

The Relevance of Metaphysics to the Morality of Abortion

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Abstract

Earl Conee has argued that the metaphysics of personal identity is irrelevant to the morality of abortion. He claims that doing all the substantial work in abortion arguments are moral principles and they garner no support from rival metaphysics theories. Conee argues that not only can both immaterialist and materialist theories of the self posit our origins at fertilization, but positing such a beginning doesn't even have any significant impact on the permissibility of abortion. We argue that this thesis is wrong on both accounts. We do so, in part, by relying on a hylomorphic rather than a Cartesian conception of the soul. There are good reasons for believing such a soul theory can favor an earlier origin than the leading materialist accounts. We also show that the theological metaphysics of hylomorphism provide greater support for a pro-life position than the Cartesian position Conee discusses. However, we argue that even on a materialistic account of personal identity, metaphysics has substantial bearing upon the morality of early abortions.

I. Introduction

Earl Conee considers four well-known but very different discussions of the metaphysics of abortion and concludes that in each case the metaphysical view does not “substantially advance the argument in favor of a particular moral conclusion.”¹ He adds that where there is some apparent force in the metaphysical premise, rival metaphysics can be substituted with no loss in the strength of the reasoning. He concludes that all the work in the abortion debates is being done by non-metaphysical premises.

¹ Conee, Earl. “Metaphysics and the Morality of Abortion.” *Mind*. Vol. 108. No. 432. October 1999. pp. 619-645. The four approaches are that of Parfit, Marquis, Chisholm and Quinn. We ignore the latter two discussions.

Conee conjectures that not only are metaphysical principles irrelevant in the four philosophical accounts that he examines in his article, but this will be true of *any* alternative metaphysics that philosophers believe to have a bearing on the morality of abortion. He writes: “Concerning the morality of abortion, metaphysics is epistemically inert”² Since his target is the irrelevance of metaphysical arguments to abortion in general, we believe it is permissible to discuss metaphysical positions that he doesn’t address as well as those he does. We maintain that his discussion of ensoulment theories is rather tendentious. Certain claims he makes about Cartesian accounts cannot be extended to hylomorphic accounts.³ While only one of the authors of this article is a defender of a hylomorphic account of personal identity, we both believe, pace Conee, that the leading materialistic accounts cannot be substituted for nonmaterialistic accounts without some loss of strength in the pro-life position. We claim this because the materialist accounts cannot as easily support the claim that the very early termination of a pregnancy is an abortion rather than metaphysically and morally equivalent to contraception. Conee overlooks the fact that while rival theories may both posit our origins at fertilization, it is less of an ad hoc stretch of the resources of the one theory than the other. That means one theory offers more substantial support for a particular position than the other.

² Conee. Op. cit. p. 620.

³ We find it rather ironic that the first published response to Conee’s article bemoans the fact that Conee spends so much time and energy discussing theories that “depend upon quite implausible metaphysical presuppositions about ‘souls.’” See Timothy Chapell’s “The Relevance of Metaphysics to Bioethics: A Reply to Earn Conee” in *Mind*. 109 (2000) p. 279.

We also claim that the arguments which Conee offers to show that abortion is not harmful even if ensoulment occurs at fertilization cannot be extended to the hylomorphic account. While a Cartesian person may thrive when his soul is unencumbered by the flesh, this is not true of a person on the hylomorphic account of the soul. Nor is it true on a hylomorphic view that abortion may just be delaying the soul's obtaining embodiment and a human life. But even on a Cartesian conception, if ensoulment is a miracle, a divine intervention for a *purpose*, such a metaphysical-theological conception, pace Conee, constrains the morality of abortion.

Even if we are wrong about one particular metaphysic favoring an ethical conclusion more than its rival metaphysics, we don't agree with Conee that it shows that metaphysics is epistemically inert. We don't think such a substitution of one metaphysics for another renders the metaphysical premises irrelevant to the moral conclusion any more than the consequentialist support of the death penalty is rendered epistemically inert because a rival non-consequentialist retributivism can also support the death penalty.

Furthermore, while we do not deny Conee's claim that most of the work in the abortion debate is being done by disputable moral positions, we believe that once the abortion of infants and advanced fetuses is morally rejected, and that is the most common position even amongst pro-choicers, then the metaphysics of our origins is very important in determining the termination of a pregnancy. Our contention is that certain metaphysical claims push the moderate on abortion to a more extreme pro-life position. Conee's mistake is just to concentrate on the initial moral debate to rule out the significance of metaphysics to the abortion issue. But in this initial debate, he presents rather extreme moral positions that designate only certain aspects of mentality the morally relevant ones, even though they permit infanticide and late abortion. He deems such ideas "equally credible...pertinent considerations...familiar reasons" to the abortion

debate.⁴ He overlooks the significant role of metaphysics, especially of the hylomorphic variant, in the abortion debate after certain mainstream preliminary moral positions are established. And since we believe Conee is not alone in overlooking or misunderstanding the significance of metaphysics to the abortion debate, especially a hylomorphic variant, we are confident that there is a larger audience for our arguments than just those intrigued by his thesis.

