

The Failure of the “Interest in Never Having Loved at All” to Ground a Right to Abortion

Kenneth J. Coughlan

PH 6907 Issues in Ethics

August 9, 2020

TABLE OF CONTENTS

Introduction	1
What is the “Interest in Never Having Loved at All?”	1
INHLAA Begs the Question	2
INHLAA Fails to Consider Post-Abortion Emotional Trauma	4
INHLAA Seeks to Avoid Taking Responsibility for Voluntary Actions	6
Conclusion	8
Bibliography	9

Introduction

Abortion rights advocates have sought to ground a right to abortion-on-demand in a number of alleged interests, such as a woman's interest in not raising an unwanted child, in furthering her career and in preserving her bodily integrity. Sherry F. Colb, however, has argued that another interest has been overlooked by the scholarly community, one which can also successfully ground an abortion right. She calls it the "Interest in Never Having Loved at All" ("INHLAA"). Colb suggests that women have an interest in not bringing a child to term because to do so would cause her to have feelings of attachment to the newborn, leading to emotional distress when she must give the child up for adoption.¹ However, not only does Colb commit the same question begging fallacy as many other abortion choice proposals, she selectively ignores psychological evidence counter to her claim and neglects to appreciate the duties to the unborn that arise as a result of the mother's voluntary actions. As a result, INHLAA cannot adequately ground the right to an abortion.

What is the "Interest in Never Having Loved at All?"

Colb begins by correctly observing that several abortion choice arguments pit the mother against the child. Their emphasis is on the mother's need for separation from a child and therefore may make the woman appear selfish.² Arguments based upon a mother's alleged right not to raise an unwanted child, to further her own career or to protect her bodily integrity against

¹ Sherry F. Colb, "'Never Having Loved at All': An Overlooked Interest that Grounds the Abortion Right," *Connecticut Law Review* 48, no. 3 (2016): 939-41.

² *Ibid.*, 936.

unwanted intrusions are all based upon assumptions that make it appear the woman's primary concern is one of separation.

In contrast, Colb proposes that there is a commonly overlooked interest which is based not on a woman's desire for *detachment*, but rather her acknowledged propensity for *attachment*. A woman who has given birth to a child is likely to feel profound attachment to that child and therefore suffer emotional trauma when giving the child to someone else.³ However, if the woman is permitted to terminate the pregnancy prior to such an attachment forming, then the trauma is avoided. As Colb phrases it, a woman who is forced to give a child up for adoption may prefer to "never have loved at all" rather than to have loved and lost.⁴

INHLAA Begs the Question

Pro-life scholars have pointed out how a number of abortion choice arguments commit the fallacy of question begging. While Colb has attempted to introduce a new interest into the abortion rights discussion, she has continued the tradition of presupposing an answer to the ultimate question. In fact, by her own admission, her argument can only enjoy plausibility if her underlying assumption is accepted. That assumption, though, is precisely the point of dispute.

Francis J. Beckwith describes the question begging nature of many abortion rights arguments.

One begs the question when one assumes what one is trying to prove. ... only by assuming that the unborn are not fully human does the argument work. For if the

³ Ibid.

⁴ Ibid., 948.

unborn are not fully human, then the abortion-rights advocate has a legitimate concern.⁵

According to Scott Klusendorf, the primary question in the abortion debate is the nature of the unborn; i.e., whether the unborn is a valuable human being with its own right to life.

If so, killing him or her to benefit others is a serious moral wrong. It treats the distinct human being, with his or her own inherent moral worth, as nothing more than a disposable instrument. Conversely, if the unborn are not human, elective abortion requires no more justification than having a tooth pulled.⁶

As applied to Colb's argument, if the unborn is not a rights-holder, then few would disagree that the mother should not be exposed to unnecessary emotional trauma. However, if it is a rights-holder, then the mother's interests are not the only ones that must be considered.

Colb admits as much. She states

my claim rests on the assumption that for at least some portion of her pregnancy – perhaps that portion that precedes the fetus becoming sentient and thus capable of sensations or emotions – the embryo or fetus is not yet “someone” but remains instead “something,” a bundle of growing cells that will, if permitted, *become* someone at a later point. To the extent that one believes that a zygote at conception is the moral equivalent of a newborn baby, one will reject the argument that I make here, just as one would properly reject the prerogative of a woman to kill her newborn baby to protect herself from emotional injury.⁷

If the unborn is a rights-holder, then Colb's argument would require that one rights-holder has the right to kill another solely in order to relieve emotional distress, which even Colb agrees is not legitimate.⁸ However, she fails to appreciate that if her argument

⁵ Francis J. Beckwith, *Defending Life: A Moral and Legal Case Against Abortion Choice* (New York: Cambridge University Press, 2007), 95.

