

HOW IS THE ETHICS OF STEM CELL RESEARCH DIFFERENT FROM THE ETHICS OF ABORTION?

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Abstract: It seems that if abortion is permissible, then stem cell research must be as well: it involves the death of a less significant thing (an embryo rather than a fetus) for a greater good (lives saved rather than nine months of physical imposition avoided). However, I argue in this essay that this natural thought is mistaken. In particular, on the assumption that embryos and fetuses have the full moral status of persons, abortion is permissible but one form of stem cell research is not—the practice of creating embryos and then destroying them to extract cell material. Furthermore, I argue that the same is true on the assumption that embryos and fetuses have at least some moral status. I conclude that this form of stem cell research is permissible only if the embryos in question lack moral status. I then present and briefly defend a view on which these embryos lack moral status.

Keywords: abortion, embryo, fetus, moral status, stem cell research.

It is tempting to think that embryonic stem cell research raises no interesting ethical problems beyond those posed by abortion—at least when we focus on moral objections to the practices that arise from the moral status of the embryo or fetus. After all, the embryos destroyed in order to make stem cells¹ are *very early embryos*. They are considerably less developed than any fetuses that are aborted, and so it seems that there is less reason to think they have any moral status at all. And if the destroyed embryos do have moral status, it seems they may have a lower level of moral status than aborted fetuses have. Furthermore, the reasons *in favor of* stem cell research are much more compelling than the reasons in favor of abortion: many lives may be saved or radically transformed by the therapies that might be gained from stem cell research. By contrast, a typical abortion will prevent certain burdens to one woman; even if the woman's life is at stake, it is simply one life, compared to the many lives that might be saved by stem cell research. Thus, it seems that the moral objections to stem cell research, on the basis of the moral status of the

¹ While popular belief may have it that stem cells are *extracted* from embryos, stem cells are actually made by scientists, grown out of cells taken from embryos.

destroyed embryo, are either equivalent to or less substantial than the objections to abortion; and it seems that the moral reasons to engage in stem cell research and destroy embryos are much more compelling than the moral reasons to engage in abortion.

I argue in this essay that this appearance is misleading in two ways. First, I consider the permissibility of each practice on the assumption that human embryos and fetuses have the full moral status of persons, from the moment of conception. Judith Jarvis Thomson argues that even if we grant that a fetus has the full moral status of a person, abortion is nevertheless permissible.² I think her argument is sound, and I assume it is for the purposes of this essay. I ask whether a parallel argument can be made concerning the ethics of stem cell research, focusing in particular on a practice that might become common if embryonic stem cell research is widely accepted and performed: the practice of creating embryos and then destroying them to make stem cell lines. I argue that *this practice* is not permissible if the embryo has the full moral status of a person.

Second, I consider the permissibility of each practice on the assumption that human embryos and fetuses have *at least some moral status* from the moment of conception. I assume that abortion is permissible even if the aborted fetus has some moral status (and of course this follows from assuming that Thomson's argument is sound). I argue that the practice of creating early embryos and then destroying them to make stem cells is not permissible if the early embryo has *any moral status at all*.

Both my conclusions suggest that one form of stem cell research is *much harder to justify* than abortion, contrary to the appearances I outlined above. I do not conclude, however, that this form of stem cell research is impermissible. I think that it is in fact permissible. But my arguments show that it is permissible only if the early embryos created and destroyed to make stem cells *lack any moral status at all*. This raises the question of whether there is any reasonable view of moral status according to which these early embryos lack moral status. In the final section of the essay, I explain a view of moral status according to which these early embryos do lack moral status. I argue that this view is more plausible than alternative views on which early embryos lack moral status, and I defend the view in the face of some natural objections.

(There are two further objections to the tempting line of thought described in my opening paragraph, which I will mention here but not pursue in the essay. First, the benefits from stem cell research will not come from the destruction of a single embryo; many embryos must be

² Thomson 1971. Thomson's primary goal in the paper is to argue against a particular argument *from* the claim that the fetus has the full moral status of a person to the claim that abortion is impermissible. But an argument for the stronger claim that I attribute to Thomson can easily be seen in her paper. Exactly what Thomson's paper aims to do and what it succeeds in doing are controversial issues. My claims about the paper take stands on these issues; these are assumptions of my essay, which I don't argue for here.

destroyed to do the research from which many people may one day benefit. So, it is no easy matter to determine how much benefit will come from the destruction of any single embryo. The line of thought described in my first paragraph may overestimate these benefits. Second, when a woman continues a pregnancy rather than aborting, even if she is inclined to abort, she typically raises the child. Thus, the cost to the woman—and the transformation of her life—that results from her failing to abort a pregnancy is considerably greater than the mere burdens of nine months of pregnancy. It is difficult to know how to take this into account, because the woman is not literally forced to raise the child; nevertheless, as a practical matter, when we keep women from aborting pregnancies we do often cause them to raise children. Thus, the line of thought described in my first paragraph underestimates the burdens of refraining from abortion.)