II. Materialistic Reductionism, Immaterialistic Nonreductionism, and Hylomorphism

Conee relies heavily on a distinction of Parfit's between Reductionist and Nonreductionist accounts of personal identity.⁵ A Reductionist account holds that a person's continuing existence involves nothing more than the continuing presence of certain psychological or physical relations, typically causal in nature, between brief or momentary person stages. A Nonreductionist insists that our continuing existence requires something more than the holding of such psychological or physical connections. There is a need for what Parfit labels a "further fact." Parfit consider a Cartesian soul theory to be a paradigm example of Nonreductionism. Accounts that emphasize psychological or physical continuity are examples of Reductionism. Advocates of the latter typically use language describing personal identity over time "as being nothing more than" such and such ties or "just consisting in" such and such connections. Reductionist accounts differ on what the tie is and whether it has to be the same physical stuff (e.g. brain) subserving the psychology.

Parfit assumes that for the Nonreductionist, identity is always an "all or nothing" proposition. He means by this phrase that it can never be indeterminate whether someone exists

⁴ Conee. Op. cit. p. 620, 643.

⁵ Parfit, Derek. *Reasons and Persons*. (Oxford: Oxford University Press, 1984) Part 3.

or whether that individual is identical to some one else. He contends that if existence could be indeterminate, then the moral wrongness of abortion could increase with the development of the fetus into a creature more like us.

Parfit sketches an argument in which Nonreductionist metaphysical assumptions purport to favor an anti-abortion stance.⁶ Conee reconstructs Parfit's rather loose presentation in the following form, and then rejects the claim that the metaphysical premises are really doing the work Parfit thinks they are doing:

P1 If Nonreductionism is true, then the "all or nothing" proposition is true.

P2 If the "all or nothing" proposition is true, each person begins existence as a fertilized human egg.

P3 If Nonreductionism is true, then each part of a person S's life is as much part of S's life as any other part of S's life.

C1 If Nonreductionism is true, then each person S has a life at conception which is as much part of S's life as is any other part of S's life.

P4 If each person S has life at conception which is as much part of S's life as any other, then killing any fertilized human egg at conception is killing an innocent person.

P5 Killing an innocent person is morally wrong except to save some person's life.

C2 If Nonreductionism is true, then killing any fertilized human egg is morally wrong, except to save some person's life.

⁶ Parfit. *Reasons and Persons*. Op. cit. pp. 321-22.

Conee claims that premises 1 and 3 can be taken for granted, but the three others need support and none is supplied by the metaphysics of Reductionism and ordinary empirical facts. His conclusion is that Nonreductionism and the “all or nothing” proposition do not make any moral difference. The latter merely rules out indeterminacy, it doesn’t say what sort of being a person is.

Conee attacks the second premise about each person beginning at fertilization. He claims the classic Nonreductionist view that each person is an immaterial soul “gives us no reason to believe that a person’s existence begins at fertilization even if as Parfit suggests, that conception is the most plausible time to locate the start of our body’s existence.”⁷ Conee adds “that the soul might exist before the body that it acquires comes into being or that a soul might arise well into the pregnancy, perhaps just in time to instantiate the initial psychological traits of the person. He concludes that the classic Nonreductionist account undercuts the credibility of the premise in this argument.”⁸

What is important to notice is that Conee is considering only a Cartesian account of the soul. If he had considered a hylomorphic account, he wouldn’t be able to claim that the soul could exist prior to embodiment for that would mean an unformed body.⁹ Only on the assumption of substance dualism, can the soul and body be easily separated. In a hylomorphic

⁷ Conee. Op. cit. p. __

⁸ Conee. Op. cit. p. 623

⁹ For an interesting argument that hylomorphism offers a third way between reductionism and dualism, see Eleanor Stump’s paper “Non-Cartesian Substance Dualism and Materialism Without Reductionism.” *Faith and Philosophy*. vol. 12 No. 4 October 1995

metaphysics, there can't be a body without a soul. A body is already ensouled matter. There is no body without a configuring soul.

But perhaps what Conee might argue is that the *rational soul* is necessary for our existence and such a soul comes into existence later in fetal development, replacing or complimenting, as Aquinas claims, the earlier vegetative and sensitive souls. This is consistent with the Aristotelian/Thomistic theory of a succession of souls and has found recent prominence in philosophical literature in which a distinction is made between the animation of the early pre-embryo by vegetative and sensitive souls and the later "hominization" of the embryo by the rational soul. On this view, the later embryo whose soul is rational is the human being which persists as the fetus, infant, etc; the early, pre-hominization embryo is potentially a human being but not actually one.⁹ Recent attraction to this theory is due in part to an interest in reconciling contemporary embryological data on monozygotic twinning with positing the origin of human being, the soul of which is simple, indivisible, and incommunicable. This conception of the soul, while traditionally of Christian thought, is also in keeping with commonsense intuition: that each human being is unique, unrepeatable, and cannot be divided into two separate human beings. And since monozygotic twinning is the result of the division of a single fertilized egg into two genetically identical embryos which develop into two human beings, it does not seem credible that the original entity is a human being. What is argued, then, is that from fertilization to at some point when twinning, either natural or induced, is no longer possible, the "pre-embryo" is matter animated by just a vegetative soul. When twinning is no longer possible, the sensitive soul becomes present and is eventually succeeded by a rational soul, at which point is the origin of the human being, a composite of matter and rational soul.

