

The Impairment Argument Against Abortion

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1. Introduction

Say that the pro-choice position is the view that abortion is (typically) morally permissible, and that someone who endorses this position is a “pro-choicer.” And say that the pro-life position is the view that abortion is (typically) immoral, and that someone who endorses this view is a “pro-lifer.” Typically, arguments given by pro-choicers and pro-lifers focus on fetal personhood: many pro-choicers argue that abortion is permissible because the fetus is not a person (e.g. Tooley 1971 and 2009, and Greasley 2017) and many pro-lifers argue that abortion is impermissible or immoral because the fetus is a person (e.g. Beckwith 2007 and Kaczor 2015). In this chapter, I will consider an argument that does not rely on fetal personhood: I will consider The Impairment Argument, which purports to show that abortion is immoral *even if* the fetus is not a person. Of course, I cannot explore all issues related to the argument in depth, but I will try to gesture to answers about the most important issues facing the argument. Finally, while I will be arguing (and hold) that abortion is, in fact, immoral, the purpose of this chapter is not to show at all costs that abortion is immoral.¹ In other words, the goal of this chapter is *not* to defend The Impairment Argument or the pro-life position *come whatever may*. Rather, the goal is to find out what is true. I will argue that the truth lies in the pro-life position.

2. The Impairment Argument Against Abortion

Intentional prenatal impairment is usually thought to be immoral, whether or not the fetus is a person. For example, if a woman who is 6 months pregnant knew the effects drug use has on her fetus and did drugs anyway, nearly everyone would judge her action (i.e. drug usage) to be immoral in light of the effects it has on the development of the fetus (i.e. that it impaired its ability to develop properly). But this judgment—that prenatal impairment is typically immoral—seems to be in tension with the pro-choice position. This is because on that view abortion is morally permissible; there is nothing wrong with killing the fetus. But if it is permissible to *kill* a fetus by having an abortion, then why is prenatal impairment immoral? This

¹ In fact, I have argued that it would be better if pro-choicers happen to be right: the world contains less injustice if abortion is permissible (Hendricks 2021).

is a difficult question facing the pro-choicer. And it is this issue—the wrongness of prenatal impairment—that undergirds The Impairment Argument.

2.1 What is Impairment?

For the purposes of this chapter, impairment is to be understood in terms of ability limitation: an organism is impaired by an action x if x limits (or entails the limitation of) an ability of hers to any degree (Hendricks 2019a: 247). For example, if I get drunk, my ability to think has been limited, and so we may say that my ability to think has been impaired. Impairment, of course, comes in degrees. For example, suppose A puts a drug D_1 in B 's drink and a drug D_2 in C 's drink. D_1 causes partial blindness and D_2 causes complete blindness. Since C 's ability to see has been more limited than B 's ability to see, we may say that C is impaired to a higher degree than B . Alternatively, suppose that A cuts off two fingers of B and four fingers of C . In that case, C has been impaired to a higher degree than B , since C 's ability to use his fingers has been more limited.

An example of impairment that is of interest for this chapter is *fetal alcohol syndrome* (FAS). Alcohol is a teratogen that causes (among other things) intellectual and developmental disabilities. For example, Jones and Bass (2003) cite a case in which a child that has FAS was unable to count or tell time in seventh grade. In this case, we may understand FAS to have *impaired* the fetus's ability to develop properly, which resulted in the child being unable to count or tell time. Of course, the effects of FAS vary from fetus to fetus; FAS impairs the fetus's ability to develop properly worse for some than others. For the purposes of this chapter, FAS will be understood to impair the fetus in the way described in the Jones and Bass (2003) case above. (Note that the claim is not that FAS *harms* an organism. The Impairment Argument makes no claims about harm.)

