**“If the Fetus is a Part of the Mother, then Three Popular Abortion Defenses**

**Fail on Purely Conceptual Grounds”**

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**Abstract**

Some abortion defenders claim the fetus is a part of the pregnant woman’s body. Abortion opponents often respond that the fetus isn’t a maternal part by stressing any or all of the following: differences in fetal and maternal DNA; the fetus doesn’t function like a maternal body part contributing to the mother’s survival; the fetus’s developmental telos is towards independence from the mother; the fetus’s relation to the mother is that of tenant to niche, not part to whole; the fetus is a substance (a human being) and one substance can’t be a part of another substance. Drawing upon Elselijn Kingma’s work, I’ll respond that these provide little reason to doubt the claim that the fetus is a maternal part. Nevertheless, somewhat ironically, the fetal parthood thesis dooms the following three popular defenses of abortion: fetuses can be terminated on the grounds that they violate their mothers’ bodily integrity; fetuses can be killed as they are trespassing on their mothers’ bodies; fetuses can be aborted because pregnant women have a right to self-defense. These three defenses fail on merely conceptual grounds as bodily parts can’t trespass upon their whole, nor can they violate the integrity of that whole, nor are they legitimate targets of a right to self-defense as they are not external to the self.

 **Introduction**

Some defenders of abortion claim that the fetus is merely a part of the pregnant woman’s body. Pro-lifers often respond that fetuses are not parts of their mothers but independent organisms. The Pro-life worry may be that if the fetus is a mere part of the pregnant woman then she will have a right to dispose of it as she sees fit, just as she can remove at her whim other “clumps of cells” that are unwanted parts of her.[[1]](#footnote-1) Pro-lifers may try to deny that the fetus is a maternal part by claiming that the fetus 1) has its own DNA that is distinct from that of the mother; 2) its developmental telos is towards separation and independence from the mother; 3) its function is not to contribute to the survival of the mother which makes it unlike genuine maternal body parts such as the mother’s heart, liver, lungs etc.; 4) its relation to the mother is not that of a part to a whole but rather than of an occupant to a niche, analogous to that between the reader and her office; 5) it is a substance (a human being) and a substance cannot be a part of another substance (such as a human being).

I will suggest that none of these considerations provide a reason to believe that the fetus is not a part of the mother. 1) Differences in DNA don’t distinguish maternal parts from fetal organisms as a mother could be gestating her own genetically identical clone. 2) Parts of an organism can be temporary such as placenta, sperm, baby teeth, hair, etc. 3) Body parts don’t have to facilitate life processes as evidenced by sexual organs and breasts whose role is to contribute to reproduction rather than survival. 4) The fetus is attached to the mother in a manner similar to the how the stalk of many of her other organs are attached. 5) Human beings (and atoms and kidneys) don’t pop into and out of existence when they become or cease to be independent of other substances. That said, I’m not so concerned with defending the fetal parthood thesis, but more interested in showing that if it’s true, then it dooms three popular defenses of abortion on merely conceptual grounds. One doesn’t even have to do any moral heavy lifting and defend premises about the dignity of the fetus, the impermissibility of intentionally killing the innocent, a duty to prevent the greater of two harms and so on.

The first of the three doomed defenses is that abortion can no longer be supported on the basis of the fetus violating the bodily integrity of the pregnant woman. If the fetus is a part of the mother, then it can’t violate her bodily integrity. Only something that is not a part of her body can violate her bodily integrity. So a right to bodily integrity cannot any longer be relied upon as a ground for justifying abortion.

The second abortion defense that fetal parthood will render inapplicable requires the fetus to be a trespasser. The idea is that the fetus is a trespasser who, though innocent, has no right to be in the woman’s body. However, one can’t trespass upon oneself. Thus it can’t be claimed that the fetus - if literally part of the mother’s body - is a trespasser who violates the pregnant woman’s property-like rights over her body.

A third claim that can no longer be advanced to justify abortion is that the fetus is an innocent threat that can be killed in self-defense. The problem is that self-defense is not defense against one’s self (or parts of oneself). So while people may have rights against innocent threats external to them, they can’t defend the fatal elimination of their own fetal parts upon such grounds.[[2]](#footnote-2) Attacking oneself is not self-defense, it is self-mutilation.

