

# Anthony Kenny

## *The beginning of individual human life*

When did I begin? When does any individual human being begin? At what stage of its development does a human organism become entitled to the moral status and legal protection that we give to the life of a human adult? Is it at conception, at birth, or somewhere between the two?

The three alternatives – at conception, at birth, or between – do not in fact exhaust the possibilities. Plato, and some Jewish and Christian admirers of Plato, thought that individual human persons existed as souls before the conception of the bodies they would eventually inhabit. This idea found expression in the Book of Wisdom, where Solomon says, “I was a boy of happy disposition: I had received a good soul as my lot, or rather, being good, I had entered an undefiled

body.” Clement of Alexandria records an early Christian notion that the soul was introduced by an angel into a suitably purified womb.

In addition to those who thought that the individual soul existed before conception, there have been those who thought that the individual body existed before conception, in the shape of the father’s semen. Onan, in Genesis, spilled his seed on the ground; Jewish tradition saw this act not only as a form of sexual pollution but as an offense against life. Thomas Aquinas, in a chapter on “the disordered emission of semen” in the *Summa contra Gentiles*, treats both masturbation and contraception as a crime against humanity, second only to homicide. Such a view is natural in the context of a biological belief that only the male gamete provides the active element in conception, so that the sperm is an early stage of the very same individual as eventually comes to birth. Masturbation is then the same kind of thing, on a minor scale, as the exposure of an infant. The high point of this line of thinking was the bull *Effraenatam* of Pope Sixtus V (1588), which imposed an excommunication, revocable only by the Pope himself, on all forms of contraception as well as on abortion. But the view that masturbation is a poor man’s homicide

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cannot survive the knowledge that both male and female gametes contribute equally to the genetic constitution of the offspring.

At the other extreme are those who maintain that it is not until some time after birth that human rights arise. In pagan antiquity, infanticide was broadly accepted. No sharp line was drawn between infanticide and abortion, and as a method of population control, abortion was sometimes regarded as inferior to infanticide, since it did not distinguish between healthy and unhealthy offspring.

In our own time a number of secular philosophers have been prepared to defend infanticide of severely deformed and disabled children. They have based their position on a theory of personality that goes back to John Locke. Only persons have rights, and not every human being is a person: only one who, as Locke puts it, “has reason and reflection, and considers itself as itself, the same thinking thing, in different times and different places.” Very young infants clearly do not possess this degree of self-awareness, and hence, it is argued, they are not persons and do not have an inviolable right to life.

Defenders of infanticide are still mercifully few in number. It is more common for moralists to take the rejection of infanticide as a starting point for the evaluation of other positions. Any argument used to justify abortion, or in vitro fertilization (IVF), or stem cell research must undergo the following test: would the same argument justify infanticide? If so, then it must be rejected.

The central issue, then, is to record, and decide among, the three alternatives with which we began: should we take individual human life as beginning at conception, at birth, or at some point in between?

Some familiar texts from the Bible suggest that we should opt for conception as the beginning of the life of the individual person. “In sin did my mother conceive me,” sang the Psalmist.<sup>1</sup> Job cursed not only the day on which he was born but also “the night that said ‘there is a man-child conceived.’”<sup>2</sup> Since 1869 it has been the dominant position among Roman Catholics, even though for most of the history of the Catholic Church it was a minority view.

It has been much less common to regard personality and human rights as beginning only at the moment of birth. One important rabbinic text allows abortion up to, but not including, the time when a child’s head has emerged from the womb. Some Stoics seem to have taught that the human soul enters the body when a baby draws its first breath, just as it departs when a man draws his last.

Through most of Western European history, however, the majority opinion has been that individual human life begins at some time after conception and before birth. In the terminology that for centuries seemed most natural, the ‘ensoulment’ of the individual could be dated at a certain period after the intercourse that produced the offspring. Most Christian thinkers believed that the human soul was directly created by God and infused into the embryo when the form of the body was completed, which was generally held to occur around forty days after conception.

Aquinas held a particularly complicated version of this consensus position. He did not believe that individual human life begins at conception; the developing human fetus, for him, does not count

1 Psalm 51:5.

2 Job 3:3.

as a human being until it possesses a human soul, and that does not happen until some way into pregnancy. For him, the first substance independent of the mother is the embryo living a plant life with a vegetative soul. This vegetable substance disappears and is succeeded by a substance with an animal soul, capable of nutrition and sensation. Only at an advanced stage is the rational soul infused by God, turning this animal into a human being. Early-term abortion, therefore, though immoral on other grounds, is not murder.

