

Abortion and Kant's Formula of Humanity

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ABSTRACT

This paper examines the issue of abortion from a Kantian perspective. More specifically, it focuses on Kant's Formula of Humanity of the Categorical Imperative and the prohibition against treating humanity merely as a means. It has been argued by feminists that forcing a woman to continue a pregnancy against her will is treating her as a mere means for sustaining the fetus, a mere "fetal incubator" (Bordo, 1993). Accordingly, feminists believe, this constitutes an assault on her humanity, the capacity for rationally setting and pursuing her own ends. On the other hand, the woman who aborts her fetus can be seen as treating a being which has the potential for humanity merely as a means for her own ends. The Kantian discussion of abortion gives rise to a number of important questions: Does respecting the pregnant woman's humanity, and hence enabling her to have an abortion if she chooses that way, go against appropriately respecting the fetus? What does it really mean to respect a fetus' potential for humanity? Attempting to answer these questions helps us to see the Kantian prohibition against treating humanity merely as a means from a different, less familiar perspective, and puts out some new challenges to Kant's theory. At the same time, it gives us new and useful insights on the much-discussed issue of the fetus' status in the abortion debate.

This paper examines the issue of abortion from a Kantian perspective. More specifically, it focuses on Kant's Formula of Humanity of the Categorical Imperative and the prohibition against treating humanity *merely as a means* (Kant, 1997a, 4, p. 429).¹ It has been argued by feminists that the woman who

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¹ Indeed, most of the philosophical work done on the issue of abortion, within Kantian ethics, has focused on the Universal Law formula of the Categorical Imperative. See, for instance Hare, 1989;

is made to continue a pregnancy against her will (in cases, for example, where abortion is illegal, and thus inaccessible to women) is being treated as a mere means for sustaining the fetus, a mere “fetal incubator” (Bordo, 1993). Accordingly, feminists believe, this constitutes an assault on her humanity, the capacity for rationally setting and pursuing her own ends. On the other hand, the woman who aborts her fetus can be seen as treating it merely as a means for her own ends. She wants to terminate her pregnancy, in order to achieve some further end(s) that she has, which are not consistent with being pregnant and/or caring for a child. According to such a view, in the case of an unwanted pregnancy, it appears that one of the two parties (woman/fetus) is being treated merely as a means, and so in a morally problematic way.

Which of these two evils is graver? One might argue that the fetus is not a being with humanity, a rational agent. For this reason, the woman’s right to control her body should be given priority. Actually, she is a fully-fledged human being, an autonomous agent. In order to be in a position to recognize her own agency, a woman must be able to exercise some control over her sexual and reproductive life. As Feldman puts it, «to develop agency, a person must be able to assent to or refuse sex and pregnancy» (Feldman, 1998, pp. 275–6). Being forced to continue a pregnancy against her will constitutes an insult on her rational nature and a violation of her autonomy. Things, however, are not that straightforward. The fetus is not a being with humanity *at present*, but it has the *potential* to become a person with humanity. Because of this potential, some believe, the fetus deserves to be respected and protected. In this view, aborting the fetus is destructing its potential for humanity, which can be taken to be a serious moral wrong.

The Kantian discussion of abortion, therefore, is controversial. It gives rise to a number of important questions about what humanity is and how it should be treated. Does respecting the pregnant woman’s humanity, and hence enabling her to have an abortion if she chooses that way, go against appropriately respecting the fetus? What does it really mean to respect a

Gensler, 1986; Wilson, 1988; Denis, 2007. The Formula of Universal Law in itself, however, is insufficient in giving us answers regarding the morality of abortion. Denis herself talks about «the failure of this much-favored formulation of the categorical imperative to provide guidance regarding the morality of abortion» (Denis, 2007, p. 548). It appears that before we are able to put into use maxims of abortion, it is crucial that we know what the status of the fetus is within Kantian ethics. That is, whether (and, if so, how) the fetus’ potential for humanity is to count in our moral deliberations and be weight against the pregnant woman’s humanity. This is exactly my focus in this article.

being's potential for humanity (in our case, the fetus' potential for humanity)? And how must this potential for humanity count against actual humanity in the person of the pregnant woman? My purpose in this paper is to examine how a Kantian can deal with these issues. There is no "Kantian answer" to these difficult questions, clearly. An analysis of how Kant's theory can be applied to these issues concerning the morality of abortion, however, is illuminating. It helps us to see the Kantian prohibition against treating humanity merely as a means from a different, less familiar perspective, and puts out some new challenges to Kant's theory. At the same time, it gives us new and useful insights on the much-discussed issue of the fetus' status in the abortion debate.