2.2 The Impairment Argument

Now that we have a grasp of the notion of impairment and FAS, we can consider The Impairment Argument. The Impairment Argument, roughly, claims that since it is immoral to non-lethally impair a fetus (e.g. by giving it FAS), it is, *ceteris paribus*, immoral to abort a fetus, since abortion lethally impairs the fetus. In other words, since non-lethally impairing a fetus is immoral, impairing the fetus in a more severe manner will also be immoral. And since abortion impairs a fetus more severely than non-lethally impairing a fetus, abortion is *ceteris paribus* immoral. More formally, The Impairment Argument may be stated as follows:

1. If it is immoral to impair the fetus by giving it fetal alcohol syndrome, then, *ceteris paribus*, it is immoral to kill the fetus.
2. It is immoral to impair the fetus by giving it fetal alcohol syndrome.²

² This premise should be understood as saying that it is immoral to *intentionally* give the fetus FAS *at the time of* impairment. More will be said about this in Section 4.

3. *Ceteris paribus*, it is immoral to kill the fetus.
4. To abort a fetus is (in most cases) to kill it.
5. So, *ceteris paribus*, to abort a fetus is (in most cases) immoral.³

Of course, stating an argument is one thing and defending it is another. In the next section, premises (1), (2), and (4) will be explicated and defended. It will be argued that all objections to these premises fail, and that the *ceteris paribus* clause holds, meaning that abortion is (typically) immoral.

3. In Defense of Premise (1)

Undergirding premise (1) of The Impairment Argument is The Impairment Principle, which may be stated as follows:

The Impairment Principle: If it is immoral to impair an organism *O* to the *n*th degree, then, *ceteris paribus*, it is immoral to impair *O* to the *n*+1 degree.

Basically, The Impairment Principle states that if it is immoral to impair an organism to some degree, then, *ceteris paribus*, it is immoral to impair it to a greater degree. Now, suppose it is immoral to impair *O* to the *n*th degree. In that case, what does it mean for an organism is impaired to the *n*+1 degree? If *O* is impaired to the *n*+1 degree, then either (i) *O* has been impaired in all the ways included in the *n*th degree *and* *O* has at least one additional impairment, or (ii) *O* has all and only the impairments to the *n*th degree, but at least one of her impairments is more severe (Hendricks 2019a: 247). To illustrate (i), suppose that it is immoral to impair an organism by cutting off its left hand. From The Impairment Principle, it follows that, *ceteris paribus*, it is immoral to cause any other impairment in addition to cutting off the organism's hand, e.g. if it is immoral to cut off its hand, it will be (*ceteris paribus*) immoral to cut off its hand and its foot, or to cut off its hand and to partially blind it, and so on. To illustrate (ii), suppose it is immoral to impair an organism by causing it to have blurry vision. From The Impairment Principle, it follows that, *ceteris paribus*, it is immoral to completely impair *O*'s vision by making it blind. Or suppose that it is immoral to impair *O*'s ability to jump higher than 5 feet. From The Impairment Principle, it will, *ceteris paribus*, also be immoral to impair *O*'s ability to jump higher than 3 feet, since that is a greater limitation (impairment) of *O*'s ability to jump.

Now that we have a grasp of The Impairment Principle, it is relatively easy to see how premise (1) follows from it. Here's how. Giving a fetus FAS partially impairs (limits) its ability to develop properly. Let's say that the impairments caused by FAS are to the *n*th degree. Now, killing a fetus also impairs it, since it *completely* impairs (limits) its ability to develop properly: when an organism has been killed, it no longer has *any* ability to develop properly, and so such

³ Hendricks 2019b: 968.

abilities have been completely limited.⁴ From this it follows that killing a fetus *always* impairs it to the $n+1$ degree: since killing an organism completely limits all of its abilities, killing *maximally* impairs it—any other impairment will always be less severe. Thus, if any prenatal non-lethal impairment is immoral, it will follow from The Impairment Principle that, *ceteris paribus*, killing a fetus is immoral. Therefore, premise (1) is secured; it follows from The Impairment Principle. Indeed, we can see that premise (1) is just a particular case of The Impairment Principle: giving a fetus FAS impairs it, and killing it impairs it more than giving it FAS. So, this is just a case of inserting concrete impairments into the antecedent and consequent of The Impairment Principle.

