

# THE PRO-LIFE ARGUMENT FROM SUBSTANTIAL IDENTITY: A DEFENCE

---

PATRICK LEE

## ABSTRACT

*This article defends the following argument: what makes you and I valuable so that it is wrong to kill us now is what we are (essentially). But we are essentially physical organisms, who, embryology reveals, came to be at conception/fertilisation. I reply to the objection to this argument (as found in Dean Stretton, Judith Thomson, and Jeffrey Reiman), which holds that we came to be at one time, but became valuable as a subject of rights only some time later, in virtue of an acquired characteristic. I argue against this position that the difference between a basic, natural capacity and some degree of development of such a capacity is a mere difference in degree, that this position logically implies the denial of equal personal dignity, and that the selection of the required degree of development of a capacity is necessarily arbitrary.*

---

In *Abortion and Unborn Human Life* I argued that it is wrong to kill an unborn human being because she is identical to an entity that, at some time later in her development, everyone agrees it is wrong to kill.<sup>1</sup> This argument has been criticised by Dean Stretton,<sup>2</sup> and by Jeffrey Reiman.<sup>3</sup> Both discussions clarify the issue, and Stretton's article shows that I made a mistake in a supporting argument. Yet I still believe the overall argument is sound, and I would like here to defend it and clarify the issue further.

<sup>1</sup> Patrick Lee. 1996. *Abortion and Unborn Human Life*. Washington, DC. Catholic University of America Press.

<sup>2</sup> Dean Stretton. The Argument from Intrinsic Value: A Critique. *Bioethics*; 2000; 14: 228–239.

<sup>3</sup> Jeffrey Reiman. 1999. *Abortion and the Ways We Value Human Life*. New York. Rowman and Littlefield: 79ff.

## THE ARGUMENT FROM SUBSTANTIAL IDENTITY

The argument I proposed can be expressed in five steps:

1. You and I are intrinsically valuable (in the sense that makes us subjects of rights).
2. We are intrinsically valuable because of what we are (what we are essentially).
3. What we are, is each a human, physical organism.
4. Human physical organisms come to be at conception. (A biological proposition: a new and distinct human organism is generated by the fusion of a spermatozoon and an oocyte.)<sup>4</sup>
5. Therefore, what is intrinsically valuable (as a subject of rights) comes to be at conception.

What makes it wrong to kill you or me *now* would also have been present in the killing of you or me when we existed as adolescents, as toddlers, as infants, but also when we existed as fetuses or embryos.

INTRINSIC VALUE, ESSENTIAL PROPERTIES,  
AND INTERESTS

In an article in *Bioethics*, Dean Stretton presents the main outlines of this argument, but he denies step #2. He notes that to support this claim, I argued as follows: if a thing is intrinsically valuable, it is so in virtue of its essential properties, but the essential properties of a thing come to be just when it comes to be.<sup>5</sup>

In explaining my overall argument, Stretton noted that I had defined 'intrinsically valuable' as: valuable as an end and not merely instrumentally.<sup>6</sup> He then argues that I have confused *intrinsically valuable* with *valuable in virtue of essential properties*. Stretton grants that mature human beings are 'intrinsically valuable', but he denies that we are valuable by virtue of our essential properties. According to him, we are valuable by virtue of our

<sup>4</sup> See Lee, *op. cit.* note 1, Chapter 3. In identical twinning a second human organism is generated with the splitting off of part of the original embryo. If humans are ever cloned, a new human organism will be generated with the fusion, and activation (partly by electrical stimulus) of the nucleus of a somatic cell and the cytoplasm of an ovum.

<sup>5</sup> *Ibid.*

<sup>6</sup> He then equated this meaning of 'intrinsically valuable' with: valuable independently of other people's desires or wants. But this is not quite correct, since a thing may be able to promote or lead to something good in itself (and hence instrumentally valuable), but not be valued by anyone.