A consequence of this succession of souls is that if people couldn't exist without a rational soul, then none of us was ever an early embryo. However, there are certain reasons to believe that there is only a single soul and it comes into existence at fertilization. Our reason for this is that the impetus for positing a succession of souls are twinning-based problems which, we shall see in the next section, lose their force when the empirical data of human embryology is reexamined. In fact, a hylomorphic theory is not only consistent with embryological data, but may provide more explanatory power for the data than rival metaphysical theories. We also claim that positing our origins at fertilization is consistent with other key features of Aquinas' hylomorphic theory and theological beliefs. One of these features is the claim that we are metaphysically unique, essentially different from other non-human animals beings in such a way as to support the Christian belief that we are made in the image and likeness of God. If we are not continuous with other living creatures, but radically different, it shouldn't be surprising if fertilization of a human egg resulted in an embryo whose properties were quite distinct from embryos of other species. Another reason to favor ensoulment at fertilization is that if the rational soul can take over the functions of the vegetative and sensitive souls, as Aquinas maintains, considerations of parsimony suggest positing that multi-purpose soul at fertilization.

A further consideration is that if the rational soul came later than fertilization, it would come much later than Thomists maintain, since there is no evidence of rationality in the advanced fetus or even newborn. Surely Thomists don't want to posit that babies are not ensouled. But they can only avoid this conclusion by claiming that the rational soul is latent in advanced fetuses and newborns. But then there is less reason to doubt that the rational soul should be able to come into existence even earlier (at fertilization) without manifesting its rational capabilities. Another consideration is that early miscarriages unknown to the mother or

anyone else, would be hard to make sense of if ensoulment didn't occur at fertilization. If ensoulment involves God's miraculous intervention, why would He create a being soon to be destroyed unbeknownst to any human? Whatever theodicy or defense explains the existence of evil will not be easily able to subsume this unknown death. And it won't do to just maintain that only the rational soul has a miraculous origin, thus freeing God from the charge of a seemingly pointless miraculous intervention. The problem is that since there is no evidence of rational functioning until long after birth, infants who die will not 'survive' their biological deaths for they don't have immaterial souls. Such infants going permanently out of existence doesn't seem compatible with a benevolent God. And if the deceased infant 'survives' death and experiences an afterlife, it boggles the mind to imagine a vegetative or sensitive soul vegetating or sensing without any matter. But if God infused a rational soul after the infant's death, the soul would not come into existence in union with matter which is incompatible with the Thomistic claims made above.

So we see that there are a number of reasons why we should postulate that the hylomorphic soul originates at fertilization. These are reasons not as readily available to the Cartesian which suggests that a particular nonreductionist metaphysics can, contra Conee, constrain the abortion debate. And since he is seeking to generalize from the cases that he examines to all discussions in which metaphysics is thought to constrain the abortion debate, our discussion of hylomorphism is a legitimate counterexample to Conee's thesis. Thus he is wrong to conclude his article with the following claim:

In the cases that we examined we have seen that the metaphysics does not so much as alter the balance of reasons. Nothing indicates that his result does not generalize to all reasoning about the morality of abortion. Where a particular

metaphysical view seems initially to help, it turns out just to supply one ontological sort of hook on which to hang a feature that arguably makes a difference.¹⁰

III. Organisms, Zygotes and Personal Identity

Conee writes that it is reasonable to hold that “we persons are identical to human organisms. But Nonreductionists can uproblematically affirm these things.”²⁰ This is a very strange claim especially if the Nonreductionism one has in mind is of the Cartesian kind. Descartes can be interpreted as either understanding people to be a compound of two substances or identifying them each with a soul.¹¹ Neither is a good candidate for an organism. The living body is the organism, but the Cartesian person is either an immaterial entity that stands in the some relation to that organism, or is a compound of that organism and the immaterial entity. And if the soul and the person can become disembodied, an organism is left behind. Since nothing can be separated from itself, people are not organisms. So on the Nonreductionist view that Conee discusses, it is difficult to construe ourselves as organisms.

These reflections do not render impossible a Reductionist account in which we were once a zygote and then during the next two weeks existed as a nonliving entity composed of living cells that do not compose a multi-cell organism which later becomes a complex living being that continues to exist after death. But it is not easy to defend this claim. Most metaphysical Reductionists believe having a mind is essential to us. And their use of the cerebrum transplant

¹⁰ Conee. Op. cit. p. 645.

¹¹ Olson, Eric. “A Compound of Two Substances” in Kevin Corcoran ed. *Soul, Body and Survival: Essays on the Metaphysics of Human Persons*. (Ithaca: Cornell University Press, 2001)

thought experiment is rather compelling as evidence that a person can be transplanted and an organism left behind. If a mind is essential to us, then we are not organisms for they can exist as mindless fetuses and irreversibly noncognitive vegetative states. This all suggests that the person was spatially coincident with rather than identical to the organism.

So on the most popular account of Reductionism, one in which a mind is essential, we were never zygotes or even organisms at a later stage of a pregnancy. On the next most popular Reductionist view of personal identity, the Biological or Animalist account, we were never zygotes or embryos in the first two weeks following fertilization.¹² Many biologically-minded philosophers maintain that the early embryo is just a collection of single cell organisms that don't yet interact in the systematic way characteristic of a complex organism.¹³ So Reductionist philosophers cannot easily account for our being identical to an organism and once a zygote and then a two-celled entity, then three-celled entity and so on if we are essentially organisms or essentially psychological creatures.