The whole process of development, according to Aquinas, is supervised by the father's semen, which he believed remains present and active throughout the first forty days of pregnancy. For this biological narrative, Aquinas claimed, on slender grounds, the authority of Aristotle. At this distance of time, it is difficult to see why Aquinas's teaching on this topic should be accorded great respect.

A survey of the history of the topic makes it abundantly clear that there is no such thing as *the* Christian consensus on the timing of the origin of the human individual.<sup>3</sup> There was, indeed, a consensus among all denominations until well into the twentieth century that abortion was sinful and that late abortion was homicide. There was no agreement on whether early abortion was homicide. However, those who denied that it was homicide still regarded it as wrong because it was the destruction of a potential, if not an actual, human individual. There was again no agreement on whether the wrongfulness of early abortion carried over into the

3 Such a survey has been carried out with great care by David Albert Jones in his book, *The Soul of the Embryo* (London: Continuum, 2004), to which I am greatly indebted for much historical information.

destruction of semen prior to any conception. Even within the Roman Church, different Popes can be cited in support of each option.

If we hold that individual human life begins somewhere between conception and birth, then we must ask further questions. What, in the course of pregnancy, is the crucial moment? Is it the point of formation (when the fetus has acquired distinct organs), or is it the point of quickening (when the movements of the fetus are perceptible to the mother)? Can we identify the moment by specifying a number of days from the beginning of pregnancy?

Unfortunately, the question at issue is often posed in the confused form: "When does life begin?" If this means, "At what stage of the process between conception and birth are we dealing with living matter?" the answer is obvious: at every stage. At fertilization, egg and sperm unite to form a single cell – that is, a living cell just as the egg and sperm were themselves alive before their fusion. But this question is clearly irrelevant to determining the moral status of the embryo: worms and rosebuds are equally indubitably alive, but no one seeks to give their lives the protection of the law.

So perhaps we should reformulate the question: "When does human life begin?" Here, too, the answer is obvious but inadequate: the newly formed conceptus is a human conceptus, not a canine or leonine one, so in that sense its life is a human life. But equally the sperm and the ovum from which the conceptus originated were human sperm and human ovum; but no one nowadays wishes to describe them as human beings or unborn children. If asked, "When does life begin?" we must respond with another question, "When does the life of *what* begin?"

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Sometimes the question is framed not in terms of life, but in terms of animation or personhood. Thus it is asked: “When does the soul enter the body?” or “When does an embryo become a human person?” Modern discussions of the morality of abortion or of the status of the embryo often shy away from these questions, regarding them as matters of theology or metaphysics. Thus, the Warnock Committee, whose report on human fertilization and embryology paved the way in England for the legalization of experimentation on embryos, observed that some people thought that if we could determine when an embryo becomes a person, we could also decide when it might, or might not, be permissible to undertake scientific research on embryos. The committee did not agree:

Although the questions of when life or personhood begins appear to be questions of fact, susceptible of straightforward answers, we hold that the answers to such questions in fact are complex amalgams of factual and moral judgments. Instead of trying to answer these questions directly we have therefore gone straight to the question of *how it is right to treat the human embryo*.

But a philosopher writing on these matters cannot evade, as a politician or a committee may, the question of personhood. It is indeed a metaphysical question when personhood begins: to answer it we must deploy concepts that are fundamental to our thinking over a wide range of disciplines, such as those of actuality and potentiality, identity and individuation.

The question about personhood is the same as the question about life, rightly understood. For “When does life begin?” must mean “When does the life of the individual person begin?” The question is a philosophical one, but in order

to answer it one does not need to appeal to any elaborate philosophical system, or to quasi-theological concepts such as the soul. As is the case so often in philosophical perplexity, what is needed is not recondite information, or elaborate technicalities, but reflection on truths that are obvious, and for that reason easily overlooked.

If a mother looks at her daughter, six months before her twenty-first birthday, she can say with truth: “If I had had an abortion twenty-one years ago today, I would have killed you.” Each of us, looking back to the dates of our birthdays, can say, “If my mother had had an abortion six months before that date, I would have been killed.” Truths of this kind are obvious, and can be formulated without any philosophical technicality, without any smuggled moral judgments.