Destroying Leftover Embryos

While my central conclusions will concern the practice of *creating* and then destroying embryos to make stem cells, I will draw a conclusion about that practice by contrasting it with another method of using embryos to make stem cells: using embryos left over from fertility treatments.

In order to do embryonic stem cell research, researchers need to extract the inner cell mass from early human embryos. The embryos are destroyed in the process.³ Some stem cell researchers have extracted cells from frozen embryos that are left over from fertility treatments. The leftover embryos stand no practical chance of developing into persons; their fate has been sealed before the researchers have anything to do with them. This suggests the following argument: because the researchers do not themselves deprive the embryos of lives as persons, the researchers do not harm the embryos, and so there can be no objection *on behalf of the embryos* to the researchers' actions. One might point out that the researchers do *destroy* the embryos. But it does not seem to be better for the embryos to live on as frozen embryos than to be destroyed; what's bad for them is not getting to develop.

This argument is too quick as it stands. First, the mere fact that a bad outcome was going to befall someone anyway does not always make it permissible to ensure that outcome. If two assassins both independently target one victim, the one who gets there first is not off the hook because the other assassin was about to act (even if he knew that). Nevertheless, the fact that an outcome was going to happen anyway does often mitigate causing or ensuring that outcome. A second way in which the argument is

³ See my footnote 7 for a discussion of how the ethics of the situation would be different if the cells could be extracted without destroying the embryo.

too quick is that it's not *certain* that any particular leftover embryo won't get to develop into a person. While this might seem inevitable, it's *possible* that the relevant people will decide to have this embryo implanted into a woman's womb: the embryo's parents might suddenly decide to donate it to aid an infertile couple. Because this small chance exists, the researchers do *lower* the probability that the embryo will get to develop into a person—they lower it from very low to zero—and so they do deprive the embryo of a chance (a small chance) of getting to live life as a person.

Thus, destroying a leftover embryo does *harm* the embryo by depriving it of the chance to live life as a person. This harm is not very serious, however, due to the fact that the embryo was very unlikely to get to live life as a person anyway.

(Although I claim that the harm to the embryo is not very serious, considerable argument is needed to establish this claim in the face of the objection from the case of the two assassins. That is work for another occasion, but I will briefly suggest how the argument might be made. One could begin by denying that the case of destroying the leftover embryo is really analogous to the case of the two assassins. One could then propose a case that provides a better analogy, such as the following. Suppose that we are in a remote area and we have a hospital, but it is not well equipped. We have lost power and are running a life-support machine on a generator, which is going to give out in two hours. We have sent someone to report our power problems and to bring in more doctors, but she is not due to reach anyone for several hours, and it should take several more hours before anyone can reach us with more generators. The life-support machine is keeping a man in a coma alive; we know that if we could keep him on life support until help arrives, he could be fully revived and would end up perfectly healthy. But we also know that help is not due to arrive until long after the generator has given out. Another man has just stumbled into the clinic, having a heart attack, and slumped onto the ground. We have very good reason to think that if we detach the generator from the man in a coma, we will be able to use it to power a defibrillator to save the life of the man who has just stumbled in—but then the man in a coma will die. This, I claim, is a case in which we may detach the generator from the man in a coma, even though we would be killing him—and in this case, causing his death *is mitigated* by the fact that he is overwhelmingly likely to die soon anyway. Indeed, it is a practical certainty that he will die; the only way he would not die would be if by some bizarre and happy accident someone happened to decide to bring us a generator and set out toward us many hours ago, so as to reach us before we even lose power. If destroying a leftover embryo is analogous to detaching the man in a coma from the generator, it is plausible that the harm to the embryo is not very serious.)

Now let's suppose that the destroyed embryo has the full moral status of a person. Because the harm to the embryo of being destroyed is not very serious, it seems the harm can be justified by consideration of the incredible

benefits that may be gained from stem cell research. Thus, I conclude that extracting cells from leftover embryos is permissible, even on the assumption that these embryos have the full moral status of persons.

Harm and Moral Status

Note that my discussion above kept two questions separate: *Does this action harm this thing?* and *Does this thing have moral status?* These two questions are often not separated. Indeed, some philosophers have the substantive view that the things that have moral status are exactly the things that can be harmed. Thus, in the literature on the ethics of abortion there is a substantial tradition of arguing that fetuses *are not harmed* by abortions, because the deprivation of their futures is not bad for them, or because they are not really deprived of any futures. Yet it would clearly be very good for a fetus if it got to live on and have all the benefits involved in getting to be a person. Abortion thwarts a fetus's natural development and keeps it from getting these benefits. Thus, it is clear that fetuses are harmed by being aborted. But that does not settle whether there is thereby any moral reason against abortion; whether there is, depends on whether the harm to the fetus is a morally significant harm—it depends on whether the fetus has moral status.

To see that something can be susceptible to harm while lacking moral status, consider the example of a dandelion growing in my backyard. If I put a picnic table in my backyard, I deprive the dandelion of light. Clearly, this harms it. However, equally clearly, there is no moral reason at all against my putting the table there in virtue of the harm to the dandelion. The dandelion lacks moral status; harms to it simply do not provide reasons. Nevertheless, the dandelion can be harmed.