This article is divided in four sections. Section I explains what it means to treat a person merely as a means. It focuses on Kant's Formula of Humanity of the Categorical Imperative, and it provides an analysis of two influential interpretations of what is involved in treating a person merely as a means: Allen Wood's and Onora O' Neill's interpretations. In section II, I explain how these two interpretations can be applied in the case of a woman who is forced to continue her pregnancy against her will. This section presents some feminist analyses of what it means to treat the pregnant woman merely as a means. Section III explains how we can make sense of the claim that the fetus is being treated merely as a means in case the woman decides to abort it. Finally, in section IV, I argue that the issue of abortion presents the following dilemma for a Kantian: forcing a woman to continue an unwanted pregnancy amounts to treating her merely as a means for sustaining fetal life; yet, if she aborts the fetus, she treats it merely as a means for her ends. This section examines two ways out of this dilemma. According to the first, it is the pregnant woman, as a fully-fledged rational agent, who should be given moral priority over any rights the fetus may have. And according to the second, it is the fetus' right to life (and its *potential* for humanity) that should be given moral priority over the rights of the pregnant woman (except the woman's right to life). I argue that neither of these two approaches is satisfactory. The problem, in my view, seems to arise from Kant's own dichotomy between rational beings with absolute and intrinsic value and mere objects with only contingent value. If we place the fetus in the first category, we are in danger of taking it to have equal rights with these of the pregnant woman. If we place it in the second, the fetus is regarded as a mere thing subject to the pregnant woman's whims. In lack of a category in between these two, the Kantian theory is left with an irresolvable moral conflict in the case of abortion.

I. What Does It Mean to Treat Someone *Merely as a Means*?

Before attempting to explain how the pregnant woman and the fetus can be treated merely as means, let us focus first on what, in general, is involved in treating someone merely as a means.

The Formula of Humanity of the Categorical Imperative, as stated by Kant, tells us: «So act that you use humanity, whether in your own person or in the person of any other, always at the same time as an end, never merely as a means» (Kant 1997a, 4: p. 429).

Humanity is an objective end, an end that holds for all rational beings and gives them grounds for securing it. The characteristic feature of humanity is the capacity for rationally setting and pursuing one's own ends. More precisely, a being with humanity is capable of deciding what is valuable, and of finding ways to realise and promote this value. According to Christine Korsgaard:

[...] the distinctive feature of humanity, as such, is simply the capacity to take a rational interest in something: to decide, under the influence of reason, that something is desirable, that it is worthy of pursuit or realisation, that it is to be deemed important or valuable, not because it contributes to survival or instinctual satisfaction, but as an end – for its own sake (Korsgaard, 1996, p. 114).

This dictum states that humanity is what is special about human beings. It distinguishes them from animals other than humans and from inanimate objects. Because human beings are special in this sense, they have, unlike other animals and objects, a *dignity* (an “inner worth”, as opposed to a “relative worth”) (Kant, 1997a, 4, p. 435). The value of what has dignity cannot be exchanged or replaced with something else.² Kant writes:

Every human being has a legitimate claim to respect from his fellow human beings and is in turn bound to respect every other. Humanity itself is a dignity; for a man cannot be used merely as a means by any man (either by others or even by himself) but must always be used at the same time as an end. It is just in this that his dignity (personality) consists, by which he raises himself above all other beings in the world that are not men and yet can be used, and so over all things (Kant 1996, 6, p. 462).

² «What has a price can be replaced by something else as its *equivalent*; what on the other hand is raised above all price and therefore admits of no equivalent has a dignity» (Kant, 1997a, 4, p. 434).

One way of showing disrespect for the worth of humanity, Kant notes, is treating it *merely as a means* for the attainment of some further end. But, here a question arises: what does it mean to treat humanity merely as a means?

According to a prominent interpretation, defended by Onora O'Neill, an individual A treats another, B, merely as a means, thus disrespecting B's humanity, if, in her treatment of B, A does something to which B *cannot consent*.³ B can consent to being treated in some way by A, if it is possible for her to dissent from it. In O'Neill's own words, if B «can avert or modify the action by withholding consent and collaboration» (O'Neill, 1990, p. 110). In Kant's lying promise example (Kant, 1997b, 4, pp. 429-30), where A borrows money from B falsely promising him that he will pay it back, B clearly does not have the opportunity to dissent from A's action (to avert or modify it). This is the case because B is ignorant of A's action of lying to him about repaying his debt. O'Neill argues that in cases of deception, as well as in cases of coercion, a person's dissent, and thus her consent, is in principle ruled out (O'Neill, 1990, p. 111).⁴

An alternative account of what is involved, according to Kant, in treating a person merely as a means is offered by Allen Wood. For Wood, «a false promise, because its end cannot be shared by the person to whom the promise is made, frustrates or circumvents that person's rational agency, and thereby shows disrespect for it» (Wood, 1999, p. 153). An individual can share another's end if she has chosen to realise it. In the lying promise example, the promisee cannot share the promisor's end, in the sense that she is not in a position to choose to realise it. The promisor's end in that case is the *permanent* possession of the promisee's money. The promisee, however, taking the promisor's end to be, rather, the *temporary* possession of her money is unable to share the latter's end. That is, the promisee cannot choose to realise the end in question, since she is ignorant of the fact that this is her end. With her lie, the promisor, according to Wood, circumvents the promisee's rationality (her humanity), showing disrespect for it.

³ To be more precise, according to O'Neill A treats B merely as a means if in her treatment of B, A acts on a maxim to which B cannot consent.

⁴ A similar interpretation of what it means to treat an agent merely as a means is also espoused by Korgaard. According to her, «The question whether the other can assent to your way of acting can serve as a criterion for judging whether you are treating her as a mere means» (Korsgaard, 1996, p. 139).