*intrinsic* properties, not our *essential* properties. An intrinsic property is either an essential property or an accidental property that is not a relation to something else. Thus, a property may be intrinsic but non-essential, that is, accidental – examples might be a certain degree of rationality or self-consciousness, or valuing one's own life. Stretton holds that human individuals come to be at one time, but become intrinsically valuable (as subjects of rights) only at a later time.

Judith Thomson recently argued the same position: in order to have rights, a thing must have interests. In order to have interests, a thing must have wants, hopes, desires, etc. The foetus, at least early in gestation, does not have wants, hopes, desires, etc. So the foetus, at least early in gestation, does not have rights.<sup>7</sup>

We can clarify this view by contrasting it with that of Michael Tooley. In *Abortion and Infanticide*, Tooley argued that a human physical organism comes to be at one time but the person comes to be only later. The person, he said, is the enduring subject of consciousness, referred to by the words 'I', or 'you.' Thus, in Tooley's view I am simply not a physical organism; this physical organism with which I am associated came to be at one time but *I* came to be at a later time. The position of Stretton, Thomson and others is different. They do not deny that the thing referred to by 'I' or 'you' is a physical organism. What they deny is that this entity was intrinsically valuable at every stage of its duration.

Tooley's dualistic view is mistaken: a living thing that performs bodily actions is an organism, a bodily entity. But it is clear in the case of the human individual that it is the same subject that perceives, walks and talks (which are bodily actions), and that understands and makes choices (what everyone, including anyone who denies he is an organism, refers to as 'I'). It must be the same thing that perceives these words on a page, for example, and understands them. Thus, what each of us refers to as 'I' is identically the physical organism which is the subject both of bodily actions such as perceiving and walking, and of non-physical actions, such as understanding and choosing.<sup>8</sup> Therefore, you and I are essentially physical organisms, rather than consciousnesses

<sup>7</sup> Judith Thomson. Abortion. *Boston Review* 1995; 20. Available at: [bostonreview.mit.edu/BR20.3/thomson.html](http://bostonreview.mit.edu/BR20.3/thomson.html). See also: Ronald Dworkin. 1992. *Life's Dominion: An Argument about Abortion, Euthanasia, and Individual Freedom*. New York. Random House: 22ff.

<sup>8</sup> See: Patrick Lee. 1998. Human Beings are Animals. In *Natural Law and Moral Inquiry: Ethics, Metaphysics, and Politics in the Work of Germain Grisez*. Robert George, ed. Washington, DC. Georgetown University Press: 135–151.

merely associated with physical organisms. And so *we* came to be at conception, *we* once were embryos, then foetuses, then infants, and so on.

### COULD PERSONHOOD OR MORAL STATUS BE AN ACCIDENTAL ATTRIBUTE?

Of course, intrinsic properties, in Stretton's sense, are distinct from essential properties. By 'intrinsically valuable' (in *Abortion and Unborn Human Life*), I meant valuable as an end in itself as opposed to a mere means.<sup>9</sup> I argued that human beings themselves must be valuable as ends, and not as mere vehicles for what is truly valuable; for, if human beings were only instrumentally valuable then it would be permissible to kill a child as long as one replaced her with two or more, which is absurd.<sup>10</sup> From this I concluded that the thing that a human being is, rather than just her properties, is intrinsically valuable, and therefore that the human individual is intrinsically valuable as soon as she comes to be.

Thus, Stretton is not correct when he says that I only assumed that what is intrinsically valuable must be valuable in virtue of its essential properties. Rather, I held that being valuable as an end *entails* being valuable in virtue of what one is, or one's essential properties. However, Stretton's discussion shows that that is a mistake. That is, it is not self-contradictory (as I previously thought) to hold that a substantial entity itself is valuable as an end but also *in virtue of* an accidental characteristic (or characteristics). Yet, while this position is not self-contradictory, nevertheless, it is seriously mistaken.<sup>11</sup>

Obviously, proponents of this view cannot maintain that the accidental attribute is an *act* or an *actual* behaviour. They, of course, will not wish to exclude from personhood sleeping or reversibly comatose human beings. So, the additional attribute will have to be a capacity of some sort, and, arguably, a capacity for higher mental functions (such as conceptual thought and free choice).

