

MARINA-BRIANA TZIALLI<sup>1</sup>, ELINA K. KARAMATZIANI<sup>2</sup>  
NKUA Applied Philosophy Research Laboratory, Hellenic Republic

## FROM THE VALUE OF LIFE TO RIGHTS: EXPLORING THE ABORTION CONTROVERSY

**Abstract:** This article examines the principal philosophical and legal approaches to the issue of abortion. It begins with an analysis of Ronald Dworkin's theory, which emphasizes the „inherent and sacred value” of life, while also addressing the critical objections raised by Nicolai Lazarev. The discussion then turns to Don Marquis's position, which condemns abortion on the grounds of the fetus's „loss of a future,” and to the Kantian perspective, which regards the preservation of life as an absolute duty. The article subsequently considers the arguments of Judith Thomson and Anne Warren—Thomson defending a woman's right to bodily autonomy, and Warren distinguishing between the genetic and moral dimensions of personhood—together with the critiques advanced by Evangelos Protopapadakis. Finally, the study reflects on the landmark legal case *Roe v. Wade*, its subsequent reversal, and the contemporary ethical and legal challenges posed by emerging technologies such as artificial wombs. **Keywords:** Abortion, artificial womb, self-determination, fetus, intrinsic value, personhood, viability

### I. INTRODUCTION

The issue of abortion remains one of the most contentious debates of our time, encompassing ethical, legal, and social dimensions. This study aims to provide a comprehensive overview of the principal theoretical frameworks that shape both public and academic discourse. By engaging with arguments on both sides, it highlights the complexity of the topic and underscores why it continues to resist definitive resolution as an ethical dilemma.

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<sup>1</sup> Author's e-mail address: [brianatzialli@gmail.com](mailto:brianatzialli@gmail.com)

<sup>2</sup> Author's e-mail address: [elinakara@philosophy.uoa.gr](mailto:elinakara@philosophy.uoa.gr)

The analysis begins with philosophical arguments opposing abortion. First, it examines Ronald Dworkin's account of the „inherent and sacred value” of life, alongside Nicolai Lazarev's critique of its limitations. It then turns to Don Marquis's reasoning, which grounds the impermissibility of abortion in the „loss of a future with significant value,” and to the Kantian perspective, which derives an absolute duty to preserve life from the principle of the categorical imperative.

The discussion then shifts to arguments in defense of abortion. Judith Thomson's well-known „violinist” thought experiment is analyzed as a defense of the primacy of a woman's bodily autonomy, while Anne Warren's distinction between being genetically human and being a moral „person” is considered as a foundation for recognizing abortion rights. These theories are further assessed in light of Evangelos Protopapadakis's critical observations, which point to the shortcomings of both autonomy-based and personhood-based approaches.

Finally, the study connects this philosophical debate to its legal and technological contexts. Particular attention is given to the landmark case *Roe v. Wade*, its subsequent reversal, and the consequences of this shift. Emerging challenges, such as the ethical implications of artificial womb technology and the impact of the internet on access to abortion services and activism, are also explored.

Through this systematic overview, the article seeks to present a balanced account of the issue, recognizing both the depth and the intractability of the arguments advanced by opposing sides.

## II. LIFE AS SACRED AND INHERENTLY VALUABLE

Ronald Dworkin identifies a fierce dispute surrounding the issue of abortion. In his view, this conflict can only be resolved if the concept of inherent value is fully accepted by all. The controversy stems primarily from two objections. The first objection, usually referred to as „derivative,” claims that fetuses *do* possess rights (such as the right to life) and that abortion violates fundamental liberties of theirs. Dworkin, however, opposes this view, arguing that fetuses cannot be acknowledged rights. Instead, he focuses on the second objection, the „detached” one, which emphasizes that human life possesses inherent and sacred value.<sup>3</sup> This approach is not dependent on

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<sup>3</sup> Dworkin, Ronald. *Life's Dominion: An Argument About Abortion, Euthanasia, and Individual Freedom*. Knopf Doubleday Publishing Group, 1994, pp. 11-23.