In the next section, I argue that if a researcher creates an embryo and then destroys the embryo to make stem cells, the researcher has *significantly harmed* the embryo. It is important that nothing follows about whether there are thereby any moral reasons against this practice. If the embryos in question lack moral status, then there are no moral reasons against the practice in virtue of the harms to the embryos. While the practice is very bad for them, there is no moral badness to it. However, if the embryos in question have moral status, then there is a moral reason against the practice due to the harm to the embryos.

Creating Embryos to Make Stem Cells

Suppose that a researcher creates an embryo and then destroys the embryo to make stem cells. Does the researcher do anything that significantly harms the embryo?

Here is an argument that she does not. The researcher performs two relevant actions: first, the creation of the embryo; second, the destruction

of the embryo. Surely creating the embryo does not harm it. And once the embryo is created, its fate is pretty much sealed. It is never going to be implanted into a womb; it is never going to get to develop into a person. No one wants it. Those who may have a right to decide what becomes of it (its genetic parents, let's assume) do not want it implanted into a womb. If the researcher never destroyed the embryo, it would not get to develop into a person. Thus, destroying it does not harm it; its fate was sealed before it was destroyed.

This argument makes two crucial claims: creating the embryo does not significantly harm it, and destroying the embryo does not significantly harm it. I think the second of these claims is true: once an embryo has been created for the purposes of extracting cells, the destruction of this embryo is no worse for it than the destruction of embryos left over from fertility treatments. However, I think the first claim is false: creating the embryo does significantly harm it.

Let's suppose that the stem cell research lab is up and running. This makes the following counterfactual true and knowable: "If the researcher creates an embryo, the embryo will fail to get to live life as a person." What will happen is this. The embryo will be created, and it will need a great deal of help and aid to develop normally. This help and aid, in the form of a woman willing to nurture it in her womb, will not be forthcoming. No one will owe it this aid, so no one will be mistreating it in not providing the aid. Nevertheless, it will fail to get the aid it needs, and it will not be able to develop normally. It will not get to live life as a person. It will lose out on all the tremendous benefits involved in getting to live life as a person. Its whole existence will be as a mere embryo, compared to a much more meaningful life it could have had as a person. From the embryo's perspective, this is a tragedy. Of course, the embryo does not *literally* have a perspective, in that it does not have any experiences. But things can be better or worse for the embryo, and this is a tragedy for it. Not getting to live life as a person is a huge loss. It is very bad for the embryo that it does not get to live life as a person.

The researchers know that if they create the embryo, it will fail to get to live life as a person. They knowingly do something that leads to the embryo's suffering this fate, which I have argued is very bad for it. Thus, they harm the embryo.

Just how bad is it to be deprived of the chance to live life as a person? I think that few harms are worse. Perhaps some are worse: perhaps having a rich life cut off abruptly in the middle is worse; perhaps suffering extreme torture is worse. But this is certainly one of the worst things that can happen to something.⁴

⁴ In unusual cases, the deprivation of the chance to live life as a person may be good for an embryo. For example, if an embryo is such that if it gets to live life as a person this life will involve utter misery, then the deprivation of the chance to have this life is good for it.

I claim that it is very bad *for an embryo* if it comes to exist and is then destroyed. What follows about the ethics of stem cell research? Nothing. It depends on whether what is bad for the embryo matters morally—on whether the embryo has moral status.

If the embryo has the full moral status of a person, then there is a very significant moral reason against this form of stem cell research, due to the harm to the embryo. But even on the assumption that the embryo has the full moral status of a person, this does not settle whether this form of stem cell research is wrong.

Perhaps this case is like abortion. Thomson has argued that even if the fetus has the full moral status of a person, abortion is permissible because a pregnant woman has the right to refuse to suffer significant hardships in order to provide aid to the fetus, and if the only way to avoid providing this aid to the fetus is to kill it, she may do so.

However, nothing like that is going on when we are considering creating embryos that would be destroyed to make stem cells. There is no existing being we are refusing to aid. Rather, we are bringing a being into existence, knowing it will need aid that it will not receive. (Note that Thomson's arguments do not show that, even if a fetus has the full moral status of a person, it is permissible to bring a fetus into existence in order to abort it.⁵) Furthermore, if we fail to engage in this practice—if we fail to create embryos that would be destroyed to make stem cells—it is not the case that anyone will find himself providing aid to something against his will, as a pregnant woman will find herself if she does not abort.

Given that there is a strong reason against this form of stem cell research, due to the badness to the embryos of this practice, how might the practice be justified? We may think that the practice is justified because although it is bad for the embryos, it is very good for many people, future people who will be saved by the therapies that stem cell research will provide. However, this is the wrong kind of consideration to justify severely harming something—if that thing has the full moral status of a person. For example, it is impermissible to cut up one healthy person and use his or her organs to save five patients with organ failure.⁶ The cases appear to be parallel. The embryos we would create, if they have the full moral status of persons, would be severely harmed in order to save many other, unconnected people.

