**What Must Pro-Lifers Believe about the Moral Status of Embryos?**

**David B. Hershenov**

**Abstract**

Embryo rescue cases and minimal miscarriage prevention research have been interpreted as showing that even pro-lifers aren’t really committed to the unborn having the same moral status as the born. I’ll suggest instead that judgments about embryo rescues are often distorted by triage considerations that reveal nothing about differences in moral status between those saved and those not. I’ll present metaphysical and ethical considerations - none assuming a difference in moral status - why preventing millions of miscarriages doesn’t warrant the massive redistribution of research funds that would occur to prevent the deaths of equal numbers of humans already born.

**Introduction**

 Pro-Lifers typically claim that the unborn have the same moral status as the born. Do they really believe that? Their attitudes towards embryo rescue cases and miscarriage prevention research have been interpreted as suggesting otherwise (Ord: 2008, 12-19; Berg: 2017, 1217-1226; Sandel: 2005, 241-47; Greasley: 2018, 27-36). If the frozen embryo had the same moral status as a baby, then why would pro-lifers save from a clinic fire a baby rendered unconscious by smoke inhalation rather than one or more frozen embryos? If the miscarried embryo had the same value as the born, then given the fact that more human beings die from miscarriage than all other diseases combined, why aren’t pro-lifers calling for a massive reprioritization of medical research to prevent miscarriages? One explanation for the reactions of pro-lifers in the hypothetical embryo rescue cases and their inaction in the face of the scourge of miscarriages is that that they don’t really believe that unborn have the same moral status as the born. This inconsistency between what they say and do does not mean that they are hypocrites, just that they are unaware of their deepest moral commitments and it may take a clever thought experiment or argument to elicit their true beliefs about their fundamental values.

I will offer a rival explanation that allows us to take the beliefs of pro-lifers to be what they say they are. The embryo rescue cases are flawed as they have not been set up to offset triage considerations. The embryos may not survive thawing and it is unlikely that anyone will be able and willing to gestate them. When embryo rescue cases are constructed so these differences don’t distinguish the born from the unborn, it is by no means obvious that one should save the baby over the frozen embryo.

The literature on the scourge of miscarriage doesn’t recognize that many miscarriages don’t harm the miscarried embryo, as the relevant alternative is their non-existence, not their being born. The reason for this is that the miscarriage would likely be prevented by using different gametes or delaying procreation so a different embryo is created than the one which would have miscarried. Abortion, the focus of most pro-lifers and the context in which they make their claims about the moral status of the embryo, typically deprives the aborted of a valuable future. Likewise, for the diseases that kill the born. So at least pro-lifers aware of the non-identity of those embryos who would have miscarried and those who don’t because of the miscarriage prevention protocols, would have reason not to call for the massive reprioritization of research funds. Reinforcing this reluctance to reprioritize funding is the belief of many religious pro-lifers that the use of gamete selection and in vitro fertilization is at odds with their moral duty to produce children only through conjugal acts. But even if those naturally conceived embryos who would have miscarried could undergo a treatment that brings them and not a replacement embryo to term, there are morally significant differences between saving them and saving those already born. For example, many women who don’t want to become pregnant, and certainly those who would abort if they were to become pregnant, would not voluntarily undergo any miscarriage prevention treatment. Many pro-lifers would be opposed to legally compelling women to undergo miscarriage prevention treatments before (and perhaps after) they became pregnant. These and other reasons to be canvassed in the second part of this paper give pro-lifers reason not to pursue miscarriage prevention research to the extent that they would promote research to end a scourge killing comparable numbers of the born.

**Part I. Do Embryo Rescues Show the Unborn to have less Moral Status than the Born?**

(1) I will begin by describing embryo-rescue cases. (2) I will then sketch some standard pro-life explanations of people’s reactions to such cases and explain why they are not convincing as they can be offset in ways that leave people’s rescue choices unchanged. (3) This will be followed by a defense of the idea that triage considerations are distorting our judgments about moral status. (4) I will conclude Part I with what embryo rescue cases can or cannot teach us about moral status, abortion, and embryo stem cell research.

Embryo rescue cases typically involve a fire in a fertility clinic and the rescuer’s ability to save either one or more frozen embryos or someone already born such as the clinic’s security guard or a baby (Greasley: 2018, 27; Annas: 1989, 22; Glantz: 1989) or a five-or six-year old (Sandel: 2005, 245; Napier: 2010,797; George and Tollefsen: 2012, 136) overwhelmed by smoke. Most people respond that the guard, newborn, or child should be saved over the embryo(s) and that choice is then often interpreted as revealing a belief in their different moral status.

When confronted with such widely shared reactions to embryo rescue cases, some theorists have sought to explain why such life-saving choices don’t reflect a devaluing of embryos (George and Tollefsen: 2012, 136-39; Liao: 2006, 142; Kaczor: 2018, 148-49). Sometimes pro-lifers justify saving the guard because of the great pain a sentient watchman, baby, or five-year old can feel as he dies from his burns (Tollefsen and George: 2012: 137). It has often been conjectured that the guard’s psychological ties to his future make death a greater harm to him than the embryo. The five-year old and the guard’s future-oriented plans and desires will be frustrated by his untimely death and that justifies saving them over the embryo without any future directed projects and intentions (Liao: 2006, 143-46; Kaczor: 2018, 149). Another justification on offer for saving the guard or five-year old instead of the embryo stresses the ties to others who will miss them or be emotionally invested in their good them (Kaczor: 2011, 149; George and Tollefsen: 2012., 138). A further consideration tilting the rescue to the guard is that he also has people who are dependent upon him, (Kaczor: 2011, 139) while the embryo’s life is not so intertwined with the lives of others.

