TOWARDS A RESOLUTION OF THE CONFLICT OF THE ABORTION DEBATE: A PHILOSOPHICAL APPROACH

Dr. Anikpe Anthony Mbah
Department of Philosophy,
Nnamdi Azikiwe University, Awka
Email: mbahs2000@gmail.com

Abstract
The fundamental conflict in the morality of abortion and the problems which have pitched the pro-choice and pro-life proponents against each other are issues bothering on the status of the foetus and how the conflict of rights between the mother and the foetus can be reconciled. The existing attempts to resolve these problems by some scholars seem abortive probably because these scholars usually focused on one side of the argument. This paper undertakes to conceptualize the principle of personal identity and the doctrine of double effect with the view of applying them towards the resolution of these two fundamental problems on the morality of abortion.
Keywords: Philosophy, Abortion, Identity, Double Effect, Resolution.

1. Preamble

The fundamental conflict in the morality of abortion and by that extent the problems which have pitched the pro-choice and pro-life proponents against each other are issues bothering on the status of the foetus and how the conflict of rights between the mother and the foetus can be reconciled. The previous works has shown that the existing attempts to resolve these problems are inadequate. This inadequacy as observed in this paper is because previous scholars usually focused on one side of the problems, right of the mother for instance, at the detriment of the right of the foetus. However, as also noted any resolution of the abortion debate that worth its salt must not only be able to identify but must also resolve the problems of the identity of the foetus and the conflict of rights between the mother and the foetus. Denying these problems as many scholars have done in the past and others are still doing, rather than solve, exacerbates the abortion impasse.

The present paper undertakes to conceptualize the Principle of Personal Identity and the Doctrine of Double Effect with the view of applying them towards the resolution of these two fundamental problems on the morality of abortion. The paper is made up of two parts. While the principle of personal identity is developed and applied to the abortion debate in the first part, the doctrine of double effect is developed and applied in the second part. On the whole, the paper shows that not only is it possible to demonstrate that the foetus is a human being (one of the sticking points in the morality of abortion) but that it is also possible to show that the seeming irreconcilable conflicts between the rights of the mother and the foetus can be overcome.

2. The Law of Identity

The law or principle of identity is one of the principles generally known in philosophy as the laws of thought. Some other principles include, the law of non-contradiction and the law of excluded middle. The interest of this dissertation is on the law of identity. The basic assumption of the law of identity is that everything that exists has a specific

nature. In other words, each entity exists as something in particular and it has characteristics that are a part of what it is. For example, "this leaf I am holding is red, solid, dry, rough, and flammable." "This book I am writing on is white, and has 200 pages." "This coin is round, dense, smooth, and has a picture on it." In all three of these cases we are referring to an entity with a specific identity; the particular type of identity, or the trait discussed, is not important, what is important is that each case exemplifies an object with unique existence. Jeff Lauduer and Joseph Rowland summarise the basic ideas enshrined in the law:

> Identity is the concept that refers to the concept of existing as something in particular, with specific characteristics. An entity without an identity cannot exist because it would be nothing. To exist is to exist as something, and that means to exist with a particular identity. To have an identity means to have a single identity; an object cannot have two identities. A tree cannot be a telephone, and a dog cannot be a cat. Each entity exists as something specific, its identity is particular, and it cannot exist as something else. An entity can have more than one characteristics, but any characteristic it has is a part of its identity. Since reality has an identity, it is knowable. Since it exists in a particular way, it has no contradictions. (Jeff Lauduer and Joseph Rowland, "A is A: Aristotle's Law of Identity.[1]

The crux of this principle was also beautifully formulated in 1916 by H.W.B. Joseph in An *Introduction to Logic;* according to him

> "A thing, to be at all, must be something, and can only be what it is. To assert a causal connexion between *'a'* and x implies that 'a' acts as it does because it is what it is; because, in fact, it is '*a'. So long* it must act thus; and to assert that it may act otherwise on a subsequent occasion is to assert that what is '*a'* is something else than the 'a' which it is declared to be. [2]

It follows therefore from the law of identity that existence implies identity. It is not possible to exist without being something, and a thing can only be what it is: A is A. Any actions of that thing form part of its identity. The way in which it acts must be regarded as a partial expression of what it is. Thus to deny any connection between a thing, its actions, and their consequences, is to assert that the thing is not what it is; it is to defy the well-established Law of Identity.