II. Treating the Pregnant Woman Merely as a Means

How can the above interpretations be applied to the issue of abortion? Let us consider first the case of a pregnant woman who wants to have an abortion, but because abortion is deemed illegal and is thus inaccessible to her she is being forced to continue her pregnancy. Following O'Neill's interpretation, we can say that, in this case, the pregnant woman *cannot consent to continuing her pregnancy*: she cannot avert or modify the situation of being pregnant. In other words, she is unable to dissent from it. Taking Wood's interpretation, the woman in question *cannot share the end of continuing her pregnancy*: she has not chosen to realise it, but rather it is an end that has been forced on her. As a result, according to both these interpretations, the pregnant woman's rational agency is frustrated and disrespected, and she is being treated merely as a means.

As is well known, many feminist discussions have been devoted to explaining the wrongness involved in forcing a woman to continue her pregnancy, pointing to her treatment merely as a means for sustaining fetal life. In her influential article on abortion, Judith Jarvis Thomson points out how the pregnant woman is sometimes seen as having 'the status of house' for the fetus. Quite often, the fact that the woman is a person, an autonomous agent, is forgotten. As Thomson puts it: «... if the woman houses the child, it should be remembered that she is a person who houses it» (Thomson, 1971, pp. 52–3).

Likewise, Susan Bordo argues that in our societies women are treated as "fetal incubators" or "fetal containers", whereas the fetus has the status of a "super-subject" (Bordo, 1993, pp. 77, 72). Bordo explains this point so:

The essence of the pregnant woman ... is her biological, purely mechanical role in preserving the life of another. In her case, this is the given value, against which her claims to subjectivity must be rigorously evaluated, and they will usually be found wanting insofar as they conflict with her life-support function. In the face of such a conflict, her valuations, choices, consciousness are expendable.

The nature of pregnancy is such, however, that to deprive the woman of control over her reproductive life ... is necessarily also to mount an assault on her personal integrity and autonomy (the essence of personhood in our culture) and to treat her merely as pregnant *res extensa*, material incubator of fetal subjectivity (Bordo, 1993, pp. 79, 94).

Similarly, Susal Feldman argues that the prohibition of abortion leads to an objectifying treatment of women. The woman is regarded as “a passive object of the state of pregnancy”, “the vessel for the fetus” or the “flowerpot” in which it grows. However, as Feldman explains, moral agents have choice over which activities to perform and which to decline. In order to avoid treating women as mere fetal vessels, therefore, women’s agency, and hence their ability to choose whether or not to continue a pregnancy, must be respected (Feldman, 1998, p. 270). We should not think of women primarily in their reproductive role and, Feldman maintains, women should not think of themselves in that way. In fact, Feldman alerts us, such a way of thinking about women leads to undesirable consequences: the danger of falling for women into servility and failing to confer the morally appropriate self-esteem to themselves. Feldman claims:

It seems likely that one way in which a person comes to think of herself as a lesser being or a mere thing is through treatment by others as such. The prohibition of abortion involves such a treatment. One effect of such a prohibition is to diminish the empirical moral life of the moral agent. In Kantian language, it will lessen the likelihood that a person will recognize her own status as autonomous rational being, and her own worth as such ... I can think of no better illustration of ‘treating a person as a mere means’ than this. (Feldman, 1998, pp. 274- 5, 279).

From the above we can conclude that, in cases where the pregnant woman cannot consent to continuing her pregnancy, or share the end of remaining pregnant, she is being treated merely as a means: she has become a mere instrument (an incubator, a container, a house, a vessel, a flowerpot, to use the above-mentioned feminist metaphors) for sustaining the life of the fetus. As a result, this is inconsistent with treating her humanity as an end in itself, and thus violates the Formula of Humanity of Kant’s Categorical Imperative.

III. Treating the Fetus Merely as a Means

In the previous section, it has been explained how we can make sense of the claim that the woman, who is made to continue a pregnancy, is being used merely as a means for keeping the fetus alive. This section will shed light on the more controversial question of whether the fetus can be seen as treated merely as a means.

Let us go back to the two interpretations of what it means to treat someone merely as a means discussed in section A. According to O'Neill, as we have seen, A treats B merely as a means, if, in her treatment of B, A does something to which B cannot consent (O'Neill, 1990, p. 111). And, according to Wood, individual A treats B merely as a means, in the case where B cannot share A's end (Wood, 1999, p. 153). It is difficult to see how these interpretations can be applied to the case of the fetus. It would be absurd to say that the fetus is in a position to give its consent to being treated in some way or another. Similarly, the fetus cannot be regarded as able to share any ends whatsoever. At a first glance, then, we seem to be faced with a dilemma: either we admit that these two interpretations do not capture the fetus' treatment as a mere instrument in cases of abortion, or we draw the conclusion that, because of its inability to give its consent or dissent and/or share ends, the prohibition against treatment merely as a means does not hold for the fetus. Both these alternatives are unsatisfying. In what follows, I will argue that we have to accept neither.

