

6 Do Fetuses Have the Same Interests as Their Mothers?

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This chapter¹ presents the case for thinking that the embryo and fetus (the “unborn”) has a broad range of interests—i.e., stakes in objective benefits or “goods”—including interests in many benefits enjoyed in later life such as friendship, marriage and so on. This may strike the reader as odd since unborn human beings have weak or even nonexistent psychological connections with a future in which these benefits could be enjoyed. However, I argue that strong psychological connections are not required to have strong interests in objective benefits: adults too have strong interests in such benefits even where the adult is not strongly linked psychologically to his or her future and/or does not “take” an interest in the benefit concerned. Moreover, human interests can be present even where their practical relevance is reduced: adults, for instance, may have an interest in some benefit appropriate to them despite being unable at any stage to receive that benefit (e.g., due to serious illness). Unpromotable interests remain human interests, and their presence is significant not least in indicating the kind of being to which the individual belongs.

Throughout the chapter, I will assume the truth of the “animalist” position on which we are essentially animals or organisms. The embryo or early, presentient fetus is not, in the words of Jeff McMahan (2002, p. 329) a mere “unoccupied organism” separate from ourselves but is rather, like the sentient fetus, the same living individual² which or who we are today.³ The unborn are not, as ethical discussions often suggest, distinct individuals whose interests, if any, are clearly segregated from those of the born child or the adult. Determining which interests apply at what stages in life is more a matter of asking which benefits are in some sense appropriate⁴ to the individual and still in his/her actual or possible or even hypothetical future. Even if not all interests apply to the individual at every stage, if an adult-type benefit is still in the future if only notionally, the young individual, including the fetus, retains a stake in that objective good.

Not all promotable interests can be simultaneously promoted, nor is the damaging of interests always morally wrong. While this chapter will

mostly focus on the general moral significance of the interests of the individual at various life stages, clearly the interaction between maternal and fetal interests is crucial, including where an intervention to promote such interests is unwanted and/or harms the other subject. I will therefore conclude with some reflections on maternal-fetal conflicts, which acknowledge the reality and potential urgency of such conflicts while indicating how they might be ethically resolved.

I will begin by describing the nature of objective interests that differ from “wants” or “desires”, even if the benefit enjoyed—as opposed to the prior interest in that benefit—sometimes requires an eventual desire. Next, I will consider the interests held by the unborn, arguing that these include not only interests in life and health but also more controversially significant stakes concerning conscious projects, which are often thought to apply only to older human beings. I will then consider objections to this claim, including those based on the concept of “time-relative interests” where the unborn are said to lack the right kinds of psychological connections to their adult selves to have such morally significant interests. I will then look at interests in *particular* projects and relationships, which the unborn may seem at first sight too immature to possess and will consider also those interests that the unborn clearly do *not* share with older human individuals. The issues raised have implications for death, loss and killing generally: for example, a wrongful killing cannot be reduced to the deprivation of life or of a “future like ours”, even if such deprivation is often central to the wrong concerned. Finally, specific issues raised by pregnancy are discussed in the last two sections, which also underline the human interest in the flourishing of family members.

1 Types of Objective Interest

As mentioned earlier, by “interests”, I do not mean “wants” or “desires” but stakes in what is good for us objectively (or in the case of nonhuman interests, what is good for the nonhuman individual). What is “good” is best understood, as J.L.A. Garcia has argued (1990, 2020), as what is reasonable or virtuous to prefer for ourselves or others, at least in the abstract,⁵ whether or not the relevant interest has priority in particular cases. Interests are thus to be understood as objective stakes in “goods” whose value consists in their being reasonable-to-prefer, whether or not the interest-holder does or can prefer them.

It is true that satisfied desires, and especially consciously satisfied desires, for objective benefits can enhance and help to constitute the benefit concerned. Thus we have (long- and short-term) interests in achieving those benefits at a point where we have desired and hopefully continue to desire them (or at least can reignite our desire).⁶ In fact, many benefits of adult life (again, we can think of marriage and friendship) cannot be achieved without concurrent choices and desires. More generally, it is

often appropriate that we ourselves desire what does us good. For these reasons, long-term human interests include interests in acquiring and satisfying desires for “human goods” even if human beings also have an important stake in goods they will never be able to understand and desire.

Interests can be, in other words, unknown to the individual who has them. Further, interests can be in benefits that are only benefits at all for the individual under certain conditions. They may concern some possible future need of the individual or of someone with whom he or she may acquire a special connection (about which more later in the chapter). These are interests in *conditional* benefits and often concern *instrumental* benefits. For example, my interest in a blood transfusion concerns any time in my life when I might conceivably need or benefit from a blood transfusion to promote my *noninstrumental*⁷ interest in health. I do not have an interest in having a transfusion *now* if I do not need one now; rather, I have an interest in having one in the *future* should I come to need it *then*. This is, however, a *current* interest (and one which can already reasonably guide my own and others’ actions⁸). To deny this would suggest that none of us has a personal stake in health care until the moment we become ill or injured, which is surely not the case. Rather, *at present*, we are harmed by what increases our risk of harm and benefited by what increases our chance of benefit. The later benefit of a blood transfusion is, in contrast, a conditional benefit—i.e., only a benefit at all if it is instrumentally needed to secure a noninstrumental good. Nonetheless, our stake in that instrumental, conditional benefit is in some sense already a genuine stake.