3. The Principle of Personal Identity

The principle of personal identity is a subset of the law of identity. The principle is an attempt by scholars to investigate the relationship between personhood and identity. It tries to address such questions as, when does personhood begin?; Is there continuity in

personhood, in other words, is that little boy who was small 10 years ago, truly the same person as big and tall as I am today?; and "If I became severely demented, could I still be considered to be the same person as I was before?

There are several philosophical theories advanced by scholars to address these questions including the body, soul and consciousness theories. However, the theory that is relevant to this study is the essential or substantial theory of personal identity.

4. The Essential Theory of Personal Identity

This section argues that in spite of the disagreements on the meaning and nature of personal identity, philosophers centrally agree that personal identity is that durable and separable underlying element which remains the same in an individual even after other features and properties are dispensed with. That is, personal identity is not only that irreducible element in man that perdures through time, but it is also that aspect of being which persists through time and therefore that makes a thing what it is.

To develop the theory of personal identity as it will be applied in this paper, there is need to understand that the most fundamental definition of philosophy sees it as the study of being or the study of 'what is' (i.e. the study of existence). The German existentialist, Martin Heidegger, phrased the question appropriately when he asked, what is there? In general, philosophers believe that what is there is 'being'. But then it can as well be asked, what is being? Attempts to answer this question is not only at the foundation of the philosophical doctrine of personal identity but it can also be argued and appropriately so, that efforts to tackle the problem is both the motivation and driving force of what we know today as philosophy. Thus, philosophy, right from its origin was, is still and will always be the quest for the meaning and nature of identity or what makes a thing what it is.

Back to the question: what is there? From an empiricist point of view, this question could be answered by observing or looking at our surroundings and enumerating what we see. We can then answer the question by pointing to this or that, a man, a mango tree, a football pitch, a dog, a river etc. and saying this is what is there. However, it could be objected that the massive nature of the things around us require more than simple enumeration to understand. Thus, we may decide to adopt a second approach in answering the question. We can say that what is there is a fundamental stuff which manifests itself in the different things we see around us. Alternatively, we may still decide to group things of the same kind together and present them as what is there.

Going through the history of Western philosophy reveals that what we just sketched above represents the basic approaches in the articulation of the doctrine of identity. For example the Ionian trio, credited as the initiators of the philosophical project have a concept of identity similar to our second category above. They thought that the being of the universe consists in some kind or kinds of stuff. Thales, argued that everything, including man, was essentially water, for Anaximenes everything was a form of air and Anaximander, convinced the 'stuff' in question as indeterminate, so that it could transmute into the various determinate stuffs such as water, air, earth and fire.

Atomists such as Democritus and Leucippus took similar position when they argued that those determinate particular objects they called atoms were the essence of the universe.[3] This same idea of identity was adopted by Benedict Spinoza when he argued that God and the universe are one and the same thing. Leibniz followed the same line in his doctrine of monads. According to him, the monads (whether created or uncreated) are basic constituents of the universe and all the existence. Immanuel Kant's a priori psychology also falls within this dimension. According to Kant:

> It is only by understanding the world as possessing enduring spatio-temporal objects, which enter into causal relations with each other (that is, it is only by applying the categories of substance and causation) that we can have intelligible experience. Identity that is, a framework of stable, enduring objects are essential, but the source of this necessity lies not how the world is in itself, but in the framework which we are obliged to impose.[4]

Plato rejected the materialists' attempts to explain identity on the basis of that of which it was made. Instead, he adopted essentialist notion of identity used as our third example above. According to Plato, the identity of things and therefore, the governing principles were the intelligible Forms which material objects attempted to copy. These Forms do not have specific identity in the sense of being, not only the stuff out of which all else is constructed but also of the remaining, what it is through changes. Rather they are the driving principles which give structure and purpose to everything else. Without it, the rest would be, at most, an unintelligible chaos.[5]