To say that there is nothing morally problematic with treating the fetus merely as a means, *because* it is not in a position to share ends and give its consent to how others treat it, is too quick a conclusion. Actually, severely mentally incapacitated individuals, people in a coma, infants and very young children are unable to end-sharing, as well as consenting or dissenting to the ways others treat them (to a lesser or greater degree, depending on their condition). We would be far from eager, however, to conclude that, for this reason, people are allowed to treat them merely as means for their chosen ends. In any case, to draw such a conclusion would be to misinterpret Kant's own theory. The question of who to consider a rational agent, a being with humanity and dignity, is not an *empirical* matter (a matter of how capable an individual is in exercising her rational capacities). Rather, this issue is to be decided on *practical* grounds. Korsgaard explains that moral freedom is an ideal concept, which no human being fully exemplifies. We do not ascribe this concept to ourselves and others only if we/they come close to this ideal, that is only if we/they are fully capable of exercising our/their rational capacities (Korsgaard, 1996, pp. 352, 355-7).

Here, it might be useful to consider Kant's own discussion about children and their parents' obligations toward them. Parents have, according to Kant, a duty to preserve and care for their children. This means that «children, as persons, have by their procreation an original innate (not acquired) right to the care of their parents until they are able to look after themselves» (Kant, 1996,

6, p. 280). Kant explains that the act of procreation is to be understood as our decision to bring a person into the world without her consent. This creates an obligation in the parents to make sure that their child has a good life. Kant writes:

They [the parents] cannot destroy their child as if he were something they had made (since a being endowed with freedom cannot be a product of this kind) or as if he were their property, nor can they even just abandon him to chance, since they have brought not merely a worldly being but a citizen of the world into a condition which cannot now be indifferent to them even just according to concepts of right. [...] From this duty there must necessarily also arise the right of parents to manage and develop the child, as long as he has not yet mastered the use of his members or of his understanding: the right not only to feed and care for him but to educate him, to develop him both pragmatically, so that in the future he can look after himself and make his way in life, and morally, since otherwise the fault for having neglected him would fall on the parents (Kant, 1996, 6, p. 281).

Children, then, as Kant sees them, are *persons*. From the fact that their rational capacities are not yet (fully) developed it certainly does not follow that parents may treat them merely as means. Quite the contrary, Kant clearly states that parents have an obligation to make sure that their children grow into independent adults, and, importantly, into moral agents.

It is unclear whether Kant would consider the fetus as deserving of a similar treatment as that of a child. Does the pregnant woman have an obligation not to destroy the fetus «as if [it] were something [she] had made or as if [it] were [her] property»? (Kant, 1996, 6, p. 281). Does she have a duty to give birth to it, and make sure that it develops into an adult human being, a moral agent? The difference between the fetus and the child, one might think, is that the former, unlike the latter, has not, at the time, been brought into the world by the woman. Still, it is not clear whether this fact frees the woman from the obligation to provide the fetus (which has the potential to become a rational agent should the woman bring her pregnancy to term and give birth to it) with what it needs to eventually become a being with humanity.⁵

As we saw above, O' Neill's and Wood's arguments pose a dilemma and both argumentations do not capture what it means to treat the fetus merely as a

⁵ The issue of the fetus' potential to become a rational agent and how a Kantian is to count this potential is discussed in section C.

means. Nevertheless, as I will explain, these interpretations can be applied to the case of the fetus as well. It is widely believed (and I think correctly so) that the fetus is unable to share ends and give its consent to the ways people treat it. Yet, one might argue that, if it were in a position to do so, the fetus would not give its consent to being aborted by the pregnant woman or share her end to have an abortion.

We may avoid the awkwardness of the issue whether the *fetus* would consent to x or y, or share this or that end by considering the case of an adult, who was once a fetus, and now is a rational agent. This is the strategy, for example, that allows Harry Gensler to argue that abortion is morally wrong. Gensler asks us to think of ourselves along these lines: «If you are consistent and think that it would be *all right to do A to X*, then you will consent to the idea of someone *doing A to you* in similar circumstances». (Gensler, 1984, pp. 89- 90) His argument concerning abortion goes as follows:

P1: If you are consistent and think that abortion is normally morally permissible, then you will consent to the idea of your having been aborted in normal circumstances.

P2: You do not consent to the idea of your having been aborted in normal circumstances.

Conclusion: If you are consistent, then you will not think that abortion is normally permissible (Gensler, 1984, pp. 93-4).

R. M. Hare has a similar argument against abortion. He asks us to imagine a «time switch into the past» in which we can speak with our mother, when she is considering aborting the pregnancy that would result in our birth. Let us assume, he says, that I consider my existence as valuable to me and that I am a normally happy person. Furthermore, let us assume that my mother will not die if she continues her pregnancy and gives birth to me. In this case, Hare argues, I would tell her that she should not have an abortion because my preference to live and enjoy life outweighs my mother's preference to have an abortion. If abortion were deemed impermissible in this case, it would be impermissible for everyone in similar circumstances. Abortion is deemed permissible in cases where the completion of pregnancy would result in the woman's death, or in cases where the fetus would not develop into a person who is happy to be alive (Hare, 1989, pp. 6-8).