For another illustration of what makes an interest current, consider the case of a young child. Such a child has an interest in eventual rewarding employment, while she does not have an interest in getting a job just advertised, rewarding though it be. The child is not “missing out”, as an adult might be, as the very specific time-sensitive benefit associated with *that particular* job is not appropriate to someone of her age. The job just advertised provides time-sensitive benefits, which can only be secured by those who already possess certain features or abilities that the young child lacks—not due to some deprivation but simply due to her stage of life. As such, the benefits of *that* job are not something in which the young child has an interest.

In contrast, consider a child whose society is plunged into a war or economic depression that destroys many future opportunities. Such a child would indeed be missing out on long-term benefits that would be very appropriate for her if they could be achieved.⁹ As such, the child’s *current* interests have been undermined by changes to her society, along with any internal effects on her that these may cause. This view of current interests can be readily applied to the interests of the unborn, to which we now turn.

2 Interests, Organisms and the Unborn

In looking at the interests of the unborn, my focus is largely on interests other than life and health, not least as it is certainly less controversial that the unborn, like other organisms, have an interest in life and health. Indeed, organisms are arguably *defined* as the kind of beings that have such an interest—always remembering that having an interest and *taking* an interest are not one and the same.¹⁰ While the moral significance of an organism's interests differs greatly from one kind of being to another, living wholes can be identified and distinguished from their environment by referring to their functionality and functioning (Watt 2015) for their own benefit and not just that of other living wholes.

Many commentators, however, even if they accept that life and health, including healthy maturation, are interests of the unborn, would deny that the unborn have interests in other benefits such as those involving conscious projects. The unborn are thus perceived to lack many, if not all, of the interests possessed by older humans. This perception is often cited in defense of abortion and embryo research, even by those who accept that the embryo and fetus is the same individual as the older child and adult. It is also cited as a reason for giving the unborn low priority in health-care resource allocation or “fire in the lab” type situations where only a born human being or multiple embryos can be saved. To be sure, questions of whom to save must be distinguished sharply from questions of whom to kill deliberately, by act or by omission. However, those who oppose abortion and embryo research, including on the grounds that the unborn have full moral status, do sometimes concede that the unborn's paucity of interests and/or lack of strong psychological connections to their future is a reason to prioritize born humans in resource allocation contexts.¹¹ Prioritizing the lives of those thought to have more or stronger interests seems to point us toward prioritizing the welfare of born humans, especially older children and adults, over unborn human beings.

An important part of human interests is the interest in not having our worthwhile conscious projects thwarted. Clearly, the death of the unborn does not thwart any actual worthwhile projects of the unborn individual; however, it does very often¹² thwart a lifetime's opportunities of acquiring and pursuing such good projects. The death of the unborn is admittedly less bad in the first way than the death of, for example, adults since death does not thwart conscious projects of the unborn. Yet the death of the unborn is worse in the second way since a lifetime's opportunities of acquiring and pursuing good projects are excluded in a way they would likely not have been if they had died in later life.

With this in mind, I suggest that we often fail to value sufficiently the stake of the unborn in long-term benefits, including the successful pursuit of later good projects. Our failure is largely, I think, one of imagination: we fail to visualize in any vivid way the possible future of early embryos

in particular, as opposed to born children or (sometimes) more developed fetuses who look like us and with whom we feel more empathy. We have simply not sufficiently reflected on the things an embryo may stand to lose, and the extreme immaturity of embryos makes their future seem abstract.¹³ Note, however, that parents of frozen in vitro fertilization (IVF) embryos who are raising their born siblings are often reluctant to authorize the discarding of these embryos, in part because the imaginative leap is easier for them to make with their born child as a daily reminder of “what might be”.¹⁴ Adulthood may still be in the future for the born IVF sibling, but his or her life already illustrates what the frozen embryo may lose by discarding: an entire childhood, with its usual joys and preoccupations—itsself a substantial loss.

There is, of course, more to interests than long-term interests or interests in our power to promote. Moreover, an objection can be raised to giving serious weight to the long-term interests of the unborn. Famously, Jeff McMahan (2002) has argued that our interests in our own future are strongly discounted if there are weak psychological connections between ourselves as we are now and our future selves. McMahan argues that the enormous good in front of the (sentient) fetus is strongly discounted for the lack of psychological connections between the individual now and at a later stage of life. Thus while all of us have interests, promotable or otherwise, in our future well-being (and the unborn and mentally impaired are no exception), there is reason, he thinks, to discount those interests in the case of those weakly linked psychologically to their future.

3 Time-Relative Interests

McMahan suggests that since the unborn, and even infants, lack close psychological connections with their future, it is almost as if their future belonged to someone else (2002, pp. 283–288). He extends this thought to dementia patients and even hypothetical rational immortals (2002, pp. 99–103) who between widely separated stages of their existence would have close to zero psychological continuity—leading, he thinks, to close to zero interest in a future that is still remote.