The foregoing is a single approach to the doctrine of identity. In the history of Western Scholarship, the most comprehensive attempt to articulate the doctrine of identity was first made by Aristotle. Accordingly, Aristotle has three notions of identity, namely: primary, secondary and substantial identities. The primary identity are individual objects. Reflection on the concept of an object has its first theoretical articulation in Aristotle's Categories, where he distinguishes between individual objects and the various kinds of properties they can possess. He illustrates the various categories:

> Each [individual term] signifies either quantity or qualification or a relative or where or when or being in a position or having or doing or being affected. To give a rough idea, ideas of identities are man, horse; of quantity: four foot, five foot; of qualification; white, grammatical; of a relative: double, half, larger; of where: in the Lyceum, in the market-place; of when: yesterday, last year; of being in a position: is-lying, is-sitting; of having: has-shoes-on, has-armour-on; of doing: cutting, burning; of being-affected: being-cut, being-burnt. [6]

The individual identities are the subjects of properties in the various other categories, and they can gain and lose such properties whilst themselves enduring.

Contrary to primary identities which Aristotle designated as individual objects, secondary identities are kinds of individual objects. Thus, for some purposes, discussion of identity is a discussion about individuals, and for other purposes it is a discussion about universal concepts that designate specific kinds of such individuals. Thus, bingo, a dog is a primary identity—an individual—but dog or dog-hood is the secondary identity or substantial kind.

Each arm of this distinction raises different issues. If one is concerned with kinds of identity, one obvious question that will arise is 'what makes something a thing of that kind (for example, what is involved in being a dog)?' This is the question of the essence of substantial kinds. But if one is concerned with individuals, the parallel question is 'what makes something that particular individual of a given kind (for example, what is involved in a dog's being and remaining bingo)?' This is the question of individual essences and of identity over time.

In Aristotle's substantial form, he analyses identity in terms of matter and form. The form is what kind of thing the object is, and the matter is what it is made of. The term 'matter' as used by Aristotle is not the name for a particular kind of stuff, nor for some ultimate constituents of bodies, such as atoms (Aristotle reject atomism). 'Matter' is rather the name for whatever, for a given kind of object, meets a certain role or function, namely that of being that from which the object is constituted. Relative to the human body, matter is flesh and blood and form is the soul. The matter of an axe-head is the iron from which it is made while the form is the purpose the axe-head is used for.

Usually, scholars identify three worthy candidates for identity in Aristotle's concept of substantial form, namely, matter, form or the combinations of matter and form (substantial form). While scholars, have been debating and giving reasons for choosing any of the three elements as the true representatives of Aristotle's idea of where identity is to be located, we have decided that such controversy is outside the rudder of this dissertation. What we have chosen to do is to give a general characterization which satisfies Aristotle's views of identity whether it is taken as an individual object, essence of objects, matter, form or the composite of matter and form.

Thus, identity or what makes a thing what it is, for Aristotle possess the following qualities:

> It is durable, separable, and identical. Identity as durable means that it persists over time. It endures. It may come into existence, or cease to exist or it may be uncreated or indestructible but either way, it has an extended existence in time. An identity as separable means that its existence is not dependent on other things. It exists independently, and it can be separated from other things that exist. An identity as identical means that it has an identity, in which it is the same thing as itself, or in which it has an identity as the member of a certain kind - the

> same as it endures over time, or as it is separated from other things.[7]

If the principle of essential or substantial identity is applied to the theory of personal identity in relation to man or human beings, the outcome would be that there is something in man, essence that defines him and makes him what he is. This essence is not his body, because he can become bodily deformed and still remain a man. Also, it is not consciousness or his ability to reason since losing this does not make him lose humanness. It is something intrinsic, something he is endowed with. These features encapsulate how this dissertation characterizes the essential or substantial doctrine of personal identity and that is how it is going to be applied here in establishing the identity of the foetus.

