

# Fetus Feuds: A Critical Analysis of Thomson's *A Defense of Abortion*

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### Abstract

Judith Jarvis Thomson's article, *A Defense of Abortion*, covers a deeply debated subject in moral philosophy due to its controversial and powerful stance in favour of the right to have an abortion. In this paper, I critique her work and in so doing, aim to affirm her position that abortion is morally permissible. I analyse the hypothetical scenarios Thomson uses for her position which include *The Violinist*, *The Engulfing Baby*, *The Jacket*, and *The Burglar*. Upon close inspection, the core argument of each of these analogies proves that the right to make decisions about one's body and the right to self-defence are stronger than that of the fetus's use of one's body. As will be discussed, her paper does not go without criticism. John Finnis argues that the fetus has ownership rights which should not be violated through abortion. However, his argument is weakened because it cannot be applied when a pregnancy is life threatening. This would violate the mother's ownership rights. I will contend that Thomson's "right to autonomy" argument, in favour of the right to abort, is more pertinent than Finnis' claim, because it can be applied to all situations. Another well-known point of discussion, proposed as the dilemma of "actively killing" or "allowing to die" by Philippa Foot, will also be examined. In this paper, I contend that Foot's concern is less relevant than Thomson's, given that aborting would be followed by an already available sequence of events that does not impact the overall moral right to autonomy. With these convincing critiques, I conclude that Foot's dilemma dissipates, and we are left with the argument that Thomson's right to autonomy in favour of the moral permissibility of abortion prevails.

### About the author

Summer Carne completed her Bachelor of Music degree at Stellenbosch University in 2020. Her interest in academics has led her to study an MA in Philosophy at Trinity College Dublin specialising in normative ethics. Aside from her intellectual pursuits, she continues to incorporate her musical background as an established opera singer.

## 1. Introduction

In determining the moral permissibility of abortion, multiple conceptual and philosophical problems are raised. Discussion on whether a fetus has moral rights and the right to autonomy are largely responsible for this ongoing debate (Greasley, 2017:1). With particular reference to Judith Jarvis Thomson (1971), this paper aims to resolve some of these debates by ascertaining that the right to abort is morally permissible and justifiable. A critique and discussion will be granted on Thomson's paper, *A Defense of Abortion*, especially with regards to the thought experiments she provides to argue that abortion is morally permissible. These thought experiments for abortion include *The Violinist*, *The Engulfing Baby*, *The Jacket*, and *The Burglar*. Furthermore, arguments by Philippa Foot (1967) and John Finnis (1973) on the morality of abortion will be highlighted. Finnis gives a direct rebuttal to the thought experiments Thomson provides for abortion by claiming that the fetus has ownership rights. However, if a mother's life is threatened, his rebuttal falls short, as the mother has the right to self-defence and her own ownership rights would be threatened. Finnis's argument is not applicable to all cases of abortion making it inconsistent unlike Thomson's position: the right to autonomy can be applied to all cases of abortion.

The question of the morality of abortion requires deep consideration because, as this paper will reveal, the answers to the conceptual questions mentioned above are complex (Greasley, 2017: 2). Thomson's article, *A Defense of Abortion* (1971), will be the focus of this paper, because it addresses these issues skilfully. Thomson (1971: 48) posits that abortion is morally permissible by arguing that one has the right to autonomy above all else, from which it follows that one may decide to abort. As Boonin-Vail (1997: 329) observes, the assertions Thomson provides for abortion are well-

thought out and deserve recognition. Before giving Thomson's arguments their due attention, it is first necessary to have a better grasp of the complex concepts at play. The following section will elaborate on Thomson's idea that an embryo has personhood rights from the moment of conception. Her argument then follows that, although the fetus has the right to life, it does not supersede the right to abort.

## 2. An Overview of How Abortion Relates to Personhood, Morality and Rights

Those who argue for the right to abort claim that a fetus is not yet a human being. This is to justify that abortion is morally permissible because one would not be killing a 'person' (Foot, 1967: 2). Thomson (1971: 47) takes an alternative stance by arguing that her theory for the right to abort rests on the grounds that an embryo is a human being from the moment of conception. This is because it is arbitrary to draw a line deciding when an embryo (or fetus for that matter), suddenly becomes a person.<sup>1</sup> Thomson (ibid., 48) declares that opponents of abortion heavily rely on the notion that an embryo is a person from the moment of conception and deem that reason enough for the moral impermissibility of abortion. However, as I will demonstrate in the following section, this assumption requires a deeper analysis. Thomson does not deny that the embryo has personhood rights (ibid.). Although she does acknowledge that a clump of cells (an embryo or fetus) is "no more a person than an acorn is an oak tree", she remains steadfast on her position that these cells still constitute as a person.

