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RESEARCH ARTICLE

Abortion: A Comparative Analysis of the Ethical and Ontological Status of the Fetus

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Abstract: Amongst the multifarious directions and dimensions of abortion, the paper focuses on whether the moral permissibility or impermissibility of aborting the foetus can be grounded on the positive or negative status of its personhood. Paper attempts to put forth philosophical discussion that would enable one to arrive at a secular approach to the question of abortion. The present paper aims to discuss in detail whether the conceptual gap between fetal personhood and the moral impermissibility of abortion can be established through the theories of Hon-Lam Li, Paul S. Penner, Richard T. Hull, K.E. Himma, and John F. Crosby. Further, the paper will try to juxtapose all these theories of fetal personhood and attempts to draw out significant lines of comparison and contrast amongst them. This will help in determining which theory comes up with the most cogent synthesis of the ethical and ontological issues in abortion.

Keywords: Abortion, Personhood, fetus, Pro-life, Pro-choice.

1 Introduction

Abortion, despite being legalised in some countries, continues to be a taboo and a moral problem. It is not a new issue introduced to society, it has been under political, legal, social, communal, and other arenas seeking a secular stand on either of the sides responding positively or negatively to the issue. But the issue still remains unresolved, i.e., there is no particular stand that can be ascribed to abortion. This may make the research sound unprofitable, but to get something fruitful constant efforts to hit the theory back in the same place are required. Just like many other debated social issues of child labor, women's education, women voting rights etc., abortion can also figure significantly in the list with

constant efforts to cull out something or the other taking it in the direction of arriving at a consensus.

“Abortion” means deliberate termination of a human pregnancy, and often the act of abortion endangers the women’s life and the life of the foetus implanted in her body. The topic is controversial because no fair outcome has been seen over the years. There never have clear answers as to the legal, moral, political, and social aspects of abortion. As someone else’s life is involved thus, mindful thinking is required to steer in a particular direction.

Neither of the two modes of legalization – whether in favour of or against abortion- is based on a mature understanding of the relevant philosophical foundations - viz., the true ontology of the foetus, the notion of moral personhood, the difference between consciousness and being, the value of potentiality versus actuality, the possibility of a third option between Pro-life and Pro-choice theories of abortion, etc. One of the dominant reasons for legalising abortion was to keep women’s health as a priority and to enforce the proper method of performing the abortion so that the atrocious techniques resulting in deterioration of women’s health and loss of life could be resisted.

Poverty, governmental policies of population control, and misconceived notions of the freedom of a woman’s body, are among the other reasons for legalizing abortion. On the other hand, the legal, moral or social taboos against abortion in certain societies are equally insensitive to these philosophical or conceptual issues and are merely based on certain simplistic dogmas. The paper aims to find a path to cut through the moral dilemmas that typically arise as to whether to perform or not to perform an abortion.

The present paper takes up two issues. In the first section, I work out the conclusions about the moral permissibility/impermissibility of abortion by delving into the theories of Hon-Lam Li, Paul S. Penner Richard T. Hull, K.E. Himma, and John F.Crosby. I would draw from their respective stands on the ontology of the foetus. The next section juxtaposes all these theories of fetal personhood and attempts to draw out significant lines of comparison and contrast between them. Hopefully, it will help us assess which theory comes up with the most cogent synthesis of the ethical and ontological issues in abortion.

2 The Ethical Fall out of the Ontology of Foetus: Is Abortion Morally Permissible

The present section will discuss four theories by Hon-Lam Li, Paul S. Penner Richard T. Hull, K. E. Himma, and John F. Crosby and see how they develop their ontological stand on the fetal personhood to their respective conclusions about the moral permissibility/impermissibility of abortion.

2.1 The Ethical Implications of Li’s Theory

Amongst all the positions we are considering in this paper, Li’s paper has the most extensive discussion of the ethical dimensions of the issue – the intrinsic moral value of

the foetus and the moral permissibility of abortion. For Li, the personhood of the foetus is ontologically indeterminate, which makes the ethical problem of abortion irresolvable – provided, of course, that personhood is relevant to the ethical problem of abortion. To appreciate the ethical dimension of the issue of abortion, Li writes, the greater the foetus's degree of personhood, the higher the foetus's intrinsic value (Li, 1997, p. 5).