There is still one part of the Impairment Principle that is in need of clarifying: the *ceteris paribus* clause. What does the *ceteris paribus* clause in The Impairment Principle mean? And when does it hold? Originally, I said that the *ceteris paribus* clause holds unless there is a “particularly valuable good” that obtains from the impairment referred to in the consequent of The Impairment Principle that does not obtain from the impairment referred to in the antecedent of the principle. However, I have now come to see that this characterization was a mistake: it is too vague and uninformative to be of any use. So, instead, I will understand the *ceteris paribus* clause as being broken if there is a *sufficiently valuable good* that obtains from impairing O to the $n+1$ degree and no sufficiently valuable good obtains from impairing O to the n th degree. In all other cases, the *ceteris paribus* clause holds. And we may say that a good is sufficiently valuable only if it justifies causing the impairment. Furthermore, if a good justifies causing an impairment to the n th degree, then it also justifies causing an impairment to the $n-1$ degree; if it justifies allowing some impairment, then it will also justify allowing a less severe impairment. Thus, the *ceteris paribus* clause of The Impairment Principle and premise (1) holds only if there is no sufficiently valuable good that obtains from killing the fetus that does not also obtain from giving it FAS; it holds only if there is no good that justifies killing the fetus that would also justify giving it FAS.

4. Immoral Prenatal Impairments: In Defense of Premise (2)

The most controversial premise of The Impairment Argument is premise (2), which claims that giving a fetus FAS is immoral. Before defending this premise, it is crucial to note that The Impairment Argument does not depend on whether giving a fetus FAS is immoral. All that is required for its success is that *some instance* of prenatal impairment is immoral—this follows from the fact that killing a fetus *always* impairs it to the $n+1$ degree (see Section 3). Thus, the focus on FAS somewhat arbitrary; the argument would work just as fine if premise (2) stated that it is immoral to impair a fetus by injecting it with a solution that caused its arms to shrivel up, or caused its mental development to be extremely impaired, and so on. That said, I will continue to consider the ethics of giving a fetus FAS.

⁴ There is some dispute about this point, but we need not enter it here. See Blackshaw (2019a) for an objection and Hendricks (2019b) for a response.

4.1 Fetal Alcohol Syndrome

Fetal alcohol syndrome occurs when a pregnant woman drinks a sufficient amount of alcohol.⁵ Now, suppose that a woman were to *know* she was pregnant and plan on drinking enough to cause her fetus to have FAS. Such an action would no doubt be *wrong*. This judgment of immorality appears quite common: people are horrified if they see a pregnant woman drinking large amounts of alcohol, and this is true whether or not one thinks the fetus is a person.⁶ This judgment—that giving the fetus FAS is immoral—remains even if the mother miscarries or has a still-birth. For example, suppose that a pregnant woman, Alice, knew she was pregnant and knew that drinking *X* amount of alcohol would give her fetus FAS. Suppose that she nevertheless drank *X* amount of alcohol. What Alice did was immoral, and we would all judge it to be that way even if she gave birth to a stillborn and even if we do not think fetuses are persons. So, at least initially, premise (2) seems widely accepted: we all think it is immoral to give a fetus FAS whether or not the fetus is a person. (For the remainder of this chapter, I will, *for the sake of argument*, assume that fetuses aren't persons.)

While premise (2) enjoys wide intuitive support—it is rare to find someone defending the permissibility of giving a fetus FAS—it is where the most serious challenges to The Impairment Argument can be made. First, one might object that FAS is *not* immoral if the mother *intended* to kill the fetus prior to birth (or soon after). Second, one might object that giving a fetus FAS is only immoral in cases where there is a sufficiently high risk the fetus will be born. And third, one might object that the ethics of giving a fetus FAS is contingent on the fate of the fetus: if the fetus is born and lives a sufficiently long time, *then* giving it FAS was immoral. If not, then not. These objections will be addressed in turn.

4.2 The Intention Objection to Premise (2)

To reject premise (2), one might argue that if a woman gives her fetus FAS while *intending* to have an abortion, then it is not immoral for her to do so. After all, she is intending to ensure that no human will consciously suffer the debilitating effects of FAS, and so she has done nothing wrong. Thus, premise (2) is false: it is only immoral to give a fetus FAS if one does not intend to have an abortion.