There are various possible responses to the time-relative interests approach,¹⁵ and I will not attempt to canvass them all. Here I want to focus on an issue that has been perhaps neglected: the oddity of this perspective in light of the very widespread, common-sense assumption that—far from lack of psychological connections *strongly discounting* children’s current interests in their long-term future—children have a strong interest precisely in *losing* their childish desires and projects and gaining new (worthwhile) adult projects and desires. This interest, contra McMahan, is surely much stronger than many fleeting albeit genuine interests of the child in childish projects (for example, in continuing a fulfilling game). Even longer-term interests of the child—e.g., in health and education—are partly

premised on the value of a greatly changed adult life. Childhood is for adulthood, and children's interests are precisely in *changing*, even where there is nothing wrong with their current thoughts and projects or lack thereof, given the age they currently are. Unlike dementia, which is of course an illness—thoughts, projects and desires appropriate to adult human beings are being lost—with childhood, it is precisely the “perfection” of the human being with age that requires the mutation of thoughts, projects and desires. Rather than psychological discontinuity strongly discounting the child's long-term interests in adult life, the child's strong interest is precisely in *growing up*—i.e., securing a future that is very different and, in practice, weakly linked psychologically with the child's life as it is now. If a theory of time-relative interests goes against the perception that these changes are already both desirable and morally significant for young children—for example, something their parents should warmly welcome and promote—then so much the worse, it seems, for the theory.

Moreover, it is not only children who benefit from distancing themselves from their former projects and desires. Different projects are appropriate to different adult stages: the individual has a life-long interest in pursuing projects at the appropriate time. Even good projects must or may sometimes be abandoned: the fact that we have previously chosen a project gives us some reason, but often not an overriding one, to pursue it now.¹⁶ And as McMahan himself notes (2002, p. 38), acquired adult projects can be morally undesirable: often enough we are inappropriately attached to pointless and/or reprehensible activities and plans.

If we cannot see such undesirability in our own lives (though no doubt we should), we can all think of lives to which it very clearly applies. We can think, for example, of someone entirely devoted to vengeance or someone utterly self-centered who simply enjoys exploiting those around him. Call such a person Malefactor. Malefactor's life may be highly coherent in terms of projects, character and memories, but tight continuity—at least of projects and character—is here entirely undesirable. Significant change is rather called for to secure Malefactor's genuine interests.

Imagine now that Malefactor does in fact change his ways. In that case, there should be zero discounting of interests for even a major gulf in projects and character between Malefactor and (as we might now dub him) Reformed. At the time of moral conversion, there may be close connections, in terms of memory and to some extent, character, between Malefactor and Reforming Malefactor. However, the connections between **Malefactor and Reformed** will become increasingly attenuated in the course of a long and hopefully less reprehensible life. Even if memory retention would have some value as a form of knowledge and self-knowledge, and would thus improve his future, fading memories of his crimes would not prevent a strong interest of Malefactor in a currently unwished-for reformation. Malefactor has a strong objective interest

both in reforming and in acquiring the very desire to be a better person whose acquisition will itself mark a significant though completely welcome discontinuity.

Note that at the Malefactor stage, Malefactor's more humble projects, such as eating an apple, more closely resemble those of his innocent childhood than his more ambitious schemes, which richly deserve to be thwarted—both by others and by his “better self”. That said, such humble albeit innocent projects¹⁷ are not what makes wrongful homicide the great wrong it is: it is not the desire to eat an apple but one's orientation as a human being to “higher”, if sometimes inaccessible, human goods¹⁸—love, loyalty, creativity and so on—which makes one a morally considerable kind of being. After all, we belong, before and after birth, to a kind of being whose members benefit from infinitely richer forms of flourishing than do other animals: human goods including moral virtue, friendship, marriage, aesthetic experience and so on.

Before and after birth, human beings would seem to have strong objective interests in forming good projects, pursuing them successfully and developing the healthy mental states that make this possible. This happens in the course of normal development; when it does not, it is a great loss for the individual. In the short term, the very young lack close psychological connections with themselves tomorrow, which means that they are unable to form more than momentary projects at best. But that does not affect their strong interest in the formation and successful pursuit of a range of projects down the line. In other words, the *current* interests of young children, including the unborn, include an interest in forming and pursuing good projects and in gaining the ability to do so. Lack of close psychological connections with a later life in which they could or will pursue these benefits is compatible with a very strong interest in exactly these benefits—at least, once we grant that it is the same individual who enjoys them. It takes more than a lack of close psychological connections—a lack, moreover, that is perfectly healthy in the case of the very young—to dent significantly¹⁹ the individual's stake, however precarious, in significant long-term goods.

4 Specific Relationships and Projects

Thus far, I have argued that the unborn have strong current interests in continued life, health and the development and pursuit of good future projects. Contra McMahan, this remains true even though the unborn have a weak or nonexistent psychological connection to their future selves. Another objection might be raised, though: that the unborn, like infants, cannot possibly have an interest in the success of at least *specific* relationships and projects still unformed. I will now consider that objection.