Thus, under normal circumstances, and when I am generally satisfied with my life, I do not consent now to my having been aborted as a fetus, and similarly I do not now share my mother's end to have an abortion. So, if a woman, who considers aborting her fetus now, is happy to be alive and would not want her mother to have aborted her, she ought not perform an abortion.

Hare's and Gensler's arguments, however, leave open the possibility that some people would consent to having been aborted as fetuses. If my life is miserable and I am unhappy with it, then I could consent to my mother having had aborted me, and I could share her end to have had an abortion. These arguments, therefore, are not particularly useful in helping us judge the morality of abortion. If all depends on what I *want*, *desire* or *prefer* my mother to have done to me as a fetus, or on whether I consider my life worth living, then I could possibly share her end to abort me and consent to her doing so. If, for example, my life is miserable as a result of having been neglected and mistreated by my mother as a child, it is not implausible to say that I could consent to her having aborted me instead of giving birth to me. Likewise, it is not implausible to say that I could share her end to abort me, since she was not in a position to properly care for me, and give me what I need in order to have a good life. In this case, then, where I judge my mother's decision to abort me as preferable to her giving birth to me and neglecting my needs, my mother would not treat me (as a fetus) merely as a means. On the contrary, one could argue that my mother would act irresponsibly by not having an abortion in this case to spare me from a miserable life.

Lara Denis points out the problem with Hare's and Gensler's arguments as follows:

Kant is concerned with willing – not wishing, wanting, or preferring. And the question is not what an agent can will based on some inclinations or feelings she has, but what reason commits her to, or precludes her from, willing. ... what is key is whether consent is in principle possible, or what rational people with proper respect for themselves and others would consent to, what free and reasonable people would agree to, etc., not whether some particular agent happens to consent (Denis, 2007, p. 551).

We could, however, avoid the above worry. Denis argues that Kant is not concerned with what particular people happen to desire or prefer, but what rational people would consent to. Denis is making here, I think, a serious and correct point. Furthermore, I am suggesting here that a true Kantian is committed to the view that even in the case where I, at present, truly desire not

to have been born, I *cannot* nevertheless consent to my mother having had aborted me as a fetus, or share her end to so doing. Consenting to this would be consenting to my having been treated merely as a means, an attitude that shows contempt towards my humanity.

It is not superfluous here to bring in mind Kant's discussion of suicide. In the *Groundwork of the Metaphysics of Morals*, Kant explains what is morally problematic with the decision of an individual to take his own life in order to avoid a miserable existence so:

If he destroys himself in order to escape from a trying condition he makes use of a person merely as a means to maintain a tolerable condition up to the end of life. A human being, however, is not a thing and hence not something that can be used merely as a means, but must in all his actions always be regarded as an end in itself (Kant, 1997a, 4, p. 429).

In the *Lectures on Ethics* Kant writes: «Can I take my life because I cannot live happily? No, there is no necessity that, so long as I live, I should live happily; but there is a necessity that, so long as I live, I should live honorably» (Kant, 1997b, 27, p. 373). According to Kant, the individual in question ought to refrain from taking her life and so destructing her humanity. Respecting her humanity requires protecting and promoting it, even under bad conditions. It is also important to consider here Kant's justification for being inconsistent in willing not to help others in need, when in a position to do so. The individual who does not will to help others in need, according to Kant, in fact wills that others not help *him* when in need of their help, and so «would rob himself of all hope of the assistance he wishes for himself» (Kant, 1997a, 4, p. 423). We can, of course, imagine a person who would rather die than accept help from others. This person's desire not to be helped, however, is irrelevant from a moral standpoint. The person in question cannot, as a rational agent, will that others not help him when in need of their help. Doing so would involve an improper attitude towards his own humanity, which must always be respected.

To return to our issue, now, even if my life is miserable at present, I cannot as a rational agent will my mother to have had aborted me as a fetus. Willing such a thing would be to will a disrespectful attitude towards my humanity, which I must in all cases value and respect. It is not possible, therefore, to consent to or share my mother's end of aborting me as a fetus. As a rational agent, I can only will that my humanity is protected and promoted. Thus, willing to have been destructed as a fetus amounts to willing not ever becoming a being with humanity. Since it is not possible to consent to my having been

aborted as a fetus or share my mother's end in question, it follows that if she had aborted me she would have treated me merely as a means, and so in a morally disrespectful manner. One might object, here, that there is a difference between Kant's examples of the person who considers suicide to end a miserable life and the case of the person who wills not to be helped by others when in need *and* the case of my willing to having been aborted as a fetus. In the former cases, we have an already born individual who considers ending her life or who is in danger of, say, losing her life deprived of others' help. In the latter case, I do not will to end my life now, but rather I will not to have been born. That is, I will to have been aborted as a fetus, *before I was a rational agent*, a being with humanity. The act of my having been aborted by my mother would not constitute the destruction of my humanity because I had no humanity as a fetus. All we can say is that I, at that time, had the *potential* to become a being with humanity, and that my mother's act of aborting me would have destroyed this potential.