To see why this fails—to see that an intention to get an abortion *does not* render giving the fetus FAS morally permissible—suppose that a pregnant woman, Wanda, gave her fetus FAS while simultaneously intending to have an abortion. But suppose the incredibly unlikely happened: Wanda got lazy. She kept postponing getting an abortion until finally, it was too late: she went into labor and gave birth. Wanda giving her fetus FAS was still immoral; we would still rightly judge Wanda as acting immorally when she gave her FAS. That she *intended* to have an abortion

⁵ The amount of alcohol consumed needed to cause FAS will vary from woman to woman.

⁶ The same holds for other similar behaviors. For example, people are typically horrified if they see a clearly pregnant woman smoking or doing drugs.

did not (magically) make the action any better. And so The Intention Objection to premise (2) is not successful; an intention to have an abortion does not render it morally permissible to give a fetus FAS.

4.3 The Risk Objection to Premise (2)

The Risk Objection to premise (2) claims that giving a fetus FAS is only immoral when there is a sufficiently high risk that a child will be born; if the risk is negligible, then the action is not immoral. This objection is wrongheaded. To see why, suppose that a pregnant woman, Welma, is 6 months pregnant. But suppose that Welma's husband, Alex, does not want to have a child. In fact, he is deeply opposed to it. In light of this, Alex hatches a plan to inject the fetus inside of Welma with poison. One night after Welma falls asleep, he grabs a needle from his pocket and stabs it through Welma's belly, injecting its fluid into the fetus. However, for whatever reason, there happened to be two syringes in Alex's pocket: one containing a poison and the other containing a substance which will impair the fetus in ways similar to giving it FAS. To his horror, he realizes that he has used the wrong syringe: he has injected the fetus with the syringe containing a formula that will impair it in a manner similar to FAS. So, he quickly pulls out the other syringe and injects the fetus with the poison, resulting in its death. Now, given that Alex had the poison readily handy and was prepared to use it, the risk that the fetus would be born was negligible. However, it's still clear that—in addition to Alex wronging Welma—him impairing the fetus with the first injection was immoral. And this means that giving a fetus FAS is still wrong even if it is not risky.

Alternatively, suppose that instead of injecting the fetus with a poison, Alex opts to *stab* the fetus with a knife and kill it that way. So, he waits until Welma is sleeping and stabs the fetus through her belly. Miraculously, the fetus survives—though, it has been impaired in certain ways. For example due to the loss of blood, its ability to develop properly has been limited in a way similar to that of the limitations caused by FAS. Of course, Alex's action obviously wrongs Welma and is immoral for that reason (since stabbing the fetus involves stabbing Welma). But Alex's impairing the fetus (by stabbing it) is also wrong, and this is true even though there was very little risk that the fetus would survive. Therefore, even if the risk of the child being born is negligible, it is immoral to impair a fetus by giving it FAS.

4.4 The Fate Objection to Premise (2)

The Fate Objection to premise (2) is the most serious objection to The Impairment Argument. It comes in two different versions. The first version makes use of the distinction between subjective and objective wrongness, and the second version makes use of interest theory. These will be considered in turn.

4.4.1 The Fate Objection: Version One

The first version of the Fate Objection utilizes the distinction between objective and subjective wrongness. Subjective wrongness depends on the subject's beliefs (or what she should believe) and objective wrongness depends on what actually occurs. For example, suppose that you are standing in a room with 5 other people and that there is a large lever in the corner. And suppose that you believe that pulling the lever would release a poisonous gas into the room, killing all inside. But suppose that, contrary to your belief, pulling the lever actually releases balloons from the ceiling, not a poisonous gas. In such a case, it is subjectively wrong for you to pull the lever (since you believe it will cause the death of everyone in the room) but it is not objectively wrong, since doing so would merely release balloons. Alternatively, suppose that you believe that pulling the lever would release balloons but *in fact* it would release a poisonous gas, killing everyone in the room. In that case, it is not subjectively wrong for you to pull the lever, but it is objectively wrong to do so, since doing that releases the gas.