Kate Greasley responds that these pro-life maneuvers miss the point of embryo rescue cases (2018: 27-36). The best explanation of the rescue choice is that the embryo has less intrinsic moral status than the guard. She uses a baby rather than the guard in her embryo rescue case that she constructs. I will henceforth follow her and use a baby, which was also the example in the original discussions of Annas and Glanz. She is very confident that if we remove all the other morally relevant differences, many of which are extrinsic, our judgments will reveal the baby has greater moral status than the embryo. For example, she renders the baby a friendless orphan that no one will miss (2018: 31). She adds that no one stands in a special relationship to the baby and thus has an obligation to save the baby over any of the embryos and vice versa (2018: 31). Impartial moral concerns are the only ones present.[[1]](#endnote-1) Also, imagine that the smoke inhalation renders the baby unconscious so the fire will not be accompanied by painful burns (2018: 32). Greasley then asks whom should you save and she thinks the answer obvious – the baby over even five frozen embryos. Her conclusion is that the best explanation of this decision is a difference in their intrinsic value, i.e., moral status.[[2]](#endnote-2)

Greasley makes a useful point about the need to offset morally relevant differences other than moral status if our judgments of whom to save are to reveal anything about how various individuals moral status compare. However, I would argue that Greasley’s above recommendations don’t yet make all things equal. Triage considerations come into play in embryo rescue cases as they do in wartime MASH units and in domestic hospitals. Pro-lifers’ claims about the equal moral status of all human beings are not undermined by accepting that we don’t have to make great efforts in the actual world to keep alive frozen embryos or anencephalic human beings. This doesn’t indicate their lower moral status any more than when the surgical team of a MASH unit chooses to operate upon the soldier that can more likely be saved indicates anything about a difference in moral status between that soldier and the more gravely wounded soldier who is not rushed into surgery because of the likely futility of the procedure. Both soldiers have the same moral status and each is as tragically harmed as the other by their deaths. It is just that doctors can’t likely save both of them. So, they give priority to the more treatable.

Triage considerations can distort our judgments as they get conflated with different considerations of moral status. It is important to make explicit that the embryo in the rescue case is frozen, [[3]](#endnote-3) may not survive thawing, and there may never be found a woman willing to gestate the embryo until delivery. More importantly, the baby will certainly survive removal from the smoke filled area and won’t be dependent upon anyone else’s body for months of taxing, pregnancy-like support. The embryo, on the other hand, may not be viable in either of two senses. The first is that the embryo may not survive thawing. The second absence of viability is that the embryo’s need to gestate means that it cannot live without imposing immense burdens upon a woman for months.

So, if we really want to improve our chances of learning something from embryo rescue cases regarding our deepest commitments about the moral status of embryos, then we surely need to make the embryo and baby in the rescue case much more similar to remove other considerations that prevent us from focusing on any differences in moral status. Greasley’s baby needs to be frozen. So, I will stipulate that in the revised thought experiment offered below that the baby is likewise frozen and in an induced coma. Thus heat will thaw her out but she won’t become conscious unless the coma is reversed by a routine, safe, and effective procedure. This ensures that if the fire thaws her out it doesn’t cause her to regain consciousness and suffer.

I will also stipulate that the frozen baby girl on the floor of the clinic may not survive thawing. The odds that the baby in the deep freeze cannot have its life processes restarted should be the same as with cryogenically preserved embryos. That renders the baby’s prospects statistically like the frozen embryo. There will be no guarantee that either will be *successfully* rescued. That will partially offset the triage considerations that may be influencing different attitudes about their rescue in the original case. Furthermore, the thawed baby has a pair of failing kidneys like those found in the violinist of Judith Thomson’s famous thought experiment (1971, 48-49). Thus someone with healthy kidneys will need to volunteer to be connected to the baby for nine months until the infant’s kidneys will have recovered and she can be safely detached. The very young child with bad kidneys is an orphan so there is no one who has in the past willingly provided support for the youngster and might be expected to do so again without any qualms. In other words, neither the baby nor the embryo has a mother available and willing to allow their bodies to be used for months in order to keep them alive. Both will perish without the kindness of strangers.

Whom would we save if both the baby and the embryo are frozen and perhaps not viable in the first sense of being capable of surviving thawing and definitely not viable in the second sense of being able to live without the bodily support of another who may never volunteer? It seems to me that here it is much less obvious that the right decision is to save the baby over the embryo(s). This suggests that the best explanation of the reactions in the original unreconstructed embryo rescue may *not* be the difference in moral status. Triage considerations could have been playing a crucial role.

