri dish don’t have human rights, but that’s because they are not human beings—they are parts of humans, not a full human on their own. My individual parts don’t have rights but I do, as a whole, complete, individual human. So while they are right that simply being *biologically human* does not grant a thing rights, neither is the pro-life person making this claim. Our rights are “human” rights, but other ways of saying this are “fundamental” rights or even “basic human rights.” This is because the claim is not that we have rights because we are biologically human, but we have rights because our rights inhere in us based on the kind of thing we are. As Patrick Lee argues in his book *Abortion and Unborn Human Life*, being “human” is not merely a biological category. There is much more that comes with being human, such as our human nature. There are metaphysical realities to being human; our unborn share in our fundamental human nature, so they also have fundamental, basic human rights.

So it’s not our psychological characteristics which are important, as there is much more to the person than our psychology. Our bodies are just as important to us as persons. Our bodies are how we interact with the world around us, and our minds are how we interpret those experiences. Plus, the fact that we are biologically continuous with ourselves throughout our entire lives is certainly significant.

So while I do agree in some sense that calling them “human” rights isn’t accurate enough (after all, intelligent extraterrestrials would certainly have rights, as would spiritual beings, if they exist), I don’t agree that we should start calling them “person rights” or “conscious-being rights” because not all conscious beings are rights-bearing entities (and again, NG haven’t exactly defined consciousness for us to know what other kinds of beings would be included or just when, exactly, humans become persons). Dogs, for example, are conscious entities, and while they should be protected, killing a dog, even accidentally, is not the same kind of act as killing a human, even accidentally. Killing the human brings with it stricter punishments than killing the dog. So while I agree with them, I think calling them “fundamental rights” is perfectly fine because that term does show how our rights belong to us: fundamentally. They do not come and go when I gain or cease to have some property. They are always there.

Pro-Life Argument #2: Fetuses are human beings. NG have anticipated much of the response I gave above, since pro-life advocates respond similarly when presented with the charge NG have given. NG’s responses, though, don’t fare much better than their original criticism.

NG begin by reiterating that it's not always wrong to kill a human being (e.g. you can kill in self-defense). So the question is, what is it about fetuses that makes it wrong to kill them if it is wrong to kill them? NG prefer their depiction of why it is wrong to kill adults and children, because they are conscious and feeling, and if we were in a permanent coma, death wouldn't make us any worse off. But I already showed in section three why their depiction of the wrongness of killing is inadequate.

They also argue that their depiction shows why it is wrong to kill in a simple, common-sense way. But of course, the pro-life depiction of why it is wrong is also simple and common-sensical. If someone asks me why it's wrong to kill me, my answer will be something like this: "it is wrong to kill me because I am a human being," and if you stop and think about it without any prior philosophical reflection and no prior commitment to the morality of abortion, that may be the conclusion you immediately draw.

Where it gets more complex is why it is wrong to kill me because I am a human being, but the same problem arises for their view. It may be simple and common-sensical, to them, to claim it's wrong to kill me because I have experiences, I can feel, etc., but answering the question of *why* that makes it wrong to kill me requires more work. And their statements about why rocks, plants, etc., don't have rights fails for the reason I showed in section three: they are making a simple category error and comparing things (rocks, plants, etc.) with things which are not relevantly like them (human embryos and fetuses).

NG turn to reasons that pro-life people give for why it is wrong to kill human fetuses despite their never having been conscious or having any feeling or awareness. The first supporting argument they look at is that human fetuses develop continually into the adult so it is the same being at all points in its development, which should seem familiar as it is a supporting statement I used in my defense above.

However, they reply, this can't be the explanation since we adults have different physical, cognitive, emotional, and moral characteristics than we had as fetuses (and as children). So even if we were the same being over time, that doesn't show that fetuses have the same moral rights we do, as rights change over time. NG actually make two errors in reasoning here.

First, they confuse the concepts of accidental and essential properties. It's true that I am now 5'11", have gotten bigger (and rounder) since I was a fetus, I can now recite the English alphabet, engage in higher levels of thinking, etc. But all of these are accidental properties—they are true things about me but are not what make me, me. I would be the same person, for example, if I grew up speaking German instead of English or if I peaked physically at 5'6" instead of 5'11".