⁶ Scott Klusendorf, *The Case for Life: Equipping Christians to Engage the Culture* (Wheaton, IL: Crossway, 2009), 27.

⁷ Colb, “Never Having Loved at All,” 944.

⁸ *Ibid.*, 945.

only works if the unborn is not a rights-holder, then it only works via question begging; i.e., by assuming an answer to the ultimate question in dispute that is favorable to her desired conclusion. As such, Colb dodges the real issue with abortion.

INHLAA Fails to Consider Post-Abortion Emotional Trauma

Even if INHLAA did not commit the question begging fallacy, it would still fail to ground an abortion right because it ignores important evidence that runs counter to its main premise. In fact, the argument could be restated such that it opposes abortion.

The central premise of Colb's argument is that women suffer emotional trauma when they carry a baby to term then are forced to surrender that child to adoptive parents. However, Colb assumes that in the choice between aborting the unborn or carrying it to term, only one of the options carries with it the risk of emotional distress. Several studies have shown that this assumption is untrue.

For instance, a 2006 study followed 1,265 children born in the vicinity of Christchurch, New Zealand from birth to 25 years of age. 41% of women in the study became pregnant before turning 25 with 14.6% obtaining an abortion. Those who had an abortion had an elevated incidence of subsequent depression, anxiety, suicidal behavior and substance abuse compared to those who did not. This was true when they were compared both to women who never became pregnant and to those who became pregnant but did not get an abortion.⁹ The authors concluded

⁹ DM Ferguson, LJ Horwood and EM Ridder, "Abortion in young women and subsequent mental health," *Journal of Child Psychology & Psychiatry* 47, no. 1 (2006): 17, 19-23.

that their data raised the “possibility that for some young women, exposure to abortion is a traumatic life event which increases longer-term susceptibility to common mental disorders.”¹⁰

Similarly, a 1996 study in Finland found that after giving birth, the suicide rate among women dropped to half the general suicide rate. However, women who had an abortion were three times more likely to commit suicide than women in general and six times more likely than women who gave birth.¹¹

Based upon the findings of these studies, Colb’s argument selectively ignores evidence that runs counter to her claim. While abortion may enable a woman to avoid the unpleasant emotional state of having to part with a child to whom she has just given birth, Colb’s proposed alternative of abortion may saddle the woman with even greater emotional trauma in the form of increased mental disorders or perhaps even a disposition toward suicide. Colb focuses solely on the alleged emotional consequences of giving birth but fails to account for the possibility that some women may have even greater emotional consequences following an abortion.

If Colb’s selective choice of evidence is permissible then nothing would stop the pro-life advocate from choosing to solely focus on the evidence of post-abortion psychological trauma (ignoring any trauma associated with surrendering a child) and using Colb’s argument reach the exact opposite conclusion. The only way to ensure women would not face post-abortion emotional trauma would be to require that all pregnancies be carried to term. In truth, any conclusion must acknowledge the difficulties many women face *both* in giving up a child for adoption *and* as a result of having an abortion.

¹⁰ Ibid., 22.

¹¹ Mika Gissler, Elina Hemminki and Jouko Lönnqvist, “Suicides after pregnancy in Finland, 1987-94: register linkage study,” *British Medical Journal* 313, no. 7070 (1996): 1433.

INHLAA Seeks to Avoid Taking Responsibility for Voluntary Actions

As a general rule, society certainly should seek to avoid the infliction of unnecessary emotional trauma. However, some unpleasant results are the natural consequence of voluntary actions a person has taken. Under those circumstances, the mere fact that an individual is now faced with the natural consequence of a prior voluntary choice is not *per se* sufficient reason to negate that consequence, especially when the rights of another human being are involved.

The “responsibility objection” to abortion, while generally applied in response to the bodily autonomy argument, also illuminates an inadequacy in Colb’s position. Don Marquis summarizes this objection as stating that “the pregnant woman is responsible for there being another human being dependent on her. Therefore, she has responsibility for its continued well-being.”¹² More specifically, Marquis points out two distinguishable claims that make up the responsibility objection:

(1) A person who is pregnant has special, serious obligations to the dependent human being whose dependent existence is caused by her and whose continued existence is entirely dependent on her. (2) If (1) is true, then these obligations include the obligation to provide bodily life support for nine months.¹³

If the responsibility owed to the unborn as a result of the mother’s direct action extends to “providing life support for nine months,” it must also include giving birth to the child. Further, if the mother is unable to provide care for the child after birth, then this responsibility includes taking whatever steps are necessary to ensure the child is properly given to someone who can

¹² Don Marquis, “Manninen’s Defense of Abortion Rights is Unsuccessful,” *The American Journal of Bioethics* 10, no. 12 (2008): 56.