 **Part I – Family Ties**

**The Fetal Container Model**

Elselijn Kingma believes the received view is that “the fetus is not part of, but merely contained within or surrounded by the gestating organism.” [[3]](#footnote-3) She calls this the fetal container model.[[4]](#footnote-4) She doesn’t believe that there are good arguments for the view that the fetus is not a part of the mother. I suspect that she is right. I will respond in reverse order to the five before-mentioned defenses of the fetal container view.

Human babies are construed as substances whose substantial nature excludes them from having earlier been maternal parts. The background assumptions seem to be that parts can’t survive removal from a substance and substances can’t be parts of other substances.[[5]](#footnote-5) If that were true and fetuses exist before and after their births, then they couldn’t be maternal parts. I am not sympathetic to the view that there can’t be substances that are parts of other substances. Nor am I sympathetic to the claim that substantial change must occur when substances that were independent appear to become parts or some things that were parts appear later not to be. I take the appearances as true – independent substances can become parts without going out of existence and things that are parts can persist through their becoming independent. For example, I don’t think atoms go out of existence when they enter our bodies and become parts of us nor do they pop back into existence (nor does a duplicate emerge) when their matter exits our bodies. At most, certain of their properties are masked by parthood. Furthermore, a donated kidney is not a different entity when it removed and “on ice” awaiting transplant, nor does substantial change occur again when the kidney is transplanted.

If readers are not convinced, then I will be forced to make it personal. I would just ask such readers to imagine a sci-fi scenario where they are swallowed by an alien leviathan in order to play some parthood role in the creature’s digestive tract, perhaps akin to bacteria in our digestive tract. Assume your body is kept intact and functioning and conscious in the alien’s gut and so meets any plausible criterion for being alive. It is hard to believe that you popped out of existence when your body became a (virtual) part and then would pop back into existence (or a duplicate would emerge) when the heroic rescue team cuts open the monster and removes the living creature that resembles you and seems to recall your life.

So much for the view that fetuses are substances and substances can’t be parts. Incidentally, if substances must be independent from other substances, conjoined twins would not be individual human substances who could survive being separated from one another. They would instead be non-substantial beings when attached to each other and then when severed they would actually be “replaced” by new and independent human substances

Smith and Brogaard argue that the fetus’s relation to the mother is not that of a part to a whole but a tenant to a niche, analogous to that between the reader and her office (2003). Unlike wall beams and floor tiles, the reader is not attached to her office, thus she and her office aren’t in a part/whole relationship. Smith and Brogaard claim that tenants in a niche can 1) move in and out on the niche, 2) do not have parts in common with the niche and 3) lack a common boundary with the niche. They insist that the fetus has a *bona fide* *boundary* rather than a *fiat* *boundary* distinguishing it from its mother. A fiat boundary is illustrated by the boundary between your arm and shoulder or between your office and the hallway when the office door is open.[[6]](#footnote-6) A bona fide boundary is marked by a physical discontinuity like that between a fish and its aquarium or your office and the hallway when the door is closed. Just as the fish is not a part of the aquarium, the fetus is not part of its mother. Smith and Brogaard summarize their view: “If the foster (fetus) is connected to the mother – if, in other words the boundary between the foster (fetus) and the mother is a matter of fiat and not bona fide boundaries – then the foster (fetus) cannot be stand to the mother in the tenant-niche relationship” (2003, 73).

Surprisingly, Kingma shows that on Smith and Brogaard’s own criteria the fetus is best construed as a part of its mother. The fetus cannot move in and out of the mother like an astronaut in a space ship. Once the fetus departs, it can’t return. The newborn’s lungs and kidneys are active and it can no longer obtain food, oxygen, and remove wastes through the placenta. The fetus’s departure is a bloody mess because the fetus shared a topographical boundary with the mother. Women sometimes die from the tearing away of the placenta. The boundary between the mother and her fetus thus seems to be a fiat boundary and quite unlike that of the fish in the aquarium. Consider the two most plausible candidates for the boundary – the umbilical cord and the placenta. The boundary between the entity gestated and the being doing the gestating couldn’t lie at the umbilical cord for it is connected to the fetus like a tail is to a cat. The cord is attached to the fetus much in the same way that your heart, lungs and kidneys are attached to other parts of your body. Nor can the boundary be at the placenta which is perfused by both fetal and maternal blood supplies, connected to the fetus by the umbilical cord and grows directly into or out of the uterine wall.[[7]](#footnote-7) So the criteria of topological connections and the inability to move in and out of the mother actually favors fetal parthood rather than the tenant-niche relationship.