But there is a sense in which human embryos and foetuses also have a capacity for higher mental functions. Human embryos and

<sup>9</sup> Lee, *op. cit.* note 1, p. 26.

<sup>10</sup> *Ibid.* pp. 26–27.

<sup>11</sup> The point that we are not mere vehicles for what is valuable in itself but that *we*, that is, the things that we are, are valuable, is still important. Sometimes people view human life as a mere means to bring about pleasant and interesting experiences, so that absent such positive experience and life has no value. This point refutes that view.

foetuses cannot of course immediately perform such acts. Still, they are related to such acts differently than, say, a canine or feline embryo is. They are members of a natural kind – a biological species – whose members, if not prevented by some extrinsic cause, in due course develop the immediately exercisable capacity for such mental functions. The fact that they do shows that members of this species come to be with whatever it takes to *develop* that immediately exercisable capacity, given a suitable environment and nutrition, and that only the adverse effects on them of other causes will prevent it. Discussing an acquired ability, we recognise that one can have an ability and yet require intermediate steps to actualise it. If asked, ‘Does Jane have the capacity to run a marathon?’ it is perfectly accurate to reply, ‘Yes, after some training she will succeed.’ But a similar point is true of basic, natural capacities, that is, capacities one possesses simply because of the kind of thing one is. The human embryo has within herself all of the positive reality needed to actively develop herself to the point where she will perform higher mental functions, given only a suitable environment and nutrition, and so she now has the natural capacity for such mental functions. One could also call this capacity an ‘ultimate capacity’,<sup>12</sup> or a ‘second-order capacity’, since it is the capacity to acquire a more proximate, or first-order, capacity.<sup>13</sup>

So, there are two sorts of capacity for mental functions: first, a capacity that is developed to a certain degree, perhaps immediately exercisable (in response to a stimulus), or perhaps needing only improvements in external factors to make it immediately exercisable; second, a capacity to develop oneself to the point where one does perform the relevant actions. But on what basis can one require (as do Stretton, Thomson and others) for personhood the first sort of capacity, which is an accidental attribute? Why would not the second sort of capacity, which is part of what one is, be sufficient?

There are, at least, two reasons against requiring the first sort of capacity. First, the difference between these two types of potentiality or capacity is merely a difference between stages along a continuum. The more proximate capacity for higher mental functions is only the development of an underlying potentiality that the entity has simply because it is the kind of thing it is. The

<sup>12</sup> J.P. Moreland & Scott B. Rae. 2000. *Body and Soul, Human Nature and the Crisis of Ethics*. Downers Grove, IL. InterVarsity Press: 203–204.

<sup>13</sup> Eric T. Olson. 1997. *The Human Animal, Personal Identity without Psychology*. New York. Oxford University Press: 86.

capacities for reasoning and making free choices are gradually developed, or brought towards maturation, through gestation, childhood, adolescence, and so on. But the difference between a person and a non-person, or that which has value as a subject of rights and that which does not, cannot consist only in the fact that, while both have some feature, one has more of it than the other. A mere *quantitative* difference (having more or less of the same feature, such as the development of a natural capacity) cannot by itself be the basis for why we should treat different entities in *radically* different ways.<sup>14</sup> Between the ovum and the approaching thousands of sperm on the one hand and the embryonic human being on the other hand, there *is* a clear difference in kind. But between the embryonic human being and that same human being at any stage of her maturation, there is only a difference in degree.