If we assume that human embryos and fetuses have the full moral status of persons from the moment of conception, then any tragedy for one of them is a morally significant tragedy that provides a compelling moral reason. Abortion is a tragedy for the fetus in question. Thomson

⁵ See the fourth objection discussed in the section below entitled "Objections" for further discussion of this point.

⁶ A consequentialist would disagree with my claims here. These claims are assumptions of this essay.

argues that abortion is permissible even given the assumption that the fetus has the full moral status of a person. But that's because the only way to prevent the tragedy for the fetus is for a woman to undergo significant hardship to provide aid; because the woman doesn't owe this sacrifice to the fetus, she may abort it in order to avoid aiding it. Similarly, if we create an embryo that will be destroyed to make stem cells, the embryo will suffer a tragedy. However, this practice cannot be justified in a parallel way, if we assume that the embryo has the full moral status of a person. *Failing to create the embryo* does not force anyone to suffer burdens in order to aid the embryo in the way that failing to abort a pregnancy imposes burdens on a pregnant woman in forcing her to aid the fetus.⁷

Objections

In this section, I discuss five objections to the argument of my previous section. In that section, I argued that creating an embryo that will be destroyed to extract stem cells significantly harms the embryo. I further argued that if the embryo has the full moral status of a person, this practice is impermissible. The first two objections that I will consider maintain that this practice is not bad for the embryo. The third objection maintains that, although the practice is bad for the embryo, the practice is not wrong—even on the assumption that the embryo has the full moral status of a person. The fourth and fifth objections maintain that the picture I am presenting has implausible further implications. Each objection could be discussed at great length; I will confine myself to articulating each objection and then very briefly arguing that it fails.

The first objector maintains that the embryo is not harmed by coming to exist and then failing to get to live life as a person. The objector asserts that an embryo (or fetus) that dies is not deprived of a future as a person because if it had developed into a person, the embryo would not have been identical to the person.

In my discussion, I have assumed the relevant identity claim: when an embryo does develop into a person, there is a single thing that is first an embryo and then later a person. Some philosophers deny the identity claim because they are convinced of a psychological criterion of identity

⁷ Recently, news stories have reported that it may be possible to extract cells from an embryo, in order to make stem cells, without damaging or destroying the embryo. How would this change the moral picture I am laying out? If this new technology reduces the need to create any embryos for the sole purpose of stem cell research, it may mean that the practice this essay focuses on will rarely (or never) occur. But if a researcher creates an embryo knowing that this new technology will be used to extract cells and that the undamaged embryo will then continue to exist without ever developing, *this practice* is on a moral par with creating an embryo knowing it will be destroyed. In either case, the created embryo will not get to live life as a person, which is a tragedy for it. In either case, on the assumption that the embryo has the full moral status of a person, the practice is impermissible.

for persons. However, Derek Parfit (1984) has shown that *what matters in survival* does not coincide with identity; and in the face of his arguments, we should see that a psychological criterion is merely a good guide to what matters in survival, not to identity. Some philosophers hold that *certain early embryos* are not identical to any later-existing persons: these are embryos that are early enough to be capable of twinning. I do not understand why the mere *possibility* of twinning should be enough to undermine identity in a case where twinning did not actually occur. Had the embryo twinned, though it would have developed into two different persons, it would have been identical to neither. Nevertheless, if the embryo did actually develop without twinning, it is identical to the person it developed into. (Compare: an amoeba today is identical to itself yesterday, although it could have divided yesterday into two amoebas, in which case it would not have been identical to either one.)

The second objector makes the following argument for the permissibility of creating an embryo in a circumstance in which the embryo will be destroyed. "It's better to exist and have a small chance of getting to live life as a person, and then be destroyed, than never to exist at all. An action cannot be wrong in virtue of its effects on something, if it makes that thing better off than it would otherwise have been. Therefore, creating an embryo in a situation in which the embryo will be destroyed is permissible."

This argument fails because it can be impermissible to create something although that thing has a life that is better than nonexistence. For example, it's impermissible to conceive while one has a temporary condition that will cause one's conceived child to be deaf; one should wait until the temporary condition ends and then conceive. But an argument parallel to the objector's argument would license this action. The objector's argument raises a problem known as "the non-identity problem." In my 2004, I discuss the non-identity problem in detail and argue that we can impermissibly harm someone *by creating her* even if she has a life worth living (and so, even if her existence is better than not existing at all).

The third objector argues that I have misdescribed the way in which an embryo's not getting to live life as a person is bad for it. I have suggested that an embryo's not getting to live life as a person is bad for it in the way that being in pain, losing a limb, or losing one of his five senses would be bad for a person—that the event is *in itself bad*, not merely bad because the alternative would be better. The objector points out that events that are *in themselves* bad for a person provide much stronger reasons than events that are merely failures to receive benefits. While we have some reasons to avoid causing persons to fail to receive benefits, these reasons are much weaker than our reasons against causing events that are in themselves bad for persons. Suppose I have been planning to give Anne a million dollars but then decide not to. This decision is very bad for Anne.

