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**The Substance View and Cases of Complicated Multifetal Pregnancy**

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**Abstract**: I consider cases of multifetal pregnancy in which one fetus with a fatal birth defect poses a risk to the survival of another healthy fetus to show that the substance view anti-abortion position leads to a contradiction. In cases of complicated multifetal pregnancy, if intervention by selective abortion to terminate the defective fetus is not performed, both fetuses will die due to the conditions created by the defective fetus’s fatal birth defect. Because abortion is wrong on the anti-abortion position, and a moderate anti-abortion position cannot make an exception for selective abortion in cases of complicated multifetal pregnancy if it operates on the substance view, choosing selective abortion must be wrong, so one must let both fetuses die. However, the substance view anti-abortion position must take letting both fetuses die to be wrong, otherwise it will undermine itself as an anti-abortion position. Further, the substance view provides grounds for why letting fetuses die would be wrong anyway. Thus, the substance view anti-abortion position must take both having an abortion and not having an abortion to be wrong, which is a contradiction. Therefore, cases of complicated multifetal pregnancy show that the substance view anti-abortion position is false.

**Keywords:** Abortion; Substance View; Multifetal Pregnancy; Selective Abortion

1. **Introduction**

In the United States in May of 2022, Ashley Brandt discovered she was pregnant with two fetuses where one had a fatal birth defect that put the other healthy fetus at risk (Tuma 2022). The fetus had a condition called anencephaly, a defect in which the skull does not develop properly. This condition virtually guarantees the baby will be stillborn. While not all cases of anencephaly result in stillbirth, most anencephalic infants die shortly after birth. In one extraordinary case, there was an anencephalic infant who lived to 28 months and was the longest surviving infant who did not require life-sustaining interventions (Dickman, Fletke, and Redfern 2016). But besides this exceptional case, a complication like anencephaly is considered a fatal birth defect that practically means that the affected fetus will not survive. Furthermore, anencephaly in at least one fetus in a twin pregnancy increases the risk of death for both fetuses (Amadou et al. 2013; Taşcı et al. 2012). A management option for twin pregnancy discordant for anencephaly is selective abortion to prevent risks to the healthy fetus (Leeker and Beinder 2004). While it has been shown that selective abortion is related to an increased risk of miscarriage, it also reduces the risk of severe preterm delivery in the remaining healthy fetus before 16 weeks (Evans et al. 1994). Even when conventional selective abortion is too high risk for the healthy fetus, such as in cases of monochorionic twin pregnancies, selective abortion by cord occlusion remains a treatment option (Leeker and Beinder 2004). In Brandt’s case, she could not receive abortion care in her home state of Texas due to its anti-abortion laws. In the absence of abortion care, Brandt risked losing both her fetuses. Knowing this, she traveled to the state of Colorado where she could access the relevant abortion care, and she resumed a healthy pregnancy after having a selective abortion to terminate the defective fetus.

Cases of multifetal pregnancy, especially those in which one fetus poses risk to the survival another, are philosophically interesting because they differ from ordinary cases of pregnancy. In ordinary cases, the abortion debate is typically framed as a conflict between respecting the pregnant person’s right to bodily autonomy and the fetus’s right to life. Crudely, the fetus and the pregnant person have their rights pitted against each other. The risk to the fetus comes from the possibility of the pregnant person choosing abortion. But in cases of complicated multifetal pregnancy the threat to a fetus comes from another fetus.

Cases of complicated multifetal pregnancy present a problem for anti-abortion positions that endorse the substance view of fetal personhood. I argue that the substance view anti-abortion position faces a difficult dilemma that renders it untenable. Terminating the fetus will mean having an abortion, which is wrong, but refraining from doing so will result in the death of both fetus, and there is strong reason to think this is also wrong. It would thus be both wrong to have an abortion and wrong to refrain from having an abortion. But this is contradictory. This problem emerges from the substance view anti-abortion position’s inability to make use of a morally relevant distinction between killing fetuses and letting them die such that killing fetuses is wrong but letting them die is not. The anti-abortion position cannot make use of such a distinction for two reasons: First, it will fail to be an anti-abortion position if it does. Second, the substance view provides grounds for why letting fetuses die is wrong anyway. Thus, in cases of complicated multifetal pregnancy, the substance view anti-abortion position must hold that it will be both wrong to have an abortion and wrong to refrain from having an abortion. This is contradictory, so the substance view anti-abortion position is false.