the acknowledgement of rights to the fetus. Ultimately, Dworkin believes that any kind of resolution on the matter could be achieved only if we recognize that life is inherently valuable, worthy of respect, and sacred. More specifically, Dworkin argues that any being, or condition, possesses inherent value in the case it is utterly independent of any human desires, needs, or pleasures. He distinguishes between inherent and subjective value, the latter being based on personal preference, as well as from instrumental value, that is connected with utility, that is, usefulness for achieving further goals.<sup>4</sup> According to Dworkin, human life is not merely instrumentally valuable, but also possesses a unique kind of inherent importance, one that he calls ‘sacred.’<sup>5</sup> In this context, the meaning of sacred value differs from incremental or progressive importance, because it does not concern the idea of „the more, the more beneficial.” On the contrary, something is considered sacred and inherently valuable precisely *only* because—and *only when*—it exists. This means that, in addition to human life, certain works of art and unique animal species also fall into the category of sacred value. Furthermore, the source of sacred importance, according to Dworkin, can be twofold. Primarily, this sacredness arises through association or identification, as can be attributed to something because of its connection to a more extensive and important whole. For example, cats in ancient Egypt were considered sacred as signs of divine presence, while a nation’s flag acquires sacred value as a symbol of national identity. From a historical perspective, this function is crucial for human life and includes two constituent elements: the endogenous or natural origin, which refers to the creative path of nature (either through divine creation or through developmental biological functions that lead to the formation of life as we know it), and the human origin. The latter refers to deliberate human actions and ingenuity (such as the production of a work of art or personal cultivation and development that constitute human creativity and evolution). Nevertheless, the combination of these two approaches bestows upon human life its sacred value.<sup>6</sup> It is true, Dworkin also presents an exception to this view: the concept of a „bad cause,” such as rape.<sup>7</sup> This cause may potentially limit the inherent value of any being, a fact that could justify abortion in specific circumstances.

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<sup>4</sup> Ibid., pp. 68-78.

<sup>5</sup> On the sanctity of life, especially human, see also Evangelos D. Protopapadakis, *Creating Unique Copies: Human Reproductive Cloning, Uniqueness, and Dignity* (Berlin: Logos Verlag Berlin GmbH, 2023), 62ff.

<sup>6</sup> Ibid., pp. 68-78.

<sup>7</sup> Ibid., pp. 115-116.

### III. WEAKNESSES POINTED OUT BY NICOLAI LAZAREV

Despite Dworkin's initial optimism, his philosophical framework on the inherent value of human life encounters significant rational and conceptual weaknesses. These weaknesses undermine its ability to bridge the gap in the abortion debate. It is particularly difficult to find a novel logical basis for the idea that human life is sacred and must be preserved solely because of its inherent value.<sup>8</sup> A major issue arises from Dworkin's parallel with works of art. While any exact copy of a specific piece of art, such as Vincent van Gogh's *Sunflowers*, may preserve its sacred value even if the original gets somehow destroyed, individual human life cannot be substituted by any imitation without the utter loss of its unique importance. This disparity demonstrates that the value of human life, as Dworkin defines it, is not as inherent as he claims, at least not in the same way as the value of a work of art can be.<sup>9</sup> Furthermore, the attachment of sacred value to historical or creative processes creates major problems. First, it is an attachment to exogenous methods. If the sacredness of value is explained *historically*, i.e., on the grounds of its evolutionary development, then such a value would not be inherent, but of external origin. This means it would rely on external connections, and this is in blatant conflict with the idea that life is sacred in and of itself.<sup>10</sup> Second, there are ethically unacceptable consequences, such as the claim that a „bad cause” (e.g., rape) can diminish the importance of any being, leading to an ethically questionable position. Here, the author implies that a person born under such circumstances will have inherently less value, which is logically unfounded and ethically unacceptable, at least as far as the ethics of the western world is concerned.<sup>11</sup> Third, there is an absence of an objective criterion. Dworkin fails to provide any clear, objective criterion for how we choose what is worthy of being considered sacred. Instead, he bases this judgment on a complex network of emotions and intuitions, which, as he himself admits, can be made up of incompatible prejudices. This lack of objectivity

<sup>8</sup> Nicolai Lazarev, „The Intrinsic Value of Human Life: A Critique of Life's Dominion,” *E Law: Murdoch University Electronic Journal of Law* 12, no. 1-2 (2005): E7, <https://www5.austlii.edu.au/au/journals/MurUEJL/2005/7.html>. (Specifically, see the introduction and the sections that analyze the weaknesses of Dworkin's theory).

<sup>9</sup> Ibid., E7. (Specifically, Lazarev's critique of Dworkin's parallel with works of art is in the section „Dworkin's Interpretation of Intrinsic Value”).

<sup>10</sup> Ibid., E7. (This critique is analyzed in the section „The Origins of Sacred Value,” where Lazarev argues that the historical/creative origin undermines the idea of inherent value).

<sup>11</sup> Ibid., E7. (Lazarev's critique of the concept of a „bad cause” and its ethical implications is referred to in the article as one of the problems with Dworkin's theory).

makes consensus impossible. His position that inherent value is a matter of belief, conviction, emotion, or intuition, seems quite weak as an argument that would convince either of the opposing sides.<sup>12</sup> Consequently, Dworkin's ambitious attempt to resolve the abortion controversy through the concept of the inherent value and sanctity of human life, although original, at the end of the day is not that convincing. His approach fails to convincingly explain and clarify why human life should be considered inherently priceless in the way he suggests, that is, as something that has value *per se*, only because it *is*, and because it is *human*, regardless of any external usefulness or desire. Consequently, despite his efforts, Dworkin's approach does not provide any sufficient or convincing basis for achieving consensus on the ethical impasse of abortion, leaving unanswered essential questions that are in the core of the ethical debate.