A second reason against holding that personhood is, or is grounded in, an accidental attribute, is as follows. Being a certain kind of thing, that is, having a specific type of substantial nature, is an either/or matter – a thing either is or is not a human being. But the accidental qualities that could be proposed as criteria for personhood come in varying and continuous degrees: there is an infinite number of degrees of the relevant developed abilities or dispositions, such as for self-consciousness or intelligence. So, if persons were valuable as subjects of rights only because of such accidental qualities, and not in virtue of the kind of things they are, then, since such qualities come in varying degrees, basic rights would be possessed by human beings in varying degrees. The proposition that all human beings have equal rights would be simply an outmoded superstition. For example, if developed self-consciousness bestowed rights, then, since some people are more self-conscious than others (that is, have developed that capacity to a greater extent than others), some people would be ‘more equal’ than others. This would follow no matter which of the accidental qualities proposed as qualifying for personhood were selected. Will Stretton, Thomson and others agree with

<sup>14</sup> One might object that having interests is not a matter of degree but is on the contrary a nonarbitrary line. But by ‘interest’ those who deny that embryos are persons could not mean every tendency in a being toward a fulfilled state, since all living beings have interests in that sense. So, they would have to mean a *conscious* tendency, that is, a desire. But, as I pointed out above, it will have to be not an actual desire but the capacity for a desire. Then, such capacities will be in the same boat as a capacity for any mental function; that is, there will be varying degrees of it. In other words, what is said above about capacities for higher mental functions in general will apply to interests as well.

Joseph Fletcher, who years ago argued that human individuals with an Intelligence Quotient below 20, or perhaps also those with an IQ below 40, should not be treated as persons?<sup>15</sup> But if they will not agree, *why* not? Can they give any principled reason for their disagreement? And can they give any principled reason for disagreement with someone who might say that the cut-off point should be 50, or 60, or 70? Clearly, they cannot: their proposed criterion is an arbitrarily selected degree of development of a capacity that all human beings possess, from conception until their death as physical organisms. By contrast, though human beings differ immensely with respect to talents, accomplishments, in short, degrees of *development* of their basic natural capacities, they all are equal in having the same *nature*. They are all equally human beings, with the same basic natural capacities, though developed in varying degrees.

Stretton presents a thought-experiment that is supposed to refute my position. In the thought-experiment, the higher brain (cerebrum) of a human is transplanted into an organism whose previous brain could not support rational thought (and so was not a person). According to Stretton, the newly thinking organism would be identical to the organism whose body received the cerebrum, but it would now be a person. And this shows, says Stretton, that an organism can persist for a time but become a person at a later time.<sup>16</sup> However, though not all arguments starting from thought-experiments are useless, this one is circular. According to it, human A's cerebrum is transplanted into non-human animal B's body. I don't think our intuitions are clear about what to say here. What happens could be construed in three different ways. One could say: (1) B continues to exist but now becomes rational. This is Stretton's interpretation, because (I think) he already believes that being rational/free is in every sense an accidental characteristic. But one also could say: (2) A has received a body-transplant, and so A continues to exist and B ceases to exist (though its body parts become included in A). One would say this if one believed that the human being is an organism but that his cerebrum is his only indispensable organ. Or one also could say: (3) (what I would hold) if A continues to live, she remains a (damaged) human person; and *if* combining A's cerebrum with B's bodily parts produces a rational animal, a substantial change occurs and so B ceases to exist and a new rational

<sup>15</sup> Joseph Fletcher. *Indicators of Humanhood: A Tentative Profile of Man. Hastings Center Report* 1972; 2: 1.

<sup>16</sup> Stretton, *op. cit.* note 2, pp. 238–239.

animal, a new person, comes to be. One would hold (3) if one holds, as an Aristotelian, that a rational animal is a type of substance, and that being rational (having the natural capacity for conceptual thought and free choice) is a specific difference, a feature expressing (in part) what the substance is instead of an accidental characteristic.<sup>17</sup> In other words, I think how one construes this thought-experiment depends on one's prior view of what a human being is and what a person is, and therefore the thought-experiment cannot rule out any of those positions. Hence the thought-experiment fails to show that an organism could live for a time and then, remaining the same organism, become a person. Rather, 'person' refers to the persisting subject of rational and free acts, and in the case of humans this subject is identical with the physical organism, and so begins exactly when the human organism begins.