 We can avoid some of the distorting triage considerations if we modify an example created by Robert George and Chris Tollefsen (2012, 139; 2017, 1-2). Consider that we could save either four pregnant women or three kids and their three mothers. If you didn’t initially, assume that the women are visibly quite far along in their pregnancies. That will suggest that they are at a stage of pregnancy where miscarriage is unlikely. So, we don’t have either of the viability issues of the typical embryo rescue case. There isn’t a worry that the embryo won’t survive thawing to be implanted in a woman’s womb and there isn’t a concern that no woman will step forward to gestate the embryo. It may not have been George and Tollefsen’s intentions to offset such triage considerations in constructing their case, but it serves that purpose. Whom do you save? The four women have four fetal human beings inside them which make for a total of eight human beings that can be rescued. The alternative is to save the six already born human beings. I suspect many readers will save the four pregnant women when they can’t do both. This may more reliably reflect their views of the moral status of embryos than rescue cases infected by triage considerations.

 Before concluding Part I, it is worth reminding readers that we are ultimately interested in whether embryos in utero can be aborted, and those in vivo can be destroyed to obtain their stem cells. That is, we are interested in whether they may be permissibly killed and not merely when and whether to save them. So, let’s consider a modified fertility clinic fire where the frozen embryos are safely ensconced within a fire proof freezer. Now the only way to save the baby on the floor of the clinic is to open the fire proof freezer and use the liquid in which the embryos are frozen to douse the flames. Doing so will destroy the embryo(s). Can you throw the cryogenic preserving liquid onto the flames, knowing that the embryos will die in the process? It is not obvious to me that is permissible. It is even less obvious if the baby to be saved is frozen and has lousy violinist-like kidneys and thus needs nine months of life support to be given by another’s body. So, killing embryos to save the lives of non-embryos strikes me as ethically dubious. And keep in mind that abortion is rarely life-saving rather than burden removing.

**Part II. Insufficient Concern about Miscarriages**

Embryo-rescue cases are not the only occasions in which pro-lifers are accused of not acting as expected given their rhetoric about the moral status of embryos. They have not called for reprioritizing research funding to prevent miscarriages to the extent that some have expected if embryos possess the moral status of the born. Tony Ord points out that more human beings die every year from miscarriages than all the other causes of death added together.[[4]](#endnote-4) If embryos are as valuable as young children, then one would think that the numbers of miscarriages would demand a response befitting an epidemic. Yet pro-lifers have not been demanding a dramatic increase in and transfer of research dollars from combatting other diseases to preventing miscarriages. As a result, they have been charged with being “inconsistent” (Berg: 1222, 1225) for they don’t treat miscarriages “as the biggest health crisis of our time” (Berg, 1225) and “one of the world’s greatest problems, if not the greatest problem” (Ord, 15). Thus miscarriages have been judged to provide most pro-lifers with a dilemma. Amy Berg insists that: “Either Personhood-At-Conception opponents of abortion must radically change their political and medical priorities, or else they must accept that they do not accord fetuses the status of persons from the moment of conception” (2017: 1217-1218).[[5]](#endnote-5) The pro-life movement’s acceptance of rather minimal miscarriage prevention research has been interpreted as showing that despite the lip service pro-lifers offer about the elevated moral status of embryos, they are, deep down, not committed to them having the moral status comparable to that of the born which would protect them from abortion or embryo destroying stem cell acquisition. Ord concludes his paper about the attitudes to miscarriage that they “suggest that even now, few people really believe that that full moral status begins at conception” (2008:19). Berg ends her paper with the sentence “Arguments that abortion is wrong because fetuses are persons from the moment of conception turn out to be arguments that even Personhood-At-Conception opponents of abortion may not accept” (2017, 1225).

I will suggest in this section a number of responses by which pro-lifers can, without devaluing embryos, explain why they do not seek to fund the prevention of miscarriage research to the extent that they finance research into preventing the death. (1) It may be claimed that the miscarried are chromosomally so abnormal that they are not human. (2) Even if these chromosomally abnormal embryos are human, they might not have lives worth living. (3) Most significantly, it may be that the miscarriage prevention protocol brings into existence a healthy embryo that is distinct from the embryo that would have miscarried. Since miscarriage prevention will produce healthy embryos that are not identical to those who would have not survived gestation, they differ from therapies for diseases that cure those already suffering from the disease. (4) Another possibility is that preventing miscarriages, unlike cures for other diseases, places great burdens primarily on individuals other than those saved. (5) Moreover, many women who don’t want to become pregnant would not voluntarily undertake a miscarriage prevention protocol. Pro-lifers may realize that such women will not make use of embryo prevention treatments. (6) Christian pro-lifers may not undergo such miscarriage prevention treatments involving in vitro fertilization because it violates their religious beliefs about reproducing sexually.

The considerations just broached all suggest that pro-lifers need not be inconsistent when they claim the equivalent moral status of the born and unborn does not require comparable efforts to prevent their deaths. Nevertheless, I will argue that pro-lifers should still support increases in spending directed towards *specific* types of miscarriage prevention without this suggesting that the reasons for their not having done so in the past are to be explained by their not really believing the unborn have the value of the born. I will speculate that there are features of early embryos that do not indicate their having lower moral status but which distort responses, even of pro-lifers, to their plight. I suspect that it is because early miscarriages tend to occur before a woman knows that she is pregnant or she and her partner have become very involved in the life briefly growing within her. Consequently, the extent of the embryo’s deprivation is not as vividly imagined and thus does not elicit as passionate response as the death of older children. I will conclude Part II by hypothesizing that if we instead imagine miscarriages occurring late in a pregnancy resulting always in stillbirths, there would be a call to dramatically reprioritize research funds to prevent miscarriages.