¹²For a thorough analysis of the distinction between psychological and biological approaches to personal identity, see Eric Olson's *The Human Animal: Identity without Psychology*. (Oxford: Oxford University Press, 1997)

¹³ See Smith and Brogaard, "16 Days" Smith Barry and Brogaard, Berit. "16 Days", *Journal of Medicine and Philosophy*. 28 (2003) pp. 45-78. Grobstein, Clifford. *Science and the Unborn: Choosing Human Futures* (New York: Basic Books, 1988) Ford, Norman. *When Did I Begin? Conception of the Human Individual in History, Philosophy and Science* (New York: Cambridge University Press, 1988) Olson, Eric. *The Human Animal*. op. cit., van Inwagen, Peter. *Material Beings* (Ithaca, Cornell University Press, 1990)

But on the hylomorphic account, we can be zygotes and (contingently) organisms. So again metaphysics is not neutral about our origins. It is much easier for the hylomorphic account to posit that we existed from fertilization onwards than its rivals that make essential either mentality or multi-cellular life processes (which are absent in two and three and four cell... pre-embryos) that exist in the first couple of weeks after fertilization. The earlier account we presented of hylomorphic ensoulment and twinning provides far more reason than its rivals to believe that a person can come into existence and exist for a few weeks without being an organism. When that early period ends, the same individual becomes an organism for its form comes to configure matter, organized into a single life. Before that time the form configured matter, parts of the resulting compound were individual cells, but the individual cells didn't compose a larger multi-cell organism with the characteristic system-wide life processes typical of a living being. On the hylomorphic approach, if we are a composite of form and matter, we don't always have to be a living (or thinking) being to exist. We are whatever composite is produced by our soul and matter. Since we could have existed, for two or three weeks after fertilization, before a multi-cell organism comes into existence, "organism" would on this account be what Wiggins called a phase sortal. And we could exist even after death with the 'glorified body' promised in the Bible.¹⁴

¹⁴ The possibility of acquiring a new body is not uncommon even amongst secular philosophers. Lynn Rudder Baker and Peter Unger both believe that we could survive replacement of all of our organic matter with inorganic matter if it is done in a certain gradual way.

IV. Adding Metaphysical Assumptions

Even if Conee were forced to admit that certain metaphysical views favored early existence more than others, he wouldn't grant any *moral* significance to this. In his original paper, Conee considers the possibility that adding more metaphysical assumptions to a Nonreductionist account of the self will provide more support for the moral conclusion. What Conee then does is suppose that we are souls (or ensouled?), begin at conception, and are rational and sentient from the first day that we exist. Despite granting such assumptions for the sake of argument, Conee concludes that this will fail to make a moral difference. He even suggests "that this attempt fails in ways that look eliminable."¹⁵ We disagree. We find the impermissibility of abortion very hard to doubt on such additional assumptions, regardless of whether one defends a Cartesian or hylomorphic account. The reader should imagine a being temporarily in his or her belly that has the same range of thoughts and feelings that they do. It ponders its future, the existence of God, the origin of the cosmos, enjoys music, desires to write poetry, and is looking forward to spending enjoyable evenings conversing and laughing with friends, wants to fall in love and have a family, etc. We don't find any intuitive support for snuffing out the life of such an entity.¹⁶ Does the reader?

Conee claims that even if we assume that the fetus has the added capabilities of sentience and rationality, this leaves unanswered the morally vital question: "What does the abortion of a fetus do to the soul that is associated with it?" He considers two possibilities in which abortion would appear to do no harm to us if we were souls and one account in which it would. He writes

¹⁵ Conee. Op. cit. p. 625.

¹⁶ This example is borrowed from Peter Unger.

that “the present soul view in conjunction with the empirical facts tells us nothing about the fate of a soul in abortion...Perhaps abortion would free the soul to lead a perfectly good existence, unencumbered by fleshy constraints, or perhaps abortion would just delay when a particular soul gains a human life, or perhaps the soul would be damaged or destroyed in a fetal abortion...”¹⁷

Conee concludes that in the absence of such additional information, reasonable beliefs about abortion are not constrained.

Perhaps Conee is right to claim that the Nonreductionist soul view he considers tells us nothing about the fate of a soul in abortion.¹⁸ But this is because he is limiting his discussion to a more Platonic/Augustinian/Cartesian view of the soul. If he had considered the metaphysics of the hylomorphic view, he couldn't have as easily reached the conclusion that the morality of abortion is untouched by metaphysical constraints. According to the hylomorphic view of Aquinas, we are a composite of form and matter. We would not be identical to a disembodied form. No one can become identical to a part of themselves – at least without abandoning the classical logic of identity. Aquinas writes in his commentary on 1 Corinthians “Anima mea non est ego” (My soul is not I.) He continues “and if only souls are saved, I am not saved, nor is any

¹⁷ Conee. *Op. cit.* p. 626

¹⁸ We do express some doubt below even about Conee's treatment of the Cartesian soul when we consider the miracle of ensoulment, a belief shared by theists such as Descartes and Augustine. So Conee's arguments are best construed as about theism-free Cartesianism. And that banner does not make as attractive or informative a target.

man.”¹⁹ Peter Geach defends a similar account ofhylomorphism while deprecating the Cartesian formulation:

It is a savage superstition to suppose that a man consists of two pieces, body and soul, which come apart at death; the superstition is not mended but rather aggravated by conceptual confusion, if the soul-piece is supposed to be immaterial. The genius of Plato and Descartes has given this superstition an undeservedly long lease on life; it gained some accidental support from Scriptural Language, e.g., about flesh and spirit – accidental, because a Platonic-Cartesian reading of such passages is mistaken, as Scripture scholars generally agree. In truth, a man *is* a sort of body, not a body *plus* an immaterial somewhat; for a man is an animal, and an animal is one kind of living body; and thinking is a vital activity of a man, not of any part of him, material or immaterial.²⁰

Aquinas was convinced that there are disembodied spirits but ones that cannot see or hear or feel pain or fear or anger; he allowed them no mental operations except those of thought and will...In our human life thinking and choosing are intricately bound up with a play of sensations and mental images and emotions; if after a lifetime of thinking and choosing in this human way there is left only a

¹⁹ The relevant aspects of Aquinas’ view have been championed more recently by Geach in his essays “Immortality” and “What Do We Think With?” collected in his *God and Soul*. See also his *Three Philosophers*. (Oxford: Basil Blackwell, 1961) pp. 98-100.

