**“Why it Becomes More Difficult to Justify Abortion if Fetuses are Parts of their Mothers”**

 **Introduction**

Many abortion defenders insist 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. Both sides may be assuming that one owns and/or controls one’s body and thus can dispose of its parts as one sees fit. Pro-lifers may try to deny that fetuses are maternal parts by claiming that: 1) their DNA is distinct from that of the women gestating them; 2) their developmental telos is towards separation and independence from the women pregnant with them; 3) their function is not to contribute to the survival of their mothers, unlike the functions of genuine maternal body parts such as hearts, livers, lungs etc.; 4) their relations to the women carrying them are not that of parts to wholes but rather that of occupants to niches, analogous to that between the readers and their offices; 5) they are substances (human beings) and substances cannot be part of other substances (especially those of the same kind.).

I will suggest that none of these considerations provide a reason to believe that the fetus is not a part of the mother. However, pro-lifers shouldn’t be worried. There is no reason to think that fetuses would lack their own interests and considerable moral status in virtue of being maternal parts, so the parthood thesis fails to imply that the pregnant can do whatever they want with their bodies. In fact, it is abortion defenders who should be worried that fetuses may be parts of their mothers. If that mereological thesis is true, then it dooms three popular defenses of abortion on merely conceptual grounds. The pro-lifer 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 forth.

The first of the three ill-fated defenses is that abortion can 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 the unborn can’t violate her bodily integrity. With one kind of exception, only something that is not a part of a woman’s body can violate her bodily integrity. So a right to bodily integrity can no longer be relied upon to justify abortion.

The second abortion defense that construing fetuses as maternal parts will undermine requires the fetus to be a trespasser. This defense assumes that the fetal trespasser who, though innocent, has no right to be in the woman’s body. However, one’s parts can’t trespass upon oneself. Thus, it can’t be claimed that the fetus - if literally a 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 a threat that can be killed in self-defense. One reason is that self-defense is typically a response to an external threat that violates rights against trespass and the infringement of bodily integrity, which maternal parts cannot do. Self-defense is not defense against oneself (nor parts of oneself). So, while people may have rights of self-defense against threats external to them - which is debatable when the threats are innocent[[1]](#footnote-1) - they can’t defend the fatal elimination of their own fetal parts upon such grounds. 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” (2020a. 609).She calls this the fetal container model.[[2]](#footnote-2) 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 defenses of the fetal container view mentioned in the introduction.

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.[[3]](#footnote-3) 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 friendly 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 dispositional properties are masked by parthood. Furthermore, a donated kidney is not a different entity when it removed and preserved “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 them to imagine a sci-fi scenario where they end up within an alien leviathan in order to play some parthood role in the creature’s digestive system, perhaps akin to bacteria in our digestive tract[[4]](#footnote-4) or blood cells in our circulatory systems.[[5]](#footnote-5) 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.[[6]](#footnote-6)

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.[[7]](#footnote-7) 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 maternal part (2018, 2020a). 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 have become active and probably 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 (Kingma: 2018, 173; 2019, 621, 628).[[8]](#footnote-8) 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 fetuses are not maternal parts because they lack the characteristic function of organism parts in that they don’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 that is not a good reason to deny that fetuses are parts of their mothers. 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 away from their bodies in which they originate. 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 eggs capable of parthenogenesis.[[9]](#footnote-9) It is hard to believe that some eggs within females are parts and some are not.[[10]](#footnote-10)

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.[[11]](#footnote-11) 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 any fetus is not a part of the mother.

**What is Not at Stake**

Why are so many pro-lifers worried and perhaps an equal percentage of pro-choicers pleased by the prospect that fetuses are parts of their mothers? There may be a few interrelated answers. What I suspect is the most popular explanation assumes that people own themselves and their bodies. [[12]](#footnote-12) So, if fetuses are maternal parts, then their mothers own them and can do what they want with such bodily property.[[13]](#footnote-13) However, if we human beings own our bodies, then human fetuses also own their bodies. Ergo, fetuses and mothers are co-owners of the shared body parts and the moral implications of disposing with one’s property as one likes doesn’t straightforwardly apply here anymore than they do in any other co-owned venture.[[14]](#footnote-14) If it is assumed that only the autonomous can be property owners, then the developmentally immature and those who are cognitively impaired lack the protections of self-ownership that we typically assume them to have. Thus, there is no direct route from fetuses as maternal parts to mothers being able to dispose of their fetal parts as they can their privately-owned property.