*Chromosomally Aberrant Non-Humans*

One response that Robert George, Alfonso Gomez-Lobo, and Patrick Lee[[6]](#endnote-6) are fond of providing to account for attitudes towards miscarriages being different than those towards abortion is that many miscarriages may not be deaths of *human beings* despite the deceased having human parents. They are not human beings because they are so chromosomally deficient that they lack the genes and epigenetic factors that render an individual a human person. Their genetic flaws lead to their miscarrying. These unsustainable creatures are no more human beings than are – Hydatidiform moles. So, money spent on preventing miscarriages wouldn’t save any human beings who otherwise would have miscarried but instead will produce results that would transform and replace those creatures with human beings. Instead of there existing non–human embryos, researchers would be creating numerically distinct healthy human beings. This is especially likely to be the case if readers believe that we are essentially rational substances as do neo-Aristotelians. Any embryo that lacks the genetic basis to become rational in the species normal environment would not be a human being and so what looks like providing it with missing genes is actually bringing about substantial change.[[7]](#endnote-7)

*Merciful Deaths*

Lee, George, and Gomez-Lobo may be overestimating the number of miscarriages that involve non-human embryos. However, if the miscarried are abnormal but human, there may be a worry that many will have brief lives that are not worth living due to the immense pain or absence of mental life. Even pro-lifers who value the disabled, will admit that for some lives involving intolerable suffering or permanent unconsciousness that death is a welcome release. So, they may not be eager for research that keeps the miscarried alive only long enough to have mindless or anguished lives.

Nevertheless, there are probably still many uncontroversial *human* embryos that die but would have had lives worth living; so the challenge remains for pro-lifers to justify reprioritize funding to prevent miscarriage in a way that is consistent with their belief that the unborn have equal moral status to the born.[[8]](#endnote-8)

*Replacing Pathological Embryos with Healthy Embryos*

I suspect that what might become more common than non-human embryos miscarrying is that any cure for such miscarriages will bring a *different* human being into existence. The idea is that if you change too much of the matter that is crucial to an egg, sperm or early embryo’s makeup, the result is a different embryo than would otherwise have existed if you didn’t modify the composition of the egg, sperm or early embryo (Kripke: 1972, 112-115). Those who accept the essentiality of origins typically maintain that we could not have come into existence with very different matter though we can *later* undergo complete but gradual turnover in our matter.[[9]](#endnote-9) So the scourge of miscarriage is the death of many human beings, but the “cure” would be the creation of many numerically different human beings. There is nothing comparable true of abortion or deaths of the born.

Just consider what might be involved with preventing miscarriages. There will likely be the scheduling of a doctor’s visit prior to becoming pregnant. A regimen of prenatal vitamins will be recommended before conceiving. The woman will be urged to get closer to an ideal weight, the weight gain or loss delaying conception. There could be a battery of tests on women and men before they conceive. “Chronic medical disorders including diabetes, hypothyroidism, hypertension, and autoimmune illnesses need to be addressed and well-controlled prior to pregnancy" (Venngrow). All of these miscarriage-prevention measures will change conception times. Perhaps some women and men will be instructed to avoid conceiving with each other and instead to mate with others who are reproductively compatible. This may involve gamete donation and IVF, not swinging and swapping. If that form of prevention of miscarriage is not an option, perhaps the medical lesson will be that they should conceive at a certain time. It might also involve a *particular* egg and *particular* sperm being introduced by high tech matchmakers *in vitro* whom otherwise would not have coupled. Likewise, gamete removals and tests and surgeries or treatments on sperm and eggs will change the dates and the identities of those otherwise conceived (Parfit: 1984, 352-379). Many other aspects of the diagnostic tests and therapeutic procedures will change who reproduces with whom and when and with what gametes. Of course, major genetic interventions will replace one gamete with a similar but distinct one. So, the world with many fewer miscarriages will be a world in which different children are conceived. That again will distinguish the alleged harm of miscarriage from the harm of abortion and the deaths of the born. The miscarried would not exist in the world with the cure, rather than survive to term. The aborted and the born who die from disease, on the other hand, would exist in a world where their deaths were avoided.[[10]](#endnote-10)

Ord mentions sperm sorting as a way to prevent the chromosomal defects in the first place” (2008, 16). Ord is right that this will prevent many miscarriages but he doesn’t consider that those who would have died without the cure are not as a result alive but instead never existed. Ergo, the short lives of those who die from miscarriages must be compared to their never existing. The prospect of not existing compared to a short, miscarried life show that the latter didn’t harm them. The only currently available alternative to conceiving and miscarrying is not conceiving at all. Therefore, the miscarried aren’t rendered worse off than the alternative.[[11]](#endnote-11) Abortion, on the other hand, involves shortening an already existing life that typically would have gone on much longer. We can compare the well-being of the brief life of the embryo that is aborted with the well-being that it would have possessed if not terminated. That can render the deliberate termination a great harm, unlike the spontaneous abortion.[[12]](#endnote-12)

*Immoral Prevention of Miscarriages*

Moreover, Berg and Ord don’t consider that Catholics and some other religious pro-lifers will be wary that some miscarriage prevention involves violating duties to only reproduce sexually (not through in vitro fertilization) with a spouse. Reproducing outside of the conjugal act will be considered sinful. It would not be surprising if pro-lifers suspected that this is the direction that miscarriage prevention would take. Therefore, their unwillingness to call for such research to be funded does not belie their claim that embryos and born humans have comparable moral status.