However, the essential property I have now, my human nature, was present in me as a fetus, which means since that essential property never changed, "I" never changed from anything non-human into something human. I was human from the beginning and had my rights from the beginning. In fact, NG even admit they have different characteristics now than they did as children, so they can't use their argument to show that they are different than they were as fetuses unless they also think they were not the same numerically identical person as children than they are now. That seems to be a bridge too far.

Second, NG make the error of confusing fundamental rights with legal rights. It's true that some of my rights have changed since I was younger. I can drive a car now and I couldn't as a fetus. I can vote in Californian and American elections and I couldn't as a fetus. But these are all legal rights. Legal rights are granted to us by the government and often come to us through maturity. I couldn't drive or vote as a fetus because I had not reached the proper level of maturity. Fundamental rights are not granted by the government and, therefore, every government is obligated to respect them even if I'm not a citizen. These rights include (but are not limited to) the right to life, the right to freedom, the right to self-defense, etc. These rights do not come and go. The right to life is a fundamental right, so if fundamental rights inhere in us based on what we are, not on what functions we can perform, and if human fetuses and embryos have the same fundamental nature adults do, as pro-life people argue, then human embryos and fetuses have the right to life, even if some of their other rights haven't yet been granted due to immaturity.

The second argument that NG look at actually follows from my previous response: the argument that human beings have rights *essentially* and not *accidentally*. In contrast, NG view rights as accidental to the body but essential to the mind. It doesn't seem clear, though, how one can be a "conscious being" without also being an "embodied being." The idea that your mind can have essential rights but your body can't seems incoherent to me, as both parts of me go in to make up the same human person.

If they don't believe they are identical to the body, then they have some explaining to do about what happens to that fetus they later came to occupy. As Alexander Pruss argued, either that fetus lived or died. But any changes the fetus went through were changes that were within its internal programming to undergo, and things don't die by undergoing changes that are within their internal programming to undergo. So clearly the fetus didn't die. So is it still alive? If it is, there are only two possibilities. It is still alive but separate from you or it is still alive but identical to you. If it is still alive but separate from you, this leads to absurdities. It violates a plausible law of physics since two physical objects cannot occupy the same space at the

same time. It also leads to other absurdities, such as that rape is not a crime against a person but is a mere property crime against one's body, and that you have never actually kissed your significant other. Since the fetus cannot be dead, and the fetus cannot be alive but separate from you, the fetus must be alive and identical to you (Alexander Pruss, "I Was Once a Fetus: That is Why Abortion is Wrong").

Regarding the claim that rights inhere in us because of the kind of thing we are, rational beings, NG state that the argument seems to be question-begging. It is not, of course. In fact, many books and articles have been written regarding the defense of things like natures and how rights interact with us as human beings. It is, at least, abstract, as NG state, but lots of things are abstract that we take for granted. Rights, themselves, are abstract, so no matter how you account for them, your reasoning will be abstract. NG go on to claim if you define human beings as rational, even though only some human beings are rational while others are not, then why not simply define human beings as non-rational, since some human beings are not rational while others are. After all, why is it that the *rational* human beings get to define what being human is for all human beings, the ones who are not rational and the ones who are?

This profoundly misses the whole point, though. As I have argued above, fetuses are not "not rational," like rocks and fish, they are "pre-rational." Part of being a human being is development—you start out with a single cell (and other parts, such as the *zona pellucida*), and through development which is self-directed, you develop your body parts: your organs, your blood, your limbs, etc. Humans are on a path of development, which means that fetuses are not simply non-rational humans—they are humans which have the inherent capacity for rationality which just takes time to develop to be able to exercise it.

So human embryos and fetuses are every bit the rational animal that human toddlers and adults are, they just don't have the present means by which to exercise it. So this isn't a case of rational humans defining what rationality is for all humans, even non-rational ones. It's to look at human nature and say, "what is it that makes humans uniquely human?" In other words, what is the essence of being human? As the ancient Greeks taught, the way you determine something's essence is by asking what sets it apart from other similar things. Human beings are animals, but what sets them apart from other animals is that we are rational.

So the essence of humanity is to be a rational animal. This means that all human beings qualify as rational animals because under ordinary circumstances, all human beings are on a path to become more and more rational as they develop. This is not simply a path that only some humans

are on, it is a path that all humans are on, even though some, tragically through disease, injury, or genetics, fail to become rational and are unable to fully flourish as human beings. This is what it means to say that it is in the nature of humans to be rational.