#### IV. THE LOSS OF A FUTURE

In current ethical debates the view that abortion is, with few exceptions, ethically impermissible receives limited support. However, Don Marquis, in his essay „Why Abortion Is Immoral,” seeks to challenge this widely held belief. Marquis articulates an argument that suggests that abortion, with rare exceptions, is morally wrong and belongs to the same moral category as the murder of an innocent adult human.<sup>13</sup> To support his view, Marquis chooses to focus on the concept of the loss of a future.<sup>14</sup> He emphasizes that, unless we understand why the killing of any adult is morally wrong, it is impossible to understand why abortion is morally unacceptable.<sup>15</sup> From the outset he rejects any explanation that would focus solely on the consequences for the perpetrator, or the victim's family. These explanations, he argues, are not sufficient to cover all cases, such as the murder of a hermit.<sup>16</sup> The most plausible way to explain why murder is morally reprehensible is to focus on the impact it has on the victim. The loss of life is *the most serious deprivation*

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<sup>12</sup> Ibid., E7. (Lazarev emphasizes the lack of an objective criterion for sacred value and how it becomes a matter of personal belief in the „Conclusion” section).

<sup>13</sup> Don Marquis, „Why Abortion Is Immoral,” *The Journal of Philosophy* 86, no. 4 (1989): 183.

<sup>14</sup> Ibid., 189. (The concept of „loss of a future” forms the core of his argument).

<sup>15</sup> Ibid., 189. (Marquis argues that understanding why murder is wrong is a prerequisite for understanding the morality of abortion).

<sup>16</sup> Ibid., 187–188. (Here Marquis dismisses explanations based on consequences for the perpetrator or loved ones, as these do not cover all cases, e.g., hermits).

any person can endure.<sup>17</sup> This deprivation involves not merely a dramatic biological change, but also the irreversible loss of all experiences, activities, goals, and pleasures that would have constituted one's future.<sup>18</sup> These future experiences have value, either intrinsically or as a means to achieve other values. Murder deprives the victim of both what they value at that moment and what they would have come to value in the future. Consequently, causing this deprivation, that is, the loss of a future with significant value (like our own), is what makes murder morally wrong.<sup>19</sup> Marquis's theory dodges the fallacy of deriving an „ought to” from an „is,” and successfully identifies the natural facts that account for the immorality of murder. Such an explanation also aligns with our moral intuitions. Marquis argues that the idea that the loss of a future makes killing wrong is bolstered by two empirical observations: First, it clarifies why murder is considered one of the most heinous crimes, as it deprives the victim of everything, unlike what any other wrongdoing would have deprived them of.<sup>20</sup> Second, it explains why even people with incurable diseases consider death a harm: because it deprives them of a future they could have otherwise experienced.<sup>21</sup> This approach by Marquis offers a coherent basis for understanding the moral impermissibility of murder, grounding it in the irreparable loss of the victim's future.

## V. THE IMPLICATIONS AND STRENGTHS OF MARQUIS'S ARGUMENT

The first implication of this approach is its universality, as it extends beyond the human species,<sup>22</sup> since from this point of view the immorality of murder cannot be limited only to individual human beings. Were there extra-terrestrial beings with a future similar to our own, it would be equally wrong to kill them, and this challenges the view that only human life has intrinsic

<sup>17</sup> Ibid., 189. (He analyzes the deprivation of life as the greatest possible deprivation).

<sup>18</sup> On this, see Evangelos D. Protopapadakis, „Death is Nothing to Us: A Critical Analysis of the Epicurean Views Concerning the Dread of Death,” in *Antiquity and Modern World: Interpretations of Antiquity*, vol. 8, 316-323 (Belgrade: Serbian Society for Ancient Studies, 2014).

<sup>19</sup> Marquis, 189–190. (This is the central argument for why killing is wrong: it removes a future full of value).

<sup>20</sup> Ibid., 191. (The first finding that reinforces the view of the loss of a future).

<sup>21</sup> Ibid., 191–192. (The second finding, concerning people with incurable illnesses).