*Saving the Ill by Burdening the Healthy*

Perhaps some pro-lifers who don’t demand massive reprioritization of research funds are motivated by a recognition that their prevention of miscarriages differs from preventing other diseases in that in the former case, the burdens of undergoing treatment are mostly not placed upon the person saved. The remedy for a life-threatening condition like heart disease may involve those at risk undergoing invasive procedures and changing their diet and lifestyle in drastic and unpleasant ways. Those who are burdened are also those who benefit from the remedy. The burdens involved in preventing miscarriage fall on the women who must undergo whatever impositions are required to prevent them – exams, pills, bills, doctor visits, partner replacements, lifestyle changes etc., while the benefits are primarily reaped by the one saved from miscarriage**.** It is revealing to compare miscarriage prevention with real and hypothetical cancer treatments. Imagine if the cure for a new type of cancer that afflicts me requires that you undergo painful chemotherapy or radiation treatments. (Perhaps your body will then produce the cure for the cancer in me.) Research into such a cure would not be greatly funded even if it was a real scientific possibility rather than a philosopher’s bizarre thought experiment. Cures to prevent miscarriages will burden women to save someone else both before conception and then afterwards as they continue to support them, yet such woman may not want to become pregnant or remain pregnant.

*Forcing Women to Save Embryos*

Pro-lifers may not be calling for more research funds to battle miscarriages since they know that many women won’t voluntarily use those biotechnologies and they would be reluctant to force them to. Pro-lifers are likely aware that many women don’t want to become pregnant and thus will not take a miscarriage prevention pill or undergo any other miscarriage prevention protocol. Most of those who don’t want to bec**o**me pregnant and would subsequently abort would likely prefer to miscarry. Even some of those who don’t want to become pregnant, but would not abort if they unintentionally become pregnant, would welcome miscarriage as it doesn’t involve them intentionally killing the innocent as does abortion. They, too, would be reluctant to undergo any miscarriage treatments. So, the numbers of miscarriages that would be prevented by the research Ord and Berg believe that pro-lifers are committed to sponsoring, would likely prevent far fewer embryo deaths than they anticipate when levelling their charges of inconsistency.

Of course, pro-lifers are urging that considerable burdens be put on women when they call for making abortion illegal. But pro-lifers are more willing to compel women to undergo such impositions and discomforts to avoid killing fetuses than to avoid letting fetuses die. It is, all else being equal, morally worse to kill than fail to save. Demanding women burden themselves before they become pregnant so they don’t miscarry puts even more burdens on them to prevent miscarriage than to avoid abortion. That is because not only will they have to make efforts preconception to avoid miscarriage, but they then must support the fetus for nine months. So avoiding miscarriages does not just involve preconception doctor office visits and procedures - some invasive, others perhaps just pill taking - but subsequently nine months of gestation. This is a huge burden to avoid *letting someone die*. If women didn’t engage in the preconception miscarriage prevention, they would later be able to avoid most of the unwanted nine months of gestation without having to kill their fetuses as they would instead miscarry. Thus, the miscarriage prevention efforts that keep women from allowing their fetuses to die, means that they must then later provide months of more lifesaving support that would have been avoided by early miscarriages. It is difficult enough for pro-lifers to defend nine months of just post-conception burdens to avoid *killing* someone, it is far more problematic to defend similar periods of burdens to avoid letting someone die.

Nevertheless, I don’t believe that the six explanations considered so far can fully explain the actions – or inactions – of pro-lifers in regards to miscarriage prevention. I suspect that some pro-lifers, like many pro-choicers, might unwittingly allow morally irrelevant features to distort their judgments about early miscarriages. Those distortional factors could explain the lack of a public relations battle demanding an all-out war on fighting the scourge of miscarriage. Keep in mind that many abortion opponents - who are unaware of the metaphysical reasons given above - have not called for transferring of research funds to miscarriage prevention research. Perhaps they had some awareness of the above metaphysical considerations about non-identity problems. Maybe they appreciate that miscarriage prevention is different from preventing other scourges in that the burdens of a cure are imposed upon pregnant women, many who don’t want to be pregnant, and not the embryonic patient that is cured. But I doubt that can fully explain the fact that many pro-life lay people haven’t called for funding to end the scourge. Why aren’t pro-lifers demanding massive amounts of money being redirected to research that will save the embryos of women who want to gestate their embryos? If it is claimed that many pro-lifers are unaware of the numbers of miscarriages then the question becomes (i) why do those pro-lifers *in the know* not call for reprioritization and (ii) would lay people call for transferring such research funds from other diseases or projects once they become aware of the number of miscarriages? I suspect the answer to the second question is “no.”[[13]](#endnote-13)