²⁰ Geach. “What Do We Think With?” Op. cit. p. 38.

disembodied mind whose thought is wholly nonsensuous and whose rational choices are unaccompanied by any human feelings - can we still say there remains the same person? Surely not: such a soul is not the person who died but a mere remnant of him.”²¹

On a hylomorphic view supported by Thomists, resurrection is necessary for *our* afterlife. And even if it wasn't necessary but would still occur as promised, it would seem to offer a benefit that disembodied existence does not. Why would resurrection be promised if we could flourish without a body, unimpaired by our body as Conee writes? It would mean that the human being would not even experience any (nonsinful) pleasures of the senses. So dispatching the soul of a fetus would not be a welcome state for it would be neither the survival of the individual that was a fetus, or even that attractive an existence for a being that we are not identical to but intimately related to as a whole to a part.²² The fetus would never know any pleasures of the senses until the resurrection. More accurately, it would mean that the fetus is not the being in the afterlife prior to the resurrection. So what good does disembodied existence do an individual if it wouldn't be that disembodied existence? What good does it do me if a part of me survives my death and I don't exist again until the resurrection when my form and body are together again? Very little it would seem. The rewards would not be mine. So we have metaphysical reasons for thinking the embryo's death, *ceteris paribus*, is not good for the ensouled creature.

²¹ Geach “Immortality.” *Op. cit.* p. 22.

²² Even if one can show prudence-like concern for a part of oneself (a hylomorphic analogue of Parfit's brain fission case that allegedly shows that identity doesn't matter to us), it would still be a truncated or maimed existence that one cares for and thus not as good as one's survival.

Readers shouldn't try to deny that this is a metaphysical position that constrains the abortion debate. It surely is a metaphysical constraint if Conee can count as metaphysical the possibility of great pain associated with the soul leaving the body due to an abortion. He writes "it must be admitted that to concede all of this would be to concede the existence of metaphysical doctrines that give some support to moral restrictions on abortion." He just discounts this by adding that "this view is not credible, and it does not resemble anything defended by philosophers."²³ But the metaphysical view sketched above in the previous passage about disembodiment has been defended by very reputable philosophers. Detachment of one's soul is not an envious state since one is not the soul or if one was, such an existence would be devoid of sensation, images, feelings etc. So if the great pain that an aborted soul might experience can be considered a metaphysical thesis that constrains abortion, though an implausible one, the hylomorphic account of disembodiment can be considered a metaphysical thesis that constrains abortion, and a much more credible one.

²³ Conee. Op. cit. pp. 626-7 Perhaps an analogy of the "Hunter's Rule" constrains the abortion debate. If a hunter is not sure that some creature is a deer rather than a fellow person, he plays it safe and doesn't shoot. So if the metaphysics isn't clear that abortion is a harm or not, perhaps we ought to err on the side of caution. Does that count as a constraint on the abortion debate? We are open to the possibility that it isn't that different from Conee's example of a painful abortion being a metaphysical constraint.

And perhaps a reductio of Conee's view that abortion may not be bad for the ensouled being is that the argument would just as well apply to us adults.²⁴ If we have souls, and souls flourish when apart from the body, as Conee speculates, then killing readers wouldn't be bad for them. If that is not a reason in favor of killing them, or for being agnostic about the wrongness of killing them, then it isn't a good argument for believing soul theories don't constrain the killing of fetuses.

We can briefly touch on one of the other possibilities Conee mentions about souls and abortion – that it merely delays the acquisition of a living body. If we are a hylomorphic composite of soul and body, then abortion cannot be just a delay in getting a new body. We exist only if that body and soul are joined. We are not identical to a part, the soul, and merely related to a body, the latter being interchangeable. While our body could perhaps be gradually replaced as some personal identity theorists speculate, we couldn't get a new body through abortion and the "free floating" soul coming to inform something else.

V. Miraculous Ensoulment and the Wrongness of Abortion

Conee's argument that metaphysics doesn't constrain the abortion debate is further weakened by other theological-metaphysical principles. While a soul doesn't commit one to a theological view of its origins, such beliefs have been historically paired. They certainly are in Augustine and Descartes, and the latter is the paradigmatic Nonreductionist. Now if we

²⁴ Jim Delaney made this point in conversation. Conee might respond that this is a moral objection to killing, not a metaphysical view constraining the taking of life.

understand miracles as interventions in the lawful physical order, ensoulment is a miracle.²⁵ So if God must miraculously intervene to ensoul a person, one would think he does so with a purpose in mind. To abort such a nascent life would seem to counter God's purpose.²⁶