Thomson (ibid., 47) mentions that "most opposition to abortion relies on the premise that the fetus is a human being, a person, from the moment of conception" and every person has a right to life. This claim is used to justify that abortion is morally impermissible. On

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<sup>1</sup> A "person" here refers to a being worthy of the moral rights given to that of an individual.

the other hand, Thomson writes that a mother has a right to her body and decisions concerning her body (ibid., 47). Following this, the fetus's right to life takes precedence over the mother's right to her body. Thus, an abortion is unethical and should not be executed (Thomson, 1971: 48). Even though Thomson agrees that this idea is appealing, she provides a counterargument in the form of a thought experiment that is best known as *The Violinist*, which focuses on the right to autonomy within the abortion debate.

### 3. Autonomy: The Violinist

In this hypothetical scenario, Thomson asks you to imagine yourself waking up next to a famous violinist who happens to be unconscious. On closer inspection, you realise that your circulatory system has been plugged into the violinist's own circulatory system. This violinist has a rare kidney disease and only your body can keep him alive. A nurse explains that whilst you were asleep, you were kidnapped by the violinist's fans, The Society of Music Lovers, and connected to the violinist to keep him alive. The nurse continues to say that fortunately his condition is not lifelong. You will only need to stay in the bed connected to the violinist for nine months until he has recovered. Then you can safely disconnect yourself and continue living your life as normal. However, to unplug yourself would result in you killing him (ibid., 49).

The question Thomson raises here, is whether it is morally obligatory to stay connected and support the violinist (ibid.). To complicate the situation, the doctor says that you will need to stay in bed for the rest of your life to sustain the violinist – drastically prolonging the original timeline of nine months. The doctor reminds you that the right to your body is outweighed by the violinist's right to life, and therefore, you must accept the situation and continue to support the violinist to avoid the violinist's death. Thomson believes that this would be an outrageous request because a person's right to life should not "outweigh your right to decide what happens in and to your body" (ibid.). This position is supported if one prolongs the amount

of time needed to sustain the violinist, because the conditions are considerably harsher – making it a less viable option. Furthermore, a life forced into sustaining the violinist's life would violate the right to autonomy. One might argue that pregnancy is never a lifelong commitment, making the "lifelong sustenance" argument irrelevant. However, this is not the point that Thomson is focused on. Thomson is using this theoretical situation to demonstrate that if a pregnancy were a lifelong commitment, it would be morally unacceptable to force the woman to support the violinist. You could sustain the violinist (lend your body to the unborn child) and it would be noble to do so, but it would be unfair for it to be mandatory. It would mean you would sacrifice the right to decide what happens to your body eternally. For the sake of consistency, a commitment of nine months should not be viewed any differently from a lifelong commitment: time cannot be a measurement for how long one's rights may be violated for. In other words, nine months in comparison to a lifetime of sustenance does not outweigh the right to choose what happens to your body. After considering Thomson's view, it is evident that the right to your body is stronger than that of the fetus's right to life.

In a variation of *The Violinist* thought experiment, the doctor tells you that you will only need to keep the violinist plugged into you for an hour (Thomson, 1971: 59). Thomson claims that in this situation, it would be considered indecent to unplug yourself. I concede that this seems to loosen Thomson's stance at first glance. This is why Thomson argues that it is better "to keep a tight rein" on what she has established (ibid.). In other words, to say that what you "ought to do" does not equate to "the right to have" (ibid.). You *ought* to save the violinist, but that still does not give him the *right* to have what you can offer him. The conclusion of the thought experiment firmly remains: you can lend your body to your unborn child, but that does not mean that you must at all costs.

Thomson draws the reader's attention towards the question of whether it is more acceptable to have an

abortion if the pregnancy occurs as a result of rape. Imagine The Society of Music Lovers forced you into the position whereby you are connected to the violinist. You did not intend to be plugged into the violinist. The example is synonymous to that in a case of rape that results in pregnancy – you did not intend to become pregnant (Thomson, 1971: 47). This gives rise to the notion that a fetus conceived from rape has less of a right to life than that of a fetus conceived consensually. This is arguably unfair, because your right to life should not depend on how you come into existence.<sup>2</sup>

Now that I have analysed *The Violinist* thought experiment, I will discuss some speculations that Foot (1967) and Boonin-Vail (1997) consider on the topic of the morality of abortion that Thomson addresses briefly. In *The Problem of Abortion and the Doctrine of the Double Effect*, Foot (1967: 2) suggests that the problem with abortion is that it would be actively “initiating a fatal sequence of events”. In other words, one would be killing as opposed to allowing a fatal sequence of events to occur. Thomson (1971: 52) disagrees with this premise based on self-defence. In an adapted thought experiment of *The Violinist*, the doctor says that you must stay plugged in even though this will lead to killing you. Thomson insists that it would not be morally permissible to expect the mother to passively wait to die. This is because Thomson insists the right to life trumps the right for the violinist to use the mother’s body especially if she is employing the common law of self-defence (ibid.).