 Most miscarriages occur earlier than most deliberate abortions. Scientists have theorized that the majority of women who miscarry do so without knowing that they are pregnant. Since parents don’t emotionally involve themselves with the prospects of such very young embryos, they may wrongly fail to extend their own beliefs about moral status to them. Their lack of grief might tell us less about the moral status of the deceased and more about the limits of the imaginations and affections of the living. David Oderberg (2002, 19) suggests attitudes and practices would be very different if women had “transparent stomachs with magnifying windows”.[[14]](#endnote-14) If the pregnant women could see the week old embryo, they may concern themselves with their child’s prospects and mourn such offspring as much as they mourn a stillborn or infant death.

Keep in mind that viable late term fetuses are more developed than younger premature newborns. So, it is very unlikely that any pro-lifer will believe that a newborn has a moral status that the unborn lack. Moreover, even full-term newborns that are unconscious or mentally impaired will not differ mentally from mindless embryos so it is hard to see why they would differ in moral status[[15]](#endnote-15) Thus, if newborns can’t be distinguished from embryos and fetuses in terms of moral status, then the deaths of fetuses and embryo deaths that would have had lives worth living should be prevented with the same resources that we provide to prevent the deaths of newborns with lives worth living. (I’m assuming that we aren’t preventing stillborns for the sake of the parents.) If newborns were dying at rates that embryos were, then I suspect that there would be a massive transfer of funding. If we imagine miscarriages occurring not with young embryos but always very late in the third term of a pregnancy resulting in stillbirths, 225 million a year, then there would be a massive investment in preventing such deaths. Since pro-lifers won’t believe that newborns about to die have a greater moral status than fetuses about to die right before delivery, they should, and likely would, advocate funding should change dramatically if moral status is the main consideration.

I don’t think it will be as great a reprioritization as if there was a new epidemic of comparable size with deaths that were slow and painful like cancer. The prolonged horror of some deaths makes eradicating them a greater priority than the painless deaths of those like mindless embryos. Matters are also complicated by our being apparently closer to a cure for some diseases than others. Moreover, the age of the dying will be significant, as fighting diseases of the very old won’t seem as pressing as preventing the greater deprivations of the young. That said, if miscarriages can be prevented by interventions (likely post-conception) that don’t replace those likely to miscarry with numerically distinct healthy individual, if they don’t violate ethical considerations about conjugal relations, and are to be voluntary undertaken, then considerable research reprioritization would be justified. All deaths of people of equal moral status aren’t equally bad, nor is it equally urgent to prevent them all. Nevertheless, all other things being equal, pro-lifers should and would likely call for a major reprioritization of funding to prevent miscarriages. Their doing so would rebut the Berg/Ord charge of inconsistency.

**Conclusion**

I have argued that far more should be done to prevent miscarriages, assuming that those embryos who would have miscarried in a world without such research would exist in a world with successful miscarriage research. Some pro-lifers have already called for this expanded research but have been ignored. I suspect that other pro-lifers haven’t made such demands because they don’t concern themselves with the interests of embryos just a few days or weeks old. Ergo, we shouldn’t take their present failure to call for reprioritization as evidence that, deep down, they think that the unborn lack the moral status of the born. Nor should we draw that lesson from their reaction to embryo rescue cases. Triage considerations may be a better explanation for why a choice would be made to save baby on the clinic floor rather than a frozen embryo. Render the baby as unlikely to recover from the smoke and receive the support the embryo needs, and it becomes much more plausible to endorse the claim that pro-lifers believe what they say they believe about the moral status of embryos.[[16]](#endnote-16)