5. Applying the Theory of Personal Identity to the Abortion Debate

From our analysis of the doctrine of identity above, human identity can be identified in two ways: from his individual essences and of identity over time and from his essence of substantial kind as a human being. These two concepts of the human identity are important for our discussion here because they will help us to show that the foetus is not only a human being as an individual but also has an essential human identity which places it among human beings and assures that it has rights to be respected as other human beings. Also, similar to the general characterization of identity which we underlined above W. Norris Clarke offers a four-part definition of what gives human nature its identity:

> (1) it has the aptitude to exist in itself and not as a part of any other being; (2) it is the unifying centre of all the various attributes and properties that belong to it at any one moment; (3) if the being persists as the same individual throughout a process of change, it is the identity which is the abiding, unifying centre of the being across time; (4) it has an intrinsic dynamic orientation toward self-expressive action, toward self-communication with others, as the crown of its perfection, as its very *raison d'etre*.[8]

The implication of this to the abortion debate would be that the human being, as an organism, begins its existence at conception and that it is a unified organism with its own intrinsic purpose and basic capacities whose parts work in concert for the perfection and perpetuation of its existence as a whole. In order words, the human being is a particular type of organism that remains identical to itself as long as it exists, even if it is not presently exhibiting the functions, behaving in ways, or currently able to exercise immediately these activities that we typically attribute to active and mature rational moral agents. So, for example, the substance Anthony Mbah is a human substance, a being with a particular nature that we call human. The substance Bingo too is an individual being, but she is a doggish substance, a being with a particular nature that we call dog.

Hence, 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. "A substance's *inner nature,"* writes J. P. Moreland, "is its ordered structural unity of ultimate capacities. A substance cannot change in its ultimate capacities; that is, it cannot lose its ultimate nature and continue to exist."[9] Consider the following illustration.

A domestic dog, because it has a particular nature, has the ultimate capacity to develop the ability to bark. It may die as a puppy and never develop that ability. Regardless, it is still a dog as long as it exists, because it possesses a particular nature even if it never acquires certain functions that by nature it has the capacity to develop. In contrast, a frog is not said to lack something if it cannot bark, for it is by nature not the sort of being with the ability to bark. A dog that lacks the ability to bark is still a dog because of its nature. A human being who lacks the ability to think rationally (either because he/she is too young or he/she suffers from a disability) is still a human person because of her nature. Consequently, a human being's lack makes sense if and only if he/she is an actual human person.

Again, the dog remains the same particular dog over time from the moment it comes into existence. Suppose you buy this dog as a puppy and name him 'Tiger'. When you first bring him home you notice that he is tiny in comparison to his parents and lacks their mental and physical abilities. But over time Tiger develops these abilities, learns a number of things his parents never learned, sheds his hair, has his claws removed, becomes ten times larger than he was as a puppy, and undergoes significant development of his cellular structure, brain and cerebral cortex. Yet, this grown-up Tiger is identical to the puppy Tiger, though he has gone through significant physical changes. Why? The reason is that living organisms, or substances, maintain identity through change.

Another way to put it is to say that organisms, including human beings, are ontologically prior to their parts,[10] which means that the organism as a whole maintains absolute identity through time while it grows, develops, and undergoes numerous changes, largely as a result of the organism's nature that directs and informs these changes and their limits. The organs and parts of the organism, and their role in actualizing the intrinsic, basic capacities of the whole, acquire their purpose and function because of their roles in maintaining, sustaining, and perfecting the being as a whole. This is in contrast to a thing that is not ontologically prior to its parts, like an automobile, cruise ship, or computer, none of which subsists through time as a unified whole.[11] Each is, in the words of Moreland, "a sum of each temporal (and spatial) part…."[12] These entities are *mereologically essential*. From the Greek *meros* for "part," this term means that "the parts of a thing are essential to it as a whole; if the object gains or loses parts, it is a different object."[13] Organisms, however, are different, for they may lose and gain parts, and yet remain the same thing over time.

Thus, if you are an intrinsically valuable human person now, then you were an intrinsically valuable human person at every moment in your past including when you were in your mother's womb, for you are identical to yourself throughout the changes you undergo from the moment you come into existence. But if this were not the case,

that it is only one's present ability to exercise certain human functions, such as rationality, awareness of one's interests, and consciousness, that makes one a person, then it is not the organism that is intrinsically valuable, but merely one's states or functions. "It would follow" from this position, writes Patrick Lee, "that the basic moral rule would be simply to maximize valuable states or functions."'[14] For example, "it would not be morally wrong to kill a child, no matter what age, if doing so enabled one to have two children in the future, and thus to bring it about that there were two vehicles of intrinsic value rather than one. On the contrary, we are aware that persons themselves, which are things enduring through time, are intrinsically valuable."[15]

