**Reply to Christopher Tollefsen on Abortion**

Abstract: Are *you* the same thing as your body? Did *you* begin at conception? Do you have a rational and free “nature” or “essence”? Some answer ‘yes’ to all and argue that this means that abortion is wrong. This argument is discussed here.

For *Ethics: Left and Right*, edited by [Bob Fischer](https://www.bobfischer.net/) (Oxford University Press, 2019). By [Nathan Nobis](http://www.nathannobis.com). Below is a response to Christopher Tollefsen’s essay on abortion, which is a perspective from “the Right.” Please see my contribution from a perspective from “the Left,” “[Early and Later Abortions: Ethics and Law](http://www.nathannobis.com/2018/08/early-and-later-abortions-ethics-and-law.html).”

Word count: 1000

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I appreciate this opportunity to dialogue with Professor Tollefsen on the topic of abortion. I will note some controversies and concerns about his main argument. I hope these observations inspire further discussion of the issues.

1. **Metaphysics**

Tollefsen begins with some discussion concerning the *metaphysics* of “what we are” and “when we began.”

1. ***What are we?***

Tollefsen argues that we are both minds *and* bodies: “the minded being that you are is *the same being* as the physical, living organism that are you. . . *You* are that living organism, that human being.”

The claim isn’t merely that we have minds and bodies. It’s that we *are* minds and bodies *essentially*, meaning we are *identical* to both. This is a claim not just about us in the world as it actually is: it’s a claim about us in every possiblecircumstance. And it is, at least, a claim contrary to many people’s beliefs about what they are and could be.

For example, many people think that fictional stories and films involving “body swaps” (e.g., “Freaky Friday”) are, at least, *possible*: *you* could come to exist in a different body, a body formerly inhabited by another person. Many people also believe that “tele-transporters” (e.g., from “Star Trek”) are possible: *you* could come to exist in a body made of entirely new matter. And many people at least *hope*, if not confidently believe,that they will continue to exist after the death of their body in an afterlife, with a new body or even with no body at all.[[1]](#footnote-1)

These examples suggest that many people believe they are not *identical* to their body. They accept mind-body “dualism”: we are *related* to our bodies, but not *identical* to our bodies.

Tollefsen rejects dualism, for only briefly-developed reasons. But much more is needed to really show that dualism is mistaken and that we are, in *essence*, both minds andbodies. Since refuting dualism is key to arguing that we *were* early fetuses, Tollefsen’s case needs development.

***B. When did we begin?***

Tollefsen argues that “we” begin at conception. While our bodies begin at conception, it might not be literally true that “we” begin at conception.

To see why, we should think about when “we” *end*. Typically, this is at death of our whole bodies. “We” also end at brain death. And “we” end if we go into an irreversible coma or permanent vegetative state. Suppose Eve was in a coma for 10 years, with no brain activity all that time. When did Eve end? Many would say that the person Eve *ended* 10 years ago, when she fell into the coma. “*She* has been gone for 10 years,” we’d say.

If “we” *end* when our conscious permanently ends, then “we” *begin* when consciousness begins. And consciousness begins later than when the body begins. So “we” begin *not* at conception, but likely months later: mid-pregnancy or so when the brain and nervous system are developed enough to produce consciousness.

Since Tollefsen’s case depends on “us” existing at conception, these arguments also need development.

**2. Ethics**

Tollefsen argues that the basis of our moral rights is an *essential* or *necessary* property of all biologically human organisms or beings: a rational and free *nature* or *essence*. Since fetuses possesses have this nature or essence, they have basic moral rights, like us, as one of us.[[2]](#footnote-2)

This argument depends on some controversial metaphysics, discussed above, but there are some distinctly ethical controversies also.

1. ***Moral Explanations***

Tollefsen’s argument is rooted in the moral hypothesis that *we* have worth and are due respect *because* we are rational and free. This is doubtful. We are born *not* rational and free (says Tollefsen), and we often die lacking freedom or rationality. Freedom or rationality are taken from many of us by illness and injury; some people live their entire lives without either.

All these human beings, however, have worth and are due respect: they have rights. Why? A simple answer is this: they are conscious, sentient, feeling beings, and so their lives can go better and worse *for them*; in short, they can be *harmed*, and this is why they, and anyone, has rights.[[3]](#footnote-3) Whydo rational and free people have rights? *Because* *they can be harmed* is a better explanation than *because they are rational and free*.