It may be argued that the fetus lacks the characteristic function of organism parts in that it doesn’t contribute to the survival of the mother. Fetal health and maternal health can even be at odds. That makes fetuses unlike genuine body parts such as the mother’s heart, liver, lungs, veins, intestines etc. The entities on the latter list are functioning properly when they enable the mother to stay alive. But sex organs and breasts don’t contribute to vital life processes. They serve biological goals of reproduction. Breasts produce milk that enable offspring to survive but don’t contribute to sustaining the life of the nursing mother as do her heart and lungs. Likewise for parts that produce, store, and protect gametes or serve to attract mates. Nevertheless, few would deny their status as body parts.

It is true that fetuses have a developmental telos that is towards separation and independence from the mother. But many parts are designed to leave our bodies. Consider baby teeth and placenta. Our bodies remove many parts when they have been “used up.” Some parts like sperm will even have functions apart from our bodies. If readers still insist that the fetus is different and isn’t a part because it leaves the mother’s body and continues to develop, unlike sperm, my response to this desperate pursuit of difference is to imagine gametes capable of parthenogenesis. It is hard to believe that some gametes are parts and some are not.[[8]](#footnote-8)

Pro-lifers may try to deny that the fetus is a maternal part by claiming that the fetus has its own DNA that is distinct from that of the mother. That is problematic as you can have parts that have different DNA due to mutations or transplanted organs or transfused blood that have been integrated into your life.[[9]](#footnote-9) So different DNA is not sufficient to be a tenant rather than a part and thus doesn’t support the fetal container claim. Nor is different DNA necessary for the fetal container relationship to obtain because we can always imagine a woman carrying her own clone with identical DNA. I very much doubt that defenders of the fetal container view are going to make exceptions and claim only that cloned fetuses are parts of their mothers. So genetic differences can’t explain why such a fetus is not a part of the mother.

**Part II –The Conditional Failure of Three Abortion Defenses**

**Bodily Integrity**

Applying the language of bodily integrity law, specifically battery law…. The resultant forced pregnancy is a significantly deep intrusion, more in line with a severe beating than a slap on the buttocks. The intrusion of pregnancy physically "touches" countless organs and appendages of the woman, inside and out.”… When viewed together, the preceding areas of law add up to a powerful right of bodily integrity. The assault and battery line of cases provide interesting lessons on what constitutes the "touching" in a physical intrusion. Touching may range from internal poisoning to a slap on the buttocks to a laceration, set in motion or caused directly by the actor. In every case, however, the harm from the intrusion always includes physical harm to the person, not solely psychological harm or harm to property.” (Neff: 1990) [[10]](#footnote-10)

The problem for such an approach is that if the fetus is a part of the woman’s body, then it makes absolutely no sense to defend abortion on the basis of protecting the woman’s bodily integrity against an intruder that interferes with the operations of her body. It is thus false to say as McMahan does that a pregnancy that is “unwanted can plausibly be regarded as a form of *bodily invasion*….Another individual’s entire body becomes lodged within the pregnant woman’s body and draws sustenance from it.” Likewise, Chrystine Neff is wrong to write that the pregnant “woman always will be the source of nutrients, oxygen, and waste disposal for the *parasitic* embryo.” One’s own fetus, if a part of the mother’s body, can’t be an intruder or parasite. If violations of bodily integrity are made by intruders, then pregnancy can’t be a violation of bodily integrity.

Moreover, one can’t preserve an entity’s bodily integrity by removing parts of it. Nothing could be further from the truth and little should be more obvious once the fetus is granted parthood status. It is not conceptually possible to protect someone’s bodily integrity by destroying a part of their body![[11]](#footnote-11) Bodily integrity, taken literally, has to do with the integration of the body’s parts, their harmonious working together. So to violate bodily integration is to interfere with the functioning of those parts. The paradigmatic cases of the violation of bodily integrity involving fists, knives, bullets, poisons, and surgical tools consists of interference that takes the form of damaging body parts or removing body parts. However, a violation of the right to bodily integrity may even occur with the placing of a restraint on the body that is non-damaging as the proper functioning of a person’s bodily parts involve them responding to the signals to move from other parts of the person. Finally, unwanted touching - which is neither damaging nor restraining - would be the limiting case as bodily integrity involves one’s parts interacting only with one’s other parts, not the parts of a distinct person.