It is instructive at this point to assess briefly an argument offered by philosopher Dean Stretton, a defender of abortion rights, who, in a response to Lee concedes that a human being remains the same substance throughout its existence, but argues that personhood is not an essential property, that personhood is an accidental property acquired at some point in the development of the human substance. Stretton's argument and the response that follows help to illustrate the substance view. Stretton writes:

> Putting aside for the moment the right to life (which is the very case in dispute), our background knowledge does not include any cases where an (earthly) being's natural capacities entitle it to any substantial-that is, significant-type or level of respect. Imagine, for example, I have a natural capacity to become a great athlete, or a brilliant intellectual. These capacities or indeed *any* essential property-would hardly entitle me to any respect if, say, too much TV has in fact turned me into a fat, lazy dullard. Substantial respect *would* of course be owed to those who *are* great athletes or brilliant intellectuals-perhaps in virtue of their developed capacity for these things, or perhaps in virtue of other accidental properties, such as their achievements in these areas. From this background knowledge, it appears we do not owe to beings, in virtue of their natural capacities (or any other essential property), any substantial type or level of respect. The right to life, however, is surely itself about respect: the fact that a being has a right to life is just the fact that, in virtue of some property it has, we owe that being a certain (very substantial) type and level of respect. But now *because* we do not owe to beings, in virtue of their natural capacities (or any other essential property), any substantial type or level of respect, *it follows that* we do not owe to beings, in virtue of their natural capacities (or any other essential property), the substantial type and level of respect involved in the right to life. And this is just to say that beings do not have a right to life in virtue of their natural capacities (or

> any other essential property), but in virtue of their *accidental* properties.[16]

Ironically, Stretton's argument seems to make the very point he is denying. Surely he is correct that one ought not to respect people who, when given the opportunity to hone and nurture certain gifts. e.g. intellectual skill and athleticism-waste these potentials in a life of sloth and depravity. But the "respect" not owed here is not the respect about which we speak of when we claim that human beings are rational moral agents by nature of their basic capacities. The respect about which Stretton writes is a respect that is *earned* by persons who properly employ and nurture those natural talents that are not equitably distributed among human beings (talents that come in degrees and, thus, cannot be the basis of intrinsic value). But the withholding or lavishing of that respect on a particular being makes sense only in light of the sort of being it is by nature, that is, a being who has certain intrinsic capacities and purposes, that if prematurely disrupted by either its own agency or another agent, results in an injustice. So, the human being who wastes his talents is one who does not respect his natural gifts, or the basic capacities whose maturation and proper employment make possible the flourishing of talent and skill. That is, the judgment that certain perfections grounded in basic capacities have been impermissibly obstructed from maturing, is assumed in the very judgment one makes about human beings and the way by which they should treat themselves (as in the case of the lazy person with natural gifts offered by Stretton) or be treated by others (as in the case of the unborn in abortion).

Consequently, typical human functions that are immediately exercisable by mature and healthy members of the human species-functions such as sentience, "ability to reason" and/or self-awareness (having interests) or some combination of these -that are often employed by philosophers to exclude feotuses from personhood status and thus from legal protection in the context of abortion, cannot do the moral work they are supposed to do under the substance account of personhood that we presented above.

Besides, having interests which presuppose conscious desires cannot adequately account for the wrongness of killing human beings. First, as we noted above, if the substance view of persons is correct, then your adult self, which has intrinsic value, is identical to your prenatal self, and therefore has intrinsic value as well. Second, as Lee has argued,[17] a person, such as a slave, may be indoctrinated to believe he has no interests, but he still has a prima facie right not to be killed, even if he has no conscious longing for, or interest in, a right to life. Even if the slave is never killed unjustly, we would still think that he has been harmed precisely because his desires and interests have been obstructed from coming to fruition. Thus, "It seems more reasonable," writes Lee, "to hold that the violation of someone's rights is more closely connected with what truly harms the individual rather than with what he or she desires."[18] But if that is the case, the proper questions are what sort of a thing is a human being, what types of "conditions or activities truly perfect a human being," and "whether a person is harmed or deprived of a real benefit... or not."[19]

Thus, killing a human adult is wrong not because a being with consciousness or self-interest have been killed but because a human substance is been killed. If this is what makes killing wrong as we are arguing it is and if the human substance is the same all

through life beginning from conception then there is no difference between killing a foetus and killing a human adult because both involve the elimination of human substances.