How this potential for humanity is to count in our moral deliberations is a complicated issue. In the following section, I will discuss this issue in more detail and draw a conclusion following Wood's interpretation of the Kantian prohibition against treatment merely as a means. As we will see, Wood gives us reasons for respecting and promoting the potential for humanity. These reasons could allow us to argue that I cannot consent to my having been aborted as a fetus, and I cannot share my mother's end of having an abortion (since that would amount to willing my potential for humanity to have been destroyed). As a consequence, if my mother had chosen to abort me as a fetus, she would have treated me merely as a means for her chosen ends.

IV. Treating the Pregnant Woman Merely as a Means Vs. Treating the Fetus Merely as a Means

As we saw above, in the case of a woman who considers abortion, we are faced with a conflict: forcing her to continue the pregnancy against her will amounts to treating her merely as a means for sustaining the life of the fetus; yet, if she aborts the fetus, exercising her right to control her body, she uses it merely as a means for her end(s). The issue of abortion, then, presents a challenge for the Kantian as, in order to respect humanity in someone, it is necessary to not treat another merely as a means. In what follows, I shall discuss two solutions to this dilemma and I shall concentrate on the two most common positions on the

morality of abortion. First, I will examine the view according to which the pregnant woman as a fully-fledged rational agent and her right to choose take moral priority over any rights the fetus may have. Second, I will explore the view that the fetus and its right to life take moral priority over any rights the pregnant woman may have (except the woman's right to life), and abortion is utterly the destruction of its potential for humanity.

In the heart of the feminist discussion lies the prohibition against treating a woman, a fully-fledged moral agent and a being with humanity, merely as a means. Treating her as a mere "fetal container" means disrespecting her humanity. Such a way of treating a person is inconsistent with treating her as an end in herself. As we saw, Feldman argues that a woman's choice to have an abortion should be respected and her argument is based on Kant's claim that we have an imperfect duty to ourselves to develop our talents. Even though the fulfillment of an imperfect duty is morally meritorious, adopting as a principle not to fulfill it is morally wrong (Kant, 1997a, 4, p. 423, 4, p. 430; Kant, 1996, 390, pp. 444–46). We are morally required to include projects of self-development in our lives. Pregnancy can, in some cases, disrupt these projects. More precisely, Feldman presents her argument so:

While some people find that their ongoing projects are perfectly compatible with pregnancy, other people with different projects determine that they are not. ... the quality of its [pregnancy's] outcome is strongly affected by the effort that the pregnant woman puts into it. Knowing this, it is less plausible that anyone or nearly everyone can sustain a healthy pregnancy in combination with every sort of demanding project. Sometimes it is possible. Sometimes it is not. You can't always do two things at once (Feldman, 1998, p. 273).

If this is so, in those cases where the continuation of pregnancy interferes with a woman's fulfillment of the duty to self-perfection, it is morally permissible to have an abortion.

Interestingly, Denis argues that abortion is morally problematic by using the same Kantian idea of an individual's duty to oneself. Imperfect duties to oneself, she precises, «require sometimes acting on maxims of promoting ends whose adoption constitutes a commitment to realize one's rational nature» (Denis, 2008, p. 119). Duties to oneself as an animal and moral being prohibit individuals from acting on maxims of using their bodies in ways that are inconsistent with their dignity, or that threaten to undermine their bodies' ability to play their reason-supporting role. A virtuous Kantian agent, Denis holds, understands that the way she treats her body reflects the way she views

her rational nature. Her body, life, and health are essential for the expression of her rational nature. This means that she must not allow herself to be directed by her animal drives, but must govern herself through reason. Insofar, however, that some impulses or feelings in her animal nature are conducive to morality, a virtuous Kantian agent must not stifle them for merely inclination-based ends (Denis, 2008, pp. 120-3).

According to Kant, individuals have duties to themselves and to others that require them to protect and promote feelings of kindness, love, and sympathy for other people. Sympathy, more specifically, makes a person more perceptive of the needs of others (Kant, 1996, 6, pp. 456-7). Denis explains that pregnancy involves certain feelings, like attachment and protectiveness towards the fetus carried by the woman. As she writes:

If we accept Kant's view that feelings of love and sympathy that aid us in fulfilling duties of love to rational human beings may be fostered by kind treatment of animals and stunted by callous treatment of them, we may assume also that such feelings can be encouraged by attentiveness toward one's fetus and weakened by destructiveness toward it. ... Killing her developing fetus goes against a woman's morally significant tendencies toward love and sympathy generally, and toward attachment to her fetus in particular ... Thus, abortion is problematic for a virtuous Kantian agent (Denis, 2008, pp. 128-131).

The view that abortion weakens or destroys a woman's morally significant feelings of love and sympathy is, of course, open to question. Denis herself acknowledges that a single abortion does not *irrevocably* impair a woman's capacity for these morally important emotions.⁶ Furthermore, she admits that there are cases where abortion may be compatible with the morally significant feelings of love and sympathy. Namely, if the fetus has been prenatally diagnosed with a devastating and untreatable illness. In this case, it could be thought kinder to abort the fetus than to bring it into a life of pain and suffering (Denis, 2008, p. 132). Perhaps, we may argue beyond Denis, it could also be thought kinder for a woman to abort the fetus if she knows that she is unable to properly care for a child and attend to her needs. In any case, even if we accept the view that abortion can interfere with a woman's morally significant feelings of love and sympathy, the worry that pregnancy is often incompatible with the duty to develop one's talents and perfect oneself remains. Denis acknowledges

⁶ For a more detailed examination of this objection and Denis' response to it, see Denis, 2008, pp. 133-4.

this worry when she writes that abortion is often morally permissible, for example in order to avoid having to drop out of school (and even morally required, in cases when it is necessary to preserve the woman's life) (Denis, 2008, p. 132).