Li explains the difference between the notions of intrinsic value and instrumental value in terms of some pointed examples – a man has intrinsic value in so far as he enjoys and flourishes in his life, and he has instrumental value in so far as his organs can be transplanted in other bodies for life-saving purposes. A foetus has instrumental value in so far as its brain cells can be transplanted into the brain of patients with Parkinson's disease to improve his condition. Now a foetus can be said to have a moral status only in so far as it has an intrinsic value – and Li proposes that the intrinsic value of the foetus consists in its already having a degree of personhood or being a partial person. A newborn baby is a person with an intrinsic value, and infanticide is wrong, and is generally taken for granted. It is the intrinsic value status and the degree of the personhood of the foetus that is contentious – and to address this problem, Li lays out the following four logical possibilities:

- (a) Only full persons have intrinsic value, and that partial persons (e.g., fetuses) do not have any intrinsic value.
- (b) A partial person has the same intrinsic value as a full person.
- (c) A partial person has less intrinsic value than a full person, but, among themselves, partial persons all have equal intrinsic value.
- (d) There is the possibility that a partial person has less intrinsic value than a full person, but that partial persons do not all have equal intrinsic value.

Li goes on to reject (b) and (c) for what he presents as standard and commonly accepted reasons. Given a choice between saving a partial person (a foetus undergoing the process of development) and a full human adult, we save the latter. This is because we consider the full person as having higher intrinsic value – which is plainly evident from the fact that given a situation where both the partial and the full person are weighed to have the same instrumental value, we still would and should save the latter. Option (c) is also unacceptable because given a two-month-old and a seven-month-old foetus we would again save the latter – other things being equal. Li also finds (a) to be unacceptable mainly because there is no fundamental opposition between the partial persons and full persons – that would accord intrinsic value to the full person and merely instrumental value to the partial persons. Such a schism between the partial person (foetus) and the full person (the newborn baby onwards) would have been obtained if the foetus were a mere blob of tissues having a mere instrumental value – but here Li states explicitly that a foetus is not merely such a blob. Secondly, it is a common fact of experience that when under situational constraints, we prefer to preserve a six-month-old foetus to a two-month-old one; we do not do so on the basis of accepting a mere instrumental value of the former as contrasted with a negative intrinsic value of the latter. In other words we refuse to accept the two-month foetus as undesirable or valueless by itself –nor as merely having an instrumental value. Hence, by elimination, the two-month foetus also has a certain

measure of positive intrinsic value - hence, the six-month-old foetus would have this value to a higher degree. Li also argues that a blob of tissues before the zygote formation also does not have a negative intrinsic value that would have transited to the early foetus. Thus, comparing and contrasting different foetuses at different phases shows that they must be accorded some degree of intrinsic value – thus disposing of (a).

This leaves us with the final possibility of (d), which Li thinks to have the greatest plausibility. It gives us the philosophical grounding of the crucial decisions in life - whether to save the mother at the cost of a mature foetus, or whether to save a six-month-old foetus at the cost of a two-month-old one - if the situation demands. No such comparisons can be made between two full-grown babies of different ages – showing that full persons have equal intrinsic values. Thus for Li, as the degree of personhood enhances, so does the degree of intrinsic value of the foetus - for as already stated, intrinsic value supervenes on personhood.