The proponent of The Fate Objection utilizes this distinction to object to premise (2). The idea here is that giving a fetus FAS is only subjectively wrong in cases in which the fetus is never born (or dies shortly after birth). For example, suppose that a woman, Winnie, is 6 months pregnant and intentionally gives her fetus FAS. However, suppose that she is in a car accident, resulting in the death of her fetus. The proponent of The Fate Objection argues that what she did was subjectively wrong, not objectively wrong, since the fetus was never born (Crummett MS). And thus, premise (2) is false, since it claims that giving a fetus FAS is objectively wrong, this would undermine the argument.

What are we to make of this charge? Is giving a fetus FAS really only subjectively wrong if the fetus is never born?⁷ In what follows, I will offer two responses to this objection.

4.4.1.1 First Response: Incredulity

One response to The Fate Objection is *incredulity*. This reply goes something like this: “Oh *really?* If a woman who gives her fetus FAS miscarries, has a stillbirth, or her infant dies early enough, you want us to believe that her giving the fetus FAS was not objectively wrong—it was just subjectively wrong of her? *Really?*” What motivates this incredulous reply is the initial implausibility of this explanation; it is crazy to think that giving a fetus FAS is only subjectively wrong if the fetus dies early enough, and so we should reject the first version of The Fate Objection. (Note: this is not incredulity about the subjective-objective distinction of wrongness. Instead, it's incredulity about its application to this case.)

4.4.1.2 Second Response: A Counterexample

Expressions of incredulity are unlikely to convince one who endorses this view of the matter (if any there be). So, in this section, I will argue that The Fate Objection to premise (2) fails by

⁷ That giving the fetus FAS is objectively wrong *if the fetus is born* is insufficient for The Impairment Argument. Premise (2) is supposed to hold in cases even in which the fetus is not born.

showing that there are cases in which giving a fetus FAS is objectively wrong despite the fact that it is never born. We need not look far to find such a case. A slightly modified example from the previous section will suffice for our purposes.

ALEX AND WELMA 1: Welma and Alex are married. Welma is pregnant. Alex wants a child, but he wants a particular type of child—he wants a child with FAS (for whatever reason). He concocts a plan to ensure that this happens: he discovers a drug that, if injected into the fetus, will cause the same impairments that FAS does. One night while Welma is asleep, Alex puts a needle through her belly, and injects the fetus with the formula. 3 months later, Welma gives birth to a child that has FAS. Three weeks later, the infant is killed in a car crash.

ALEX AND WELMA 2: Welma and Alex are married. Welma is pregnant. Alex wants a child, but he wants a particular type of child—he wants a child with FAS (for whatever reason). He concocts a plan to ensure that this happens: he discovers a drug that, if injected into the fetus, will cause the same impairments that FAS does. One night while Welma is asleep, Alex puts a needle through her belly, and injects the fetus with the formula. 3 months later, Wanda gives birth to a child that has FAS. The child lives for 80 years.

The advocate of The Fate Objection must claim that there is a difference in the morality of Alex's action in ALEX AND WELMA 1 and ALEX AND WELMA 2: Alex's action in the latter is both subjectively and objectively wrong, but in the former—the objection goes—Alex's action is only subjectively wrong. But this is bizarre, to say the least; it is clear that there is no ethical difference between these actions: in both cases, Alex's action is objectively wrong. Indeed, he performs the same action in both cases, and it makes little sense to say that he was *lucky* that his child died in a car crash before she could experience the effects of FAS.⁸ Moreover, and importantly, there is no clear motivation for holding that there is such a difference in the ethics of Alex's actions. Thus, The Fate Objection to premise (2) should be rejected: if it is correct, then there is an ethical difference between Alex's actions in the above cases. But there is not a difference. And so the first version of The Fate Objection fails.⁹

4.4.3 The Fate Objection to Premise (2): Version Two

The second version of The Fate Objection is rooted in *interest theory*. The interest theorist explains the wrongness of prenatal impairment (and other immoral actions) in terms of interest frustration. For example, McMahon (2006) advocates a view according to which “[t]he injury it receives as a fetus will frustrate numerous interests it will later have independently of the action that caused the injury.” (2006: 631) However, if the fetus does not live sufficiently long to

⁸ This isn't to deny that there is such a thing as moral luck. Instead, it's to deny its application in this case.

⁹ As with other issues discussed, much more to say on this objection. However, spatial limitations prevent me from saying more.

acquire these interests, then the original prenatal impairment will not be (at least significantly) wrong, since it has only weak interests, which are easy to override.