One may wonder: How can a fetus or infant have an interest in sustaining specific friendships or marriages with particular people? An

immediate response is that many interests throughout our lives are “in” particular benefits in no stronger sense than they are “in” similar but distinct benefits, which could not be concurrently enjoyed. The narrowing process of commitment to this or that benefit, which may solidify the stake we have in it, may not have yet begun. For adults, too, there is a range of projects and friendships from which we would or will benefit, some of which, like becoming parents, may involve a considerable rupture with past concerns. (Note that unchosen relationships create a solid stake before they are consciously adopted as projects: becoming a parent but also a grandparent or sibling would be some examples.)

Adults have many generic interests, as well as more particular interests in the relevant goods, despite the fact that the growing up process involves an increasing “narrowing” of interests considered for the purpose of practical and morally available choices. Some of these specifications are intended to be permanent in a strong sense, as with the choice to marry. But as part of the individual’s long-term stake in the future, already in the embryo, fetus and infant, there is surely a stake in a successful marriage, should they choose to marry, and more generally in the welfare of any spouse or child to be.²⁰

Admittedly, this particular stake in others’ welfare, though not altogether hypothetical, is conditional on the relevant relationship arising in the future.²¹ That applies to adults too though: even if some relationships are still to be formed, our long-term welfare includes the welfare of those in whose lives we will in fact come to be especially involved. While with some already-formed family relationships the “relational” stake exists unconditionally—it is arguably good for us that our parents flourish, for example—in contrast, other stakes are conditional on our surviving to form the new relationship. Prenatal death does not thwart any unconditional stake in the welfare of a new person with whom the individual might have been linked but arguably does worse in preventing him or her from ever acquiring that unconditional stake in the person’s welfare (or in the welfare of other new connections).

As mentioned, interests focused on the next stage of life are often included in the earlier individual but not vice versa; thus, embryos but not fetuses have an interest in developing to the fetal stage, fetuses but not infants or toddlers to the infant and toddler stages and so on. Nor is lack of sentience in the embryo and early fetus any bar to such an interest. After all, if the concept of interests is emancipated from any necessary link to what is desired as opposed to desirable, it is unclear why we should wait for the glimmering of sentience or actual sensation to recognize interests, especially in goods that seem somewhat unrelated. Christopher Coope (2006, p. 203) asks,

How could the onset of sensitivity to a pin prick suddenly make the loss of one’s future so significant when up to that moment it did not

matter in the least?... [A]re we to suppose that a wholly new kind of being springs into existence along with the first twinge—or rather, along with the first moment in which a twinge would have been felt if there had been the appropriate cause—the new being, unlike the earlier one, being susceptible to loss.²²

5 Unshared Interests

In short, the unborn, infants and older human beings have interests relating in the same kinds of ways to particular, still-unformed projects and relationships. The question remains, though: are there interests that the unborn do *not* share with older human individuals? One may think, the interest in not having projects thwarted since with the unborn there are currently no such projects. Such a thought would be mistaken: the unborn, too, have an interest in avoiding the thwarting of future worthwhile projects. This interest exists even if a particular embryo or fetus is terminally ill or soon to miscarry—though in that case, projects themselves, as opposed to the interest in acquiring and succeeding in them,²³ cannot be thwarted—not because they are thwarted already by illness but because they cannot arise. But practically speaking, for an embryo or fetus we are making a choice about, unless that embryo or fetus is very seriously ill or disabled or doomed to miscarry, these project-pursuing interests not only exist but can very possibly be thwarted (or promoted) in real life.²⁴ Such interests concern a future that is more than notional and include interests even in particular projects, whether or not these projects come to pass.

Perhaps, though, the interest not shared between the unborn and older humans is the non-thwarting of *current* projects? Yes, that interest is indeed unshared but is really not so dissimilar to the interest both groups share in not having *future* (worthwhile) projects thwarted. The goods concerned are indeed identical, albeit located for the unborn (at least, their pursuit is located) further on in time. Although immediate death will not thwart such projects themselves for those individuals who do not yet have them, the interest in *any such projects not being thwarted* surely remains and perhaps in very promotable form.

It may help here to think of the interest of a prisoner on death row in being in good health in 30 years' time. Not only is this a genuine interest of the prisoner but it is one that is still promotable by those placed to do so. Our choice to execute the prisoner, whether or not we believe this is morally justified, does not change that fact. In contrast, the interests of the *terminally ill* adult in good health in 30 years' time are also genuine interests, but in the circumstances are of limited practical relevance. Perhaps we should acknowledge these interests, but there is nothing we can do to promote them, assuming the diagnosis is correct.