1. **The Substance View**

Some may take the substance view to be a weak target that is easily dispatched because it appears so implausible and unreasonable in the first place.[[1]](#footnote-1) Obviously, its proponents would categorically disagree with such claims. So, to be clear that I am not arguing against a strawman, my target is the substance view as its proponents describe it.

The substance view is a view about personhood defended by numerous proponents of an anti-abortion position (Lee 2004; Beckwith 2004, 2007; George and Tollefsen 2008; Friberg‐Fernros 2015, 2018; Blackshaw 2019, 2022b). On the substance view, all human beings are substances. As Francis Beckwith, a proponent of the view, states, “each kind of living organism, or substance, including the human being, maintains identity through change as well as possessing a nature or essence that makes certain activities and functions possible” (Beckwith 2004, 34-35). For Beckwith, the nature or essence of human substances is that they are rational moral agents. This nature of being rational moral agents, or possessing a rational nature, is what gives human substances their intrinsic moral worth. As Bruce P. Blackshaw, another proponent of the view, states,

“The central claim of the substance view is that we are human animals, that from fertilization have the potential to develop rationality. This potential is known as a rational nature, and it is possessed by all human beings, no matter what stage of development they happen to be at. This makes them morally considerable, and as all human beings have this rational nature, they have equal moral status” (Blackshaw 2022b, 54).

The substance view holds that all human substances are rational substances from fertilization and all possess a rational nature at every stage of development (Blackshaw 2022b, 55). On this view, a rational nature is not the capacity for rationality. Instead, rational nature is the capacity to develop the capacity for rationality. Human substances have at every stage of their development the potential for rationality, even if this potentiality is not actualized.

The possession of rational nature means that all human substances are “intrinsically and equally valuable for as long as they exist, no matter what stage of development they may have reached, as they share the same nature” (Blackshaw 2019, 334). The category of human substances includes zygotes, embryos, fetuses, and postnatal humans. Thus, the substance view entails that zygotes, embryos, fetuses, and postnatal humans are intrinsically and equally valuable for the whole of their existence regardless of their stage of development. This intrinsic and equal value entitles zygotes, embryos, fetuses, and postnatal humans to moral respect and moral consideration by moral agents, meaning they possess moral status and certain moral rights, including a right to life. Because this moral status is independent of their stage of development, zygotes, embryos, fetuses, and postnatal humans all have the same moral status as adult human beings, including possessing a right to life. This means that zygotes, embryos, fetuses, and postnatal humans all have full moral status and are persons with a right to life.

According to Rob Lovering, a critic of the substance view, defenders of the substance view hold that rational moral agency is an essential property of human organisms that constitutes their intrinsic value and moral standing (Lovering 2013, 264). William Simkulet, another critic of the substance view, characterizes it as one on which beings like us are essentially rational substances, are inherently valuable, and possess a right to life in virtue of being so (Simkulet 2019, 1002).Many substance view theorists take human fetuses to be rational substances, and so belong to the same moral category as beings like us with a right to life (Simkulet 2019, 1003).

The substance view of personhood serves as a basis for an anti-abortion argument. If embryos and fetuses are persons, then killing them is just as wrong as killing other persons, such as adult humans. Abortion kills embryos or fetuses. So, abortion is just as wrong as killing other persons, such as adult humans. Killing persons, such as adult humans, is wrong. So, abortion is wrong.