The first step in Tollefsen’s case against abortion is doubtful, since a simpler explanation is available. We should accept Tollefsen’s hypothesis only if the simpler hypothesis is faulty.

***B. Appealing to “Natures”***

Why should we think that anything (or anyone) with a rational and free natureor essence has rights? Tollefsen argues this is because requiring *actual* rationality and freedom for rights implies that babies don’t have rights.

Perhaps, but we can acknowledge that babies have rights on the simpler grounds they are conscious, feeling and can be harmed. Again, we should accept Tollefsen’s abstract appeal to “natures” to support rights for babies only if this simpler explanation fails.[[4]](#footnote-4)

***C. Understanding the Proposal***

Finally, simplified, Tollefsen proposes something like this:

We have rights ultimately because we have a rational nature.Anything with a rational nature has rights.

But consider two similar proposals:

We make moral decisions ultimately because we have a rational nature. *Anything with a rational nature makes moral decisions.*

We sometimes deserve praise and blame ultimately becausewe have a rational nature. *Anything with a rational nature sometimes deserves praise and blame.*

Facts about fetuses show that these italicized claims are false: fetuses only have the *potential* for decision-making and being praise and blameworthy. So, we are due a better explanation why actual rights, not just potential rights, would result from fetuses’ natures. Fetuses’ natures involve many potentials and radical capacities, most of which make no difference to their current, actual properties. So, what current properties fetuses do fetuses get from their natures and which do they don’t? More explanation is needed.

**3. Conclusion**

In sum, these are some concerns to be addressed in thinking through Tollefsen’s, and similar, arguments.

1. Many metaphysical issues, such as these, involve attempting to know or understand what is *possible* and using those insights to understand the nature of what is *actual*. For an introduction to some of the challenges involved in these tasks, see Bob Fischer’s “Modal Epistemology: Knowledge of Possibility & Necessity” at *1000-Word Philosophy: An Introductory Anthology*: [1000wordphilosophy.com/2018/02/13/modal-epistemology/](https://1000wordphilosophy.com/2018/02/13/modal-epistemology/) [↑](#footnote-ref-1)
2. Suppose Tollefsen’s metaphysics is correct and we are, in essence or nature, minds *and* bodies, and we begin at conception. Some think that this immediately shows that fetuses have basic moral rights, since we have them now and we developed from fetuses, who were once us. But just because we are some way *now* doesn’t mean we’ve *always* been that way. “Having rights” could be a *contingent* property, one that we can gain and lose, not an *essential* or *necessary* property, one that we have, and must have, whenever we exist. [↑](#footnote-ref-2)
3. This quick theory is inspired by, and supported by, philosopher Tom Regan’s argument that if someone is what he calls a “subject of a life,” then that someone has basic moral rights. See his *The Case For Animal Rights* (University of California Press, 1983 [2004 updated version), p. 243) or his essay “[The Case for Animal Rights](http://www.animal-rights-library.com/texts-m/regan03.htm),” in Peter Singer (ed.), *In Defense of Animals, Basil Blackwell*, 1985, pp. 13-26. From the essay, in response to theories that suggest that human beings without freedom or reason lack moral rights:

. . we are each of us the experiencing subject of a life, a conscious creature having an individual welfare that has importance to us whatever our usefulness to others. We want and prefer things, believe and feel things, recall and expect things. And all these dimensions of our life, including our pleasure and pain, our enjoyment and suffering, our satisfaction and frustration, our continued existence or our untimely death - all make a difference to the quality of our life as lived, as experienced, by us as individuals.

Regan argues that anyone like this, anyone who is a “subject of a life,” has basic rights. [↑](#footnote-ref-3)
4. We might also reject Tollefsen’s appeal to “natures” on the grounds that, perhaps, a brain-dead individual retains a “rational and free” nature, yet lacks rights. Since rights protect against harm, and such an individual cannot be harmed, having a free and rational nature does not entail that an individual has rights. (So, any moral obligations due to that body are not because of that individual’s rights: something else explains it).

 Ifsomeone replies that such an individual’s relevant body parts are *damaged* and so they no longer have this *nature*, then if the relevant body parts are *non-existent* since not yet developed (as in an embryo or fetus), that would seem to suggest that they lack that *nature* also. [↑](#footnote-ref-4)