6 Death, Loss and Killing

It is relevant to homicide, as well as resource allocation, that not all persisting interests are thwartable—not for example those that have already been thwarted by the onset of serious illness.²⁵ Killing the unconscious dying person does not thwart *unachievable* interests (like the interest in forming and pursuing new projects and relationships) but rather, the perfectly achievable interest in having one's bodily integrity and dignity respected. The person may not have a "future like ours" to expect but should not be deprived deliberately and without good reason of such a future as he has.²⁶ The ethics of homicide is, moreover, about the goods that cannot be thwarted or promoted, as well as those that can. The interests retained by, say, the dying uncle killed by greedy nephews are part and parcel of the rational kind to which he belongs—the kind of being it is wrong to kill simply to promote others' projects, however little life will in fact be lost. It is the presumptuous, disrespectful taking of life, more than the possibly trivial amount of life taken that is morally to the fore here and is something shared with other wrongful homicides.²⁷

Prenatal death, including death deliberately caused by abortion, may frustrate a lifetime's worth of interests in the success of later projects and relationships. True, abortion does not frustrate any plans themselves of the unborn, but it frustrates interests in the formation and success of (good) plans—a worse scenario in the sense that, as the saying goes, it is better to have loved and lost than never to have loved at all.²⁸ At any event, there is an especially poignant deprivation if one is deprived of the very opportunity to form—much less succeed in—any long-term projects. Indeed, a future containing *both* the acquisition and the promotion of projects is better to have and worse to lose,²⁹ at least in that it contains more good things.

To be sure, with human beings of various ages, the thwarting involved in death may be difficult to measure, as it depends not just on factors that may be outside the individual's control (a dangerous environment, serious health problems) but also on the individual's personal choices. For example, someone might be prevented from becoming a parent because they were killed as a child. Would they in fact have had their own child had they lived to do so? That would have been up to them. They had at least some kind of interest objectively in having a child and similarly in a range of other good projects. These projects were disjunctive (for example, they could have spent a year in country A where they met and married person X—or they could have spent the same year in country B where they met and married person Y). In any event, it would be nonsense to say that it was better for them to die/be killed around the time of birth, as that meant that no project of theirs was ever frustrated. Few, if any, of us think that it is better for infants to die or be killed before they have any plans.³⁰

To what extent dying or being killed deprives us of good things does depend on what we are imagining happened instead (for example, death at the same time via a different cause, or seconds later, or a year later, 60 years later and so on). Due to the substantial—even if disputed—background risk of miscarriage and earlier embryo loss (Blackshaw and Rodger 2019), the interests of at least the young fetus and embryo are likely enough to be naturally frustrated, whatever the choices of those around them.³¹ In that way, their interests are more like those of, say, a young person with leukemia whose outcome is uncertain. As with the leukemia patient, the interests of the unborn are injured by something that takes away such long-term chances as they have—perhaps a chance below 50% of survival depending on, among other things, their stage of gestation. Unless they are already close to death, however, the unborn may still have considerably better long-term prospects than, say, an octogenarian, and the unborn's interests are not only present but should be sympathetically considered in resource allocation situations. For example, a pregnant woman in a triage situation might be given priority over someone not pregnant, especially if the pregnancy is reasonably advanced and likely to continue. After all, when compared with many older people, the unborn have in common with other young humans that they are the “have nots”: they have hardly had a “fair innings” and have really not enjoyed much promotion of their interests to date.

One advantage to connecting moral status with interests—and interests with the kind of being we are—is that it identifies one sense, at least, in which human beings are morally *equal*: a view to which many of us want to subscribe. We differ in many ways; however, we are all the same *kind* of being, who could (in theory) be fulfilled in the same sorts of ways and whose fulfillment is always morally important, as the *same* fulfillment in the life of one and the same living being. Of course, many human beings are sadly unlikely to reach this fulfillment any time soon, at least to any marked degree. However, to say that not all human beings are equally *fortunate* is not to denigrate any human being, in any stage or situation. After all, we can all see our own prospects worsen without this affecting³² our basic interests (thwarted or otherwise), much less our moral status.³³

7 Maternal and Fetal Interests

So to sum up (and return to the title of this chapter)—do fetuses have the same interests as their mothers? In many cases they do, although the mother has a greater number of interests in *unconditional* goods—things that would benefit her just as such, whatever else happens in her life. Thus she has special interests in the welfare of more particular people than the fetus simply because there are more people with whom she is already connected. Like the fetus, however, she also has interests in goods

conditional for her: the welfare of people and relationships that may or may not exist in later life. For example, she has a conditional stake in the welfare of any future children, as well as an unconditional stake in the welfare of any children (including the fetus) whom she already has.

Unless the unborn are already dying, independently of anything those around them can influence,³⁴ their long-term interests are of practical importance, as it is often possible for the mother, father and others to promote these interests right away. For example, expectant parents who do not want an abortion—because they welcome children and/or respect the interests of the unborn—might immediately consider if they can move to an area near friends with their own children with whom their child can play.³⁵ Or they might consider their own relationship and whether it might be made more stable to protect the child long-term. Such changes in their own lives will be good not just for the child—if in no other way, as an expression of parental concern—but for the parents themselves, who benefit both from their child’s well-being and from their own pursuit of that well-being.

8 Conflicts of Interests

Returning finally to the mother-child relationship in particular, how should we think about fetal interests in those cases where they conflict with the interests of the pregnant woman? We should not exaggerate the extent of any such conflict, even in regard to the “health” dimension of maternal interests. On a wider relational level, the flourishing of unborn children is arguably in the interests of their mothers. If human beings benefit from their relatives’ welfare, as suggested earlier, and if the fetus is a very close relative of the pregnant woman, then the fetus already has an interest in her mother’s health and happiness because she is her mother and vice versa. Family life is a matter of harmonizing interests, which not infrequently conflict on some dimension, while on another dimension, it is in the interests of family members that other members flourish.