#### INTRINSIC VALUE AND VALUING ONE'S OWN EXISTENCE

##### *Physical identity and physical continuity*

In *Abortion and the Ways We Value Human Life*, Jeffrey Reiman has also replied to the argument I set out above.<sup>18</sup> After correctly summarising my argument, he says that I either confused *physical identity* with *essential identity*, or falsely assumed that the human foetus has physical identity with the human adult. That is, if by 'physical identity' I mean *same entity*, then, since the human foetus does not have the same actual traits as the human adult, the human foetus and the human adult (according to Reiman) do *not* have physical identity. On the other hand, if by 'physical identity' I mean merely physical *continuity*, then (he claims) two entities can be physically identical and yet have different essences, and so really be two different entities. Reiman thinks that this second alternative is actually the case. That is, the human foetus and the human adult she becomes are the same physical entity but (he says) have different essences. This is because (he argues) the human adult, but not the human foetus from which she grew, is a person, an entity with such actual traits as reasoning and self-consciousness. Reiman compares the beginning of life with its end to clarify his view of the former. When a human being dies:

<sup>17</sup> Most discussions of 'cerebrum transplants' do not envisage transplanting into a *nonhuman* animal.

<sup>18</sup> Reiman, *op. cit.* note 3, p. 79ff.

The corpse that remains is physically continuous with the living human, yet we would normally think that the corpse *was* a person, not that it still is. And that means that something can be the same continuous physical entity and undergo a change in essence. But, if it can happen at the end of life, there is no reason that it cannot happen at the beginning. Then, we could grant that the fetus is the same continuous physical entity with the child to come, who will surely be a person, but that the fetus is not a person, because a change in essence has intervened.<sup>19</sup>

But this comparison is a false analogy. The corpse is not a unitary organism at all, but a mere aggregate of decomposing tissues. The human embryo or foetus, on the contrary, is a living, actively self-developing, whole (though immature) member of the human species. The human embryo and human adult clearly have a physical *identity*, not just a continuity, while a corpse has only a physical continuity with the person who just died. Reiman confuses identity and mere continuity. Moreover, as evidence that there is a '*change of essence*' in the development of the embryonic human being, he cites the fact that the foetus and the adult she matures into have different actual traits. But of course the self-same entity does have different actual traits at different times, namely, different accidental traits as opposed to essential traits. And all of the actual traits by which a human adult differs from the human embryo or foetus she matured from are accidental traits. As the difference between a six-month old human being and that same human being twenty years later is only one of maturation, the same is true of the human embryo or foetus compared to the twenty-year old she matures into.

When Reiman points out that a corpse has a different essence to the person who existed moments ago, he is quite right, but that shows only that the corpse and the person are continuous and not identical. Reiman literally contradicts himself when he says, 'And that means that something can be the same continuous physical entity and undergo a change in essence.' On the contrary, if there is a change in essence then the same entity no longer exists.

All of the evidence indicates that there is no change of essence as the human embryo matures into the foetal, infant, toddler, and adolescent stages and into adulthood. What occurs is the development or actualisation of the self-same substantial entity that persists throughout the process. Were there a substantial change along that time frame, resulting in a new substance, there would

<sup>19</sup> Ibid. p. 81.

need to be some extrinsic cause (or causes) nearby to account for it. But the only event which could be the production of a new substance is the fusion of the chromosomes of the spermatozoon with the chromosomes of the oocyte at conception – only then does anything occur which could result in a new substance.<sup>20</sup> After this, nutrition and oxygen are taken in, but what is done with this nutrition and oxygen is determined from within the embryo. Significant changes occur in the embryo's development (growth of a brain, nervous system, etc) but the sequence and character of these changes is determined from within, that is, accomplished by, the embryo herself. Fertilisation produces a unified system (a new organism) that now grows in its own distinct direction, developing itself from within. Regularly and predictably, the human embryo, with nothing more than a suitable environment and nutrition needed, actively develops herself toward the mature stage of a member of the human species.