Li goes on to consider whether his proposed theory matches our untutored moral intuitions. Li says that our moral intuition that if a foetus endangers the life of the mother, then it should be aborted – is backed up by the general thesis that as the degree of the mother's personhood is greater than that of the foetus, her life, too is intrinsically more valuable than that of the foetus. Again given the constraint of choosing between a dog and an adult person - only one of whom we can save - our intuition wholeheartedly goes in favour of the latter. This is because we count the human person as having more intrinsic value than the dog, and we usually count this intrinsic value as the person's flourish in life and capacity for enjoying higher or lower pleasures – which is obviously greater in an adult human person than a dog. Li further argues that intrinsic value cannot be cashed out in terms of greater advancement or greater degree of health - for our moral intuitions do not fit with this characterisation. Though a six-month-old foetus normally has a better chance of survival than a one-month-old foetus there are some occasions where just the opposite incident happens – the one-month-old turns out to be healthier than the six-month-old or a six-month-old foetus turns out to be healthier than a 12-month-old baby. But though our moral intuitions will favour the keeping of the six-month foetus at the cost of the one-month one – it will never allow killing the 12-month baby to preserve the healthy six-month foetus. Another attempt is often made to cash out the intrinsic value in terms of the degree of investment in life – a more advanced foetus is supposed to have made greater investment compared to the less advanced ones. Li resists such a proposal on the ground that sleeping biological organisms – most of the time unconscious – cannot be said to be making an 'investment' in its life. There are attempts to revise this criterion of life investment of the foetus by presenting it as 'natural' investment as opposed to a 'social' investment and the resulting frustration incurred by the foetus - if this investment is wasted. Li points out the obvious folly in this attempted connexion – for wasting natural investment by abortion cannot result in the foetus experiencing frustration. Thus the ascending degrees of any feature whereby the ascending degrees of intrinsic value or personhood of the foetus are sought to be defined does not match our untutored intuitive responses to moral dilemmas. By problematizing all these criteria, Li is obviously making way for his theory of resolvability.

Li argues that the contending parties' intrinsic value – the mother vs. the foetus, the

one-month-old foetus vs. the six-month-old one, the six-month-old foetus vs. the 12-month-old baby – cannot be cashed out in terms of a common denominator. This is evident in such cases where the expecting mother discovers that she is suffering from a disease – whose treatment requires the destruction of the foetus, while postponing the treatment till the baby is born will cause irreparable harm to her reproductive organ. This turns out to be a conflict between the lesser desirables of the greater person (mother) and the greater desirables (right to life) of a lesser person (foetus). Now one can weigh and adjudicate between two options when both of them share a common denominator or a common unit of measurement. But this situation involves more than one variable, whereas the decision of the dilemma requires that they be measured with respect to one variable – the other factors should have been kept constant. Just as a mathematical equation with two variables (e.g., $x+2y = 10$) is unsolvable, the problem of abortion with too many variables operating simultaneously turns out to be irresolvable. The Pro-life Camp operates with the criterion of life and freedom, while the Pro-choice camp is governed by the criterion of greater degree of personhood. And the problem is that instead of charting out the two measures, they run both the criteria together as underlying presupposition, never specifying them as two relativizing factors. Li says that unless a broader and richer moral criterion that would subsume the internal differences between the various options is found the problems of abortion remains irresolvable.

The ethical dimensions of Li's theory can be summarised as follows:

- There is no cut off point from which the fetus starts being a person and thus no cut off point from which we can decide abortion to be morally permissible.
- The cut-off point cannot be decided by the ascending degree of intrinsic value.
- In case of dilemmatic situations about deciding between two fetuses, a fetus and an infant, or the fetus and the mother – the problem resists a solution. This is because such dilemmas actually operate with different variables or different denominators, hence there is no accurate calculus to judge between the two. Unless a richer moral criterion is found to subsume the different variables under its common aegis the problem of abortion will remain irresolvable.

2.2 The Ethical Offshoots of Penner and Hull's Theory

According to Penner and Hull the ethical permissibility of abortion should be grounded on the beginning of the fetal personhood. They believe that the beginning of the integration of the fetal nervous system as the qualitative mark of personhood and set the 23rd week as its quantitative limit. Penner and Hull also report that bioethicists have a growing discussion about the moral obligation to anesthetize a foetus that is to be aborted so that fetal pain can be ruled out. It is generally agreed that such a requirement should be adopted for the third-trimester abortions that are to be permitted when the foetus poses serious threats to the mother's health and wellbeing. From the available empirical facts presented in favour of the existence of functioning sensory nerve receptors, the cerebral cortex, and the thalamus, it seems that pain sensors might very well be functional at the second and third-trimester boundary as well. Since it is not clear whether a foetus might be conscious of such possible inputs, it is better to work on this cautionary supposition - even if it may turn out to be

false. That is, one should use the available technology to ensure that the foetus is pain-free in a third-trimester abortion. (Penner and Hull, 2007, p.182).