<sup>22</sup> Ibid., 192. (Marquis emphasizes the breadth of his theory's application, arguing that it is not limited to humans but applies to any being with a „future like ours”).

moral significance. Marquis's theory, on the other hand, is consistent with the notions of individuality, while also implying that it is profoundly wrong to kill mammals that have a similar future.<sup>23</sup> The concept of euthanasia also enters the discussion. Unlike other theories of life, Marquis's view does not suggest that active euthanasia is inherently wrong.<sup>24</sup> Individuals, who are seriously and incurably ill, with a future full of despair and a desire to die, do not suffer any loss if their biological existence is terminated.<sup>25</sup> This constitutes a significant advantage of the theory, as it aligns with current deliberations on autonomy.<sup>26</sup> A third point of reference is children and infants. The explanation of the immorality of killing, according to Marquis, emphatically suggests that it is primarily wrong to kill infants and children,<sup>27</sup> and this because we assume these beings have a valuable future. In contrast, theories of personhood struggle to clarify the immorality of killing infants and young children, requiring *ad hoc* explanations. Marquis's view directly justifies this general and compelling belief.<sup>28</sup> Marquis proposes another consequence of the ethics of abortion, which is explored through two competing interpretations for the immorality of killing: the first is the interpretation of the deprivation of experience, and the second the explanation of desire as the obstruction of the desire to continue living. He claims that the justification of desire is questionable, as we still judge it wrong to kill people with a limited or no

<sup>23</sup> Ibid., 192. (The theory aligns with individuality—that killing is wrong for the individual who dies—and suggests that killing some non-human mammals with a similar future is also wrong).

<sup>24</sup> Ibid., 192. (Here Marquis distinguishes himself from „sanctity of life theories” that condemn euthanasia, arguing that if an individual's future is full of pain and they do not wish to continue living, there is no „loss of a future”). For a comprehensive study on self-inflicted death on purpose of avoiding pain, see Elina Karamatziani, Maria Zanou, and Maria K. Chorianopoulou, „End of Life Perspectives on the Enlightenment Era: A Comparative Approach,” *Arhe* 21, no. 42 (2024): 77-96.

<sup>25</sup> On this, see Evangelos D. Protopapadakis and Tatia Basilaia, „On the Assumed Moral Superiority of Passive over Active Euthanasia,” *Arhe* 21, no. 42 (2024): 51-75. Also, Donovan van der Haak, „Death Anxiety, Immortality Projects and Happiness: A Utilitarian Argument Against the Legalization of Euthanasia,” *Conatus – Journal of Philosophy* 6, no. 1 (2021): 159-174.

<sup>26</sup> Marquis, 192. (Marquis considers the compatibility of his theory with the concept of autonomy to be a significant advantage, as it allows for the choice of euthanasia in specific cases). On the role of physicians in this, see Jose Luis Guerrero Quiñones, „Physicians' Role in Helping to Die,” *Conatus – Journal of Philosophy* 7, no. 1 (2022): 79-101.

<sup>27</sup> Ibid., 193. (Marquis argues that his theory explains why the killing of infants and toddlers is morally wrong, as these beings are considered to have a future of value).

<sup>28</sup> Ibid., 193. (He contrasts the direct explanation of his own theory with the difficulties faced by „personhood theories” in justifying the immorality of killing infants, which often require additional, special explanations, *ad hoc*).



desire to live (e.g., unconscious, suicidal people). The theory of the importance of the future clarifies these situations more adequately. In conclusion, what substantiates the wrongness of killing is the *loss of a future*, and not the negation of one's strong desire to keep on living.<sup>29</sup> Marquis's train of thought concerning the ethics of abortion provides a plausible argument against the termination of pregnancy: it focuses on the loss of a future very much like ours. Ultimately, it is evident that killing adults and aborting fetuses is wrong for exactly the same reason: it annihilates the possibility of any future.<sup>30</sup>

## VI. THE KANTIAN OUTLOOK AND THE DUTY TO PRESERVE LIFE

To support his position, Marquis invokes the Kantian principle of consistency, aiming to build a convincing line of reasoning based on universality and rationality.<sup>31</sup> He discusses the typical anti-abortion argument, the one that assumes that terminating an innocent human life is wrong.<sup>32</sup> While seemingly simple, this argument raises critical questions, specifically on whether killing is *always* wrong, or *usually* wrong. It also fails to account for exceptions, such as pregnancy as the outcome of rape, pregnancy that poses a serious threat to the life of the pregnant woman, and cases of serious fetal abnormalities—issues that require further consideration.<sup>33</sup> Furthermore,

<sup>29</sup> Ibid., 187–190. (Marquis examines alternative explanations for the immorality of killing, such as the „discontinuation of experience” and „frustrated desire,” but dismisses them as inadequate, arguing that the loss of the goods of a valuable future is the primary cause. His analysis of cases like unconscious or suicidal individuals is used to show the weaknesses of other theories).

<sup>30</sup> Ibid., 194–195. (Marquis concludes his essay by summarizing the validity of his argument against abortion, its consistency with the moral legitimacy of euthanasia and contraception, and its alignment with our intuitions about the morality of killing adults and children).