Reiman concedes that one could define physical identity in such a way that it presupposes sameness of essence (so that a corpse would *not* be the same entity as the human who just died). Yet if that understanding of physical identity is adopted (which is actually the standard and correct position), he then wishes to say that a thing can be intrinsically valuable (as a subject of rights) in virtue of *nonessential* properties, properties it acquires at a time much later than the time it comes to be. This is the same position as that of Stretton and Thomson; and I replied to this in the last section.

Thus, the only alternatives are: A) that a human person is distinct from the human physical organism, either a distinct substance or a series of experiences (the dualist view); B) that a 'person', that is, a subject of rights, is a thing with the addition of an accidental attribute (or set of attributes) that makes it a person; or C) that 'person' refers to the things you and I are, namely, human organisms, and so, human persons begin when the human physical organisms begin. I have argued above that neither A nor B is tenable. But Reiman attempts to adopt a fourth position, which is even less tenable than either A or B. He argues that the biological evidence shows only a physical *continuity*, as opposed to an identity. He then claims that when this organism begins actually to think, or to have the immediately exercisable capacity to think, it acquires a different essence, and is only at that point a

<sup>20</sup> A new organism also can come to be with the splitting of an embryo in the case of monozygotic twins, or, in the case of cloning, with the fusion of a somatic cell and an enucleated ovum (an ovum with its nucleus removed).

person and therefore something with rights. But biology shows that this is the same living organism throughout (see above, pp. 257–258). And philosophical arguments show that you and I are essentially physical organisms (see above, p. 251). From these two points it follows that you and I began when these human, physical organisms began. ‘Person’ refers to the things, the substantial entities, which you and I are. Therefore, human persons begin when human, physical organisms begin.

*The asymmetry of the value of human life*

To support his claim that human embryos and fetuses lack basic rights, Reiman argues that the criterion of personhood is caring about the continuation of one’s life.<sup>21</sup> The clue, he says, to what makes certain entities intrinsically valuable is that we value lives of persons *asymmetrically*. That is, non-existence before living is not symmetrical (in terms of value) to non-existence after living; it is at least generally wrong to end a person’s life already begun, but not wrong to refrain from producing a life not yet begun. What can be the basis of this asymmetry? His answer: not the *objective* value of a thing (which he defines as a value that obtains whether one is aware of it or not), but the *subjective* value, that is, the value that a thing or property has to one who cares about it. He concludes that the life of a person is asymmetrically valuable only because the person whose life it is cares about it, that is, desires that it continue.<sup>22</sup>

Reiman is right that human beings have an asymmetric value of life, but he is wrong about its explanation. He is looking for a type of valuable property that will by itself imply asymmetric value. Yet, any valuable property one finds – including a property whose continuation one cares about, or the caring itself about the continuation of a property – might be valued either symmetrically or asymmetrically. Suppose the life of someone who cares about his own existence is a valuable property (or entity). Still, one might hold that it is only important that we produce as much of this property (as many of these entities) as possible; in other words, one still might value that property (or entity) symmetrically.<sup>23</sup>

<sup>21</sup> Jeffrey Reiman. 1997. *Critical Moral Liberalism, Theory and Practice*. New York. Rowman and Littlefield: 197; Reiman, *op. cit.* note 3, p. 87ff.

<sup>22</sup> Reiman, *op. cit.* note 21, p. 197. Cf. Reiman, *op. cit.* note 3, pp. 104–108.

<sup>23</sup> Don Marquis makes this point in: Don Marquis. Reiman on Abortion. *Journal of Social Philosophy* 1998; 28: 143–145. Reiman replied that Marquis had confused his position. His claim, he said, was not that consciously cared-about lives are to be valued, for these, Reiman concedes, can be valued symmetrically.