6. The Doctrine of Double Effect

As we have seen, the principle of substance is the game changer in the abortion debate. By showing that the foetus is a human substance that remains the same all through life, the principle has demonstrated the inadmissibility of most of the arguments used by pro-choice advocates to justify abortion. For example, within the purview of this principle, abortion on demand, on utility or because of rape shall all be illegitimate since we cannot call for the murder of an innocent adult to reduce the population.

However, this principle does not answer all the moral concerns on abortion. The question that remains to be addressed is, what happens when there is a genuine conflict of rights between the mother and the foetus? On this question, many "liberals" complain that it is irrational and brutal to expect a woman to die so that her unborn child may live. Abortion for them should be permitted basically on demand, certainly in cases where the health and life of the woman are at risk, and even in cases of incest or rape. In contrast, many "conservatives" argue that abortion can never be rationalized or permitted, as it is fundamentally immoral to kill a human being who is innocent no matter what the circumstances or the law - regardless of the woman's health, life, incest or rape. At times it seems that the advocates of either position are "talking past" each other, obvious to the possibility of any moral legitimacy in each's position. Further, there seems as yet to be no structured or principled means by which to circumvent this highly politicized stand-off or to address these tragic moral dilemmas which after serious consideration are commonly acceptable to both "camps".

To a significant degree, this stand-off is often due to misinformation or to a reluctance to make some important moral distinctions. One moral distinction is between: (1) inherently bad actions (e.g., abortion); and, (2) inherently good (or neutral) medical actions which are permitted, even though bad effects would result, in order to save the life of the mother (e.g., the giving of chemotherapy treatments, or the removal of a cancerous uterus, etc.). Another moral distinction is between directly and indirectly voluntary actions (that is, between directly willing an evil, and indirectly allowing an evil to take place). Once these important moral distinctions are correctly understood, then conditions allow us to apply a common moral principle to this stand-off, rather than leaving such a vital issue up to personal emotions or to unprincipled political compromise.

A general moral principle that can be used in these difficult situations is found in the time-honoured Doctrine of Double Effect.[20] Properly understood, the principle of double effect evolved in order to address just these types of difficult moral dilemmas - in this case where both of the lives of those affected are innocent, and yet something must be done or will happen which inevitably will endanger one of these two innocent lives. The obvious application for our purposes here is when a woman, who is herself an innocent human being, whose human life is precious and must be respected, is pregnant with an unborn child, who is likewise an innocent human being (from fertilization onwards), and whose life is also precious and must be respected. Since, as

natural law theory holds, one may never directly intend to kill an innocent human being,[21] under what circumstances and conditions is it morally permissible: (1) for a woman to undergo an abortion procedure; or, (2) for a physician to help one of these innocents to live, by means of other and different morally legitimate medical actions, and yet permit or allow the other, unfortunately, to die?

These are really two different and separate moral questions, and so must be approached differently. One concerns abortion procedures; the other concerns other medical actions or procedures which could be taken in order to save the life of the mother (and *vise versa*) when urgent and valid medical circumstances arise. The solutions to these two very different questions, we would suggest, could be applied in helping to resolve at least the extremes of the current abortion debates, without at all compromising long established moral principles. The resolution lies in seeing the moral distinction between these two questions, and then properly applying the well-established principle of double effect.

The principle of double effect was gradually refined over the centuries in order to meet the unfortunate but very real moral dilemmas in which, no matter what is reasonably done, one or more innocent human beings may be harmed or even die in the process of resolving the dilemma. The following explanation of the principle of double effect, as well as its four necessary conditions, are taken almost verbatim from the work of Austin Fagothey, *Right and Reason*. Its application to the abortion debate will be specifically indicated under each condition of the principle.

The principle of double effect is based on the fact that evil must never be directly and voluntarily willed for its own sake, and must never be willed either as an end or as a means to an end. Nor may evil ever be directly willed as a foreseen but unwanted consequence. But evil can be reduced to an incidental and unavoidable by-product in the achievement of some morally licit good the person is rightfully seeking.