<sup>31</sup> Immanuel Kant, *Groundwork of the Metaphysics of Morals*, trans. M. J. Gregor (Cambridge: Cambridge University Press, 1997), 35–42.

<sup>32</sup> Marquis, D. (1989). Why abortion is immoral. *The Journal of Philosophy*, 86(4), 183–185.

<sup>33</sup> Ibid., 185–186. (Marquis identifies the main weaknesses of the classic argument in its inability to handle cases where abortion can be considered morally acceptable (e.g., rape, a threat to the mother's life, severe abnormalities). The classic argument, he claims, fails to adequately explain why killing is wrong in all cases or how to address these „hard cases” without undermining its initial position. This point is crucial for Marquis's need to develop a new argument that can respond to these challenges). On this, see also Julian Savulescu and Evangelos D. Protopapadakis, „Ethical Minefields and the Voice of Common Sense: A Discussion with Julian Savulescu,” *Conatus – Journal of Philosophy* 4, no. 1 (2019): 125–133.



Marquis extends his thinking by applying R. M. Hare's Golden Rule in the context of abortion and infanticide.<sup>34</sup> Hare, in his work, grounds his approach on the principle: „We ought to do to others what we are glad was done to us.” According to Hare, since we are all glad that we were conceived and not aborted or killed as infants, we should act accordingly.<sup>35</sup> Nevertheless, Hare concludes that birth control, abortion, and infanticide have only a „weak, prima facie negative side” that can easily be overcome by other ideas.<sup>36</sup>

## VII. THE ARGUMENT FROM AUTONOMY

The American philosopher Judith Jarvis Thomson argues forcefully that abortion can be morally permissible in numerous circumstances, even in the case one endorses the position that fetuses are human beings from conception, a position herself does not accept, but is ready to allow for the sake of the argument.<sup>37</sup> To make her case she comes up with a famous thought-experiment, the „violinist” analogy. In this scenario, you wake up one morning and find yourself connected to a famous, unconscious violinist. The kidnapping was carried out by a group of music lovers who inform you that the violinist has a fatal kidney disease and that you are the only person with the right blood type to save him. They explain that if you remain connected to him for nine months, he will be cured, but if you disconnect, he will die.<sup>38</sup> Thomson argues that, although it would be commendable for you to remain connected, you have no moral obligation to do so.<sup>39</sup> You have the right to decide what happens to your body, and the violinist's right to life does not automatically grant him the right to use your body to sustain his life. She then draws a parallel between this incident and pregnancy, implying that even if a fetus has a right to life, it doesn't necessarily have the right to use the pregnant woman's

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<sup>34</sup> R. M. Hare, „Abortion and the Golden Rule,” *Philosophy and Public Affairs* 4, no. 3 (Spring 1975): 201-222. (Marquis extends his thinking by applying R.M. Hare's Golden Rule to the context of abortion and infanticide).

<sup>35</sup> Ibid., 207-212. (According to Hare, since we all rejoice that we were conceived and not aborted or killed as infants, we should act accordingly).

<sup>36</sup> Ibid., 212-218. (Nevertheless, Hare concludes that birth control, abortion, and infanticide have only a „weak, obvious negative side” that can easily be overcome by other ideas).

<sup>37</sup> Judith Jarvis Thomson, „A Defense of Abortion,” *Philosophy & Public Affairs* 1, no. 1 (1971): 48. (Thomson's central thesis: even if a fetus is a person, abortion can be morally permissible).

<sup>38</sup> Ibid., 48.

<sup>39</sup> Ibid., 49. (Thomson's argument that the individual has no moral obligation to remain connected to the violinist, even though it would be a „nice” thing to do).

body without her consent.<sup>40</sup> The violinist scenario was designed to highlight the essential idea that a person's right to existence does not include the right to use someone else's body, even if the survival of the former depends on it.<sup>41</sup> Judith Thomson places particular emphasis on bodily autonomy as the moral basis for rejecting the obligation to remain connected to the violinist, underscoring an individual's right to regulate and make decisions about their own body. Although the violinist analogy is an extreme case of coercion, Thomson uses it as a starting point to examine subtle differences, extending the use of bodily autonomy to other situations, including cases of consensual sexual acts where contraception may have failed.<sup>42</sup> This leads to the idea that while being a „Good Samaritan” (i.e., sacrificing yourself to help someone) is praiseworthy as a supererogatory way of interacting with other people, it is not morally compelling to be a good Samaritan: as a matter of fact, one it is not morally compelling to be even a ‘minimally decent Samaritan.’ This is especially true when doing so places a significant burden on the person themselves, and any unwanted pregnancy could be considered such a burden. Thus, it is not always morally imperative to require one to offer more than „minimally decent Samaritanism.”<sup>43</sup>

## VIII. THE CONCEPT OF PERSONHOOD

Mary Anne Warren endorses the view that any convincing defense of the right to abortion presupposes proving that the fetus is not a „human being” in the morally relevant sense of the term, that is, *a person*. Her own view is that indeed the fetus is not a person and, consequently, it could not be acknowledged full moral rights.<sup>44</sup> Warren stresses the inadequacy of the arguments both for and against abortion that have been dominating the debate. Supportive claims, such as the painful consequences of restrictive laws

<sup>40</sup> Ibid., 49. (The parallel is drawn between the violinist and the fetus, specifically regarding the right to life and the right to use someone else's body).