The best that one could do to justify abortion on grounds of bodily integrity is in the case where the pregnancy threatens the woman’s life. That could be a scenario where some loss of bodily integrity protects against an even greater loss of bodily integrity. However, that won’t help with most abortions which are not the termination of life threatening pregnancies. So ironically, abortion is not just an attack on bodily integrity, assuming fetal parthood, but in being so it is necessarily *always* an attack on the pregnant woman’s health. I don’t mean that the woman’s health is threatened by abortion in that such surgical procedures may increase the likelihood of sterility or cancer or lead to pathological grief or other mental problems. Nor do I mean that abortion is dangerous and a woman could die during the procedure. My point is just that it is pathological to remove parts of one’s body. Now not much hinges on this because it is likewise true that one has undergone a self-inflicted pathology when donating a kidney and that will also be morally permissible, if not incredibly admirable. Nevertheless, abortion is, ironically, always unhealthy for the pregnant woman even if there are no *unwanted* unhealthy side effects. So if the US Supreme Court would allow abortion bans where the procedure threatens a woman’s health, it would have to prohibit all abortions. To obtain the desired result, the Court must qualify its health restrictions on abortion to cases where the risks to the pregnant woman’s health are the result of unwelcome pathologies caused by the fetus and not to pathologies that women induce to kill their fetuses and end their pregnancies. However, even this will have to be qualified further as some pregnant women would willingly undergo procedures that are perhaps more dangerous to them than continuing their pregnancies and could reasonably be curtailed by pro-choice legislatures and judges.

**Fetal Trespassers[[12]](#footnote-12)**

The fetus is more like a trespasser on the woman’s body, it shouldn’t be present and acting upon her body without consent…A trespasser is one who enters upon the property of another without any right, expressed or implied invitation, permission …The physical location of the fetus inside the woman and the degree of its physical attachment and use of the woman’s body, far from negating the integrity of the distinctly separate identities of the fetus and the woman, should highlight this distinction, casting the fetus as a trespasser upon the body of the woman…In sum, the fetus as a trespasser upon the woman’s body making use of her flesh and blood to sustain and develop its own physical flesh and blood casts the woman not as a good Samaritan, but rather as a captive Samaritan (Eileen McDonagh 1993, 39). **[[13]](#footnote-13)**

The second abortion defense that can’t be sustained if the fetus is a part of the mother is one that requires the fetus to be a trespasser. The idea is that the fetus is a trespasser who, though innocent, has no right to be in the woman’s body. However, one can’t trespass upon oneself. Thus it can’t be claimed that the fetus - if literally part of the mother’s body - is a trespasser who violates the pregnant woman’s property rights in her body. The fetus is no more of a trespasser than the woman’s limbs. Thus it is impossible for the fetus to be somewhere in a woman’s body where it has no right to be.

People are naturally led to think of the fetus as a trespasser because the fetus is a late arrival on the scene. A woman’s body existed long before she became pregnant with the fetus. The fetus appears in her body after sexual relations and so it is difficult to imagine it as a part of her body. Judith Thomson famously uses the fanciful scenario of a violinist that was separate and then becomes attached. She also defends a right to abortion with the imagery of a person seed that comes through a window with a defective screen (failed contraception) and takes root in your carpets and drapes (1971). Your home and property has been invaded. She also uses the analogy of the burglar who sneaks through a window that you left open. The right of a third party to abort the woman suffering from a life threatening pregnancy is defended with the example of a child growing at such a rate in one’s own home that it will soon destroy the edifice and kill its owner. The image is again of the trespasser. Thomson describes the woman’s body in her famous “Defense of Abortion” as her property. Thus the fetus is trespassing upon the woman’s bodily property.

But there is no reason you can’t acquire parts you didn’t have before. That is the lesson of metabolism and growth. We all started out very small. It may seem that by the time that one can become pregnant, one is full grown and not getting any new macro-level parts. But as much as we might like to consider our weight gains as foreign to us, we are acquiring (and hopefully losing) certain fatty parts throughout our adult years. Fetuses, in one aspect, are like fat, placenta, baby teeth and hair. These are not parts that we always had[[14]](#footnote-14) and they are not parts, once acquired, that we will keep until the end of our lives; nevertheless, they are parts. Our parts can be there from the start of our existence, they can be grown later, they can enter our body surreptitiously, or they can do so consensually as when we request an organ transplant.