But there is no strong moral reason against my deciding this way, and part of the explanation is that while the decision is very bad for Anne, it merely results in Anne's failing to get a benefit. It does not cause anything that is in itself bad for Anne. The objector suggests that the embryo's failing to get to live life as a person is like Anne's failing to get a million dollars: it would have been wonderful for the embryo to get to become a person, but not getting to become a person does not involve suffering a fate that is *in itself* bad. My response to this objection is that it's certainly true that we have much weaker reasons against failing to provide *certain positive benefits* than we do against causing events that are in themselves bad for a person. I agree with the objector that if the badness for the embryo is merely like the failure to get some spectacular benefit, then—on the assumption that the embryo has the full moral status of a person—creating the embryo and destroying it to get cells *can be justified* by the benefits that will come from stem cell research. But the badness for the embryo of failing to get to live life as a person is not like failing to get a million dollars, for two reasons. First, it's a tricky business to draw the line between the things that are in themselves bad for something and the things that provide weaker reasons because they are mere failures to receive a certain kind of benefit; as I suggested above, becoming blind and losing a limb fall in the first category, although the explanation of what is bad about these crucially involves the benefits of having what is lost. Second, the death of a person is clearly in itself bad, not merely like failing to receive a great benefit. But the right story about the badness of death for a person crucially involves the deprivation of future life (though that is not the whole story). Given these considerations, it seems clear that the embryo's failing to get to live life as a person falls in the first category: it is like becoming blind, losing a limb, or a person's death; it is not like failing to get a million dollars.

The fourth objector claims that my embracing the argument of Thomson's paper is in tension with my claim that, on the assumption that the embryo has the full moral status of a person, it is wrong to create the embryo in a circumstance in which it will be destroyed. In her paper, Thomson clearly advocates the view that it is permissible to abort a fetus that was the result of voluntary sex—at least if contraception was used, and the pregnancy was a result of failure of the contraception. And (though this is even less explicit in the paper) Thomson also seems to advocate the view that it is permissible to engage in sex with contraception even if one knows that there is a small chance that one will create a fetus and then destroy it by aborting it. The objector maintains that I should claim that this behavior is wrong—on the assumption that the fetus has the full moral status of a person. But I need not say this. What's crucial for my purposes here is that there is a big moral difference between doing something that *might* create a being that would then need aid and would not get it, while minimizing the likelihood of this creation, and on

the other hand doing something that is very likely to create a being that will then need aid and will not get it. I am arguing that the latter action harms the created being. (I can embrace Thomson's defense of a woman who aborts a fetus after contraception fails. Thomson argues that a woman is not obligated to refrain from a basic life activity such as sex in order to avoid pregnancy due to contraception failure—and if she does get pregnant as a result of contraception failure, she is not obligated to aid the fetus whose existence was a foreseeable but unlikely result of her behavior, *even on the assumption that the fetus has the full moral status of a person.*)

A further question is whether it is permissible to use fertility treatments that are very likely (indeed, nearly certain) to result in the creation of “extra” embryos that will not get to develop into persons. For reasons parallel to those I have given about creating embryos for stem cell research, I claim that such a practice is not permissible, *on the assumption that the created embryos have the full moral status of persons.* (I believe this assumption is false, however, and that such fertility treatments are permissible.)

(I won't go into the question of whether, if the created embryos have the full moral status of persons, then after having created them—with the goal of destroying them—stem cell researchers in fact owe them aid. That is a hard question. But I think it is not a pressing question, because I think the assumption that the created embryos have the full moral status of persons is false.)

The fifth objector points out that, on the view I am advocating, if embryos have moral status, then there is much more morally significant harm in the world than we generally realize or worry about. Many embryos fail to implant and thus suffer the fate of being created but not getting to live life as a person. The objector maintains that it's just not plausible that these events are morally significant. My response is that because I do not claim that these embryos have moral status, I am not committed to the view that their failure to implant is morally significant. But I am committed to the claim that those who think these embryos have moral status should think these are morally significant events. Are they also committed to the claim that we should try to prevent these events? That is a hard question, and it depends on how we could prevent these failures of implantation.

A Low Level of Moral Status?

Now that we've seen what follows from the embryo's having the full moral status of a person, let's consider a different claim: the claim that the embryo has *some moral status*. Suppose this claim is true. What follows?

In short, I think the same reasoning applies and the same conclusion follows. Creating an embryo and then destroying it significantly harms the embryo, and there is a strong moral reason against doing so, if the embryo has any moral status at all.

An objector will say this does not take seriously the possibility that the embryo may have *a low level of moral status*.

There do seem to be different levels of moral status: for example, gnats have a lower level of moral status than fish, which have a lower level of moral status than rabbits, which have a lower level of moral status than persons. Gnats never give us strong reasons at all. Fish may give us some reasons, but these reasons aren't as strong as the reasons that rabbits give us; and persons give us yet much stronger reasons.