If Conee or his supporters respond that God allows spontaneous abortions (miscarriages), our reply is that this is the result of the broken world in which form doesn't always master matter. We could reasonably say that is an act of God since He made and sustains the objects in the world and their causal powers. But that is quite a different matter from a human intentionally destroying life. We can't say that is God's will, reading it off the natural course of events. We can, of course, say He allows abortion as He allows other evils. (It would perhaps be helpful to distinguish between His original plan and then His conditional plan given the Fall.²⁷) But it would hardly be reasonable to say that it is God's will that people go around killing each other. An abortion is the *intentional* action of a woman acting freely. So the metaphysics of ensoulment does appear to constrain the abortion debate. This is overlooked by Conee, not so much because

²⁵ If ensoulment is considered a regularity and thus not a miracle of lawful violation, we could perhaps tinker with the account of miracles to which particles get causal powers that they wouldn't otherwise have in the absence of divine intervention. See Peter van Inwagen's "The Place of Chance in a World Sustained by God" in his *God, Mystery and Knowledge*. (Ithaca: Cornell University Press, 1995)

²⁶ Conee or supportive readers shouldn't deny that this is a metaphysical view on pain of disqualifying Peter Geach, whose view it is, as a practitioner of analytic metaphysics.

²⁷ See van Inwagen. "The Place of Chance in a World Sustained by God" Op. cit

of his narrow focus on a Cartesian soul, but his neglect of Descartes' theistic commitments. And it is surely legitimate to judge those commitments to be metaphysical considerations.

VI. The Epistemic Relevance of Metaphysics

Even if we are wrong about one metaphysical view better supporting a particular view about fertilization than another, we don't see why such metaphysics shouldn't be construed as supporting an abortion position even if a competing theory can support the same position. One reason is that we don't find the metaphysical views in contention to be equally reasonable (does Conee), so we believe the more plausible metaphysical view supports an abortion position more than a less plausible metaphysical view that designates the same timing of origins.

It is also not clear to us why substitution of a particular metaphysics with an equally reasonable metaphysical view should detract from the claim of providing metaphysical support for an abortion. We don't believe that the possibility of substitution shows that each metaphysical view was epistemically irrelevant or failed to "reasonably constrain the moral views of abortion" and "substantially advance" a moral conclusion. Perhaps the problem is the vagueness surrounding those phrases. When pushed by one later commentator to explain what he meant by those claims of epistemic irrelevance, Conee's example was the existence of sand in the following argument:

P1 If sand exists, then it is wrong to kill an innocent person.

P2 Sand exists.

C Therefore: it is wrong to kill an innocent person.²⁸

The existence of sand has no evidential bearing on the conclusion. But consider the following argument:

P1 John committed felonious assault.

P2 All those who commit felonious assault should go to prison.

C Therefore: John should go to prison.

If we substitute “felonious rape for “felonious assault,” the conclusion can still be achieved but that doesn’t seem to show that John’s action is epistemically irrelevant. So we don’t see why a materialist Reductionist metaphysics in a pro-life account should be seen as making no substantial contribution if the same conclusion can be achieved by a nonmaterialist Nonreductionist account. We don’t think that this makes the metaphysics equally irrelevant. We just leave it to the reader to consider the abortion argument and render a judgment whether it is closer to the felony or sand cases.

VII. The Unborn’s Potential for a Valuable Future

Even if we grant Conee’s thesis that the real work in the abortion debate is done by moral principles, we don’t think that this makes metaphysics irrelevant for there are surely better than worse moral views. More importantly, we don’t believe there is a tie for first place. And Conee

²⁸ Conee’s response to Chapell, T.D. “The Relevance of Metaphysics to Bioethics: A Reply to Earl Conee. *Mind* 109, pp., 275-9.

surely doesn't believe that such views are all of equal merit. So let's assume that the moral debate rules out infanticide and later abortion. (This is a safe an assumption since it is the mainstream view of the educated American Public. All pro-lifers hold it and most pro-choicers do as well.) Then metaphysics becomes very important because it tells us about the timing of our origins. If infanticide and late abortion are wrong, it can't be because of any intrinsic manifested psychological features since fetuses and infants are cognitively less impressive than countless animals that don't warrant much moral protection. So it appears to be the potential for a valuable state in the future that justifies the concern. (Our view is very similar to Marquis's principle about the wrongness of killing which Conee explicitly rejects.) Once the relevance of the valuable future of an individual is granted, then it is very interesting to discover whether a zygote and early embryo are identical to the mature fetus or infant. So even if metaphysics doesn't support an abortion position on the 'first go around," once some headway is made in the moral disputations, then metaphysics is very relevant. So if one takes a pro-life view about late abortion, there is considerable force of argument to extend this to the fetus's origins. Whether we ever existed as an early embryo is a metaphysical issue and thus one that will constrain moral conclusions once certain other moral issues are decided. So it isn't fair to say that metaphysics is epistemically inert. For example, someone may be pro-life and then not opposed to very early termination of a pregnancy prior to twinning because they maintain that the metaphysics of twinning rules out our ever existing as early fetuses or infants.

Since we believe opposition to late abortion and infanticide is far more plausible than condoning such actions, and due to the fact few pro-choicers defend infanticide, metaphysics is likely to be relevant to those who are pro-choice as well as pro-life. Once the latter admit late abortion and infanticide are wrong, they need to establish an intrinsic morally relevant difference

between early embryos and infants or find an extrinsic morally relevant difference due to some other feature like the burden on the mother. But we maintain that they will fail in such endeavors. That no moral intrinsic difference can be established by the stagnation thought experiment in which we imagine the unborn at any stage (or even the newly born) as staying alive but developing no further.²⁹ They don't manifest morally significant traits absent from other mammals don't and yet the latter are not provided moral protections anywhere close to that which commonsense morality bestows upon late fetuses and neonates. So if late abortion and infanticide are wrong, it is either the potential of the soul or organism that is doing all the "moral work."