Philosophy Department

Romanell Center for Clinical Ethics and the Philosophy of Medicine

University at Buffalo

1. By “impartial” is meant that every moral agent has a reason to treat the being in specific ways. [↑](#endnote-ref-1)
2. I understand by intrinsic value the value that the individual has in herself, rather than for others. Her intrinsic value doesn’t depend upon the concerns of others - or even her own interest in herself. It is value she has independently of whether anyone cares about her, appreciates her, desires her happiness and so forth. [↑](#endnote-ref-2)
3. According to my own metaphysic, which may be implicitly shared by others, the frozen are neither alive nor dead (Gilmore). They are not alive because they are not metabolizing. But they aren’t dead because they can metabolize again if just like their normal environment is added. I find the interests and the moral status of those being that are neither dead nor alive to be perplexing. If readers implicitly or explicitly shared my metaphysical assumptions and were likewise unsure about the moral status of those who are now neither dead nor alive, then this can be distorting their responses to embryo rescue cases and the lessons of moral status that can be extended to living embryos. [↑](#endnote-ref-3)
4. Ord states that excluding miscarriage, 56 million people die each year. Miscarriages take the lives of over 220 million people every year. Miscarriages are responsible for more than three quarters of all deaths each year. It lowers the average life span in the developed world from 78 to 29. Curing just 5% of those afflicted by the scourge would prevent more deaths each year than cancer causes. More human beings die each year from the scourge than died throughout World War II (60 million deaths). [↑](#endnote-ref-4)
5. Ord makes a similar claim about a dilemma between abandoning the claim of the full moral status of the embryo that is used against abortion, IVF, and embryo destroying stem cell acquisition or calling for a transfer of massive medical resources away from other diseases in order to prevent miscarriages (2007, 12). [↑](#endnote-ref-5)
6. (George and Lee 2005) *New Atlantis*  <http://www.thenewatlantis.com/publications/acorns-and-embryos> and elsewhere. See also George and Gomez-Lobo (2005). [↑](#endnote-ref-6)
7. This is an analogue of the Neo-Aristotelian who charge that enhancing Tooley’s kitten (1972, 60-63) with a serum that can transform it into a person is really replacing the kitten with a distinct person. Since I don’t ascribe to a hylomorphic metaphysic that construes us as essentially *rational* animals and so I can’t help myself to this position. [↑](#endnote-ref-7)
8. Ord cites estimates of chromosomal defects causing 30%-60% of miscarriages. (Ord: 2008, 17). That would mean 90-150 million non-chromosomal caused miscarriage deaths per year. [↑](#endnote-ref-8)
9. McMahan (1998, 209-214) even speculated that those with Down’s syndrome couldn’t have been born or existed without it. So he should be sympathetic to the notion that “cures” for miscarriage will actually be replacements. [↑](#endnote-ref-9)
10. It shouldn’t be thought that the aborted would not have existed, however briefly, if not for past abortion laws and practices altering the reproductive history that led to them being conceived and aborted, so abortion doesn’t harm them. It doesn’t matter that legally permitting or restricting abortion in the near future will change the makeup of future generations. Once someone exists in utero, abortion makes them worse off than they would have been with that act. So while they wouldn’t exist to be aborted if there were different abortion practices years earlier, they are still harmed when aborted. [↑](#endnote-ref-10)
11. Some pro-lifers try to conceive despite knowing that a miscarriage is very likely as they have a personal history of miscarriages. The willingness of pro-lifers to risk conceiving and miscarrying has been interpreted as showing that they don’t really believe that actions that bring about the death of early fetuses are great wrongs. This interpretation presumes that the harm of the deaths of embryos in abortion and miscarriage are both great and equal. And so if it is wrong to inflict such a harm via abortion, it should likewise be wrong to create an embryo that one knows will likely miscarry**.** Both scenarios seem to make one complicit in actions that one foresees will bring death and harm to valuable embryos. Thus, it has been argued that they ought to accept that embryos that die due to IVF procedures, stem cell research, and abortion are at least as ethical as natural reproduction (Harris: 2003, 360). If pro-lifers do wish to claim that abortion is a great harm and wrong, then they must deny themselves the opportunity to reap the benefits of having children given that miscarriage is extremely likely. However, risking miscarriage by trying to get pregnant may not involve a harm at all to the conceived that soon afterwards miscarry. (Of course, the distress of parents when am embryo dies may provide motivation to redirect some funds even if the results of successful research will avoid embryo deaths only by producing different embryos.) [↑](#endnote-ref-11)
12. Defenders of non-comparative accounts of harm (Shiffrin: 1999 Harman: 2009) claim that harm doesn’t involve counterfactual comparisons and so it can be a harm to die even if the alternative was not a longer life but non-existence. However plausible non-comparative account of harm is when someone is undergoing intrinsic evils, it does not fare well with accounting for the harm of death. Being dead doesn’t involve any intrinsic bads and so its harm can only be accounted for comparatively (Bradley: 2012, 398-401; Feit: 2015, 369). Nor can the non-comparative account explain the harm that occurs when one ceases to possess a good at the level one did earlier. The comparative counterfactual account points to the difference in well-being the level of a good while the non-comparative account can’t recognize a harm as the good in question is still possessed. [↑](#endnote-ref-12)
13. Some pro-lifers might claim that the right contrast may be not defunding the fight against other diseases but using other funds to fight miscarriage. Defunding other diseases is only relevant if that is the only option. Nevertheless, Ord and Berg may be content with the hypothetical where that is the only source of funds to be transferred to miscarriage prevention research as that might reveal the unhealthy unborn have less moral status than the unhealthy born. [↑](#endnote-ref-13)
14. He was talking about twinning bringing the death of the original embryo but the lesson is the same as that of miscarriage. [↑](#endnote-ref-14)
15. I think even abortion proponents should agree with an abortion defender like McMahan that there aren’t morally significant attributes that even healthy newborn possess that are lacking in embryos (2002, 2007, 2013). Any differences between the unborn and newborn (Rini: 2015, 356; Bermudez: 1996) are found also in minimally minded non-human animals without moral status approaching our own [↑](#endnote-ref-15)
16. I would like to thank Phil Reed, Rose Hershenov, audiences at Romanell Center and University Faculty for Life workshops, and especially a pair of extraordinarily helpful referees who went far beyond the call of duty.

**Bibliography**

Annas, George. (1989). ‘A French Homunculus in a Tennessee Court.’ *Hastings Center Report*. 19:6,

20-22.

Berg, Amy. (2017). ‘Abortion and Miscarriage.’ *Philosophical Studies* 174: 5: 1217-1226.