It may be assumed that a part of an organism lacks interests of its own, or has interests only in the well-being of the whole, i.e., the larger organism embedding it. Eileen McDonagh writes of abortion defenders who deny fetuses are separate from their mothers: “Their assumption is that such a conception of the fetus undermines women’s autonomy by implying that fetuses have interests separate from their mothers and those interests are grounds for restricting abortion, which destroys the fetus” (1996, 47). However, there are not any good reasons to believe that the mother’s fetal part lacks interests or that such interests can be at odds with the interests of their mothers. Perhaps it is question-begging to point to the fetus’s interest in living and the mother’s interest in an abortion. Nonetheless, biologists will speak of conflict and competition for resources between fetuses and their mothers and her other offspring that are independent of the mereology of pregnancy. A very popular issue right now in the personal identity literature concerns the conflict between the interests of the temporal parts of four-dimensional human beings and the maximal entity composed of them. Mark Johnston focuses upon so-called “personites,” temporal parts of persons, whose interests may be sacrificed for benefits experienced not by them but by later temporal parts and the extended person that consists of them. Adam Taylor earlier made the same point that the interests of the thinking “person-stages or subpersons” will be frustrated by the interests of the maximal entity (2013).[[15]](#footnote-15) Recall the earlier sci-fi scenario where human beings become parts of alien organisms, helping with digestion as does our microbiome. There would be no reason to believe that our becoming functional parts of another organisms removes our own interests in our well-being. There is also a rare kind of conjoined twin, craniopagus parasiticus, in which there is a small head on top on of a human being’s normal head. It lacks a body of its own and is dependent upon the body of the human being beneath it. McMahan and Campbell (2010) speculate that such creatures could think and so we can easily imagine scenarios where they would have interests opposed to the human being of which they are parts.

A third reason why it seems important to determine whether the fetus is a part of the mother may be due to abortion rights being justified on the basis of extending privacy law. The American courts have recognized a realm of privacy and extended that to women’s reproductive choices. “Currently, abortion rights rest on a woman’s right of privacy to make choices about her own body, not about the body of another.” (McDonagh, 1969, 47). However, if the fetus is an organism with interests and the moral status of or near that of a person, the mother is not alone in a way that morally matters, even if her fetus is a part of her.[[16]](#footnote-16) The above sci-fi story of us becoming parts is no different in the relevant metaphysical and moral ways from an in vitro fertilized embryo that later becomes a maternal part embedded in the uterine wall.

Having suggested that pro-lifers should not fear the possibility that fetuses are parts of their mothers, what I will argue below is that it is actually abortion defenders who should worry about that mereological thesis being true. It will force them to abandon three popular arguments for abortion and refocus their energies on alternative defenses of abortion.

**Part II –The Failure of Three Abortion Defenses on Purely Conceptual Grounds**

**Bodily Integrity**

Ethicists stress that people must not violate the bodily integrity of others. Social Contract theorists emphasize that states are legitimate insomuch as they protect their citizens against bodily injuries from other fellow citizens as well as their rulers. The law historically protected individuals against battery, i.e., attacks on their bodies, even allowing lethal self-defense against significant threats. Abortion defenders have appealed to such traditions when arguing for a right of women to bodily integrity that is violated by a fetus imposing upon her without her consent. McDonagh goes so far as to maintain that we can “break the abortion deadlock” by such an appeal to self-defense of one’s bodily integrity. She insists that we should move our attention away from asking what the fetus *is* to what the fetus *does* when implanting itself in a woman’s body and remaining there for nine months (1996, 5-6). “The clash of absolutes over the personhood of the fetus” (McDonagh, 1996, 11) can be overcome by refocusing the abortion debate on a woman’s “self-defense when a fetus intrudes on her bodily integrity and liberty against her will” (McDonagh: 1996).[[17]](#footnote-17)

Like Thomson (1971) before her, and Boonin (2003) after her, McDonagh’s strategy is to grant the premises of many a pro-lifer that the fetus is a person and distinct from the mother. She is willing to do this because you and I have no right to impose upon and use another’s body to stay alive. It doesn’t matter that the fetus is mindless and innocent, for neither incompetency nor need will provide the state with a reason not to stop one from harming another (McDonagh: 1996, 9). She argues that these assumptions justify the government paying for abortions even in the minimalist state championed by many on the right with libertarian leanings. If the state exists to protect the body, life, and liberty of its citizens, then just as the state must pay to defend its citizens against assault and kidnapping, likewise, it must finance the abortions of women whose bodies are assaulted and held hostage by their fetuses (McDonagh: 1996, 111-112). Law and order justify abortion funding, not welfare state commitments to health (McDonagh: 1996, 153). In fact, refusing to provide a woman with a legal abortion means she lacks the Constitutional equal protection of the law that the born possess against bodily assault (McDonagh: 1996, 137-38, 142).