2.3 The Ethical Offshoots of Himma's Theory

For Himma having a self is a necessary condition for being a moral person. He presents Mary Ann Warren's definition of moral personhood, which is phrased in terms of being a full-fledged member of a moral community with a complete set of equal rights. Alternatively, it has also been sought to be defined in terms of the psychological characteristics that constitute personality. In this sense, moral personhood involves the potential to interact with other beings in certain ways and thus be a member of the moral community. Since moral personhood is defined in terms of a moral community and rights, and as one cannot be a member of a moral community without having a self, having a self is a necessary condition for being a moral person (Himma, 2005, p. 49). However, moral personhood for Himma is to be distinguished from a much weaker notion - viz. that of moral standing. Himma holds that one cannot equate the notion of moral standing or right to life of any organism with its selfhood qua subjecthood - for that would deprive plants - which decidedly have no self or soul - of any moral standing. However, this much is settled that having a self is at least a necessary condition for being a moral person.

For Himma, prior to the moment that the foetus is conjoined with the soul, it does not have moral personhood, though it may have a moral standing as the plants and some neuter objects have, but does not enjoy the status of a moral person coupled with the full set of basic moral rights.

It is clear that both abortionists and anti-abortionists agree on the general statement that abortion is morally undesirable. Abortion right- opponents believe abortion is murder because the foetus is a person with a right to life; thus, abortion should be legally prohibited. In contrast, abortion rights proponents believe that because the foetus is not a person, the moral undesirability of abortion does not rise to the level of murder. The reproductive rights of the mother – the full-fledged person - prevail over the moral standing a foetus might have, and hence abortion ought to be legally permitted.

The need for settling the qualitative and quantitative criterion of personhood, or to put it more pointedly - the question as to when selfhood begins or when the body of the foetus comes to be associated with a soul - comes up once again with an overwhelming urgency to settle this controversy. Himma's way of tackling this question has been fully discussed in the last section – while the abortion-right proponents hold the foetus to have a soul from the very first moment of its conception Himma has sought to demonstrate that the foetus does not acquire the self before a particular point of time after conception. Penner and Hull's criterion of integrating functions of the three aspects of the nervous system puts the time limit till the 23rd week. But Himma's criterion of the beginning of the cortical activities puts it at the 20th week. He recommends a more safe and conservative approach, including the period before the cortical activities, and puts it to the 10th week (Himma, 2005, p. 49).

Himma observes that if the claim that the foetus does not acquire personhood until

after the point S after conception, the Pro-Life proponents have to give a 'different kind of argument to establish their claim of the legal impermissibility of abortion during that period before - the period in which the foetus has life, but is merely a material body without personhood. (Himma, 2005, p. 50).

2.4 The Ethical Fall-outs of Crosby's Position:

This 'different kind of argument' that Himma challenges one to find out – is furnished by Crosby. For Crosby, personhood is a dynamic and indissoluble unity of consciousness and being - it does not come to be conjoined with the body at a lockable moment; it does not fall back upon a soul or a special body organising an unformatted body; on ultimate analysis it is shown – refusing all objectification. As a foetus cannot begin to acquire personhood at a later phase, the question of finding a convenient time span where abortion is morally and legally permissible is ruled out. Crosby invites us to think about the embryo as *sine ira et studio* (without anger or fondness or without hate and zealously) and be free of the pressure of any particular interest in having an abortion, providing one, or performing experimentation on embryos; one also must not be corrupted by subjectivism, and must not be estranged from one's body in the sense of the dualism just discussed (Crosby, 1993, p. 415).

Any pragmatic agenda in settling the question of abortion obscures the intrinsic value of the fetal personhood, a subjectivist bias reduces personhood to consciousness, and any attempt to confine personhood to the brain-activities alienates the person from the expansive bodily activities. To put it plainly, for Crosby, abortion is legally and morally wrong at all stages of conception.