1. **Moderate Anti-Abortion Positions**

Distinction can be made between extreme and moderate anti-abortion positions. An extreme anti-abortion position will hold that all abortions in all circumstances are wrong, while a moderate anti-abortion position will hold that abortion is generally wrong but there are some exceptional cases in which it is not. For example, moderate positions commonly try to make exceptions for cases of pregnancies due to rape. However, as Matthew Scarfone argues, moderate anti-abortion positions that attempt to make exception for abortion of pregnancies due to rape are internally incoherent (Scarfone 2022). Even as a proponent of the substance view anti-abortion position, Blackshaw agrees with Scarfone (Blackshaw 2022a). Because fetal gestation occurs inside of another’s body, the pregnant person’s right to bodily autonomy is morally significant. If abortion is wrong because it kills a fetus, and fetuses are, per the substance view, persons with a right to life, then something about the relationship between a fetus’s right to life and a pregnant person’s right to bodily autonomy must be parsed. If abortion is wrong, then a fetus’s right to life is stronger than or outweighs the right to bodily autonomy, and the right to bodily autonomy is circumscribed by the fetus’s right to life (Scarfone 2022, 130).

A moderate anti-abortion position that makes an exception for abortion in the case of pregnancy due to rape must hold these two claims: First, a fetus’s right to life circumscribes the pregnant person’s right to bodily autonomy, and second, abortion of a pregnancy due to rape is not wrong. Rape is a violation of a person’s bodily autonomy. So, to claim an exception to the wrongness of abortion can be made in cases of pregnancy due to rape is to endorse the following principle: “A right to life is stronger than, or outweighs, a right to bodily autonomy, except when the organism that has that right to life is created by a violation of bodily autonomy” (Scarfone 2022, 135) But if a violation of the right to bodily autonomy permits an exception, it can only be because a right to bodily autonomy circumscribes a fetus’s right to life. After all, a fetus in a pregnancy from rape is still a human substance with a rational nature and right to life, and abortion still kills it. If a rape victim is morally permitted to have an abortion, then their right to bodily autonomy circumscribes the fetus’s right to life. So, a moderate anti-abortion position must hold that a fetus’s right to life is stronger than, outweighs, or circumscribes a right to bodily autonomy because it takes abortion to be wrong, but it must also hold that a right to bodily autonomy is stronger than, outweighs, or circumscribes a fetus’s right to life if it is to make an exception for rape. But this is incoherent. So, the moderate anti-abortion position that attempts to make an exception for rape is incoherent.

Cases in which the pregnant person’s life is at risk are other cases for which moderate anti-abortion positions attempt to make exceptions. Scarfone’s analysis will not hold in these cases. An exception for cases of rape relies on the claim that the rape victim’s right to bodily autonomy is stronger than, outweighs, or circumscribes a fetus’s right to life. But for cases in which the pregnant person’s life is at risk, the competing claims are both right to life claims (Scarfone 2022, 138 note 3). It is not incoherent to say that a right to life is stronger than, outweighs, or circumscribes a right to bodily autonomy, but is not stronger than nor outweighs another right to life. So, a moderate anti-abortion position is not incoherent if it makes an exception for cases of abortion in which the pregnant person’s life is at risk.

But coherence is not sufficient for tenability. The tenability of a moderate anti-abortion position depends on what exceptions it makes. Any exception will require an explanation for why that particular case of abortion is not wrong. The onus will be on the proponent of the moderate position to give reasons for why abortion is not wrong in those exceptional cases. It will be important to keep this in mind because a possible objection can be raised from a moderate pro-life position against what I argue hereafter.

1. **Complicated Multifetal Pregnancy**

Cases of complicated multifetal pregnancy create a problem for the substance view anti-abortion position. A multifetal pregnancy is a pregnancy that includes more than one fetus. By “complicated multifetal pregnancy” I mean any multifetal pregnancy for which the healthy birth of all fetuses is under threat due to conditions with the pregnancy. Specifically, I imagine a case as follows: A person discovers they are pregnant with twins. Shortly after, they discover there is a complication with their twin pregnancy. Fetus *A* is healthy, but Fetus *B* has a fatal birth defect and will not survive. Furthermore, fetus *B*’s condition threatens fetus *A*’s survival, much like in cases of twin pregnancy with one healthy fetus and another with anencephaly. Unless a selective abortion procedure, which is an abortion in which some but not all fetuses in a multifetal pregnancy are terminated, is performed to terminate defective fetus *B* and save healthy fetus *A*, following through with the pregnancy will result in the death of both fetuses.