Bermudez, Jose. (1996). ‘The Moral Significance of Birth. *Ethics.* 106: 2, 378–403.

Bradley, Ben. (2012). ‘Doing Away with Harm.’ *Philosophy and Phenomenological Research*. 85: 2, 390-412.

Feit, Neil. (2015). ‘Plural Harm.’ *Philosophy and Phenomenological Research.* 90: 2:361-388.

Feit, Neil. (2016). ‘Comparisons of Harm, Creation, and Death.’ *Utilitas.* 28:2, 136-163.

George, R and Tollefsen, C. (2012). *Embryo: A Defense of Human Life*. 2nd ed. (Washington:

Witherspoon Institute)

George, Robert. and Tollefsen, Christopher. (2017). ‘Embryo and Five Year Olds: Whom to

Rescue?,’ *Publish Discourse* http://www.thepublicdiscourse.com/2017/10/20332

George, Robert. and Lee, Patrick. (2004-2005) ‘Acorns and Embryos.’ *New Atlantis*  7: 90-100

<http://www.thenewatlantis.com/publications/acorns-and-embryos>

George, R, and Gomez-Lobo, A. (2005). ‘The Moral Status of the Human Embryo’, *Perspectives in*

*Biology and Medicine.* 48:2 201-210.

Gilmore, C. (2013). ‘When Do Things Die?’ *The Handbook of Death*. Eds. B. Bradley, J.

Johannsen, and F. Feldman. (New York: Oxford University Press.) 5-59.

Greasley, Kate. (2017), *Arguments about Abortion, Personhood and Morality,* (Oxford: Oxford University

Press.

Greasley, Kate and Kaczor, Christopher. (2018). *Abortion Rights: For and Against,* (Cambridge:

Cambridge University Press.)

Harman, Elizabeth. (2009). ‘Harming as Causing Harm,’ in Roberts and Wasserman (eds.), *Harming*

*Future Persons: Ethics, Genetics, and the Nonidentity Problem,* (Heidelberg: Springer) 137-54.

Harris, James. (2003). ‘Stem Cells, Sex, and Procreation.’ *Cambridge Quarterly of Healthcare Ethics*. 12:4,

353-371.

Jaworska, Agnieszka and Tannenbaum, Julia. (2018) ‘The Grounds of Moral Status’ *Stanford*

*Encyclopedia of Philosophy.* https://plato.stanford.edu/entries/grounds-moral-status/

Kaczor, Christopher. (2011). *The Ethics of Abortion: Women’s Rights, Human Life, and the Question of*

*Justice.* (New York: Routledge Press.)

Kripke, Saul. (1972). *Naming and Necessity. (*New York: Oxford University Press.)

Liao, Matthew. (2006). ‘The Embryo Rescue Case’, *Theoretical Medicine and Bioethics.* 27:2, 141-147

McMahan, Jeff. (1998). ‘Wrongful Life: Paradoxes in the Morality of Causing People to Exist’ in

Jules Coleman and Christopher Morris, eds., *Rational Commitment and Social Justice: Essays for Gregory Kavka* Cambridge: Cambridge University Press, 208-247.

McMahan, Jeff. (2002). *The Ethics of Killing: Problems at the Margins of Life*. (New York: Oxford

University Press)

McMahan, Jeff. (2007). ‘Infanticide.’ *Utilitas*. 19:2, 1-29.

McMahan, Jeff. (2013). ‘Infanticide and Moral Consistency.’ *Journal of Medical Ethics.* 39. 273-280.

Napier, Stephen. (2010). ‘Vulnerable Embryos: A Critical Analysis of Twinning, Rescue, and Natural

Loss*.’ American Catholic Philosophical Quarterly.* 84:4 783-812.

Ord. Tony. (2008) ‘The Scourge: Moral Implications of Natural Embryo Loss.’ *American Journal of*

*Bioethics*. 8:7, 12-19.

Oderberg, David. (2000). *Applied Ethics: A Non-Consequentialist Approach.* (Oxford: Blackwell).

Parfit, Derek. (1983). *Reasons and Persons.* (Oxford: Oxford University Press).

Rini, Regina. (2015). ‘Of Course, the Baby Should Live. Against After-Birth Abortion’ *Journal of*

*Medical Ethics.* 39 353-56.

Sandel, Michael. (2005). ‘Ethical Perspectives in Human Cloning.’ *Perspectives in Biology and*

*Medicine*. 48: 2, 241-247

Shiffrin, Seana. (1999). ‘Wrongful Life, Procreative Responsibility, and the Significance of Harm’.

*Legal Theory* 5: 117-148.

Thomson, Judy. (1971). ‘A Defense of Abortion.’ *Philosophy and Public Affairs.* 1:1, 47-66.

Tooley, Michael. (1972.) ‘If Abortion then Infanticide.’ *Philosophy and Public Affairs.* 2:1, 37-6.5

Venngrow, Bonnie Gibbs. ‘How to Prevent Miscarriage: Is there Anything you can do?’ <https://www.parents.com/pregnancy/complications/miscarriage/preventing-miscarriage-is-there-anything-you-can-do/> accessed January 22, 2020. [↑](#endnote-ref-16)