3 Comparative Analysis of the Four Theories of Fetal Personhood

The exponents of these four philosophical positions we have presented have not engaged in any direct dialogue with each other - hence I attempt to use my own insights to open up the relevant lines of comparison and contrast amongst them. I have privileged Crosby's theory as representing the densest philosophy of fetal personhood. H.T. Engelhardt was the chief target of Crosby's attack – he had not mentioned any other theorists we have considered in this paper. However, to achieve a thematic unity of my presentation, I have juxtaposed all the other three positions successively against Crosby, parallelly attempting to comprehend all the other modes of parsing – Li with Penner and Hull, Penner and Hull with Himma, Li with Himma-as well.

3.1 Li versus the other positions

Li never says that the fetal body is a passive conglomeration formed by a linear addition of cells. He would also admit the crucial disanalogies between a biological or organic growth and the process of a heap-formation. The way the process of accumulation of sand grains can get started or be stopped at any moment is significantly different from the process of the biological union of cells. But when Li commits himself to personhood as being a matter

of gradual accumulation, refusing any novel point of origin, he parts company with both Penner and Hull and Himma. We have seen that for Penner and Hull, the beginning point of the foetus's personhood obtains precisely when the foetus starts coordinating the functions of three aspects of its nervous system – viz., the sensory organs, the cerebral cortex, and the thalamus. Let us recall that they base their claim on the empirical experiments on the respective increase and decrease of the fetal heartbeats in response to unfamiliar and familiar stimuli – the habituation phenomenon that is recorded to start at the sixth or seventh month of the foetus. Now there are at least two tracks open to Li for countering this theory of personhood as originating at a precise point in time. He can say (1) that the correlation between increase and decrease of heart rates with certain stimuli does not demonstrate that the foetus is having perception, or is performing the task of integration – for this correlation may admit other interpretations. (2) The habituation phenomenon is itself a heap phenomenon – one cannot pinpoint the precise moment at which the heart-rate shows a palpable increase or decrease.

3.2 Li and Himma

Penner and Hull were striving more with a pragmatic approach to find out a workable guideline about the time frame of abortion. Their integrative function of the three aspects of the nervous system is perhaps a thinner notion than that of selfhood as conceived by Himma. Penner and Hull's position is philosophically more neutral because they do not tie up the notion of personhood with any particular philosophical school of thought as Himma does. Penner and Hull operate with a more thinned-out notion of personhood – which does not amount to the positive constitution of personhood, nor even its necessary condition, but they simply concern themselves with the point at which the foetus would begin to develop into a person. Their notion of personhood does not feed upon a dualistic notion of self – as a disembodied and pure subject of experience – that can be superimposed upon another body and cause brain activity. Nor do they commit themselves to a disembodied soul as causing the integrative functions of the three aspects of the nervous system.

3.3 Li and Crosby

Crosby would be strongly against the repercussions of Li's attempted reduction of personhood to a heap that grows by a passive accumulation of degrees. Contrary to how a heap is formed – a person's growth is a continuous process which is usually beyond human intervention or any other contingent occurrence. Li does not have a satisfactory answer about the extent to which the analogy between a heap and a person can be pushed – he offers no explanation as to why personhood is not available to addition or subtraction of degrees at any moment – in the way a heap is smoothly available to addition and subtraction of its constituent grains.

Li's talk of degrees of personhood as gradually developing over a grey area through ascending degrees needs to be compared with what Crosby says about personhood being not a static or unchangeable phenomenon and as admitting ascending degrees of adequacy and higher levels of centred consciousness. The important difference between these two discourses is that for Crosby, a full-grown person undergoes different levels of adequacy, say from childhood to adulthood, and a normal person lapses into schizophrenia and