The person has two options in this scenario: Have an abortion or not. Let us first consider the option to have an abortion. If they choose to have an abortion, it must be either a non-selective abortion or a selective abortion. If they choose a non-selective abortion and totally terminate their pregnancy, their choice will result in the death of both fetuses *A* and *B*. If they choose a selective abortion, either healthy fetus *A* is terminated, or unviable fetus *B* isterminated. In either case, their choice will result in the death of a fetus because it will result in the death of either healthy fetus *A* or unviable fetus *B*. On the anti-abortion position, abortion is wrong. Both the non-selective and selective abortion options are abortion. So, both are wrong. Thus, the option to have an abortion is wrong. This leaves only the option to refrain from having an abortion.

A possible objection to this might be that a moderate anti-abortion position could make an exception for this scenario. It may be contended that a moderate anti-abortion position could allow for the permissibility of selective abortion in multifetal pregnancies where a defective fetus puts a healthy fetus at risk. A moderate anti-abortion position might hold that, while abortion is generally wrong, having a selective abortion in this scenario is not. It could be argued that it is not wrong to abort the defective fetus because it is not morally like the healthy fetus. As per the substance view, the healthy fetus possesses a rational nature and is a person with a right to life and intrinsic value equal to all other human substances. The defective fetus, however, lacks a rational nature precisely because of its fatal birth defect. Having a fatal birth defect means that it does not have the potential to develop rationality, and so lacks a rational nature. If it lacks a rational nature, it lacks the essential property that makes human substances persons with a right to life and full moral status. What makes abortion wrong is that it kills a person, but a selective abortion of a defective fetus does not kill a person because a defective fetus is not a person due to lacking a rational nature. So, selective abortion in this case would not be wrong.

But this cannot be the case because it contradicts the substance view’s claim that all human substances have a rational nature and intrinsic worth, a right to life, and the full moral status of persons. As Blackshaw makes clear,

“Importantly, the substance view claims we are rational substances from fertilization, and so all human beings possess a rational nature irrespective of their stage of development, even though they may not actually possess rationality at every stage. Instead, they all have the capacity to develop it, even if this is prevented from actualizing by a physical shortcoming” (Blackshaw 2022b, 55).

The defective fetus’s fatal birth defect is a physical shortcoming that prevents the actualization of a capacity for rationality. But according to the substance view this physical shortcoming does not mean the defective fetus lacks the capacity to develop this capacity. Thus, the defective fetus must still possess a rational nature. After all, the fetus with the fatal birth defect is still a fetus and therefore still a human substance. As per the substance view, it must possess a rational nature that gives it intrinsic moral worth, a right to life, and the full moral status of a person. If fetuses with fatal birth defects are persons, as they are on the substance view, then killing them is just as wrong as killing an adult human being. A selective abortion in the case of a multifetal pregnancy kills a fetus that has a fatal birth defect, and so must be wrong. Therefore, a moderate anti-abortion position cannot make an exception for the selective abortion of an unviable fetus that threatens another healthy fetus in a multifetal pregnancy.

A further argument for why an exception could be made for selective abortion of a defective fetus in a case of complicated multifetal pregnancy might be based on the claim that it is permissible to kill one fetus to save another if doing so prevents both from dying. Selective abortion kills a fetus but does so in the service of saving another in a situation where failure to intervene means both die. But killing a fetus to save another is to use that fetus as mere means to an end rather than an end in and of itself. Failure to treat the defective fetus as an end in and of itself fails to show it moral respect. Moral respect is something that the substance view holds all human substances are entitled to in virtue of possessing a rational nature that makes them intrinsically and equally morally valuable and grants them the full moral status of persons (Blackshaw 2019, 334). The defective fetus is a human substance, and so is entitled to moral respect. Because it is entitled to moral respect, it must be treated as an end in and of itself rather than mere means. So, it would not be permissible on the substance view to kill the defective fetus to save the healthy fetus, because doing so fails to show it the respect to which it is entitled.