Besides interfering with a woman's duty of self-perfection, the prohibition of abortion also interferes with a woman's autonomy. As Feldman puts it, such a prohibition «will lessen the likelihood that a person will recognize her own status as autonomous rational being and her own worth as such» (Feldman, 1998, p. 275). An autonomous agent is free to decide in which ways and for which reasons she will act. If a woman's life is spent thinking that her body is subject to use by others without her consent, she is unlikely to think of herself as possessing agency. And, if a person does not think of herself as having agency, she will most likely not conceive of herself under the idea of freedom. Rather, she will think of herself merely as someone to whom things happen. Feldman highlights that:

To develop agency, a person must be able to assent to, or refuse, sex and pregnancy, before and after the fact. ... Denial of this will reinforce a belief in her own inferiority, her lack of right to exercise her rights, so to speak. It will make her see herself as the object of the choices of others, and not the subject with reasoned choices of her own. ... That this activity [pregnancy] is chosen, or voluntary implies that women must choose whether to engage in this activity. ... If women are denied the ability to make this choice, they are condemned to the life of a less mature, less respected, and less self-respecting moral patient – a morally lesser being (Feldman, 1998, pp. 275- 277).

So far, I have presented and analyzed the view that a Kantian has reasons to think that the pregnant woman should be given priority over the fetus because she is a fully-fledged moral agent, a being with humanity and dignity. If her choice to terminate the pregnancy is not respected, this can interfere with her duty of self-perfection and constitute a violation of her autonomy. Let us focus now on the Kantian reasons, according to which the fetus must be given priority over the pregnant woman. As we mentioned above, even if it does not have humanity and rationality, the fetus has, however, the *potential* to become a being with humanity. But the fetus develops this potential only if the pregnant woman gives birth to it. In having an abortion, the woman irrevocably destroys this potential.

To make sense of this claim, we should first understand the reasons a Kantian has to respect and promote a being's potential for humanity. Allen

Wood gives us these sort of reasons in rejecting the so-called “personification principle”, which claims that humanity or rational nature must be respected only *in the person of* a being who actually possesses it (Wood, 1998, p. 193). In order to respect humanity as an end in itself, we ought, in some cases, according to Wood, respect a being's potential for rational nature and humanity, or a being's having had humanity in the past, or having parts of it or necessary conditions of it (Wood, 1998, p. 197).

Wood does not deny that we ought to respect rational nature *in* persons, but argues that «we should *also* respect rational nature *in the abstract*, which entails respecting fragments of it or necessary conditions of it, even where these are not found in fully rational beings or persons» (Wood, 1998, p. 198). Wood asks us to think of small children and people with severe mental impairments or diseases, which deprive them temporarily or permanently of the capacity to set and pursue ends. Being indifferent to the potential for humanity in children, for example, would show contempt for rational nature. Likewise, it would show contempt not to respect rational nature in those individuals who have temporarily lost it, and not help them recover their rational capacities (Wood, 1998, p. 198). Regarding fetuses, Wood explains that, if we give up the personification principle, what is permissible to do to them might be limited, as fetuses, like small children, have rational nature potentially (Wood, 1998, p. 209).

The crucial question that arises at this point is how respecting rational nature in the abstract or a being's (a fetus') potential for humanity is to be weight against respecting fully-realized humanity in an individual (the pregnant woman). One reason against destructing a being's potential for humanity, even at the expense of disrespecting humanity in an adult agent could be that, as also mentioned in section B, Kantian agency is not an empirical concept, but a practical one. This could imply that agency must be seen and respected even at the very beginning of human life (i.e. at the fetal stage). The fact that agency or rationality is, according to the Kantian theory, a practical, rather than an empirical, concept “saves” this theory from excluding young children and adults with cognitive and developmental disorders from the category of agents. It would be awkward for a Kantian to have to conclude that infants and young

children, for example, who are not able to exercise their rational capacities at present, are to be valued less than adult human beings.⁷

Nevertheless, as Denis recognizes, we have reasons not to regard fetuses as deserving the same moral treatment as young children or adults who have developmental, cognitive, or psychological conditions, which prevent them from exercising their rational capacities. Dennis explains this point as follows:

with fetuses it is not a matter of underdeveloped, fluctuating, fledging, degenerating, or impaired agency that makes us hesitate in calling them agents, but an absence of any traces of agency. The practical attributions and attitudes constitutive of our ascribing freedom to others are not naturally elicited by fetuses. Further, they make no sense when directed toward fetuses. We cannot see ourselves as literally cooperating with fetuses, nor can we properly hold them morally responsible for anything or ascribe maxims to them. And in the case of the fetus, unlike an unconscious but otherwise normal adult human, we have no reason to think of the fetus as someone who has maxims on which she is simply unable to act because of her physical state (Denis, 2007, p. 566).