Here's a first reason to think that levels of moral status don't help much *in this case*. Even though we think that rabbits have lower moral status than persons, we still acknowledge that *in a particular case*, a reason given by harm to a rabbit may be *stronger* than a reason given by harm to a person. For example, suppose that I see that a rabbit is about to fall from such a great height that it will be killed; the only way to stop it from falling is to rush past a person, Jim, causing Jim to fall over and very likely get a bruise or two. In this case, it seems that I should save the rabbit, causing Jim his bruises: the harm to the rabbit would be so serious that it outweighs the harm to Jim. This shows that reasons to do with persons don't always win out over reasons to do with lesser beings—but also that reasons against harming things with lower levels of moral status can be very weighty reasons.

When it comes to an embryo not getting to live life as a person, this harm is so serious that it seems it must provide a very strong reason indeed.

At this point, an objector might say that a low level of moral status greatly diminishes the significance of any particular harm: something's having a low level of moral status is just the thing's being such that there isn't *ever* a very strong reason against harming it. Even if a harm to it would be very much worse than some other harm to a person, the harm to the person may *provide a stronger reason* because its victim is a person.

Many people do think that there are levels of moral status that work like this; but there are reasons to think otherwise. We tend to think that fish have much lower moral status than persons. Does this mean we think that some harm which is *very bad for a fish* matters less than a harm that is much less bad for a person? It's not clear we do think this. It's true we don't treat the deaths of fish as seriously as we treat the deaths of humans; but this can be explained by the fact that fish are *less harmed by death* than humans are. When fish die, they are deprived of their future lives as fish; by contrast, when a person dies, he is deprived of something much better—life as a person. (And death harms a person in other ways as well.)

Consider gnats. Gnats have very uneventful mental lives.⁸ Nothing is ever very pleasurable for a gnat. Nothing is ever very painful for a gnat.

⁸ I am assuming that gnats do have some conscious experiences, though minimal ones. If they don't, what I say about gnats can be taken to apply to whatever beings do have some conscious experiences, though minimal ones.

Gnats give us only very weak moral reasons because they are susceptible to only very minor benefits and harms. Similarly, fish give us reasons that do not go beyond a certain strength because they are not susceptible to harms and benefits of a certain degree. Rabbits are susceptible to greater harms and benefits than fish are; for example, their pain may be more involved or acute, and they can enjoy loving relationships and mourn the death of a loved one. Thus, we have stronger reasons to avoid harming rabbits and to benefit them. Finally, persons are susceptible to yet greater harms and benefits. Thus we have stronger reasons to treat them in particular ways.

I do not deny that there are levels of moral status. There are levels of moral status in the following sense. Some things are susceptible to less significant harms and benefits than other things. The former things are thus typically the source of less strong moral reasons, and it is in this sense that they have a lower level of moral status.

But I deny that there are levels of moral status in another sense. I deny that there is a status that makes a harm of a particular degree matter more because it happened to a thing with high moral status; and I deny that there is such a thing as a status that makes a harm matter less because it happened to a thing with low moral status.⁹ Rather, there are systematic differences in the types of harms and benefits that different kinds of things can suffer. So some kinds of things, such as persons, systematically give us stronger reasons than are given by other kinds of things, such as fish. The low moral status of fish is not a function of their suffering terribly bad things that matter little—it is a function of their not suffering anything that is very bad at all.

I think people are misled by the existence of things like gnats and fish that never provide really strong moral reasons. They think that embryos could be *like those things* in not providing really strong moral reasons. But the explanation for the lack of really strong moral reasons to treat gnats and fish in a certain way is that they are not susceptible to very severe harms, or to very great benefits. Embryos are not like that: they can suffer a truly terrible harm, the loss of the chance to live life as a person.

⁹ In this essay, I have only given a sketch of an argument for my view about levels of moral status. My 2003 argues that there are no levels of moral status of the second kind I describe in the text above: there is no status that makes severe harms provide weak moral reasons. In that paper, I discuss and respond to a number of objections, including objections to do with the greater significance of human pain over animal pain, and the difficulty of drawing interspecies comparisons of harm. Peter Singer argues in his 1993 (chap. 3) that there are no levels of moral status, merely differences in the degree of harm and benefit a being tends to undergo. (I do not think Singer would agree with my extension of his view to the case of embryos and fetuses.)

A View of Moral Status

I have focused on a particular form of stem cell research: the practice of creating embryos and then destroying them to make stem cells. I have argued that this practice significantly harms the embryos, and that if the embryos have moral status, this practice is wrong. Many people think this practice is permissible even though they also think that the embryos have at least some moral status. My arguments are meant to show that if these people are to maintain their view that the practice is permissible, they must come around to the view that the embryos in question lack moral status.

In this section, I articulate a view of which things have moral status that has the result that the created and destroyed embryos lack moral status. I argue that the particular view I am proposing is more plausible than other views on which the created and destroyed embryos lack moral status. Furthermore, I respond to some objections to the particular view I am proposing.