**Self-Defense**

Though the fetus is itself innocent, it may pose a threat to the pregnant woman’s well-being, life prospects or health, mental or physical…But if the threat is on par with a serious beating or loss of a finger, she may kill the fetus that poses such a threat, even if it is an innocent person. …If you are attacked it is clear that your body guard, acting as your agent, has a right to kill the attacker to save you from a serious beating. Your rights of self-defense are transferred to your agent. I suggest that we should similarly view the doctor as the pregnant woman’s agent in carrying out a defense she is physically incapable of accomplishing herself. (Jane English, 237-38).

A third claim that can no longer be put forth as a defense of abortion is that the fetus is an innocent threat and can be killed in self-defense. The problem for such a view is that one’s parts can’t be unjust threats towards one’s self. So while people may have rights against innocent threats, they can’t defend the fatal elimination of fetal parts upon such grounds. It doesn’t make much sense to say that one has a right of self-defense against oneself. What could that be like? You have a right of self-defense against a part of yourself? Or is it more accurate to say that part of you has a right against another part of you? Why don’t both organisms – the fetus and the woman of which it is a part - have a self-defense right against each other? It is problematic enough to maintain that one has a right to self-defense against the innocent devoid of intentions, agency and responsibility, (see McMahan 2002) but to have such a right against oneself borders upon being unintelligible.

We can certainly have parts that bother us and that we might want removed but that doesn’t qualify as exercising a right to self-defense. Your beard may rub against your face and irritate your skin but it hasn’t violated your rights. It can’t violate your rights. If your arm holding a gun starts to spasm and it becomes likely that you will suffer a self-inflicted gunshot wound, cutting off your hand grasping the gun is not self-defense. If you are a doctor and could cure yourself from some pathology infecting your parts, that is not an exercise of a right of self-defense even if it saves your life.

It is not just that these are the wrong kind of thing to violate your rights – non-agents being in the same category as tornadoes, heavy rains, and poison ivy - but because they are not external to you. To see that it isn’t the lack of agency of your parts that makes self-defense against yourself impossible, imagine that you knew you were going to attempt suicide later that night and so set a booby trap that would then cut off your arm preventing the suicide. That would not be self-defense even though you would be stopping an agent. The problem is that defense against yourself makes little sense. Self-defense requires an external threat.

It also seems conceptually possible for self-defense to be lethal, disproportionate, unjust and punishable. But these are not possible in the alleged cases of self-defense against oneself. That makes me suspect that self-defense against oneself is conceptually impossible. If I knew you were going to attack me tonight, the booby trap that I set would be self-defense. It would be self-defense, even if the booby trap was disproportionate to the threat and killed you when you were just going to pinch my arm. It would then be unjustified self-defense but that is still a form of defense of self. However, it obviously wouldn’t be self-defense if I killed myself to prevent myself later in a depressed and masochistic mood from breaking my fingers. Taking one’s own life, i.e., destroying oneself, is not a defense of self.[[15]](#footnote-15) And it wouldn’t be self-defense, not even be unjustified self-defense, if I cut off my arm to prevent myself later from masochistically inflicting the lesser harm of breaking my fingers upon myself. While I can commit unjust disproportionate self-defense against you, it makes little sense to act unjustly and disproportionately towards oneself in self-defense. Just as it is not self-defense to kill myself to prevent myself from breaking my fingers, I couldn’t commit disproportionate self-defense against myself. Attacking oneself with more force and inflicting a greater harm upon oneself to prevent oneself from inflicting a lesser harm hardly sounds like defense of oneself.

I also could be punished for disproportionate self-defense against you. But I couldn’t be punished for inflicting such a disproportionate wrong upon myself because the victim and the wrongdoer would both be punished. Moreover, I would always waive any right against unjustified self-defense against myself which makes such rights moot. Since unjust self-defense and punishment for it seems a conceptual possibility, the impossibility of unjust self-defense against oneself and punishment for it suggests that self-defense against oneself is a conceptual impossibility.