There are (at least) two replies worth making in brief. First, interest theory does not appear terribly popular; like all abstract philosophical theories, it is subject to controversy, and not widely held. So, this objection, even if it were successful, would have a very limited scope—it would only be of use for those few who endorse interest theory. And second, the above examples with Alex and Welma also show that we should reject this objection. For either the interest theorist holds that the only way you act immorally with respect to the fetus is by frustrating its interests, or she does not. If she does, then ALEX AND WELMA 1 is a counterexample, since giving the fetus FAS is immoral even though it does not frustrate the relevant interests.¹⁰ If the interest theorist allows that there are other ways that we can act immorally with respect to fetuses, then interest theory is no longer an objection to premise (2). For in that case, what our examples with Welma and Alex show is that it is immoral to give a fetus FAS for reasons other than interest frustration. So, either way, this objection fails.

In this section, the most serious objections to The Impairment Argument were considered: namely, objections to premise (2). These objections were all found to be wanting. And so premise (2) is on solid ground—attempts to undermine it all fail.

5. In Defense of Premise (4)

Abortion typically involves killing the fetus—this is not controversial.¹¹ For example, common methods of abortion involve vacuuming out the fetus (suction curettage), scraping out the fetus (dilation and curettage), and injecting the amniotic fluids with salt solution (induction).¹² If any of these were done to an adult human resulting in their death, we would call this an act of *killing*. And if doing this to an adult human amounts to killing, then doing this to a human at a prior stage is also killing. And so premise (4) is true. Moreover, even if abortion did not involve killing, premise (4) could be restated in terms of impairment: abortions typically involve lethally impairing the fetus. This just follows from our definition of impairment: the above methods all result in the fetus being maximally impaired—all of its abilities are completely limited during the process of abortion. And so even if abortion does not involve killing the fetus—and it almost certainly does—it involves lethally impairing the fetus, and this is sufficient for the purposes of The Impairment Argument.¹³

6. Objections to the *Ceteris Paribus* Clause

¹⁰ McMahon holds that the fetus has *weak* interests, but that these can be easily overridden.

¹¹ Indeed, Greasley (2017)—no friend of the pro-life view—argues that abortion is akin to killing.

¹² See Beckwith (2007: 83-92) for a further description of abortion methods.

¹³ Of course, if we reframe premise (4) in terms of lethal impairment instead of killing, the several other parts of The Impairment Argument would need to be altered, (namely, premise (1) and (3)).

Above, every premise of The Impairment Argument has been defended: it has been argued that premises (1), (2), and (4) are true.¹⁴ And from these three premises, the rest of the argument follows. However, it is important to note something that *does not* follow from this: the truth of premises (1), (2), and (4) *does not* entail that abortion is (typically) immoral. Instead, their truth entails that *ceteris paribus* abortion is (typically) immoral. This should not come as a surprise, since this is precisely what the conclusion says. Therefore, an advocate of the pro-choice position can accept The Impairment Argument while holding that abortion is nearly always permissible. This can be done if they hold that the *ceteris paribus* clause is not met: if the *ceteris paribus* clause does not hold, then abortion is permissible—at least for all The Impairment Argument has to say about the matter.

So, does the *ceteris paribus* clause hold? Many have argued that it does not. To do so, these critics suggest that there is a good that comes from abortion that does not come from giving a fetus FAS, and this breaks the *ceteris paribus* clause. For example, Crummett (2020) argues that pregnancy carries with it various burdens, and that having an abortion eliminates these burdens—produces a great good—while giving a fetus FAS does not. Pickard (2020) claims that abortion brings with it the good of women being able to imbibe ethically, whereas giving a fetus FAS does not. And Rasanan (2020) claims that abortion brings with it several goods that giving a fetus FAS does not: it brings about the good of one less person damaging the environment, it makes it such that the burdensomeness of parenthood does not come about, and it prevents a person coming into existence.¹⁵