The decisive factor is not which property is valued, but *how* what is valued ought to be valued. Reiman summarises his position at one point by saying: 'If, then, the value of life is its value to the one whose life it is and who cares about its continuation, then its value exists only for the one whose life it is, and only once it is cared about and not before. That gives us asymmetric value.'<sup>24</sup> But the restriction added by the words, '*who cares about its continuation*', is entirely unnecessary to account for asymmetric value. If the value of life is its value *to the one whose life it is*, that is sufficient to ground asymmetric value. In other words, personal life is asymmetrically valuable because it is valuable not only as a property for others or for the world (what Reiman refers to as an 'objectively good property')<sup>25</sup> but in the first place for the one who is identical with that life. And that sort of value or goodness comes to be only when the individual comes to be. However, the individual need not be conscious before her life is a good for her.<sup>26</sup>

Reiman has posed the problem in the wrong way. Not every asymmetric valuing requires explanation. Rather, it belongs to the very structure of valuing (or desire, willing, or love) that we value

Rather, said Reiman, 'I contend that we must value *that beings who consciously care about the continuation of their lives get what they care about*.' Jeffrey Reiman. Abortion, Infanticide, and the Changing Grounds of the Wrongness of Killing: Reply to Don Marquis's 'Reiman on Abortion.' *Journal of Social Philosophy* 1998; 28: 168–174, at 169. Yet, rather than finding an object that by its nature guarantees asymmetrical value, Reiman has simply defined the content of a valuing in such a way as to build into it the idea that its object is valued asymmetrically and so has begged the question. Moreover, it is clear that we value *the continued living* of a person (whether aware or not), and not just that a person get what(ever?) he cares about, because we obviously value the same thing that a conscious person desires for himself, and what a person desires for himself is simply his *continued living*, which is his very being.

<sup>24</sup> Ibid. p. 192.

<sup>25</sup> Ibid. p. 196.

<sup>26</sup> Reiman also argues that the foetus cannot be valued as an individual because it only has, or we are only aware of, 'a negative particularity.' He claims there is no reasonable ground for valuing a particular embryo asymmetrically, 'because, until the embryo develops recognizable distinctive traits, its particularity is purely negative. We simply know that it has a distinct genetic code that is different from other ones. We do not know the positive content of this difference.' (Reiman, *ibid.* p. 171.) Yet it is not necessary to know *what* a person's uniqueness consists in in order to know *that* she is unique. Persons hitherto unknown to me obviously deserve as much respect as anyone I know. Moreover, some of the positive unique traits of this embryo or foetus *are* known: that she was born of these parents, at this moment, with these unique opportunities and history. But perhaps Reiman means that there *is* no uniqueness, except of a purely physical sort. But to appeal to this idea to support his position begs the question, since it would presuppose precisely what is denied, namely, that only conscious traits can have a significant role in making one unique or valuable.

a benefit *for someone* or *for some persons*. That is, when we desire something, or choose to do something to realise a benefit, we necessarily will that benefit *to* some person or persons. The pattern is set by our self-love. We spontaneously desire benefits for ourselves. And we then will benefits to others as to ourselves. In that act of will our will is related, first, to the benefit (for example, knowledge or health), and, second, to the person to whom we will that benefit (ourselves or another). Benefits (or 'goods' or 'values' or 'perfections') just by the nature of the case belong to a thing (substantial entity) or things – paradigmatically, persons. Benefits are not free-floating, but necessarily are goods-for-entities, more specifically, goods-for-persons. So, valuing persons (and willing benefits for them) is asymmetrical (or should be asymmetrical), not because of the nature of the benefit, but because of the nature of valuing (or caring, or willing).

Finally, there is a more basic mistake in Reiman's alternative position: in his position, the value of an object arises from someone's caring about it, rather than vice versa. Hence his position is subject to the standard criticisms of subjective theories of value. Our desires, just as the desires of other living things, are not purely arbitrary. Before we *can* desire something, there must be something in the object that makes it such that it is appealing or attractive. Thus, our desiring an object cannot make it appropriate to desire it, or valuable. Rather, an object must in itself have what it takes to be worthwhile before someone's caring about it can be reasonable and appropriate. Smith may ardently care about and strongly desire something quite trivial. The rationality of love and desire stems from the object of love and desire, not vice versa, not simply from the fact that it is desired. Thus, a person's life is valuable, not primarily because it is cared about, but in virtue of what the person is – a substantial entity with the natural capacity to shape her own life.