Although Foot (1967: 6) grapples with the dilemma of *initiating* killing versus *letting* (or *allowing* to) die, she does not use this assertion to conclude that abortion is morally impermissible. She writes that even though her suggestion deserves consideration, she has “not

been arguing for or against these points of view but only trying to discern some of the currents that are pulling us back and forth” (ibid.).

Boonin-Vail argues that Foot’s proposal on abortion is irrelevant (1997: 337). In response to Foot’s analysis on abortion, Boonin-Vail argues that a distinction cannot be made between whether the action of abortion is *initiating* or *allowing* the end of a life. With regards to *The Violinist*, when you unplug yourself, the violinist is fulfilling a pre-existing sequence of events similar to if you were to abort. On this point, Boonin-Vail (ibid., 334) claims:

Abortion seems simply to be a means by which a woman who has been providing needed life support to the fetus she is carrying can effectively discontinue her provision of such support, and when an agent discontinues providing another with needed life support this seems clearly to be a case of letting die rather than of killing.

A fatal sequence of events is already available with regards to the violinist (or fetus). Therefore, it must be said that you would not be initiating a sequence of fatal events by performing an abortion, but rather, you are allowing a fatal sequence of events that would otherwise happen if you were not fostering the unborn child. Although intriguing, the conversation on *initiating* versus *allowing* the end of a life is less of a concern to Thomson than that of her fundamental point in *The Violinist* – which concludes that the right to autonomy is more pertinent than the fetus’s right to life. Initiating or allowing the fetus to die is irrelevant, because it does not impact the moral rights to autonomy or life.

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<sup>2</sup> I acknowledge that some individuals would not make an exception for rape, even if the mother’s life is heavily compromised by the situation for the rest of her life. Although Thomson (1971: 50) claims that those who do not make an exception for rape cases are rare, recently (2022) in the United States of America (USA), there have been multiple protests in favour of criminalising abortion –

even in cases of rape that result in pregnancies. See the newspaper article, *Few States with Abortion Bans in Effect make Exceptions for Rape or Incest*, for further details on the most recent protests in the USA (Cineas, 2022: 1).

One of the challenges Thomson may face in *The Violinist*, is if one were to argue a utilitarian stance. This counterargument seems agreeable when both the mother and baby will survive the pregnancy: not aborting produces the greatest good for the greatest number, as the core ethical standpoint of utilitarianism proposes.<sup>3</sup> The issue with indulging in this counterargument, is that one would have to concur with utilitarianism, which would breach the standard moral right to autonomy in the case of abortion. Utilitarianism would not allow the mother to abort, because aborting would negatively impact the overall outcome, since the fetus would not survive. Hence, the mother would have to sacrifice her right to autonomy to keep the fetus alive. The rights-based deontological argument Thomson adopts with *The Violinist* thought experiment does not have room for such a consequentialist argument. According to Thomson's (1971: 60) stance, rights must remain constant instead of shifting in accordance with future outcomes. In all, I deduce that the utilitarianism stance fails to successfully counter Thomson's position, as it rests upon unsound foundations on the basis that it ignores the basic moral rights of the individual.

To conclude this section, *The Violinist*, brings about a convincing argument for the right to have an abortion. It provides evidence that the right to autonomy is stronger than the right to life of a fetus. This is done by illustrating that one could lend one's body to sustain the violinist, but does not mean that one must do so, for that would infringe one's right to autonomy. In other words, one could provide support to the fetus, but that does not mean that the fetus has the right to this support. To do so would violate the right to choose what happens to one's own body. Furthermore, the suggestion of *initiating* a fatal sequence of events

versus *allowing* a fatal sequence of events has little relevance to the issue on the permissibility of abortion in comparison to the more pertinent stance Thomson provides – which, as stated above, entails the moral right to autonomy above that of the life of the fetus. This is because the intention behind the decision to abort is to preserve one's autonomy rather than to initiate a fatal sequence of events. Therefore, Foot's argument is irrelevant. Lastly, the utilitarianism stance that defends anti-abortion is flawed, because it contradicts the moral right to autonomy in favour of an overall positive future consequence. Now that I have argued for the right to autonomy which leads to the right to abort, the next section will focus on the right to self-defence, which provides another reason for the moral right to have an abortion.