Another argument against destroying the fetus' potential for humanity is that our bodies constitute the material condition for our human agency and rationality. Each of us inevitably passes through the stages of fetus, infant, child, etc. before becoming an adult capable of fully exercising her rational capacities. Destroying the body of an adult human being (by killing her), one might argue, deprives this individual of the material condition necessary for her agency. This is why it is judged as morally impermissible. But destroying the body of a fetus also deprives it of a necessary material condition for agency. So it too can be judged as morally wrong.

Denis rightly argues, however, that the devaluation of rational nature in an adult human being is *significantly different* from the devaluation of potential agency in a fetus. The fetus has only the potential for humanity. In other words, it has the potential to become a rational agent. Thus, it would be a mistake to think of a fetus as a rational agent now. Killing an adult human being is depriving a being, who is a rational agent *now*, of its humanity. Thus, it constitutes the devaluation of a rational agent. Aborting a fetus, by contrast, deprives a being of possibly acquiring humanity *someday*. It constitutes a devaluation of potential agency (Denis, 2007, pp. 570–1). Feldman, similarly,

⁷ Kant's own discussion of children and their parents obligations toward them makes it clear that he did not consider this inability to exercise rational capacities as constitutive of an individual's value, as we have seen in section B.

notes: «The fetus, if valuable at all, is valuable as a potential rational being. That is, it has the potential to become valuable. But a potential value must in every case be less than that value fully realized» (Feldman, 1998, p. 278).

If devaluation of potential agency is taken to be as equally problematic with devaluation of actual agency (in the face of an adult human being), then we would have no moral hesitations to judge as morally wrong a doctor's decision to let a pregnant woman die in order to save the fetus, or – to push the example even further – with the doctor's decision to actively kill the woman in order to save the fetus. If the potential for humanity is equally important with humanity in the person of a fully-developed moral agent, then it does not really matter whether the doctor kills the woman or the fetus.

Wood's idea that we must respect rational nature in the abstract is appealing. Nonetheless, its drawbacks are evident when we try to put it into practice. Actually, traces of humanity, or the potential for humanity, can be found nearly everywhere. Not only in fetuses, infants, and some animal species, but also in biological entities like the zygote (the fusion of egg and sperm prior to implantation in the uterine wall). This could imply that taking the contraceptive pill is morally impermissible, as it destructs the zygote's potential for humanity. And, disturbingly, it could further be taken to imply that destructing the zygote is *as morally problematic as* killing an adult human being (if the potential for humanity is put on the same level as actual humanity). Traces of humanity can also be taken to exist, one might think, in sperm or in a woman's egg. If rational nature in the abstract is to be valued in the same way as rational nature in a person, these traces of humanity deserve to be respected.

It is worth to precise clearly here that Wood does not claim that we have the same moral obligations to fetuses and other biological entities that have traces of humanity as we have to persons. However, he does not give us any clues as to how rational nature in the abstract is to count when in conflict with rational nature in a person, like it is the case when abortion is at stake. Without a theoretical framework that explains and highlights our obligations toward rational nature in the abstract, we are left with a theory that threatens to put women, sperm, zygotes, fetuses, etc. in the same boat, with all the above-mentioned awkward consequences. If traces of humanity are to count equally as humanity fully-realised, we are in danger of losing the idea which lies in the heart of Kant's theory: that *a person's humanity* ought to be respected and treated as an end in itself in all instances.

V. Conclusion

It would appear that the Kantian theory is faced with an irresolvable conflict in the case of abortion. If the pregnant woman aborts the fetus, she treats it (and its potential for humanity) merely as a means for her ends. On the one hand, if the woman is forced to continue a pregnancy against her will, she is being treated merely as a means, which constitutes an insult on her autonomy and rational nature. There are, as we have seen, reasons to respect and protect the fetus' potential for humanity. Counting this potential as equally valuable with humanity in the person of the pregnant woman, however, can lead us to the uneasy conclusion that the woman's autonomy may be sacrificed to preserve the fetus' potential for humanity. On the other hand, granting a person (in our case the pregnant woman) this special status and dignity, which makes treating her humanity merely as a means morally impermissible, may lead to regarding the fetus as a being which can be treated in any way a person wishes.

Even if we do not take the value of the fetus and its potential for humanity to be equally important with humanity in a moral agent, the idea of regarding it as a mere thing, with only derivative value, is unappealing. The problem seems to arise from Kant's own dichotomy between rational beings with absolute and intrinsic value and mere objects with only contingent value. If there existed a category in between persons and mere things, perhaps we would not be unhappy to place the fetus into it. This could avoid the awkwardness of considering the fetus as having equal rights with these of the pregnant woman, on the one hand, and having to think of the fetus as a mere thing subject to any person's whims, on the other. What this category would be like, which sort of beings would deserve to be placed in it, and what our moral obligations would be toward them are all complicated questions to which the present paper can do no justice, but has only faintly raised.

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