<sup>41</sup> Ibid., 49–50. (This note highlights the core principle of the thought experiment: the right to life does not entitle a person to the use of another person's body).

<sup>42</sup> Ibid., 54–55. (Thomson extends the argument beyond the involuntary nature of the violinist scenario, examining cases of consensual sex with failed contraception and the role of bodily autonomy).

<sup>43</sup> Ibid., 61–63. (This is where Thomson introduces the concepts of „Good Samaritanism” and „minimally decent Samaritanism,” arguing that the moral burden of an unwanted pregnancy does not always require one to be even a minimally decent Samaritan).

<sup>44</sup> Mary Anne Warren, „On the Moral and Legal Status of Abortion,” *The Monist* 57, no. 1 (1973): 43.

or a woman's right over her body, are deemed insufficient to establish the moral correctness of abortion. Similarly, the main argument against abortion, which claims that a fetus is a human being and therefore abortion is murder, is overturned. Warren highlights the confusion between the genetic and the moral concept of a human. For example, Noonan focuses on the genetic code and the potential capacity for rational thought, overlooking the need for morally relevant characteristics.<sup>45</sup> Although Thomson's argument, based on the analogy of the „violinist,“ is a significant contribution to the discussion, Warren believes it has its own limitations. Thomson questions the idea that a fetus's right to life automatically imposes a moral obligation on a woman to complete the pregnancy. While her argument is compelling in cases like rape, where the woman is not responsible for pregnancy, it becomes weaker in the typical case of unwanted pregnancy. Warren argues that Thomson's argument does not fully resolve the issue of abortion, as it does not adequately address the fundamental problem of the moral status of the fetus.<sup>46</sup> The key point in Warren's analysis is the distinction between the genetic and moral concepts of a human. A being is considered biologically human if it belongs to the species *Homo sapiens*. However, morally, it is human only if it is a full member of the moral community with complete moral rights.<sup>47</sup> Warren from the outset makes it clear that to her the moral community may only comprise persons; hence she proposes a set of criteria for personhood, which include: consciousness (especially the capacity to feel pain), rational thought, self-awareness, the capacity to communicate, and autonomous, non-dependent motivations.<sup>48</sup> According to these criteria, a fetus, at no stage of development, meets the characteristics of a person. Even potential or anticipated personhood is no reason to disregard the moral rights of *actual* persons, the pregnant woman included<sup>49</sup>: in cases of conflict, the rights of existing persons should always

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<sup>45</sup> John T. Noonan Jr., „An Almost Absolute Value in History,“ in *The Morality of Abortion: Legal and Historical Perspectives*, ed. John T. Noonan Jr. (Cambridge, MA: Harvard University Press, 1970), 51-59.

<sup>46</sup> Warren, „On the Moral and Legal Status of Abortion,“ 47. (Warren concludes that Thomson's argument, although important, does not fully resolve the issue of the moral status of the fetus).

<sup>47</sup> Ibid., 47-48. (An explanation of what it means for a being to be „human“ in a moral sense—that is, a full member of the moral community).

<sup>48</sup> Ibid., 48. (A detailed list of Warren's criteria for personhood: consciousness, reasoning, self-motivated activity, communication, and self-awareness).

<sup>49</sup> Ibid., 49-50. (The application of the criteria to the fetus and the conclusion that it does not meet them, as well as the contrast between the rights of a potential person and those of actual persons).

outweigh the rights of potential persons.<sup>50</sup> It follows that the termination of pregnancy is morally permissible, as the fetus does not constitute a person with full moral rights.<sup>51</sup>

## IX. A CRITICAL VIEW ON SELF-DETERMINATION AND PERSONHOOD

According to many ethicists, the defense of abortion may only be based on two main pillars.<sup>52</sup> The first is a woman's right to self-determination, which places individual autonomy at the center. In this train of thought it is usually argued that any woman, as an autonomous human being, has the inalienable moral right to make critical decisions concerning her health and physical condition, and this also involves the termination of her pregnancy.<sup>53</sup> From this perspective, pregnancy is a physical condition that can be ended at the woman's discretion. Evangelos Protopapadakis, although he acknowledges the appeal of this argument, is far from endorsing it: He argues that, even in its most refined form, the argument remains insufficient and unconvincing, since pregnancy can hardly be described as *one more* bodily condition among many alternative ones – being pregnant and wanting to terminate the pregnancy is not like having a tumor and wanting to remove it,<sup>54</sup> while at the same time pregnancy entails physical and mental determinants that are absent from other physical conditions.