Thus, although I am never allowed to will evil, I am not always bound to prevent the existence of evil. Just as I may tolerate the existence of evils in the world at large, since I could not cure them without bringing other evils on myself or my neighbour's so I may sometimes tolerate evil consequences from my own actions, if to abstain from such actions would bring a grave evil on myself or others. Unfortunately, then, as is sometimes the case, I cannot realistically in fact will a legitimate good, without at the same time permitting the existence of an evil which in the very nature of things is inseparably bound up with the good will. But I must not do so indiscriminately. In short, sometimes I am bond to prevent evil, and in these cases it would be wrong for me to permit it. But sometimes I am permitted to allow evil effects to take place. How can we distinguish between these two different cases?[22] This is where the principle of double effect comes in.

7. The Application of the Principle of Double Effect

The principle of double effect holds that it is morally allowable to perform an action that has a bad effect only under the following conditions:

Once again, the action to be performed must be good in itself, or at least indifferent.
This is evident, for if the act is evil of its very nature, nothing can make it good or indifferent. Evil would then be chosen directly, either as an end or as a means to an end, and there could be no question of merely permitting or tolerating it.[23] If the action is fundamentally and inherently morally illicit, then it cannot be morally permitted regardless of any good intentions or goals, or under any good circumstances.

Application
The act of abortion in its very nature is inherently evil, because it is the intentional and direct killing of an innocent human being. This would apply to all abortions, including those in the case of rape and incest (and to those involving human foetal and human embryo research, and human cloning). Therefore it is never morally permissible to undergo an abortion procedure. The principle of double effect as applied to the case of abortion renders abortion procedures morally illicit, since the action by its very nature is evil. However, other possible medical actions, e.g., the giving of chemotherapy or the removal of a cancerous uterus - morally good or at least neutral acts - could be permitted in order to save the life of the mother, even if it could possibly result in the unintended death of the unborn child, as long as all of these other three conditions are met.

The evil effect must not be directly intended for itself but only permitted to happen as an accidental by-product of the act performed.[24]

Application
In the case of abortion procedures, the death of the unborn child is directly intended, and therefore is morally illicit. On the other hand, in the use of chemotherapy or the performance of a hysterectomy to remove a cancerous uterus, etc., the death of the unborn child may not be directly intended, but only permitted or allowed as a possible by-product.

The good intended must not be obtained by means of the evil effects.
The evil must not be an actual factor in the accomplishment of the good.[25]

Application
In the case of abortion procedures, the death of the unborn child may not be used as a means of limiting family size, preventing birth defects, enhancing a career, etc. (all legitimately good or neutral ends or goals in themselves). On the other hand, the curing of the potentially deadly disease of cancer could be obtained by means of the morally acceptable actions of the administration of chemotherapy or the performance of a hysterectomy. The death of the unborn child is not the means used to cure the cancer.

There must be a reasonably grave reason for permitting the evil effect.
If the good is slight and the evil great, the evil can hardly be called incidental. If there is any other way of getting the good effect without the bad effect, this other way must be taken.[26]

Application

In the case of abortion procedures, to maintain a slim figure, to have a child of a certain sex, to prevent the birth of a child with defects, or to evade social embarrassment would not be reasonably grave reasons for permitting the unintended and unavoidable death of the unborn child. On the other hand, to give chemotherapy or to perform a hysterectomy in order to remove a cancerous uterus, etc., to preserve the life of the mother (who is also an innocent human being) would be a reasonably grave reason for permitting or allowing the unintended and unavoidable death of the unborn child. If there is any other reasonable medical treatment available to save the life of the mother which would not entail harm or death to the unborn child, then it must be chosen instead.[27] It is good to note that these examples of "other medical actions" are not morally licit unless all four conditions of the principle of double effect are fulfilled. If any one of them is not satisfied, even though the other three are, those medical actions are morally wrong.

Nevertheless, the spirit of the doctrine of double effect is that a pregnant woman who is faced with the grim reality of impending death short of the use of, e.g., chemotherapy or hysterectomy, may use these and other morally licit medical treatments and procedures for the reasonably grave reason of saving her life, as long as the death of her unborn child is not directly intended as the end of using these procedures, or is the means by which her life is saved, but only allowed or permitted to happen as an accidental by-product of these medical actions, and no other reasonable medical treatment is available. However, the directly intended death of an unborn child by means of procured abortion remains morally indefensible - even to save the life of the mother, or for the best of intentions, or under very difficult circumstances - even in the case of incest or rape.