¹³ *Ibid.*

provide that care. This likely will involve some emotional struggle for the mother, but even that struggle can be traced directly back to her original, voluntary decision to engage in intercourse.¹⁴

It is true that not all pregnancies are voluntary. Some are the result of violent, criminal acts committed against a woman. However, abortion choice advocates who rely upon this fact to argue against the general rule of responsibility are guilty of universalizing the exception. A 2005 study, for example, explored the reasons women gave for terminating their pregnancies and found that only 1% of all abortions were due to rape and less than one-half of one percent were sought out due to incest.¹⁵ The overwhelming number of pregnancies leading to abortion were the result of voluntary action.

It is also true that we as a society often seek to protect people from the negative consequences of their actions, even if those actions were voluntarily taken. We do not deny medical treatment to someone suffering from lung cancer, for example, merely because they contracted it through years of voluntary smoking. However, even if such people have a right to assistance¹⁶ the balance changes when the rights of another person are involved. This is why Colb's initial question begging is so significant. If the unborn is a rights-holder then the mother cannot be free from the consequences of her actions when negating those consequences would

¹⁴ Incidentally, this is the same rationale used to appropriately justify the requirement that fathers pay child support, regardless of whether they intended the act of intercourse to result in the birth of a child.

¹⁵ L.B. Finer, L.F. Frohworth, L.A. Dauphinee, S. Singh and A.M. Moore, "Reasons Women Have Abortions: Quantitative and Qualitative Perspectives," *Perspectives on Sexual and Reproductive Health* 37, no. 3 (2005): 113.

¹⁶ An argument can be made that such a person has weakened any such right as a result of his or her actions, and any assistance given is due to mercy and grace on the part of the caregiver. We may still have a duty to provide care, but that duty would arise not from a right possessed by the patient but rather from our obligation to show grace.

infringe upon the rights of another (especially so fundamental a right as the right to life). As C’Zar Bernstein and Paul Manata say, “Rights are trumps. A stronger trump beats a weaker trump. One way to weaken the relative strength of S’s trump is by S’s being morally responsible for another person’s having to play her trump.”¹⁷

Conclusion

Colb sets out to introduce a new wrinkle into the discussion on abortion, one she feels would provide another layer of grounding for the abortion right. However, her new angle continues to commit the same old errors. She openly admits to question begging when she announces that her entire position hinges on the unborn not being a “someone” who possesses rights. She selectively chooses her evidence of emotional trauma, considering solely the potential trauma a woman may experience when giving up a child while ignoring the evidence that abortion often carries severe emotional consequences of its own. Finally, she neglects to recognize that any emotional struggle a woman faces in giving up a child for adoption can, in the overwhelming majority of cases, be traced back to her voluntary decision to engage in intercourse. A woman’s desire to be freed from the consequences of that choice cannot be granted when it infringes on someone else’s right to life. In short, Colb sets out to introduce something new, but all she succeeds in accomplishing is wrapping up the same old fallacious reasoning in a slightly original package.

¹⁷ C’Zar Bernstein and Paul Manata, “Moral Responsibility and the Wrongness of Abortion,” *Journal of Medicine and Philosophy* 44, no. 2 (2019): 253.

Bibliography

- Beckwith, Francis J. *Defending Life: A Moral and Legal Case Against Abortion Choice*. New York: Cambridge University Press, 2007.
- Bernstein, C'Zar and Manata, Paul. "Moral Responsibility and the Wrongness of Abortion." *Journal of Medicine and Philosophy* 44, no. 2 (2019): 243-62.
- Colb, Sherry F. "'Never Having Loved at All': An Overlooked Interest that Grounds the Abortion Right." *Connecticut Law Review* 48, no. 3 (2016): 935-67.
- Ferguson, DM, Horwood, LJ and Ridder, EM. "Abortion in young women and subsequent mental health." *Journal of Child Psychology & Psychiatry* 47, no. 1 (2006): 16-24.
- Finer, L.B., Frohwirth, L.F., Dauphinee,, L.A., Singh, S. and Moore, A.M. "Reasons Women Have Abortions: Quantitative and Qualitative Perspectives." *Perspectives on Sexual and Reproductive Health* 37, no. 3 (2005): 110-18.
- Gissler, Mika, Hemminki, Elina and Lönnqvist, Jouko. "Suicides after pregnancy in Finland, 1987-94: register linkage study." *British Medical Journal* 313, no. 7070 (1996): 1431-34.
- Klusendorf, Scott. *The Case for Life: Equipping Christians to Engage the Culture*. Wheaton, IL: Crossway, 2009.
- Marquis, Don. "Manninen's Defense of Abortion Rights is Unsuccessful." *The American Journal of Bioethics* 10, no. 12 (2008): 56-57.