McDonagh asks “How can it be constitutional for the state to protect the fetus by sanctioning and allowing it to intrude on other’s bodily integrity and liberty to meets its survival needs when the state offers no such protection to born people, whatever be their needs or kinship relationship to others?” (1996, 138) How can individuals lose rights at birth? The “answer” to McDonagh’s rhetorical questions is that they are based upon false mereological assumptions as the state doesn’t allow intrusions that violate the pregnant woman’s bodily integrity for the fetus is a part of the woman’s body. So, 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.[[18]](#footnote-18) 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*” (2002, 399). Likewise, Neff is wrong to write that the pregnant “woman always will be the source of nutrients, oxygen, and waste disposal for the *parasitic* embryo.” (1993, 349)A fetus, if a part of the mother’s body, can’t be an invader 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 a healthy 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 unless one is inflicting a pathology like the surgeon cutting healthy skin to remove a more dangerous pathological threat. 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 damage or remove 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.

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 or health. That could be a scenario where some loss of bodily integrity protects against the even greater loss of bodily integrity that characterizes severe disease and death. However, that won’t help with most abortions which are not the termination of life threatening or health damaging pregnancies. Pregnancy is not a pathology. “One will search in vain for such a disease as an unwanted pregnancy” (Boorse, 1977, 546.) Pregnancy’s discomforts aren’t symptoms of pathologies. An inability to become pregnant or remain pregnant is a pathology. So ironically, if we assume fetuses are maternal parts, abortion is not just an attack on bodily integrity, 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 a healthy 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, given Kingma’s mereology, 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 or solicit in order to kill their fetuses and end their pregnancies.

**Fetal Trespassers**

The fetus has been considered a trespasser.**[[19]](#footnote-19)** McDonagh claims that abortion removes the illegal “trespasser … who enters upon the property of another without any right, expressed or implied invitation, permission …” (1993, 39). McDonagh adds that “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” (1993, 39).

One problem with defending abortion in terms of trespassing is that it implies people have property rights over their bodies. However, it may be that one doesn’t own oneself. If one did, then one could sell oneself or one’s parts. While there is some support amongst philosophers for selling parts like kidneys, there are few defenses of selling one’s entire self as that constitutes slavery, even if it takes a benign form. However, it would be arbitrary if one could sell some of one’s parts but not others. And if one can sell all of one’s parts at once, then that adds up to selling oneself as individuals are not something over and above the sum of their parts. A response might be that self-ownership is an inalienable right. While I suspect that there is nothing wrong with inalienable rights, property surely can’t be one. If anything is conceptually true of property, it is that it can be sold. Nevertheless, I won’t pursue the conceptual problems of selling oneself further, as my concern in this section is with the conceptual problems of trespassing if the fetus is a part of the mother.[[20]](#footnote-20)

The claim that I will focus upon is that that the fetus is a trespasser who, though innocent, has no right to be in the woman’s body. My rebuttal is that one can’t trespass upon oneself. I think this is a more powerful response than claiming that the fetus can’t trespass and violate the woman’s rights because it is a non-agent and thus like an animal, flood waters, or mudslide which can’t violate a person’s property rights. One still has a right to remove such entities from one’s property even if they couldn’t violate one’s rights. Nor will I argue that the fetus has a right to use the mother’s body. Some pro-lifers might try to argue that the fetus has a right to the woman’s bodily property by appealing to nature and design, implicit consent in consensual sex, or maternal responsibility for the dependent fetus’s predicament; [[21]](#footnote-21) but I suspect such a right is at best a derivative right from a more fundamental right not to be killed. A bird watcher who breaks his neck while trespassing on your yard can stay on your yard without having a right to be there when moving him would be fatal. The fetus and the injured trespassing birdwatcher have a derivative right to stay where they lack a more fundamental right of access. If they really had a right to stay, that would hold even if they could be safely removed, respectively, to an artificial womb or hospital bed.

My contention is that if the fetus is literally part of the mother’s body, then the fetus can no more trespass upon the pregnant woman’s bodily property than can the woman’s limbs. Thus ,it is impossible for fetuses to be somewhere in their mothers’ bodies where they have 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 the fetus as a part of her body. But there is no reason you can’t acquire parts that 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 limbs, organs or other 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 and they are not parts, once acquired, that we will keep until the end of our lives; nevertheless, they are parts.[[22]](#footnote-22) 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**

McMahan captures the thinking behind a right to self-defense against a fetus that trespasses (invades) and violates one’s bodily integrity when he writes of pregnancy:

“When it 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).