So then the question becomes, why does that rationality determine our rights? The answer is because with rights come duties. If I expect my right to life be respected, I have a duty to respect the right to life of others. Animals have no such duties because they don't have the rationality to understand them, and since animals have no such duties, they also have no rights which we are obligated to respect.

So contrary to NG's claim, this does not mean that rights "trickle down" regressively from our future rational state to our present non-rational state. That would be absurd. What it means is that since human nature entails rationality, and human embryos/fetuses are on a self-directed path of human development which includes eventually developing the ability to be rational, human embryos/fetuses are inherently rational beings who just need time to develop that rationality; and they will, all things being equal.

Also contrary to NG, this does not entail that we must never allow a comatose person to die. We are morally obligated not to kill such a person, but this doesn't mean that we are always obligated to preserve life when it becomes more harmful to the person than to allow nature to take its course. We must never kill a human being, but if keeping him on life support or otherwise providing care is futile, then it would be more harmful to continue providing that futile care than to simply allow nature to take its course.

Furthermore, the existence of anencephalic fetuses does not refute this idea. Again, letting an anencephalic fetus die is not impermissible (especially since it is not possible at our present level of medical expertise to save him), but to kill him through abortion would be impermissible. This doesn't show that anencephalic fetuses are a different kind of being than us. Anencephalic fetuses are still human beings who have tragically failed to fully flourish as humans should. To consider them non-human (which is what saying they're a different "kind" of being than we are is to say) is ableist. A human does not become a non-human just because their disability [is?] too severe.

Pro-Life Argument #3: Fetuses are persons. Here NG address the pro-life argument that the unborn are wrong to kill because they are persons, and persons are wrong to kill. They, of course, disagree with this argument. But what are their reasons for doing so?

Well, first, they say we should think about what it means to be a person and whether we ever cease to be persons. Many people think our personhood ends when you die or go into a permanent coma. And if some religions are

right, that there is a life after death, presumably the person would continue on without their body in some sense. This seems to imply that personhood is defined by a “rough and vague set of psychological or mental, rational and emotional characteristics: consciousness, knowledge, memories, and ways of communicating, all psychologically unified by a unique personality.”

Second, they say we should think about the kinds of things we accept as persons and as non-persons: we readily think of ourselves and other adults as being persons and we readily think of fictional characters, like Luke Skywalker, as persons. We generally think of non-conscious entities, like rocks and carrots, as non-persons. Conscious and feeling animals tend to be closer to persons than not. Unconscious, unfeeling fetuses would definitely not be persons, as consciousness sets in later in pregnancy than the first trimester, where most abortions occur.

These are the only arguments leveled against the claim that fetuses are wrong to kill because they are persons, and it should be obvious that these arguments are severely lacking in persuasiveness. The first argument is simply based on what someone believes, and beliefs can be mistaken. I see myself as a person, but I also retroactively see myself as a person when I was a fetus. This is because of my prior belief that fetuses are persons. NG reject this claim and see fetuses as non-persons because of their prior commitment to supporting abortion. So this argument ultimately begs the question.

The second argument, that we should think about the things we accept as persons or non-persons, is question-begging for the same reason. You’ll accept certain things as persons or non-persons based on your prior metaphysical view of personhood. I don’t think conscious or feeling animals are “close” to being persons because I don’t think personhood is something that comes in degrees. You are either a person or you are not a person, and “conscious, feeling” animals don’t make the cut.

NG have not offered any good reasons for accepting their view of personhood, especially when there is good reason to believe personhood is established at fertilization.

Pro-Life Argument #4: Fetuses are potential persons. This is an argument that some have defended in the literature. It is not an argument I defend, as I think the critics of this argument (such as NG, as well as Michael Tooley and Peter Singer) are generally correct. If fetuses are merely potential persons, this does not, then, grant them personhood rights. However, this is not the argument that most pro-life advocates make. The argument is that fetuses are *actual* persons with great potential, and that potential matters in the consideration of personhood. It is true that fetuses are not yet rational, but they are rational by nature, and since one does not

cease to be by undergoing changes that are within one's internal programming, fetuses are persons now despite not yet being able to exercise their rational capacity since they are the same individual through all the changes they undergo. So I'm not very interested in defending this argument, but this is an important caveat to consider when trying to critique pro-life arguments.

In my next article, I'll look at one last pro-life argument and address the pro-choice arguments NG defend.

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