Here is the view of moral status that I propose:

The Ever Conscious View: A being has moral status at a time just in case it is alive at that time and there is a time in its life at which it is conscious.¹⁰

What does this view say? Consider plants. There is no time in their lives that they are conscious; so, on the Ever Conscious View, they lack moral status. Nevertheless, the Ever Conscious View is compatible with strong environmentalist ethical obligations; humans and other animals provide adequate reasons to protect the environment.

Consider you and me. We are conscious now, so there is a time in our lives at which we are conscious, so, on the Ever Conscious View, we have moral status *at every time* during our lives: from the moment we came to exist until the last moment before our deaths. Consider the dead human bodies we will become; they are not alive, so they do not have moral status. Nevertheless, the Ever Conscious View is compatible with the view that we have obligations to people after they die, and that we can wrong people after they die. But it implies that these obligations are not obligations to the presently existing dead bodies; they are obligations to the past living persons.

On the Ever Conscious View, if something is *ever conscious* during its life, either in the past, present, or future, then it has moral status at all

¹⁰ In my 1999, I argue that pre-conscious fetuses that will actually become persons have moral status, and that pre-conscious fetuses that will die before becoming persons lack moral status. The Ever Conscious View is a more general version of this view. I previously stated the Ever Conscious View in my 2003; I showed that the view helped to solve a problem, but I did not provide further argument for it (I did not, for example, argue that it was the only view that could solve that problem).

times throughout its life. This has the result that temporarily unconscious persons have moral status, and that permanently unconscious though still living human beings have moral status. Nevertheless, the Ever Conscious View is compatible with the view that it is permissible to kill permanently unconscious living humans—indeed, it is compatible with the view that we may *owe it to them* to kill them. (But it is incompatible with the view that the reason we may kill them is that they lack moral status.)

For our purposes, what's most important about the view is what it says about embryos and fetuses. The Ever Conscious View holds that some early embryos have moral status and some lack moral status—even two intrinsically identical early embryos, with intrinsically identical pasts, may differ in moral status due to their differing *actual futures*. One embryo is in fact going to be destroyed before it is ever conscious; thus, on the Ever Conscious View, it now lacks moral status. An intrinsically identical embryo is in fact going to develop into a conscious being; thus, on the Ever Conscious View, it now has moral status. It's natural to think that these two fetuses must have the same moral status; that is, it's natural to overlook a view on which actual future determines current moral status.

If we assume that pre-conscious fetuses and embryos must either all have moral status or all lack moral status, then it becomes quite plausible that they all have some moral status. Two facts in particular suggest that they must have some moral status. First, consider a woman who becomes pregnant. Suppose she and her partner decide to continue the pregnancy and to raise the child. They know that there is a living being in her womb who is the beginning stage of their child. They have attitudes toward that very being, the fetus—indeed, they love it. Plausibly, it is inappropriate to love something that lacks moral status, that is in itself morally irrelevant. But the woman and her partner are not making any kind of mistake in already loving the fetus.¹¹ This suggests that the fetus has moral status. Second, consider another woman who becomes pregnant and plans to continue her pregnancy. Suppose that she smokes and drinks while the fetus is not yet conscious, even though she knows this will damage the fetus and interfere with its development. This woman's behavior is wrong. It seems that we miss what is wrong with the behavior if we say merely that while the fetus now lacks moral status, her behavior is wrong because she is causing there to be, *in the future*, something with moral status that is harmed by her current behavior. Rather, it seems that she owes it *to the fetus* not to smoke and drink, and that this is best explained by the fetus's already having moral status.

¹¹ If the pregnant woman who loves her fetus suffers an early miscarriage, we need not say she was making a mistake in loving her fetus—although on the Ever Conscious View it turns out that her fetus is not the kind of thing it is appropriate to love. She had a reasonable belief that the fetus was the beginning stage of a person, and was the kind of thing that is the appropriate object of love.

Thus, if we focus our attention on fetuses and embryos that are going to continue to develop, it appears that pre-conscious fetuses and embryos do have moral status.

However, if we focus our attention on fetuses and embryos that will die before ever becoming conscious, we are led toward a very different conclusion. These fetuses and embryos are living beings, but they are much more similar to plants than to persons or animals, considering the properties that seem relevant to having moral status. These beings go through their whole lives without ever being conscious. They never have a bad experience, or a good one.

When considering the death of a pre-conscious embryo or fetus, many people are tempted to think that this death is morally irrelevant. I think that many people give up this belief in the face of considerations to do with embryos and fetuses that do have futures as conscious beings—it seems that these pre-conscious embryos and fetuses must have moral status, so it seems that all pre-conscious embryos and fetuses must have moral status.

The Ever Conscious View provides a way to hold on to both natural views: the view that some pre-conscious embryos and fetuses lack moral status—those that die before becoming conscious—and the view that some pre-conscious embryos and fetuses have moral status—those that will ever become conscious.