Conee might claim that the concern with a potential valuable future can't justify a pro-life position because it would also justify a ban on contraception. He dismisses as unimportant the claim we share with Marquis that there is a subject of harm sometime after conception that didn't exist before even if there were two gametes that would have fused. Conee thinks this is morally insignificant because both abortion and contraception results in there not existing in the future a creature with valuable experiences.³⁰ Conee believes that it doesn't matter that in the latter scenario, the particular gametes which would have fused and produced a thing with a valuable future had not yet been joined. He writes about the "comparison between the monadic property of potentiality having a valuable life, and the relation of X and Y potentially uniting to form something that potentially has the life..." that "it is an austere structural difference between

²⁹ See David Hershenov's "The Problem of Potentiality." *Public Affairs Quarterly*. Vol. 13, Number 3 July (1999). pp. 255-271.

³⁰ Conee Op. cit. pp. 640-641.

properties of no visible moral significance...”³¹ We think there is a world of difference between a being that exists who loses out on a valuable future and a possible being that could come into existence and experience a valuable future but does not. However, we are nearly at a loss on how to argue for it other than to point out the difference in the average person’s reaction to the loss of a fetus through abortion and the failure to conceive due to contraception.

Perhaps it might help if we compare the reactions of two disabled people to comparable minor disabilities of different origins.³² (By making the disabilities minor, we mean to imply that they both have lives worth living.) One person is disabled because after conception, the doctor

³¹ Conee. *Op. cit.* p. 641. Conee even points out that there are metaphysical views in which any two objects have an object as their sum, so there would be an object composed of the scattered gametes that has a valuable future. Conee is mixing together views here. Those who maintain everything has a sum, don’t believe that the sum gets larger. So there would be a creature that is the two scattered gametes but it doesn’t gain or lose any parts. Anyway, if we coexisted with a sum at this moment, that sum would only have the briefest moment of valuable existence for it would soon be scattered. In fact, we wouldn’t say it had valuable existence since it didn’t coincide long enough with us to participate in any valuable activity that we did. Furthermore, any such entity is not identical to any gametes or in anyway relevant to moral concerns since we couldn’t be identified earlier.

³² We are influenced here greatly by Jeff McMahan’s paper “Wrongful Life: Paradoxes in the Morality of Causing People to Exist.” *Commitment and Social Justice: Essays for Gregory Kavka* (Cambridge: Cambridge University Press, 1998) pp. 208-245.

engaged in a prenatal exam negligently prescribed a drug that harmed the fetus. The other is disabled because of a genetic abnormality in the gametes that were fused in vitro but were not detected prior to the fertilization by a second negligent doctor. However, if the defect had been detected, there was no treatment that would enable the sperm and egg that the disabled person came from to fuse without the handicap arising. However, detection would have motivated the parents to make use of a different and defect-free egg and sperm which would have meant a different child would have come into existence. So a state of affairs without the disability could only exist if the disabled person did not exist. The person in the first scenario is harmed by the disability, the person in the second scenario can't object that he has been wronged. We trust most readers share our belief that more should be done to avoid the first scenario than the second. That suggests that the former is a worse scenario. We think that there is a relevant parallel to abortion and contraception. Abortion is a *person-affecting wrong* where contraception is not. So for a certain type of wrong to occur, there must be a subject of harm. Abortion is worse than failing to conceive just as not remedying the defect of the existing individual is worse than not preventing the existence of a person who has the same kind of defect as a result of his origins.

What makes abortion worse than contraception seems to accord well with Marquis's view that there is a being already existing who loses out on a valuable future than he could otherwise have had. That is why he can complain while the person emerging in the example from the defective gametes cannot complain because he couldn't exist without the defect. However, Conee claims that even if we grant the metaphysics most congenial to Marquis's position (that there is not an entity existing as the fusion of the sperm and egg *prior* to fertilization and thus no subject of possible harm), and *accept* that some version of Marquis's valuable future principle is on the right track, the principle is "still too plastic to do any work in the abortion debate." Conee

claims “that there are rival principles to (Marquis’s) of at least equal credibility that have nearly the same implications except in cases of abortion.”³³ We strongly disagree for these principles will either allow infanticide or extend protection to all desiring/feelings animals. And we, as most of the public, certainly believe a non-sentient human fetus deserves more protection (and have a greater claim to say scarce medical resources) than a sentient rabbit, cat or bird. It would be helpful to quote Conee listing those features that allegedly are “equally credible” to Marquis’s valuable future principle (henceforth MP).

For instance, comparable credible principles have it that the wrong-making feature of typical killings of adults is the loss of a valuable future by something that not merely exists, as MP would have it, but also feels, or desires, or prepares for the future. Since killings of adults are almost always killings of beings who have feelings and desires, and who prepare for a future, any of these rival principles counts wrong approximately the same adult killings as does MP.