Taking this as our starting point, it is easier to find our way through the moral maze. Let us consider first fetuses, and then embryos. Those who defend abortion on the grounds that fetuses are not human beings, or human persons, are arguing, in effect, that they are not members of the same moral community as ourselves. But truths of the kind that we have just illustrated show that fetuses are identical with the adult humans who are the prime examples of members of the moral community.

It is true that a fetus cannot yet engage in moral thinking or the rational judgment of action that enables adults to interrelate morally. But neither can a young child or a baby, and this temporary inability does not give us the right to take the life of a child or a baby. It is the long-term capacity for rationality that makes us accord to the child the same moral protection as to the adult, and which should make us accord the like respect to whatever has the same long-term capacity, even before birth.

To be sure, human actions with regard to beings that are not members of the human moral community may nonetheless be good or bad. Those who believe in God do not think of Him as on morally equal terms with us, and yet regard humans as having a duty to worship Him. Nonhuman animals are not part of our moral community, and yet it is wrong to be cruel to them. But the moral respect we owe to children, and, if I am right, should accord to fetuses, is something quite different from the circumspection proper in our relation with animals. For the individual who is now a fetus or a child will, if all goes well, take his or her place with us, as the animal never will, as an equal member of the moral community. As Kant might say, that individual will become a fellow-legislator in the kingdom of ends.

I have claimed it as an obvious truth that a fetus six months from term is the same individual as the human child and adult into which, in the natural course of events, it will grow after birth. This seems true in exactly the same sense as it is true that the child is the same individual as the adult into which it will grow, all being well, after adolescence. But if we trace the history of the individual from the fetus back toward conception, matters cease to be similarly obvious.

Many people do not seem aware of the difficulty here. In 1985, the Warnock Committee's report recommended the legalization of experimentation on pre-implantation embryos; the committee's recommendation was put into effect by the Human Embryology and Fertilization Act of 1990. In a parliamentary debate triggered by the report, one Member of Parliament, Sir Gerald Vaughan, had this to say in opposition to experimentation on embryos:

It is unarguable that at the point of fertilization something occurs which is not present in the sperm or the unfertilized ovum. What occurs is the potential for human life – not for life in general, but life for a specific person. That fertilized ovum carries the structure of a specific human being – the height, the color, the color of his or her eyes, and all the other details of a specific person. I do not think that there can be any argument against that. The fact that the embryo at that stage does not bear a human form seems to me to beg the issue and to be quite irrelevant. It carries the potential, and, just as the child is to the adult human, so the embryo must be to the child.

Sir Gerald concluded that human rights were applicable to an embryo from the moment of conception.

It is undoubtedly true that contained in the conceptus is the blueprint for “the structure of a specific human being.” But to establish the conclusion that an embryo has full human rights, a different premise is needed, namely, that the conceptus contains the structure of an individual human being. A specific human being is not an individual human being.

This is an instance of a general point about the difference between specification and individuation. The general point is that nothing is ever individuated merely by a specification of its properties, however detailed or complete this may be – as it is in the case of the DNA of an embryo. It is always at least logically possible that there could be two or more individuals answering to the same specification; any blueprint may be used more than once. Two peas in a pod may be as alike as you please: what makes them two individuals rather than one is that they are two parcels of matter, not necessarily that they differ in description.

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In the case of human beings, the possibility of two individuals answering to the same specification is not just a logical possibility: it is realized in the case of identical twins. For this reason, an embryo in the early days after fertilization cannot be regarded as an individual human being. The single cell after fusion is totipotent, in the sense that from it develop all the different tissues and organs of the human body, as well as the tissues that become the placenta. In its early days a single embryo may turn into something that is not a human being at all, or something that is one human being, or something that is two people or more.

It is important to be on guard here against an ambiguity in the word 'identical': there is a difference between specific identity and individual identity. Two things may be identical in the sense that they answer to the same specification, and yet not be identical in the sense that they are two separate things, not a single thing. When we say that Peter and Paul are identical twins, we mean that they are alike in every specific respect, not that they are a single individual.

Between an embryo and an adult, there is not an uninterrupted history of a single individual life, as there is linking fetal life with the present life of an adult. There is indeed an uninterrupted history of development from conception to adult, as there is equally an uninterrupted history of development back from the adult to the origination of each of the gametes that fused at conception. But this is not the uninterrupted history of an individual. For each of the gametes might, in different circumstances, have fused to form a single conceptus; and the conceptus might, in different circumstances, have turned into more or less than the single individual that it did in fact turn into.