Not only does the woman have a “relational” interest in the welfare of her unborn child but she also has an interest in her own reproductive health that encompasses her interest in being able to successfully complete any pregnancy she has begun. The fact that miscarriages are sometimes deliberately induced does not change the damage done by miscarriage to this particular health interest. Even with serious health conflicts, although in terms of overall health, women’s interest in survival is stronger than their “reproductive health” interest in delivering a live child, women with high-risk pregnancies also have their welfare threatened by the risk of their baby’s death.³⁶

It is not the purpose of this chapter to explore the details of maternal-fetal conflicts, but I will end by saying that their ethical resolution will

depend on (1) respect for the bodily integrity of both the woman and the unborn child and (2) respect for the woman's role as guardian of the pregnancy. These should not conflict, as a guardianship role cannot encompass any right to infringe a bodily or familial right of the unborn child; for example, by wrenching apart the pregnancy connection, perhaps in a particularly invasive way.

Guardianship does not encompass a right to end the relationship deliberately at the cost of serious harm.³⁷ It does, however, encompass the right and responsibility to make decisions on potentially health-promoting interventions on the woman's own body and that of her child's, such as via cesarean section or prenatal surgery. If such interventions are offered, it is for the competent woman to consider them, not only because she is a parent but also because she is the "body-parent": the parent whose own body completely surrounds that of the child, making her form of parenthood unique. Many if not all³⁸ immediate attempts to promote her child's interests will "go through" her body before arriving at that of the child's, and her reasonable authority over her own body, as well as her child's, should be acknowledged by those wishing to intervene. There are interventions she may well have a responsibility to accept, but it is for her to accept or refuse them.

With regard to interventions that harm the unborn, these may be morally right both to offer and to accept in vital conflict situations; however, everything depends on the details. While unintentional harm to fetal interests may sometimes be accepted (as with unintentional harm generally), we must nonetheless respect both sets of interests, the woman's and the baby's, even where both cannot be pursued. Respect will be attentive to the *way* in which the interest is harmed: by a "knock-on" effect without any focus on the harmed individual or alternatively by a focused effect, even without the aim to harm as such, on the individual whose interests will be harmed.³⁹ This is not to say that "knock-on" effects should not be avoided in less serious situations—as they standardly are by pregnant women—given the gravity of losing a baby: a serious, objective loss for both the woman and her child.

Notes

- 1 This chapter was originally presented at a Bios Centre Work in Progress seminar. I am grateful to seminar participants, particularly Anthony McCarthy and Fiona Doherty, and to the editors of this book for their help in improving the text.
- 2 Note that it is numerical identity with which we are concerned here: I may closely resemble my identical twin or the person bearing a section taken from my brain, but that does not mean that I *am* that person, however many sympathies we share. I may be pleased that my twin will pursue shared projects after I lose my memory, but that is really not the same as me pursuing them myself. Nor is my twin's pain in the future something to dread in quite the same way I dread my own.

- 3 This position has been defended by many authors: see, for example, Pruss (2011) and other authors in this collection (and in the current volume). I argue for it myself in Watt (2016).
- 4 For example, the interest of a dying baby in growing up, however impossible to promote, is appropriate to the being concerned, unlike a putative/fantasy interest of an adult in becoming a child.
- 5 Note that individual interests do not equate to what it is *overall* better to prefer when other interests are factored in. For example, the intrinsic, not merely instrumental interest in being healthy persists, even if ill-health can lead to good outcomes overall (for example, meeting and marrying a nurse or carer). Another example: life is always in our interests as bodily beings, and its moral claims must always be respected. However, our interest in a good moral character retains a certain priority such that it is better to die in our sleep than to wake to a life of unredeemed evil.
- 6 The memory of past plans and enjoyment of their fruition are not, of course, the same thing—thus a person with dementia might enjoy seeing a plant she did not remember planting, and might even be pleased to hear it was one she planted.
- 7 That is, not purely instrumental. The good of health makes possible many other goods but is also surely worth having just per se.
- 8 For example, I may choose not to move to an isolated area where such health care will be unavailable.
- 9 Again, note that interests need not be in things that are achievable; on the contrary, we need the idea of unpromotable interests to register just how serious some harms can be.
- 10 Children *have* an interest in a healthy diet—something in which notoriously they may *take* no interest, though, objectively, it will do them good.
- 11 Authors who take this position include Bruce Blackshaw (2019) and David and Rose Hershenov (2016). The latter do acknowledge an interest of the unborn in “healthy relationships” (p. 195)—which seems, however, to open the way to a vast range of interests in goods certainly inaccessible in utero but very much benefiting the currently unborn individual in later life. Even with higher though nonrational animals, interests are not confined to sheer ability to function but encompass conscious projects; thus tigers, including born and unborn cubs, have interests in conscious, successful tiger pursuits.
- 12 Not always: as with the older human being, the interests of the unborn in conscious pursuits may be already thwarted by, for example, some terminal medical condition.
- 13 For one account of why it may be difficult intuitively to believe in the personal moral status of embryos, see Henricks (2019).
- 14 One IVF mother (Harding-Jones 2017) comments as follows:

But now the embryo in the freezer is no longer just an embryo, it's the sibling to my daughter. She has a personality and a future life that will extend beyond mine. What happens if I leave her sibling frozen, for eternity? Will my heart freeze over as well? Can I live with the loss of a never-fulfilled human life?