The second pillar in the defense of abortion is personhood. This axis shifts the focus from the woman to the fetus, investigating whether the fetus meets the criteria to be recognized as a person, i.e., as a human being with full moral rights.<sup>55</sup> This approach usually argues that the fetus in its early stages of development lacks qualities associated with personhood, such as consciousness, self-awareness, and rationality. Therefore, the fetus cannot be allowed to possess full moral rights, rights that would override the pregnant woman's rights. Protopapadakis challenges Thomson's views on abortion:

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<sup>50</sup> Ibid., 50-51. (A further development of the superiority of the rights of actual persons over those of potential ones).

<sup>51</sup> Ibid., 52. (Warren's final conclusion regarding the moral permissibility of abortion, based on the fetus's lack of personhood).

<sup>52</sup> Evangelos D. Protopapadakis, „A Cool Hand on My Feverish Forehead: An Even Better Samaritan and the Ethics of Abortion,” *Philosophy Study* 2, no. 2 (2012): 115-123.

<sup>53</sup> Ibid., 116.

<sup>54</sup> Ibid., 120.

<sup>55</sup> Ibid.

a key point in his critique is the separation of the moral status of the fetus from the woman's right, which he considers a weakness, as the moral status of the fetus remains an issue of vital importance.<sup>56</sup> Furthermore, he argues that Thomson's argument fails in its scope and does not provide a „strong moral foundation.” He explains that the analogy of the violinist cannot be generalized to every case of abortion, given the distinct biological, emotional, social, and moral dimensions of pregnancy.<sup>57</sup> Finally, he questions the application of the „Good Samaritan” principle, emphasizing that the mother-fetus bond transcends ordinary acts of philanthropy or the dictates of „minimal morality,” implying a more substantial and extended obligation.<sup>58</sup> Protopapadakis is also critical with regard to Peter Singer's relevant views, focusing on the extreme consequences of his approach.<sup>59</sup> He first discusses the distinction between the human being (*Homo sapiens*) and the person, where Singer attributes full moral rights only to beings with specific mental and emotional characteristics, thus excluding fetuses and newborns.<sup>60</sup> The main focus of Protopapadakis's critique is that this approach leads to heinous moral conclusions, such as the justification of infanticide, especially before the third month. To highlight these ethically challenging consequences, Protopapadakis uses the striking analogy of Josef Mengele's experiments at Auschwitz as a powerful *reductio ad absurdum* argument.<sup>61</sup> Finally, he contrasts Singer's focus on subjective experience with a broader conception of the value of life, arguing that life matters not only because it is experienced, but also because it is worthy of being experienced, even if the individual cannot fully grasp it. In short, according to Protopapadakis, both Thomson's and Singer's approaches, despite their philosophical merits, fail to provide an effective moral justification for abortion. While, as he admits, both theories are thought-provoking and seminal, this is only a collateral achievement; the main purpose of any ethical debate, in which both Thomson and Singer seem to fail, is to provide stable moral justification for our choices, while at the same time avoiding morally unacceptable or precarious results.

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<sup>56</sup> Ibid., 123.

<sup>57</sup> Ibid., 118-122. See also, Evangelos D. Protopapadakis, *From Dawn till Dusk: Bioethical Insights into the Beginning and the End of Life* (Berlin: Logos Verlag Berlin GmbH, 5019), 44ff.

<sup>58</sup> Ibid., 122.

<sup>59</sup> Evangelos D. Protopapadakis, „Should the Baby Live? Abortion and Infanticide: When Ontology Overlaps Ethics and Peter Singer Echoes the Stoics,” in *Ancient Culture, European and Serbian Heritage*, 396-407 (Beograd: Serbian Society for Ancient Studies, 2010).

<sup>60</sup> Ibid., 347.

<sup>61</sup> Ibid., 404.