recovers from that – whereas for Li one cannot speak of any ascending or descending degrees of personhood after pole2 i.e. after the baby is born. Thus the motivating factors of bringing the talk of degrees of personhood (Li) and degrees of adequacy and ‘more and more centred consciousness’ (Crosby) are significantly different. Crosby talks of these different degrees of personhood (or degrees of adequacy in personal consciousness) to resist its proposed reduction to consciousness and thus to retrieve what he thinks to be the seamless unity of person and consciousness, ruling out any attempt to prioritise the one at the cost of the other. On the other hand, Li is interested in recasting personhood in the structure of two poles and a grey area in between - that would resist any point of origin. Crosby does not seem to share Li’s philosophical anxiety in identifying the starting point of personhood; for him, abortion will be morally wrong at all stages. Any attempt to construct a philosophical backup for the pragmatic purpose of fixing a time frame of abortion is to give in to the various unspoken utilitarian demands foisted on the foetus. Of course, Li explicitly resists such utilitarian maneuvers by declaring the foetus to be intrinsically valuable. He can also refuse to specify any qualitative feature of personhood or its intrinsic value on the grounds that such an attempt will involve a naturalistic fallacy. But this orientation does not fit well with an invocation of degrees of intrinsic value – for if one is not prepared to say what it is that constitutes its value, then it is doubtful whether one can significantly talk of its increasing degrees. The crucial fallout of Li’s theory - that the problem of fixing a time frame of abortion is irresolvable - may lose its philosophical significance unless its underlying weaknesses are addressed or rectified.

Li often seems to define intrinsic value as flourishing in life and the capacity for higher and lower pleasures – which for him, admit to a variation in degrees. There seems to be something seriously flawed here – as contrasted with Crosby – who has definitely a much richer notion of personhood, where the ‘ascending degrees of adequacy’ and ‘more and more centred consciousness’ is not a matter of adding more and more intensities to a shade of red, or raising the volume of music – keeping other things equal. Personhood is inherently a multi-layered notion that refuses linear addition of degrees. Crosby perhaps would say that such dilemmas posed between the mother and the foetus - are invalid, just as it is invalid to pose a dilemma between a mother and her full-grown child or between two children and two adults. The very fact that one constructs this situation in a dilemmatic mould shows that one has presupposed personhood as a one-dimensional line – which can gradually be increased in that line. For Crosby, the personhood of a living organism would present a unique whole with multiple dimensions - and hence one cannot suppress these many-sided aspects and recast it forcibly in a one-dimensional line - admitting to passive linear addition of degrees.

The crucial link between Li and Crosby seems to be this: Li conceives personhood in the model of a heap – puts it into the structure of two poles beyond which the personhood does not increase or decrease. But he soon realises that this structure is not sufficient to satisfy our innate moral intuitions – in handling dilemmatic situations – where more than one variable - like health of the foetus irrespective of its age, health of the mother, etc. are brought into play. Li correctly points out that two options posing two different sets of criteria cannot be weighed against each other - for any comparative estimate would require the things estimated as being available to the same unit or the same dimension of measurement. Unless a richer and more comprehensive moral dimension is

found that is adequate to subsume both the rival options- viz. greater health of a lesser person and lesser health of a greater person - under the same unit of measurement, these patent problems of abortion remain irresolvable. Now Crosby does not take this path – he at the very outset conceives different persons as different unique wholes – that inalienably absorb the different features in the personhood – they do not stick out feature1of greater person or feature2 of a lesser person as Li conceives them to be. For Crosby, one should see these features as already incorporated in personhood so that the additional agenda of finding a richer and more comprehensive criterion of morality does not arise at all.

It is natural to object that we are often hard-pressed to juxtapose two options with two different sets of variables - and then we strive to find a solution to the dilemma. And sometimes, we do seem to hit upon a generic moral principle whereby we can calibrate the internal differences between two options and thereby choose one of the two. On the one hand, the very notion of moral dilemmas about whether to abort or not to abort becomes invalid for him, because each fork of such a dilemma is conditioned by a variable, either pertaining to the degree of the personhood of the foetus, its physical adequacy, the health of the mother, efficiency of the mother - none of which can be relevant in overpowering the intrinsic worth of the foetus. On the other hand, we can also read Crosby to take such generic moral criteria as always labouring hidden presupposition/s - which are not verbalised in the form of a proposition - rather they are enacted. In that case, no construction of moral dilemma or their purported solution is a theoretical inference, not even a faulty one, for the impossibility of charting out the hidden presuppositions in a complete manner makes the premises of such inferences syntactically incomplete. In the latter reading of Crosby, the arguments of the Pro-choice theories or any proposed solution of dilemmas at the cost of the foetus, are actually language games or speech acts – i.e., on ultimate analysis they are simply how we act or behave.