Jane English insists that “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. (1975, 237-38).[[23]](#footnote-23) McDonagh makes similar claims about lethal self-defense based upon the fetus’s violation of the mother’s bodily integrity: “the latitude for use of deadly force in self-defense in our culture and legal system extends beyond threats to our life…we must extend the same latitude for self-defense of a fetus when the intrudes upon her bodily integrity” (1996, 97).

However, if fetuses are parts of their mother, then even though threats, it makes little sense to appeal to killing them in self-defense. A right to self-defense is typically triggered by a violation of a right to bodily integrity but that right is impossible to violate if the fetus is a part. So, while women may have rights of self-defense against external threats, they can’t defend the fatal elimination of their fetal parts upon such grounds.

It doesn’t make much sense to say that one has a right of self-defense against oneself. How can an attack upon oneself be a defense of oneself as the attacked is the attacker? Should a right to self-defense instead by construed as 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 the former is a part - have a self-defense right against each other? Why would the living whole have a right against the living part that the part doesn’t have against the whole? It is problematic enough to maintain that one has a right to self-defense against the innocent devoid of intentions, agency and responsibility (Davis: 1984; McMahan: 2002, 398-421), 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 auto-immune disease 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, poison ivy, and rogue cells - but because they are not external to you. To see that it isn’t *just* the lack of agency of your parts that makes it impossible for them to violate your rights and authorize a right to self-defense against yourself impossible, imagine that you knew you were going to become so depressed and full of self-loathing that you would flagellate yourself later that night and so set a booby trap that would then cut off your arms preventing the flogging. 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 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. This impossibility makes me suspect that self-defense against oneself is conceptual confusion. 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 lethal and thus disproportionate to the threat as you were just planning to twist 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.[[24]](#footnote-24)

It wouldn’t be self-defense, not even disproportionate and unjustified self-defense, if I cut off my arm to prevent myself later from masochistically inflicting the lesser harm of breaking my fingers. 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. A successful act of self-defense can’t constitute a worsening of one’s condition.

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.

So, since your own body parts can’t intrude or trespass and violate your own bodily integrity, then you don’t have a right of self-defense against them. You and your parts aren’t the type of things that you have a right to apply *self*-defense against precisely because such threats are not external to you but are 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 fetuses that are parts of their mothers 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. 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 are 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. However, fetuses have their own good and interests.[[25]](#footnote-25) 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 and Hershenov, 2017b).

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.[[26]](#footnote-26) 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 with the greater need for the shared parts 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 twin that are parts solely of the latter. That is more akin to the relationship between the fetus and the mother as many of the latter’s (unshared) parts support the parts shared by the fetus. So, the pro-life argument would have to involve a claim that the mother’s autonomy doesn’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.

Boonin, David. 2003. *A Defense of Abortion.* Cambridge University Press.

Boorse, Christopher. 1977. “Health as a Theoretical Concept”*. Philosophy of Science* 44: 4. 542-573.

Davis, Nancy. 1984. “Abortion and Self-Defense.” *Philosophy and Public Affairs.* 13:3, 175-207

Dupre, John and O’Malley, Maureen. 2009. Varieties of Living Things: Life at the Intersection of

Lineage and Metabolism. *Philosophy and Theory in Biology*. 1, 1-25.

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. 2008. “Animals, Persons and Bioethics.” *The American Philosophical Association*

*Newsletter on Philosophy and Medicine,* 8:1, 2008, 8-11.

Hershenov, David. 2018. “Self-Ownership, Relational Dignity, and Organ Sales” *Bioethics.* 32: 430-36

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

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

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

*Controversies in Catholic Bioethics*. Ed. Jason Eberl. Springer. 35-52.

Hershenov, Rose and Dorski, Derrick. 2018. “Twin Inc.” *Theoretical Medicine and Bioethics.* 39:4

301–319.

Howsepian, 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.

Johnston, Mark. “The Personite Problem: Should Practical Reason be Tabled?” *Nous*. 50:4, 617-644.

Kingma. Elselijn. 2018. “Lady Parts: The Metaphysics of Pregnancy.” *Royal Institute of Philosophy*

*Supplement.* 82: 165-187.

Kingma, Elselijn. 2019. “Were you a Part of your Mother?” *Mind*. 128: 609-646

Kingma, Elselijn. 2020a. “Nine Months.” *Journal of Medicine and Philosophy.* 45:3, 371-386.

Kingma, Elselijn. 2020b. “Biological Individuality, Pregnancy, and (Mammalian) Reproduction.” 87.

1037-1048.

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.

McDonagh, Eileen. 1996. *Breaking the Abortion Deadlock: From Chance to Choice.* Oxford

University Press.