Perhaps a reason why we don’t consider such acts to be the exercise of a right to self-defense is that the right to self-defense is justified when your rights against bodily intrusion and trespass and integrity are violated; ergo, self-defense wouldn’t be possible given the conceptual impossibility of those other rights being violated by your parts. The right of self-defense in response to the other rights violations is expressed in the following passage of McMahan:

“When it (pregnancy) is unwanted, it can plausibly be regarded as a form of *bodily invasion*. In these respects it is like the act of sex itself. And, in some respects, pregnancy is even more invasive than rape. Another individual’s entire body becomes lodged within the pregnant woman’s body and draws sustenance from it. And, unlike, rape, the invasive process continues for nine months unless it is forcibly arrested. If, therefore the threat to *bodily integrity* from rape is sufficiently serious to warrant a lethal *defensive* response, it seems that the more deeply invasive and enduring threat from pregnancy should as well.” (McMahan: 2002, 399)

So since your own body parts can’t intrude or trespass and violate your own bodily integrity, you can’t *defend* yourself against them. You and your parts aren’t the type of things that you have a right to apply *self*-defense against precisely because the threat is not external to you but it identical to you or part of yourself. Thus it doesn’t seem to make sense to say you may eliminate parts in self-defense. Perhaps others not allowing you to remove them violate an *autonomy* right of yours, but that is not violating your right to self-defense.

**Autonomy Rights Over One’s Parts?**

It might seem then that the best strategy for those defending the abortion of a fetus that is a part of its mother is to claim that people have an autonomy right to do what they want with their body’s parts. So the idea would be that if the fetus is a part of your body then it is a part that you can permissibly remove just as you could remove an inflamed appendix or undesirable facial hair.[[16]](#footnote-16) Here an appeal is made to autonomy – control over oneself. So even if we can’t exercise a right of *self*-defense against an unwanted part of ourselves, we can exercise a right of autonomy over what to do with unwanted parts of our bodies. Prohibiting surgical removal of parts of someone who is judged competent will typically be seen as violating the rights of the autonomous patient.

My autonomy allows me to cut my hair or remove a wart. But fetuses, unlike all of our other parts, are human beings with their own interests and value that is not derivative upon our value or worth. We typically think the value of your parts lies in their use for you - or someone else in the case of organ transplant.[[17]](#footnote-17) However, fetuses have their own good and interests. So, unlike with other parts, we must consider their interests when discussing our autonomy rights. It doesn’t seem as your hair or warts have interests that can be harmed by their removal. Only living entities - cells or organisms - would seem to have such interests (Hershenov, 2017).

I suspect that the most illuminating analogy for understanding the exercise of autonomy over one’s body is not hair, appendices, kidneys, eggs, blood, or fat but conjoined twins. They are living human beings. They share parts. Imagine conjoined twins who share parts that are essential to the life of each. Neither should be able to control that shared part and say take it with them upon surgical separation, even though it is one of their parts.[[18]](#footnote-18) Nor if the shared part is essential to just one of the twins, should the other be allowed to destroy it in the separation procedure. I think that is true even if one conjoined twin is autonomous but the other is not because of a mental impairment. It is hard to believe that if adult conjoined twins were both autonomous but one ceased to be due to a blow to the head resulting in a childlike mind, then the diminished twin could be killed. It seems that a proxy is called for, not a disregard of its well-being for which it can’t advocate. What holds for the minimally minded twin should apply to the fetus. So parthood *per se* doesn’t provide the autonomous with control over shared parts.

Matters get trickier if one conjoined twin is dependent upon organs of the other that are parts of just the latter. That is more akin to the relationship between the fetus and the mother. So the pro-life argument would have to involve a claim that the mother’s autonomy didn’t provide a right to kill someone dependent upon her body. But that is another task and my aim here is just to show that considerations of autonomy don’t provide a right to fatally control *shared* parts.

**Conclusion**

I have considered various reasons to deny that fetuses are parts of their mothers and have found them all to be wanting. However, my ultimate aim isn’t to make a decisive case for fetuses as maternal parts. I am more interested in exploring the consequences of fetal parthood for the abortion debate. I find it revealing, even rather rich irony, that fetal parthood doesn’t strengthen the case for abortion despite what many pro-lifers fear and pro-choicers expect. It turns out that three well-known arguments given in the defense of abortion depend upon fetuses not being parts of their mothers. Thus there turn out to be conceptual reasons to reject arguments in support of abortion based upon considerations of trespass, bodily integrity, and self-defense.