## X. CHALLENGES INTRODUCED BY TECHNOLOGICAL ADVANCEMENTS

The advancements in the field of artificial womb technologies raise serious legal and ethical questions, particularly concerning abortion rights in the United States. A study published in *Nature Communications* in April 2017 revealed the ability of researchers to sustain premature lamb fetuses, aged 105 to 115 days—a developmental stage equivalent to a 23-week-old human fetus—for four weeks inside an artificial womb. This allowed the lambs to develop normally, alongside control groups of the same age, with the oldest lamb appearing completely normal at one year of age.<sup>62</sup> This progress, while heralding a significant improvement in the quality of life for premature newborns, brings complex legal and ethical questions to the forefront, especially regarding how „viability”—the key threshold set by the Supreme Court in the *Planned Parenthood v. Casey* case for regulating abortions—might be affected.<sup>63</sup> The author analyzes three perspectives: prohibiting abortion after viability with the possibility of mandatory transfer to an artificial womb before that point, modifying the definition of viability to include artificial support, or even broadening post-viability rights, allowing transfer as an alternative to an abortion ban.<sup>64</sup> From a 2001 perspective, several imminent challenges emerged regarding the internet’s influence on the abortion issue. First and foremost, there was a change in women’s access to data and services, as the internet allowed for research into alternative abortion methods and, potentially, access to pharmaceutical substances like mifepristone from home.<sup>65</sup> Additionally, the internet emerged as an innovative and critical field for activism, where both proponents and opponents of abortion used digital platforms to publicize their messages, creating new legal disputes around online freedom of speech and the need to determine the scope of its protection.<sup>66</sup> Third, new risks emerged due to the ease of identifying and targeting abortion clinics and staff, as data became internationally accessible to people with malicious purposes or aims, confirming that online websites can have

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<sup>62</sup> I. G. Cohen, „Artificial Womb Technology and Abortion: An Argument-Based Systematic Review,” *Journal of Ethics and Emerging Technologies* (2017): 123-125.

<sup>63</sup> For a detailed presentation of the principle of viability in American law, see *Planned Parenthood v. Casey*, 505 U.S. 833, 870–879 (1992).

<sup>64</sup> Cohen, „Artificial Womb Technology and Abortion’, 127-132.

<sup>65</sup> K. L. Frank, „Nat Effects: How the Internet Has Changed Abortion Law, Policy, and Process,” *William and Mary Journal of Women and Law* 8, no. 2 (2001): Article 4, 345.

<sup>66</sup> *Ibid.*, 350-352.

a very powerful and substantial influence.<sup>67</sup> Finally, there was a need for lawmakers, courts, and activists to acknowledge and understand the internet's impact on the topic of abortion, as this influence was expected to grow with the evolution of technology.<sup>68</sup>

## XI. CONCLUSION

Any extensive and detailed analysis of the abortion issue highlights that, despite the extensive philosophical and legal debate, the moral issue in its core remains unresolved. Setting the focus on notions such as the intrinsic value of human life, autonomy and self-determination, and personhood, has not led to universally accepted views. On the contrary, the overturning of *Roe v. Wade* and rapid technological advancements necessitate the search for innovative answers. While technology is rapidly advancing, next to the old ones, new questions arise that await answers: Will the argument that is based on self-determination maintain its relevance in the face of the prospect of viable fetuses growing outside the woman's body? To whom may the right to life be acknowledged, and who bears the responsibility of preserving it? At the same time, legal reversals have emphasized the uncertain nature of rights, raising the question of whether this debate will be the starting point for a universal reform of legal frameworks.<sup>69</sup> The debate on abortion, therefore, is not only a far cry from being concluded, but on the contrary, it is prone to become the ground for addressing new issues.

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<sup>67</sup> Ibid.

<sup>68</sup> Ibid., 355.

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MARINA-BRIANA DZIALI, ELINA K. KARAMADZIANI  
NKUA Istraživačka laboratorija za primenjenu filozofiju, Grčka

## OD VREDNOSTI ŽIVOTA DO PRAVA: ISTRAŽIVANJE KONTROVERZE OKO ABORTUSA

**Sažetak:** Ovaj članak ispituje glavne filozofske i pravne pristupe pitanju abortusa. Počinje s analizom teorije Ronalda Dvorkina, koja naglašava „unutrašnju i svetu” vrednost života, pri čemu se bavi i kritičkim primedbama koje iznosi Nikolaj Lazarev. Diskusija se potom usmerava ka poziciji Dona Markvisa, koja osuđuje abortus na osnovu „gubitka budućnosti” fetusa, kao i ka kantovskoj perspektivi, koja očuvanje života smatra безусловnom dužnošću. Članak potom razmatra argumente Džudit Tomson i En Voren – Tomson brani žensko pravo na telesnu autonomiju, a Voren pravi razliku između genetske i moralne dimenzije personalnosti – uz kritike koje razvija Evangelos Protopapadakis. Na koncu, studija se osvrće na prelomni pravni slučaj *Rou protiv Vejda*, preokret do kojeg je povodom njega došlo, kao i na savremene etičke i pravne izazove što ih donose nove tehnologije poput veštačke materice.

**Ključne reči:** abortus, veštačka materica, samoodređenje, fetus, intrinzična vrednost, personalnost, održivost

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