Thus, the right to life is, in important respects, quite different from many other types of rights. Both Thomson and Reiman compare the right to life with the right to vote. Thomson argues as follows:

If children are allowed to develop normally they will have a right to vote; that does not show that they now have a right to vote. To show that a fertilized egg *now* has rights one needs to produce some fact about its present, not its future.<sup>27</sup>

<sup>27</sup> Thomson, *op. cit.* note 7, p. 194. The use of the term 'fertilized egg' is inaccurate. Once fertilisation has occurred, what exists is simply not an egg any longer, but a distinct, actively developing, whole (though new and immature) human organism.

The comparison between voting rights and the right to life is relevant only if one assumes that all rights are of the same sort, which is simply not true. Some rights vary with respect to place, circumstances, and talents; other rights do not. We recognise that one's right to life does not vary with place, as does one's right to vote. Moreover, some rights and entitlements accrue to individuals only at certain times, places, or situations, but surely others do not. The basic right to life is the same as having *moral status at all*, that is, being the sort of entity that can have rights or entitlements to begin with. And so it is to be expected that *this* right would differ in further and more fundamental ways, from other rights, such as a right to vote. In particular, it is reasonable to expect that having moral status at all, as opposed to having a right to perform this or that type of action in this or that type of situation, should be based on the *type of thing* (or substantial entity) something is. And so, just as this right does not vary with respect to place or situation, so it does not accrue to someone because of an acquired skill or disposition. Rather, this right belongs to a person, a substantial entity, at all times that she exists, not just during certain stages of her existence, or in certain circumstances, or in virtue of additional, accidental attributes.

Thomson is right when she says that to show that something *now* has rights one must produce some fact about its present, not its future. But this is easily done. Right *now* the human embryo is a substantial entity with the basic, natural capacities to reason and make free choices, though it will take some time for her to actualise those capacities. Right *now* the human embryo is an entity with the same *substantial nature* as, and so equal in dignity with, you or me.

The pro-life position is *not* that unborn human beings are potential persons and therefore have a right to life. Rather, potentiality is important only because it is an indicator of what *kind of thing* is already present. From conception on, the unborn human being is a developing substantial entity with the basic, natural capacities to reason and make free choices. She *right now* is that type of thing or substantial entity. And it is the type of thing that matters, not the condition that thing is in, which may or may not allow her immediately to exercise all of her basic capacities.<sup>28</sup>

<sup>28</sup> Human beings with brain damage still have the basic constitution oriented to developing the immediately exercisable capacity for such acts, which is why they are rightly recognised as human beings and persons. An organic defect may prevent them from ever (in this life) developing the capacities they do have in virtue of the kind of entity they are.

Only this position makes sense of the evident truth, that people who are asleep or in a (reversible) coma are equally subjects of rights as those who are awake and can immediately exercise all of their natural capacities.<sup>29</sup> Only this position is consistent with the recognition that the actions of a thing (such as conceptual thought and free choice) flow from the kind of thing it is, its nature, rather than vice versa. And only this position is consistent with the principle that all human persons have equal basic rights.

In sum, what is intrinsically valuable as a subject of rights is what you and I are. What you and I are, are human physical organisms. Human physical organisms come to be at conception (whether by a natural process or by lab technology). Therefore, what is intrinsically valuable as a subject of rights – and so can rightly be called a ‘person’ – comes to be at conception.

*Patrick Lee*  
*Philosophy Department*  
*Franciscan University of Steubenville*  
*Steubenville, Ohio 43952*  
 USA  
*plee@franciscan.edu*

<sup>29</sup> Someone in a reversible coma has an internal defect, not just an unsuitable environment, preventing her from actualising her capacities for higher mental functions; so she lacks precisely what Stretton, Thomson and others claim one needs in order to be a person.