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

McMahan, Jeff and Campbell, Tim. 2010. “Animalism and the Varieties of Conjoined Twinning.”

*Theoretical Medicine and Bioethics.* 31:4, 285-301.

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

327-353.

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

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

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

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

Taylor Adam. 2013. “The Frustrating Problem For Four-Dimensionalism” *Philosophical Studies* 165:

3, 1097-1115.

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

155: 37-43.

1. See McMahan (2002, 398-421) and Davis (1984) for the claim that one doesn’t have a right of self-defense against an *innocent* threat like that posed by the fetus. [↑](#footnote-ref-1)
2. Smith and Brogaard offer 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). Howsepian writes “No thing that is merely part of some other thing could be a human person” (2008, 152). [↑](#footnote-ref-2)
3. 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 (Oderberg 2007; Toner, 2010). [↑](#footnote-ref-3)
4. See Dupre and O’Malley (2009) for an account that the close cooperation of humans and their symbiotic bacteria provides reason to understand the multispecies “holobiont’ as the organism. [↑](#footnote-ref-4)
5. If readers are skeptical that such “free floating” entities qualify as parts, imagine yourself becoming attached to the alien organism in the same manner as bodily parts like your intestine are attached to yourself. [↑](#footnote-ref-5)
6. 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. [↑](#footnote-ref-6)
7. 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 tracts or traffic corridors” (2003, 72). [↑](#footnote-ref-7)
8. Kingma denies that one can draw a line between placental cells of fetal and maternal origins. “First, fetal cell lineages colonize the maternal spiral arteries such that maternal and fetal cells intermingle and directly border each other; second, maternal blood, including maternal cells, permeates cavities and parts of the placenta created, surrounded, and maintained by embryonic cell lineages; third, in the anchoring villi, fetal mesenchyme and maternal connective tissue form one tissue that holds the placenta together. There is no line here, let alone boundary – marked by physical discontinuity in tissue - that Smith and Brogaard need for their argument” (2020a, 379). [↑](#footnote-ref-8)
9. Budding, if identity preserving, would be another example of development after parthood ends. [↑](#footnote-ref-9)
10. See Tollefsen and George for the claim that gametes are parts of human organisms (2011, 159-160). Kingma (2020: 1040-1041, 1043) discusses whether sperm and ova, when within men and women, are parts or distinct organisms. [↑](#footnote-ref-10)
11. See Doroski and Hershenov (2018)for an account of mother and child chimeras produced by their exchanging DNA. [↑](#footnote-ref-11)
12. Even if people don’t own their bodies – perhaps they can’t sell their parts as they can their property – the assumption may be that they still have a right to control their bodies. This would be a right that they don’t have towards bodies that are distinct from theirs, even if their own bodies are biologically supporting those external bodies. [↑](#footnote-ref-12)
13. See 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-13)
14. Consider conjoined twins who share some parts. It is far from obvious that only one of this pair has a claim to control that shared parts. We’ll flesh this out in the final section. [↑](#footnote-ref-14)
15. See also Hershenov (2008, 9). [↑](#footnote-ref-15)
16. See Hershenov and Hershenov (2017a, 2017b) for defense of mindless fetuses having interests. [↑](#footnote-ref-16)
17. Cynthia Neff (1993) anticipated McDonagh’s (1996) thesis. She too wants to replace the privacy rights defense of abortion with a bodily integrity defense writing “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.” (1990, 329) [↑](#footnote-ref-17)
18. At most, it is only prior to attachment in the uterine wall that the fetus is an intruder. This assumes the unfertilized egg is not a part and thus the sperm doesn’t become so transitively by entering the egg. See Kingma’ s discussion of gametes, parthood, and transitivity (2020, 1043) Anyway, the “violation” of the pregnant woman’s bodily integrity resolves itself as the alleged violator becomes a part and thus is (technically) no more of a violator of bodily integrity than one’s unwanted fat. [↑](#footnote-ref-18)
19. 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 case of trespassing without violating bodily integrity as medicine and devices can restore bodily integrity without damaging the body, unlike surgeries that 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-19)
20. Hershenov (2019) explores the conceptual problems with self-ownership. [↑](#footnote-ref-20)
21. Boonin (2003) offers arguments against pro-life appeals to nature, implicit consent and responsibility. [↑](#footnote-ref-21)
22. 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-22)
23. English continues “…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.” [↑](#footnote-ref-23)
24. Even if one thought that suicide could sometimes 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-24)
25. For an account of fetal interests, see Hershenov and Hershenov’ (2017a, 2017b). [↑](#footnote-ref-25)
26. 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 (craniopagus parasictus). [↑](#footnote-ref-26)