#### 4. Self-Defence: The Engulfing Baby

Extremists believe that killing a person is never morally permissible, no matter the circumstance. A mother should not abort even if, due to medical complications, the pregnancy will kill her. This view claims that, even though the mother will die, it is still not permissible to abort, because abortion is actively killing a person (Foot, 1967: 1). The extremist continues to declare that not aborting is morally justifiable because there is no active component – one is simply letting the mother die (Thomson, 1971: 50).

Thomson puts forth another thought experiment to problematise the extremist's position (ibid.). In this scenario, you are a woman trapped in a small house with a baby. The baby grows larger and larger, eventually growing so big as to press you against the wall. You know that the baby will engulf you to death if you do not protect yourself by exterminating it. With the

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<sup>3</sup> The author, Peter Singer (2011), claims that if one were to take a utilitarianist stance, it would successfully refute Thomson's rights argument on abortion and thus believes her theory is not defensible. His defence of abortion relies instead on personhood and what it means to be recognised as a legitimate person with a right

to life. However, Singer's arguments are beyond the scope of this paper. For more details, refer to chapter 6, *Taking Life: The Embryo and the Fetus*, in Singer's *Practical Ethics* (2011).

extremist's line of reasoning, the mother must let herself die to avoid the act of killing and therefore, the baby's right to life outweighs the mother's (Thomson, 1971: 50). Thomson states that this postulation is implausible, for it cannot be that the mother must passively let the baby (or pregnancy) kill her. The right to self-defence must exceed the right to the baby's life (ibid., 51). Consider the following: if one's life is in imminent danger with a live firearm pointing at one's head and there is no alternative point of action, the common law principle maintains that one has the right to defend oneself – even if it is at the cost of the other person's life (Goosen, 2013: 71). The right to self-defence is what separates an innocent person defending themselves from a murderer, similar to a mother choosing to defend her life instead of proceeding with a pregnancy that would kill her. In light of Thomson's contention, I believe that the mother choosing to abort would be a morally acceptable action, because she has the right to defend her life.

If one accepts the claim that a fetus and the mother have the right to live, one still needs to ask whether one of the two has a "stronger" right to life (Thomson, 1971: 52). In the Engulfing Baby thought experiment, the house (the body) is owned by the mother, and the baby is likened to a tenant temporarily renting the house. This is indicative that the mother has more of a right to use her body in the way that she wishes, because it is first and foremost her body and not the baby's (ibid.). I wish to add to Thomson's statement: if a tenant uses the landlord's house and changes the tiles without the permission to do so, it breaches the contract between them and the landlord. Therefore, they have no right to make changes to the house as it is not their place to do so. Similarly, the fetus has no right to change the state of the mother's body without her permission, because it is not their property.

One of Thomson's most well-known critics is John Finnis. He challenges Thomson by saying that the unborn child has an equal right to the mother's body. The fetus has ownership rights over its own body, according to Finnis, and nobody else should have the right to

interfere or destroy that right (Finnis, 1973: 142). I argue that Finnis undermines his claim, because, like the fetus, the mother also has ownership rights over her body and, as Finnis states, nobody may interfere with ownership rights. By Finnis's logic, if the fetus risks the mother's life and, in doing so, violates her ownership rights, she should have the right to self-defence by aborting to protect herself. So, although Finnis's idea may be tempting, it still does not hold in a scenario where a mother is dying due to a complicated pregnancy, which makes his argument unstable.

## 5. Ownership: The Jacket

Often, a third party is responsible for performing an abortion – or at the very least, aiding in an abortion procedure. That is to say, it is not the mother who is directly defending herself, but rather another person who defends her life on her behalf, by performing the abortion procedure (Thomson, 1971: 52). The extremist would say that neither the mother, nor the third party, may perform an abortion. According to this view, to do so would be to kill an innocent person (ibid.). In other words, performing an abortion this way would be morally impermissible.

Finnis (1973: 140) agrees with Thomson, that the mother has the right to perform an abortion if her life is in danger. However, he disagrees with her argument with regards to a third party. He claims that the abortion must only be performed by the third party if they are entirely certain that the fetus poses a fatal threat to the mother, or that the fetus is already dead. Finnis believes that Thomson is too confident with regards to her position that a third party has the obligation to get involved (ibid., 130). To this, I offer Thomson's opposing argument below.