**Bibliography**

Beckwith, Frances. 2007. *Defending Life: A Moral and Legal Case Against Abortion Choice.* Cambridge

University Press.

Cornell, Drucilla. “Response to Judith Thomson’s ‘Abortion.’” *Boston Review.* November, 1995.

English, Jane. 1975. “Abortion and the Concept of the Person,” *Canadian Journal of Philosophy.* 5:2.

233-243.

George, Robert and Tollefsen, Chris. 2011. *Embryo: A Defense of Life.* 2nd edition. Witherspoon

Institute.

Hershenov, David and Hershenov, Rose*.* 2017. *“*If Abortion, then Infanticide.” *Theoretical Medicine*

*and Bioethics* 38:5. 367-409.

Hershenov, David and Hershenov, Rose. 2017. “ The Potential of Potentiality Arguments.” *Current*

*Controversies in Catholic Bioethics*. Ed. Jason Eberl. Springer

Hershenov, David. “Self-Ownership, Relational Dignity, and Organ Sales.” *Bioethics.* Forthcoming

Howspeian, A.A. 2008. “Four Queries Concerning the Metaphysics of Early Human

Embryogenesis.” *Journal of Medicine and Philosophy.* 33: 140-157.

Hursthouse, Rosalind. 1987. *Beginning Lives*. Basil Blackwell.

Kingma, Elselijn. “Pregnant Mereology.” *Mind*. Forthcoming.

Kingma, Elselijn. “Were you a Part of your Mother? The Metaphysics of Pregnancy.” Forthcoming,

McDonagh, Eileen. 1993. “Good, Bad, and Captive Samaritans: Adding-In Pregnancy and Consent

to the Abortion Debate.” In The *Politics of Pregnancy: Policy Dilemma in the Maternal-Fetal Relationship.* Eds. Janna Merrick, and Robert Blank*.* Routledge. 31-50.

McMahan, Jeff. 2002. *The Ethics of Killing: Problems at the Margins of Life.* Oxford University.

Neff, Christyne. 1990. “Women, Womb, and Bodily Integrity.” *Yale Journal of Law and Feminism*. 3:2,

327-353.

Oderberg, David S, 2008. “The Metaphysical Status of the Embryo: some arguments revisited”.

*Journal of Applied Philosophy,* 25: 263-276.

Oderberg. David. 2007. Real *Essentialism.* ­­Routledge.

Smith, Barry and Brogaard, Berit. 2003. “Sixteen Days.” *Journal of Medicine and Philosophy* 28:1,45-78.

Thomson, Judith. 1971, “A Defense of Abortion” *Philosophy and Public Affairs*. 1:1, 47-66

Thomson, Judith. 1995. “Abortion.” *Boston Review.* 11-16.

Toner, Patrick. “Independence Accounts of Substance and Substantial Parts.” *Philosophical Studies*.

155: 37-43.

West, Robin. 1988. “Jurisprudence and Gender.” *University of Chicago Law Review.* 1, 66.