There is too much at stake to leave the lives of so many millions of innocents - both women and unborn children - up to mere personal whimsy or political bartering. Presented here is at least a moral means of considerably reducing the rancour and misinformation swirling about these abortion debates. The proper understanding and application of the principle of double effect offers a commonly accepted, morally legitimate, objectively grounded basis for clarifying the important moral distinctions which need to be made within these very complex and difficult moral dilemmas - one on which most of us could reasonably agree.

8. Conclusion

Finally, at the beginning of this paper, we offered to use the principle of personal identity and the doctrine of double effect to resolve the two central problems in the abortion debate. The central problems as we articulated them were question on the identity of the foetus and how to resolve the conflict of rights between the mother and the foetus. Using the principle of identity/ substance we have tried establishing that the foetus is a human being. It follows therefore, that metaphysically there is no difference between killing a foetus and an adult human being. Furthermore, we applied the doctrine of double effect to demonstrate the conflict of rights between the mother and the foetus can be mediated without infringing on the right of any of the parties. On the whole, this paper shows that abortion is a complex moral problem. This notwithstanding, the problem is not as intractable as the contestants often present it.

Endnotes

1. Jeff Lauduer and Joseph Rowland;https://www.importance of philosophy.com/metaphysics-contradictions (Accessed, 30/05/2021).
2. H.W.B. Joseph; An introduction to Logic, 2nd Ed. (oxford: oup,1916), p.408
3. Immanuel Kants apriori Psychology
4. Aristotle, *The Complete Works of Aristotle: the revised Oxford translation*, in 2 vols, ed. J. Barnes, (Princeton: Princeton University Press, 1984), p. 96.
5. "Substance and Essence", https://www.standfordencyclopadia.edu (09-07-17).
6. W. Norris Clarke, S. J., *Explorations in Metaphysics* (Notre Dame, Ind.: University of Notre Dame Press, 1994), p. 105.
5. J.P. Moreland, "Humanness, Personhood, and the Right to Die," *Faith and Philosophy* 12.1 (January 1995) 101.
6. J. P. Moreland and Scott B. Rae, *Body and Soul: Human Nature and the Crisis in Ethics* (Downers Grove, Ill.: Inter Varsity Press, 2000), p. 206.
9. Ibid. p. 178.
10. Ibid.
11. Ibid.
12. Patrick Lee, *Abortion and Unborn Human Life* (Washington, D.C.: The Catholic University of America Press, 1996), p. 55.
13. Ibid.
14. Dean Stretton, "Essential Properties and the Right to Life: A Response to Lee," *Bioethics* 18:3 (2004), p. 275.
15. Patrick Lee, *Abortion and Unborn Human Life, pp. 7-31.*
16. *Ibid. p. 30.*
17. *Ibid. pp. 30, 31.*
18. Austin Fagothey, S.J., *Right and Reason*, Third Editions only, (St. Louis: The C.V. Mosby Company, 1963), pp.107-110. For a brief but accurate explication of the Principle, see, Peter J. Cataldo, "The principle of the double effect", Ethics and Medics (Braintree, MA: Pope John Centre, March 1995), 20: (3):1-2. See also, Kevin O'Rourke and Philip Boyle, "Double effect" Medical Ethics: Sources of Catholic Teachings (St Louis, MO: The Catholic Health Association of the United States, pp. 102,103.
19. Ibid.
20. *Fagothey, p. 107.*
21. *Ibid. pp. 107-108.*
22. *Pope Pius XII, "The Attempt on Innocent Human Life", Medical Ethics: Sources of Catholic Teachings (Nov. 26, 1951), p. 103.*
23. Fagothey, p. 108.
24. *Pope Pius XII, "The Attempt on Innocent Human Life", p. 103.*
25. Fagothey, p. 108.
26. *Sacred Congregation for the Doctrine of the Faith, Declaration on Procured Abortion (Alexandria, VA: St. Paul Books & Media, 1974)), p. 19.*
27. Fagothey, p. 108.