Thus, in cases of complicated multifetal pregnancy, the option to have a selective abortion is wrong on the substance view anti-abortion position. Let us now consider the option to refrain from having any abortion.

1. **Killing Fetuses or Letting Them Die**

The option to refrain will result in the death of both fetuses *A* and *B* due to thecomplications in their pregnancy created by fetus *B*’s fatal birth defect. This option, while not an instance of active killing, is still a choice that directly results in the death and loss of something that has intrinsic value while there is the opportunity to intervene.

Because the substance view anti-abortion position takes the option to have a selective abortion to be wrong, it must take the option to refrain and let both fetuses die to be not wrong. This is despite the death of both fetuses being the preventable loss of two human substances with intrinsic moral worth. Explanation is required for why allowing the preventable death of two beings that are taken to be intrinsically valuable and possess full moral status would be permissible. The most promising way is with appeal to a morally relevant distinction between killing and letting die. For example, [Henrik Friberg-Fernros](https://onlinelibrary.wiley.com/action/doSearch?ContribAuthorRaw=Friberg-Fernros%2C+Henrik) argues that a substance view theorist can appeal to a moral distinction between killing and letting die to explain difficult cases (Friberg-Fernros 2015, 2018). Abortion is wrong because it kills a fetus, but allowing a fetus to die is not killing it and so is not wrong. On a view that makes this moral distinction between killing and letting die, abortion is wrong not because it results in the death of a fetus, but because causing the death of a fetus specifically by killing it violates its right to life, where a right to life is understood as a negative right to not be killed rather than a positive right to be saved. Letting a fetus die is not killing it, and so does not violate its right to life and thus is not wrong. It may thus be argued that choosing not to intervene in a complicated twin pregnancy will result in both fetuses dying but does not violate any fetus’s right to life and so is not wrong.

[In response to Friberg-Fernros](https://onlinelibrary.wiley.com/action/doSearch?ContribAuthorRaw=Friberg-Fernros%2C+Henrik), William Simkulet argues that a distinction between killing and letting die is not available to a substance view theorist (Simkulet 2019). This is because any substance view theorist will fail to take their claim that fetuses are essentially persons with intrinsic moral value and a right to life seriously if they attempt to appeal to such a distinction. If any substance view theorist makes this distinction, then they must concede that abortions that do not kill a fetus, but instead only let it die (such as some method of abortion in which the fetus is disconnected from the pregnant person and the left to die, rather than actively killed), would not be wrong. But this is too great a concession for the substance view theorist to make. The substance view is posited and defended in the service of defending an anti-abortion position. This concession would undermine what the anti-abortion position is fundamentally about. The anti-abortion position is a view about whether abortions should be performed, not a view about *how* abortions should be performed (Simkulet 2019, 1011). It is concerned with the morality of the act of abortion itself, not merely the methods used to perform it. It takes abortion to be wrong, independently of the methods by which it is performed.

If the substance view anti-abortion position is to make meaningful use of a morally relevant distinction between killing and letting die, then it would have to be revised to hold that abortions performed by methods that does not kill but only let die would not be wrong. But if it does this, it fails to be an anti-abortion position, because it would only take certain methods of abortion, rather than abortion itself, to be wrong. Thus, no substance view anti-abortion theorist can appeal to a morally relevant distinction between killing and letting die and hold that having a selective abortion is wrong but refraining from abortion and letting both fetuses die is not.

Furthermore, if we accept the substance view’s claim that fetuses have an essential property that makes them intrinsically valuable, then there is good reason to think that letting fetuses die is wrong anyway. Supposing that letting a fetus die does not violate its right to life, letting fetuses die could be wrong for other reasons because violation of a right to life is not the only thing that can make something wrong. Some choice may also be wrong because it results in the loss of something morally valuable. If we accept that fetuses belong to the same moral category as beings like us and are intrinsically valuable, then we must accept that fetuses are just as morally valuable as us. A choice that results in the death of beings like us results in the loss of something morally valuable. So, a choice that results in the death of a fetus results in the loss of something morally valuable. The loss of something morally valuable is a strong reason in support of the wrongness of some choice that results in that loss. So, there is a strong reason in support of the wrongness of the choice to let fetuses die.