I uphold that, *pace* Finnis's view, Thomson's (1971: 53) position is strong: a third person *may* help with aborting the fetus. Thomson proposes a thought experiment to illustrate her point which introduces the theme of partiality (ibid.). In this thought experiment, a person, Jones, is wearing a jacket that belongs to

Smith. They both need this jacket to survive the cold. A third party arrives and says that he cannot choose who should wear the jacket, because he claims to be an impartial spectator. However, Thomson writes that impartiality is nearly impossible in a situation like this, since the spectator knows Smith owns the jacket. Furthermore, according to the rationality of ownership, he would believe it should be Smith's to wear. The third party does have the right to refuse to help (Thomson, 1971: 54). I argue that this last point undermines Finnis's (1973: 130) postulation that Thomson is over-confident, because Thomson does allow room for refusal. In other words, the third party has a right to choose to (not) help perform an abortion. In this instance, the right to autonomy is not violated and it is morally permissible for a third party to help the mother.

## 6. Intention: The Burglar

Throughout this paper, I have considered various thought experiments, as posited by Thomson. In this section, I turn to Thomson's position on abortion, particularly in cases where the pregnancies are unintentional. One might say that a person does not have the right to abort if that person were aware that there was a possibility that they could fall pregnant but had unprotected sex regardless (Thomson, 1971: 57). The argument holds that, that person would be doing an injustice to their unborn baby, because they were responsible for the conception of the baby (ibid.). Thomson counters this notion with yet another thought experiment: a woman opens a window, because it is stuffy. As a result, a burglar climbs through the window and trespasses into her house. By claiming that a woman does not have the right to abort in a situation where she had sex, despite knowing the possible consequences, suggests that you would have to let the burglar do as he wished – even if that means staying in her house. I argue that this is an unreasonable claim to

make, because the woman did not intend to let the burglar in, just as she did not intend to get pregnant.

The woman knew that burglars pose a threat, and she knew of their existence. However, she is not responsible for the burglar who broke into her house (ibid.). This is because, despite trying to prevent the pregnancy, the situation still thrust itself upon her. As this makes it not her responsibility, she has no obligation to foster the fetus. This gives another reason for why abortion is morally acceptable. Upon this closing statement on *The Burglar* thought experiment, I conclude on the matter of the right to abort in light of Thomson's paper.

## 7. Conclusion

After discussing Thomson's thought experiments, I have argued that the right to autonomy and self-defence is stronger than the right to the life of the fetus. This is what makes abortion morally acceptable. As I have shown in this paper, Thomson's thought experiment, *The Violinist*, provides a strong assertion for the right to abort, because it exhibits how one's right to one's own body outweighs the right for others to use one's body. I observed that only a utilitarian can attempt to counter-argue by postulating that not aborting would produce the greatest good for the greatest number. However, utilitarianism is flawed against the deontological approach Thomson uses, because it fails to consider the essential rights of the individual, making it a weak contention. The next thought experiment, *The Engulfing Baby*, shows that a mother should have the right to abort if her life is in danger because she has the right to self-defence and autonomy over her body. *The Jacket* thought experiment shows that a third party may also justifiably help the mother perform an abortion, because those individuals have the right to choose to help or not. Lastly, *The Burglar* thought experiment reveals that even if a pregnancy occurs, a woman does not necessarily intend for it to

happen and therefore does not have their responsibility, nor their obligation to keep the fetus.

In this paper, I have discussed some of the well-known objections to Thomson's arguments, particularly those posited by Finnis. Finnis provides a compelling argument, which states that nobody may violate the ownership rights of the fetus through abortion. However, this argument does not hold when the mother's life is endangered by the pregnancy and when her ownership rights would also be violated. Thus, his argument is inconsistent, for it is not applicable to all cases of abortion. Thomson's argument regarding self-defence and autonomy can be applied to all cases of abortion. Hence, her position is stronger. This is shown by

employing the thought experiment of *The Engulfing Baby*: common law allows that the mother may defend herself against the threat of the ever-growing baby. In other words, if the fetus threatens the mother's life, she may defend herself. Therefore, the right to self-defence and the right to autonomy is stronger than the fetus's ownership rights. Foot calls our attention to the possibility that abortion would be an act of actively killing. However, as Boonin-Vail refutes, an abortion only lets a pre-existing fatal sequence of events happen, which makes abortion morally permissible. In conclusion, Thomson's arguments outweigh all the attempts of rebuttal discussed in this paper, and the right to autonomy prevails, resulting in the moral permissibility of abortion.



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