These other principles can be given reasonable defenses. It can be maintained that a typical adult killing is wrong, not because it is a mere prevention of a valuable future, as MP would have it, but rather because it is a deprivation of that future. It can be held that for an entity to be deprived of a future requires that the entity have a psychology that includes some suitably future-directed disposition. It can be claimed that only those who have feelings, or perhaps desires, or perhaps intentions, actually have some definite stake in their futures. Each of these

³³ Conee. *Op. cit.* p. 643.

properties can be sensibly argued to be crucial. Clearly, these variants of MP permit abortion in variously extensive situations.³⁴

So if young human beings are entitled to a level of moral protection that other known animals are not, and thus the killing of non-rational and non self-conscious fetuses and infants is wrong, then it appears to be due to the capacity of the soul or organism to manifest valuable traits in the future. The late fetus and the infant are not self-conscious, i.e., they don't manifest any abilities that suggest that they can conceive of themselves as having a future. Anything they can do that could be stretched to be considered a future directed disposition, countless forest creatures can do as well. So one must either count all of the latter as future directed (persons?) to be protected, or have potential distinguish the entities. One can always claim it is potential for a valuable future and mere sentience, but that seems to be bordering on the ad hoc – a move made just to get abortion rights. To see that this is ad hoc and not a principled distinction, imagine that human zygotes were conscious or a different world in which nine month old human fetuses were not. The first would mean no abortion, the second would mean abortion is permissible right up to birth.³⁵ Few pro-choicers would accept principles that provide such moral guidelines.

Conee shows some sympathies for Judith Thomson's position which might be thought to distinguish abortion from infanticide (though late abortion would still be just and thus at odds with mainstream ethical views.) The difference in burden to be avoided by infanticide and abortion can't be what distinguishes the moral permissibility of one and not the other. This can

³⁴ Conee. Op cit. pp. 643-4.

³⁵ See Hershenov's "Problem of Potentiality" Op. cit. for a discussion of these thought experiments that change the onset of alleged morally significant features.

made evident by the Trolley case in which an infant, say a premature baby, is in an incubator precariously placed on the trolley tracks. A runaway trolley is bearing down on the infant and the impact will kill the new born. Most of us believe we can redirect and stop the trolley with the body of a reluctant person situated located on a different fork in a stalled car even if there because of a carjacking/kidnapping, and despite this causing such a person nine months of back pain, nausea, abdominal swelling and the other characteristics typical of a pregnancy.³⁶ If we can this for a premature infant, which is at the same development and age as an advanced fetus, it would seem that we could impose such a burden on the woman reluctant to carry her pregnancy to term. So if the moral argument is settled with infants and late fetuses (who don't possess rationality but only the potential for it), then the question becomes "when do we come into existence?"³⁷ This answer to this renders an early termination of an early pregnancy either more like contraception or late abortion. So metaphysics will be crucial to the abortion debate. Even if the reader isn't persuaded by this, we hope they consider it a plausible moral position. Anyone holding this moral position is then going to be motivated by their metaphysics to extend or limit a ban on the termination of the pregnancy. So metaphysics is relevant even if not decisive.

³⁶ For a development of this view and offsetting worries about generalizing from Trolley cases, see Hershenov's "Abortions and Distortions: An Analysis of Morally Irrelevant Factors in Thomson's Violinist Thought Experiment." *Social Theory and Practice*. (2001) vol. 27 no.1.

³⁷ This thought experiment provides support for P5 reconstructing Parfit's reasoning in the earlier argument which Conee finds unfounded on less robust (Non-Lockean/Benn-like) views of personhood.

VIII. Conclusion

We have maintained that one of Conee's mistakes is that he doesn't distinguish between more and less plausible Reductionist and Nonreductionist views. A related mistake is that he doesn't distinguish between more and less compelling views of early existence within the respective Reductionist and Nonreductionist categories. Conee claims that where a metaphysical premise appears to provide support of an argument, the conclusion can receive support from an opposing metaphysics. Since we don't believe the metaphysical views are equally tenable, and we doubt that Conee does, if one is more plausible than another, that provides more epistemic support for its account of our origins and any ethical position it supports. And even if one theory is not a better account of personal identity than the other, if it can support earlier existence than the other without stretching its basic commitments in a way that distorts them, it offers more support than its rival regarding the timing of our origins. We have argued that existence at fertilization is more tenable on the better Nonreductionist than better Reductionist positions. And we still believe both views support the abortion conclusion even if equal in overall plausibility and the plausibility of positing the same origins.

We have also argued that hylomorphism makes the death of an ensouled creature due to abortion much less attractive than Conee speculates it is on the Cartesian account. In addition, we also believe that even supposing the Cartesian conception of a person, an account of ensoulment as miraculous constrains the morality of abortion.

A further difference with Conee concerns his claim of the epistemic irrelevance of metaphysics because it doesn't tilt the abortion debate in one direction or the other. But once we have ascertained the wrongness of infanticide and late abortion, and recognize that it is the soul or organism's yet to be manifested capacities (i.e. potential) doing all the work, then when that

potential is first instantiated is of vital importance to the debate over terminating an early pregnancy. Even if a reader doesn't share our view of the importance of potentiality, since it can account for mainstream objections to late abortion and infanticide, it should be considered a plausible view. And metaphysics becomes very relevant once the potential of an individual to reach a later valuable stage of its existence is granted. So at the very least, metaphysics is relevant to people with very reasonable views about the wrongness of killing. In our minds, that certainly counts as an example of metaphysics constraining moral views. And that is sufficient to make metaphysics morally relevant to the abortion debate.