Consider the following: Imagine some disaster occurs in a local area that creates an atmosphere with pollutants in the air that cause pregnant people to develop conditions that make their wombs inhospitable to fetuses such that no fetus could survive to term in them. Imagine also that pregnant people whose wombs are affected by this condition have access to a pill that completely removes and reverses all the effects of the pollutants such that fetuses would be able to survive. If a pregnant person chooses not to take this pill, the fetus they carry will die. Would it be wrong for them to withhold from taking this pill? If it is only wrong to kill fetuses and not wrong to let them die, then it would not be wrong to withhold taking this pill. But according to the substance view, fetuses are in the same moral category as beings like us and have an essential property that not only gives them a right to life but makes them intrinsically valuable. Thus, the death of a fetus is the loss of something intrinsically morally valuable. Because such loss is a strong reason in support of the wrongness of a choice that results in it, there is strong reason in support of the wrongness of withholding from taking the pill.

Compare this to the case of complicated multifetal pregnancy. The defective fetus is the analogue to the pollutants because it is what makes the womb inhospitable, and selective abortion is the analogue to taking the pill because it is what remedies the inhospitable environment by removing that which makes it inhospitable. Choosing not to intervene by having a selective abortion to terminate the defective fetus means letting both fetuses die. By letting both fetuses die, one is making a choice that will result in the loss of two human substances that are intrinsically morally valuable. That a choice will result in the loss of something morally valuable is a strong reason in support of that choice being wrong. So, if we accept the substance view, there is strong reason to think that not intervening by having a selective abortion is wrong.

1. **Anti-Abortion Contradiction**

The substance view anti-abortion position is left with a dilemma. If it is wrong to have an abortion in cases of complicated multifetal pregnancy, then it cannot be wrong to refrain from having an abortion. As explained, it is wrong on the substance view anti-abortion position to have an abortion in cases of complicated multifetal pregnancy. So, it must not be wrong to refrain from having an abortion in those cases. But as explained, there is strong reason to think that it is wrong on the substance view to refrain from having an abortion in those cases. If it is wrong to refrain from having an abortion in those cases, then it must not be wrong to have an abortion in those cases. So, it must not be wrong to have an abortion in those cases. Thus, on the substance view anti-abortion position, in cases of complicated multifetal pregnancy, it is both wrong to have an abortion and not wrong to have an abortion. This is a contradiction. Therefore, the substance view anti-abortion position leads to contradiction. Therefore, the substance view anti-abortion position is false.

1. **Conclusion**

Cases of complicated multifetal pregnancy are philosophically interesting because they are relevant to questions in the ethics of abortion. In the scenario I consider, either a selective abortion must be performed to terminate the defective fetus, or both the defective fetus and the healthy fetus will both die. An anti-abortion position operating on the substance view of personhood takes abortion to be wrong and fetuses to be intrinsically valuable persons with full moral status. Moderate anti-abortion positions make exceptions for some cases of abortion, but the substance view anti-abortion position cannot make an exception for selective abortion of a defective fetus in a multifetal pregnancy. So, it must take the selective abortion option to be wrong. So, the morally permissible choice must be to refrain from having an abortion. However, because this will result in both fetuses dying, an appeal to a morally relevant distinction between killing and letting die must be made. But a substance view theorist cannot make such a distinction without undermining its anti-abortion commitment. Additionally, the substance view provides strong reasons for why letting both fetuses die would be wrong anyway because the death of both fetuses is the loss of two things that are intrinsically morally valuable. The result is that cases of complicated multifetal pregnancy show that the substance view anti-abortion position leads to a contradiction. Because it entails that it is both wrong to have an abortion and wrong to refrain from having an abortion, the substance view anti-abortion position is false.

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1. At least one reviewer and a handful of people with whom I’ve informally discussed issues of abortion, personhood, and the substance view have expressed this to me. [↑](#footnote-ref-1)