So, abortion is said to carry with it the following goods that giving a fetus FAS does not: (i) it avoids the burdens of pregnancy, (ii) it allows women to drink ethically, (iii) it provides some environmental protection, (iv) it avoids the burdens of parenthood, and (v) it prevents a person from coming into existence. Let's grant that (i)-(v) are all substantial goods and that they only obtain from having an abortion. Do they break the *ceteris paribus* clause? Fortunately, the way the *ceteris paribus* clause has been stated provides us with a way to test whether a good breaks it. Recall that the *ceteris paribus* clause holds unless there is a sufficiently valuable good that obtains from impairing an organism to the $n+1$ degree and there is no sufficiently valuable good that obtains from impairing it to the n th degree (see Section 3). And if (i)-(v) are sufficiently valuable—which they need to be in order to break the *ceteris paribus* clause—they would also justify giving a fetus FAS. Thus, we may test to see whether any are sufficiently valuable by considering whether they would also justify giving a fetus FAS. If they would, then they are sufficiently valuable and the *ceteris paribus* clause is broken. If not, then not.

Would giving a fetus FAS be justified if doing so would bring about (i)? For example, suppose that by giving *A*'s fetus FAS, you could eliminate the burdens associated with *B*'s

¹⁴ (3) and (5) are not premises, but conclusions drawn from the previous premises.

¹⁵ This purported good is rooted in anti-natalism.

pregnancy. Would that justify one in giving *A*'s fetus FAS? Surely not. And so (i) is not sufficiently valuable. What about (ii)? Suppose that by giving *A*'s fetus FAS, it allowed *B* to drink ethically. Would that render it permissible to give *A*'s fetus FAS? Again, surely not. And so (ii) is not sufficiently valuable. Would (iii) justify giving a fetus FAS? Suppose that by giving a fetus FAS, it somehow resulted in the reduction of environmental harm—as much harm as a typical human produces during their lifetime. Would giving a fetus FAS be justifiable in that case? Yet again, surely not. And so (iii) is not sufficiently valuable. What about (iv)? Suppose that giving *A*'s fetus FAS resulted in *B* not being a parent. Would that be justified? Of course not. And so (iv) is not sufficiently valuable. Finally, consider (v). Would it be permissible to give *A*'s fetus FAS if it resulted in one fewer person coming into existence? Again, the answer is “No.” And so (v) is not sufficiently valuable. So, individually, these goods fail to justify giving a fetus FAS. But what about collectively? For example, suppose that all of (i)-(v) hold for some instance of giving a fetus FAS: suppose that if *A* were to give her fetus FAS, then it would eliminate the burdens associated with *B*'s pregnancy, it would enable *B* to drink ethically, reduce the amount of environmental harm by the amount typically caused by a person, *and* would result in one fewer person coming into existence. Would it be permissible for *A* to give her fetus FAS? Again, clearly not. And so these goods collectively do not justify giving a fetus FAS.

So, the purported goods that have been offered up by critics of The Impairment Argument are not individually or collectively sufficiently valuable, meaning that none of them break the *ceteris paribus* clause. Thus, the *ceteris paribus* clause appears to be met: in normal circumstances, there are no sufficiently valuable goods that break it, and so the *ceteris paribus* clause holds. When we conjoin this with the truth of premises (1), (2), and (4), it follows that abortion is typically immoral.¹⁶

7. Conclusion

In this chapter, The Impairment Argument has been explained and defended. Roughly, the argument moves from the fact that prenatal non-lethal impairment is immoral to the conclusion that lethal fetal impairment is immoral. Since abortion involves lethally impairing the fetus, it is immoral. Numerous objections were considered to the argument. However, they were all ultimately rejected. And so abortion is immoral—even if the fetus is not a person.¹⁷

8. References

Beckwith, Francis. (2007). *Defending life: A Moral and Legal Case Against Abortion Choice*.

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¹⁶ It is worth noting in passing that Blackshaw and Hendricks (2020a) and Blackshaw and Hendricks (2020b) offer an alternative way to state The Impairment Argument. For criticisms of this view, see Crummett (2020b), and Gilham (2020 and 2021). And see Blackshaw (2021) for a response to Gilham (2021).

¹⁷ Thanks especially to G.L.G.—Colin Patrick Mitchell—for particularly insightful comments on this chapter.

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