- 15 See, e.g., Liao (2007) and Kamm (2013). One powerful objection mentioned by McMahan himself (2002, p. 66) is that we would seem to have a strong interest in avoiding intense pain inflicted at a time when we will have lost all memory of the past. Indeed, one might go further: it is not clear this interest is *at all* discounted for the lack of psychological connections with ourselves as

we are now. Would I really be reassured on being told that before being tortured, I would first be deprived of all my memories?

- 16 With interests of a more trivial kind; for example, the interest in the success of a particular football club, the interest may completely subside if the person permanently loses all feelings of investment. In contrast, we can say that a person with dementia still has an interest, of a kind less dependent on persisting feelings, in the welfare of charitable causes she may have long forgotten but which she rightly cared about while capable of doing so.
- 17 Coope (2006, p. 279) observes,

It would be quite extraordinary to think of the misfortune that death brings to a three-year-old (perhaps just becoming a “person”—“a proper little person” its mother might proudly say) as entirely bound up with its little plans and thoughts of the morrow. Even in later life the interruption of “projects” is quite often trivial. One has had in mind to improve the garden, and has got some way with it. Then one dies, leaving the lawn half cut. We philosophical academics may be somewhat exceptional in this regard—nurturing plans for the writing of articles of indispensable importance to the universe, plans which will come to nothing if the work is interrupted. Death is however a misfortune even for individuals with very modest ambitions. And why need there be any ambitions at all?

- 18 The term “human goods” is sometimes associated with the “new natural law” approach to ethics taken by Germain Grisez, Joseph Boyle, John Finnis, William May, Patrick Lee, Christopher Tollefsen and others (see, for example, Grisez, Boyle and Finnis 1987; Tollefsen 2011). However, the view that objective human flourishing is and should be central to our moral reasoning is shared by those taking a wide range of ethical approaches. Note too that recognising early interests in later goods can accommodate differences in the strength and importance of particular interests for particular people—for example, because they have innate gifts (say, for music or mathematics) whose nondevelopment will involve not just a lack of exceptional benefits but a thwarting of some kind.
- 19 Retention of childish attitudes, as opposed to memories, for an adult would in fact be undesirable. Perhaps someone with an exceptionally good memory of her childhood would benefit even more from growing up than someone with a normally imperfect memory, as the first person would be able to add to her valuable adult concerns many valuable memories—including memories she has yet to form. Both individuals as children, however, would seem to have a strong stake in growing up.
- 20 It can be argued that all human beings have *some* kind of stake in the welfare of fellow-human beings simply as such (“Any man’s death diminishes me”). However, I am here referring to the particular stake we have in the welfare of, for example, family members.
- 21 Even those with a special stake in the welfare of particular people will find this stake takes various disjunctive forms. Parents have an interest in their children’s welfare. That means they have an open-ended interest in their children’s success in disjunctive future jobs and relationships simply as a specification of their existing stake in their child’s welfare.
- 22 See also Lee (2011, p. 38) and Liao (2007, p. 254).
- 23 An interest that cannot be thwarted because the situation will not arise remains an interest (see Note 25).
- 24 Killing a dying anencephalic baby whose rational abilities may have been blocked prenatally does not thwart those interests already thwarted but does

deprive the baby (and the parents) of its only earthly existence (see below). There is a contradiction in McMahan's claim on the one hand that an anencephalic is an "utterly failed human being" (2002, p. 147) and his comparison of an anencephalic infant with a plant due to the baby's lack of consciousness. A plant that is unable to develop consciousness or self-consciousness is in no way a failed plant, whereas the anencephalic infant has at least "failing" health, even if the phrase "utterly failed human being" is far too strong. Note also that McMahan (2002, p. 323) suggests it could be permissible deliberately to cause such changes to an embryo as to deprive it of ever being able to regret its own damaged condition: this is extremely counterintuitive.

- 25 Sometimes unthwartable interests will be unthwartable not because the harm has already occurred but because the person is immune to the relevant harm. A profoundly intellectually disabled adult has an interest in avoiding moral corruption, but this interest is "safe" and cannot be thwarted, as the person is immune to moral corruption.
- 26 Many authors including Marquis (1989) would hold that some human beings do not have a future of value, even if, for other reasons, it may be wrong to take their lives. My position is that all lives have value, including where that value—as opposed to the dignity of the bearer (Watt 2020)—has been curtailed significantly by illness, and even in situations where the value cannot be promoted as opposed to simply acknowledged. Moreover, it is immoral to kill an innocent person as a member of a firing squad: the wrong of killing cannot be reduced to the deprivation of a valuable future, even if this may be the primary harm in a typical killing (Pruss 2011, pp. 31, 35).
- 27 In the words of Christopher Coepe (2006, pp. 166–167),

This conviction about equality in relation to the right to life is indeed something remarkable. It needs to be correctly described. It is not of course the belief that every murder is equally bad, for any bad action can be exacerbated in all sorts of ways. We should think rather of the claim that in every murder there is, as it were, a core element of equal outrage. This represents a belief very broadly shared. Indeed, we more or less take it for granted. People would think it a mark of civilisation. If someone's "theory" of the ethics of homicide threatens to endorse inequality in this matter, equality will be dragged in by hook or by crook. When all else fails, stipulation will be called upon.