The Ever Conscious View is more plausible than the view that all pre-conscious fetuses and embryos lack moral status, because unlike that view, the Ever Conscious View does not dictate a cold attitude toward all pre-conscious fetuses: it allows that some already have moral status. I have not provided a substantial argument for the Ever Conscious View here; but I have shown that the view accommodates all of a number of common and natural views, some of which otherwise must be given up. These views are: the view that it is appropriate to love a pre-conscious fetus; the view that our reasons not to smoke and drink during a pregnancy that will be carried to term are due to the moral status of the fetus; and the view that the death of a pre-conscious fetus in an abortion, or of an embryo to extract cells, is morally insignificant.

I will turn now to considering two objections to the Ever Conscious View.

The first objection is that the Ever Conscious View must be false because whether something has moral status must be a matter of the thing's *nature* and facts about a fetus's actual future are not facts about its nature. According to the objector, we could differentiate fetuses in all sorts of different ways and say that some fetuses have moral status and some lack moral status—but drawing a line between two intrinsically identical fetuses is arbitrary; and the moral-status facts couldn't possibly be arbitrary.

I agree with the objector that something's moral status must be determined by its nature. Some properties of a thing are not part of its

nature and thus could not possibly determine whether it has moral status: what the woman who carries it intends for it (that is, whether she intends to abort it), what part of the world it is located in, whether those around it believe that pre-conscious embryos and fetuses have moral status—all of these factors are far too extrinsic to be relevant to whether an embryo or a fetus has moral status. However, the Ever Conscious View does not allow any similarly extrinsic factors to enter into whether something has moral status. On the Ever Conscious View, only a thing's intrinsic properties are relevant to whether it has moral status; but future and past intrinsic properties count too.¹² Thus, I think that something's *nature* is a matter of the intrinsic properties the thing has throughout its life. On this understanding of a thing's nature, its nature does determine its moral status, according to the Ever Conscious View.

The second objection is that the Ever Conscious View makes it contingent whether some activities, such as abortion, are permissible. The objector says: "You and I have moral status—and did, according to the Ever Conscious View, back when we were pre-conscious fetuses. So it would have been wrong to abort us! But then actual abortions of pre-conscious fetuses are permissible, because those fetuses lack moral status, whereas merely possible abortions are all impermissible—it would have been wrong to perform them. But that's just crazy."

The objector assumes that whether a fetus has moral status is a necessary feature of that fetus. But on the Ever Conscious View, that's not true. On the Ever Conscious View, pre-conscious fetuses and embryos that *lack* moral status are such that they would have *had* moral status if they had had futures in which they were conscious. And, on the Ever Conscious View, pre-conscious fetuses and embryos that actually *have* moral status—like the embryos that you and I once were—would have *lacked* moral status if we had died before ever becoming conscious. Suppose we ask whether it would have been permissible to abort the pre-conscious fetus that developed into me. If it had been aborted, that pre-conscious fetus would have lacked moral status. So killing it would have been killing something that lacked moral status; killing it would have been permissible. Thus, the view does not make it contingent whether abortion of a pre-conscious fetus is permissible: actual abortions are permissible, and merely possible abortions are permissible as well.

Conclusion

While it is natural to think that embryonic stem cell research is easier to justify than abortion, I have argued that in one important respect the

¹² I am assuming that whether something is conscious is an intrinsic matter. This is compatible with externalism about mental content: it may be an intrinsic matter whether something has any conscious states at all, while it is not an intrinsic matter what the content of those mental states is.

opposite is true. On the assumption that human embryos and fetuses have the full moral status of persons from the moment of conception, abortion is easier to justify than one method of obtaining embryonic stem cells. Abortion can be justified as the only way of protecting a woman from suffering burdens in order to aid the fetus. But no corresponding justification is available for *creating* an embryo and then destroying it to extract cells: while lives may be saved and improved by this process, we are not in general entitled to impose great harm on one person—or a being with the moral status of a person—in order to save the lives of people who are otherwise unconnected to that person. The difference between the two cases is that the permissibility of abortion—on the assumption the fetus has the full moral status of a person—stems from the fact that the very burdens to the woman which would be prevented by killing the fetus are *caused* by the fetus's getting the woman's aid. Abortion is permissible because a pregnant woman's only way of withdrawing aid from the fetus, to spare herself the burdens of providing this aid, is to kill the fetus; no parallel claims can be made to justify stem cell research.

I have argued that this surprising conclusion holds even on the weaker assumption that human embryos and fetuses have *some* moral status from the moment of conception. This part of my argument relied on my claim that to have low moral status is to be susceptible to only minor harms and benefits—it is for this reason, *and only for this reason*, that things with low moral status do not provide strong reasons. Embryos are not like that, so they do not have low moral status. On the assumption that an embryo has any moral status at all, a significant harm to it provides a significant moral reason.

From my two conclusions, it follows that it is permissible to create embryos and then destroy them to extract cells only if the destroyed embryos *lack moral status*. While the view that *all* pre-conscious fetuses and embryos lack moral status is implausible, because it dictates a cold attitude toward those embryos and fetuses that are the early stages of persons, the Ever Conscious View is a more plausible alternative. On this view, pre-conscious embryos that will die without ever being conscious lack moral status; but pre-conscious embryos that will become conscious already have moral status.

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