1. See Rosalind Hursthouse (1987) for instances of embryos being described as clumps of cells and not a human being (1987:27), more akin to an animal or part of the woman’s body (1987: 39, 48), aborting them being like cutting hair (1987: 18) or an appendectomy (1987:16). [↑](#footnote-ref-1)
2. McMahan (2002, 400-401) distinguishes between innocent threats and innocent aggressors. The later are beings who can form intentions to attack another. Perhaps they were misinformed and thus not culpable for the aggression. An innocent threat doesn’t form such intentions but is merely a danger to another. A life threatening pregnancy involves a fetus that is an innocent threat, not an innocent aggressor. [↑](#footnote-ref-2)
3. Kingma observes that “images of pregnancy…give fosters’ (fetuses’) skin the colour of white babies rather than the dark-purple that they actually are” to make them resemble babies and “they tend to fade out, or omit altogether the gravida (mother), placenta, and umbilical cord.” [↑](#footnote-ref-3)
4. See Smith and Brogaard for the most sustained philosophical defense of the view that the fetus is not a part of the mother. They write that the fetus is in the mother the way “a tub of yogurt is in the fridge” (2003, 74) Oderberg writes that an embryo is an organizational unity that is not a part of its host” (2008, 266). George and Tollefsen write “The embryo is not a maternal body part. No text of modern embryology even remotely suggests such a thing” (2011, 231). Howspeian writes “No thing that is merely part of some other thing could be a human person” (2008, 152). [↑](#footnote-ref-4)
5. Some hylomorphic theorists are attracted to this view of parthood. Entities that might be substances outside of the body undergo an ontologically significant change when they enter the body and become virtual parts until their departure when substantial change occurs (Toner, 2010; Oderberg (2007) [↑](#footnote-ref-5)
6. Smith and Brogaard explain “Fiat boundaries are boundaries that correspond to no underlying physical discontinuities. Examples are found above all in the realm of arbitrarily demarcated geospatial entities such as postal districts, census tractsm or traffic corridors (2003, 72). [↑](#footnote-ref-6)
7. See Kingma’s “Pregnant Mereology” *Mind* (forthcoming) and “Were You a Part of your Mother: The Metaphysics of Pregnancy” *Journal of Medicine and Philosophy* (forthcoming). [↑](#footnote-ref-7)
8. See Tollefsen and George for the claim that gametes are parts of human organisms (2011, 159-160). [↑](#footnote-ref-8)
9. For an account of mother and child chimeras produced by their exchanging DNA, See Rose Hershenov and Derek Doroski’s “Twinning Inc.” in *Theoretical Medicine and Bioethics,* forthcoming. [↑](#footnote-ref-9)
10. Neff wants to replace the privacy rights defense of abortion with a bodily integrity defense (1990, 329). We also find Drucilla Cornell claiming that “To deny women their bodily integrity by denying them the right to abortion severely curtails women's ability to develop an individuated self (1995). I don’t see how any reasonable conception of selfhood is threatened by a lack of abortion opportunities unless we are talking about the fetus’s selfhood! Cornell must be using “individuated” and “self” in a non-metaphysical sense, more akin to a narrative self that doesn’t literally determine one’s temporal boundaries. Anyway, Cornell’s positon loses its foundation in bodily integrity when the fetus is a bodily part. [↑](#footnote-ref-10)
11. That doesn’t mean the removal of parts isn’t permissible, it just isn’t justifiable in terms of bodily integrity. [↑](#footnote-ref-11)
12. It may seem that trespassing and violating bodily integrity admit to the same rights violation or always occur together. It is worth giving them both their own sections as abortion defenders often refer to one and not the other rights violation. I also suspect that one can trespass without violating integrity. Perhaps a paternalistic medical treatment is a caser of trespassing without violating bodily integrity as the procedure restores bodily integrity. But that may still violate bodily integrity for the sake of greater bodily integrity. Sometimes the mere crossing of a boundary is considered a violation of bodily integrity though we could perhaps distinguish between bodily trespassing that doesn’t interfere with the body and attacks on bodily integrity that do. Something within the body that is not part of the body may be trespassing without violating integrity just as someone can trespass on your property by crossing it without violating the integrity of your property as does the vandal.. [↑](#footnote-ref-12)
13. Robin West (1998) also writes “We need to explain…the harms and dangers of invasive pregnancy…it has to with invading the physical boundaries of a life.” [↑](#footnote-ref-13)
14. Beckwith wrongly thinks it is significant for the case against fetal parthood that the IVF embryo was once not a part of the mother (2007). But most of the fetus’s eventual matter was earlier distinct from it but that independence doesn’t rule out it becoming a part of the fetus. [↑](#footnote-ref-14)
15. Even if one thought that suicide could be in one’s interest, it is a conceptual stretch to claim that doing so would be exercising one’s right of self-defense against one’s disease. While it is true that a diseased life not ended by suicide may mean that one lives a longer life than one would have preferred, opting for suicide doesn’t seem best defended in terms of self-defense as it destroys the self. It is better defended in terms of autonomy as someone chooses to live a shorter life over a less attractive longer life. If others can’t interfere with the patient’s choice that would be on the basis of an autonomy right. [↑](#footnote-ref-15)
16. See note 1. [↑](#footnote-ref-16)
17. For an account of fetal interests, see Rose Hershenov and David Hershenov’ (2017) [↑](#footnote-ref-17)
18. Likewise, imagine that only part of the fetus was a part of the mother. The mother couldn’t do what she wants with that part because it is also a part of her. I don’t see why a different treatment would be called for if the fetus was completely a part of the mother or one twin was completely embedded within another. [↑](#footnote-ref-18)