- 28 Note too that ending lives that have involved conscious projects will often not thwart all those projects: some will continue after death (relatives may flourish, charities donated to may continue to do good things and so on).
- 29 Pruss (2011, p. 34) points out that

it is just as bad for parents to raise their children in such a way that they will not be able to embark upon significant projects as to raise them in such a way that they will not be able to complete such projects. In starting a valuable project, one has already done something of value—one has made an attempt. To deprive someone of the project prior to the beginning deprives the person of both the good of the beginning of the project and of the continuation, and hence, surely, is the worse.

- 30 Holtug (2011, pp. 176–177) has noted the oddity of arguing that one can retrospectively affect whether interests are actual and therefore whether one did the right thing in ending or damaging lives, as when one gives a pill to an infant that causes serious damage such that future preferences do not arise

and cannot be frustrated. My own approach sees any existing fetus as having strong noncontingent interests already, in addition to those interests that are contingent on, for example, new relationships being formed (and which the fetus has an interest in forming). As regards unconceived individuals, discussed by McMahan and Holtug who differ on whether future satisfied interests count in decision-making, I see no problem with factoring in future satisfied interests of unconceived children, able-bodied or disabled, as one important consideration in deciding whether to conceive.

- 31 Note that with deliberate killing particularly, we say that someone has been robbed of a chance, even if that chance was very low and even if the “insult” factor of life being taken without any authorization is more important than the “deprivation” factor. After all, stealing a lottery ticket remains theft despite the unlikelihood of the ticket carrying the winning number. That said, when we speak of harming or thwarting, as opposed to impacting interests in a more hypothetical sense, we are often in practice speaking of specific opportunities or kinds of opportunity someone typical of the person’s age and social group might well have enjoyed. A person is not normally said to be harmed or thwarted by being prevented from going to the South Pole. This is not to say that interests do not apply to scenarios that were never a serious option for us/our social group: I will never go to the South Pole, but if I did, I would have an interest in looking about me (good of knowledge), an interest in protection from the cold (good of life and health) and so on.
- 32 It is true that the basic interest in health, for example, may now definitely require means to be used that before were only conditionally in our interests, like the blood transfusions mentioned earlier.
- 33 We may want longer lives, but that is not the same as believing we acquire more *moral importance* the longer we live. Rather, it is our continuing psychophysical presence (admittedly as the bearers of timeless human dignity) that is better the more we have of it. For more on this, see Watt 2020.
- 34 Many pregnant women see themselves as acting in the interests of the fetus during pregnancy—even sometimes where the fetus has a very serious anomaly and may die at any time. As Christopher Tollefsen (2011, p. 174) comments,

[P]regnant mothers can readily imagine futures in which their fetuses are unloved, unprepared for, and done violence to; and in all such cases, they can recognize a deficiency of goods *for* the fetus, not just for themselves, and act to ensure that their unborn children are *not* deficient in respect of those goods...mothers (and fathers) can care for their in-utero fetus in a loving way even when they know that their child is afflicted with a disease that will lead to death shortly before or shortly after birth.

For a philosophical exploration of the “perinatal hospice” approach to this situation, an approach informed by the experiences of parents who carried their terminally ill babies to term and the health-care professionals who supported them, see Cobb 2019.

- 35 As with the person on death row and his long-term interests in health care, it does not seem that these interests can be wiped off the slate simply by choosing to thwart the interest in the life whose continuation makes all else possible.
- 36 Like other health interests, women’s reproductive interests in completing their pregnancies need not be “felt” for them to be genuine interests, nor need maternal interests more broadly understood be “felt”. Arguably we benefit when our families benefit and especially when we contribute to that benefit, with or without our choice or even awareness.

- 37 For an exploration of various responses to “vital conflicts” in pregnancy, see Watt and McCarthy 2020. Whatever applies in these exceptionally fraught situations, at the very least in other cases where the reason for intervening is “merely” social, lethal separations would seem to be morally excluded if mother and fetus are both human subjects with morally considerable interests. It is also worth remembering that following implantation, lethal separations across the board will normally involve a violent invasion of the fetal body, including the fetal placenta/amniotic sac. Moreover, pregnancy, a human function or interaction of functions from which all born human beings have benefited resembles more closely the holding and feeding of infants than it does live organ donation, something to which it is sometimes compared (Watt 2016).
- 38 Not all attempts require this—for example, with a threatened miscarriage, a concerned third party might ring a doctor for advice.
- 39 Note that this could go both ways: immediate help for the fetus might involve an immoral (because seriously harmful and/or unwanted) surgical invasion of the mother, just as the body of the fetus might be wrongly targeted for the intended benefit of the woman. Bodily targeting of innocent human beings, including omissions aimed at bodily effects intended and/or known to be seriously harmful (Watt and McCarthy 2020) must be separated from acts and omissions not involving such targeting.

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