Naturally, all development, if it is to proceed, depends on factors in the environment: an adult may die if diseased and a child may die if not nourished, just as an ovum will die if not fertilized and an embryo will die if not implanted. But though children and adults may die, they cannot become part of something else or turn into someone else. Fetus, child, and adult have a continuous *individual* development that gamete and embryo do not have.

The moral status of the embryo, and the question of whether its destruction is homicide, was and is important. If it is not homicide, then the rights and interests of human beings may legitimately override the protection that in normal circumstances should be extended to the early embryo. The preservation of the life of the mother, the fertilization of otherwise barren couples, and the furthering of medical research may all, it may be argued, provide reasons to override the embryo's protected status.

The line of argument I have outlined was found convincing in the United Kingdom, not only by the Warnock Committee but also by the later Harries Committee.<sup>4</sup> These committees made a significant contribution to the debate by offering a *terminus ante quem* for the origin of individual human life – one that was much earlier in pregnancy than the forty days set by the pre-Reformation Christian consensus. Experimentation on embryos, they thought, should be impermissible after the fourteenth day. The Warnock Committee's reasons were well summarized in the House of Commons by the then-Secretary of

<sup>4</sup> *Report of the Committee of Inquiry into Human Fertilization and Embryology* (London: HMSO, 1984); *Report of the House of Lords Select Committee on Stem Cell Research* (London: HMSO, 2002).

State for Health, the Rt. Hon. Kenneth Clarke:

A cell that will become a human being – an embryo or conceptus – will do so within fourteen days. If it is not implanted within fourteen days it will never have a birth . . . . The basis for the fourteen day limit was that it related to the stage of implantation which I have just described, and to the stage at which it is still uncertain whether an embryo will divide into one or more individuals, and thus up to the stage before true individual development has begun. Up to fourteen days that embryo could become one person, two people, or even more.<sup>5</sup>

Those Catholics who insist that individual human life begins at conception reject this ethical reasoning. An embryo, from the first moment of its existence, has the potential to become a rational human being, and therefore should be allotted full human rights. To be sure, an embryo cannot think or reason or exhibit any of the other activities that define rationality: but neither can a newborn baby. The protection that we afford to infants shows that we accept that potentiality, rather than actuality, determines the conferment of human rights.

Undoubtedly, whatever Aquinas may have thought, there is an uninterrupted history of development linking conception with the eventual life of the adult. However, the line of development from conception to fetal life is not the uninterrupted history of *an individual*. In its early days, as Kenneth Clarke indicated, a single zygote may turn into something that is not a human being at all, or something that is one human being, or something that is two people or more. Fetus, child, and adult, on the other hand, have a continuous individual development

<sup>5</sup> *Hansard*, vol. 73, col. 686.

that gamete and zygote do not have. To count embryos is not the same as to count human beings, and in the case of twinning there will be two different human individuals, each of whom will be able to trace their life story back to the same embryo, but neither of whom will be the same individual as that embryo.

Those who argue for conception as the moment of origin stress that before fertilization we have two entities (two different gametes), and after it we have a single one (one zygote). But the moment at which one entity (a single embryo) splits into two entities (two identical twins) is equally a defining moment. While in the vast majority of cases twinning does not actually take place, the strongest element in the Catholic position is the emphasis it places on the ethical importance of potentiality. It is the potentiality of twinning, not its actuality, that gives reason for doubting that an early embryo is an individual human being.

In my view, the balance of the arguments leads us to place the individuation of the human being somewhere around the fourteenth day of pregnancy. But there are two sides to the reasoning that leads to that conclusion. If the course of the embryo's development gives us good reason to believe that before the fourteenth day it is not an individual human being, it gives us equally good reason to believe that after that time it *is* an individual human being. If so, then late abortion is indeed homicide – and abortion becomes 'late' at an earlier date than was ever dreamt of by Aquinas.

Since most abortion in practice takes place well after the stage at which the embryo has become an individual human being, it may seem that the philosophical and theological argument about the moment of ensoulment has little

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practical moral relevance. That is not so. If the life of an individual human being begins at conception, then all practices that involve the deliberate destruction of embryos, at whatever stage, deserve condemnation. That is why there has been official Catholic opposition to various forms of IVF and to scientific research involving stem cells. But if the embryo, in its earliest days, is not yet an individual human being, then it need not necessarily be immoral to sacrifice it to the greater good of actual human beings who wish to conceive a child or reap the benefits of medical research.