3.4 Penner and Hull, Himma and Crosby

Crosby's resistance to any attempted schism between the personalised body and the instrumental body, or the integrated body and the pre-integrated body, can be pitched against many theories at one go – viz. those of Penner and Hull, Himma and Engelhardt - in spite of their internal differences. Let us try to see how all these theories labour under this dualism in their own characteristic fashion - an exercise that would mark Crosby's originality once more in a new direction.

Penner and Hull apparently strike a chord with Crosby in delinking personhood from consciousness. But the basic strand of their thought runs against that of Crosby. Penner and Hull are ready to assume a distinction between a mere physical organism of the foetus and the person that comes to be associated with it, and within this framework, they seek to identify the exact point at which the personhood begins to emerge (Penner and Hull, 2008, p. 174 and p178).

For Crosby, on the other hand, personhood does not come to be associated with the foetus at a later phase – along with the integrative functions of the nervous system – but personhood is already incorporated in the foetus before one can speak of his starting to function in a new integrative mode. As for the rich records of empirical investigation

into the habituation phenomena of the foetus Crosby might welcome all these - but only in so far as these do not point to the 'precise beginning of the process of developing personhood and thereby do not feed upon an uncoordinated body of the foetus and the beginning of its coordination. For Crosby, the being or personhood of a foetus is a unitary whole that will not accommodate a split between pre- and post-integration periods. It is Himma's theory explicitly set in the dualistic framework that is more heavily committed to a schism between the pre-personalised amorphous mass of the foetus vis a vis the organised body with brain-functions generated by the soul. But though Penner and Hull consciously attempt to keep their position philosophically neutral - yet the very idioms in terms of which they set out their programme - viz. that of identifying the precise point of beginning of personhood, or when the person comes to be associated with the fetal body - underscores a dualism, at least between the pre-integrated and integrated body of the foetus, and the latter using the former as its instrument. This dualism perhaps comes up more palpably in the occasion where Penner and Hull state that consciousness and self-consciousness are 'theoretical constructs' widely held in the dominant cultures - postulated to explain certain behaviours of human organisms. (Penner and Hull, 2008, p.176). On the other hand we have noted that Crosby takes consciousness and personhood to be a seamless union that would significantly differ from the way Penner and Hull put up a distance between the physical behaviours of the organism and consciousness (that is obviously implied in their posing consciousness as a theoretical construct that is per definition falsifiable) (Crosby, 1986, p 408). Overall we can say that Crosby will at most accept the pragmatic efficacy of this cut off point proposed by Penner and Hull - he will not accept its philosophical validity.

3.5 Crosby and Himma

Let us recall that for Himma, the dualistic narrative of the emergence of personhood or consciousness requires the soul - the non-spatial and non-material soul - to cause the brain activities. This soul is claimed to operate on the amorphous mass of cells and turn it into a structured, articulated, activated entity - i.e., into a person. The difference between Himma, Engelhardt, and Penner Hull may profitably be repeated at this juncture - Himma accords personhood to the foetus from the time that the electrical activity starts in the brain - and this activity, according to him, is brought about by the causal power of the soul. Engelhardt does not admit a soul of classical dualism, but he demands more for personhood, viz. that the mere body of the foetus should develop into a duality between the mere body and the personalised body, where the latter reigns over the former to use it as its own instrument for conducting intentional and purposeful activities. Penner and Hull commit themselves to neither of these versions of dualism - but we have analysed their theory (of the integrating activities of the different aspects nervous system) as implicitly falling back on a cleavage between body and brain - perhaps something akin to that of Engelhardt.

To resume our comparative analysis of Crosby and Himma: From Crosby's standpoint, Himma's theory of fetal personhood would suffer from the patent problems of dualism at two levels: first, the traditional problems of interactionism between two fundamentally distinct substances, and secondly, a cleavage between two kinds of bodies - the body with only the brain stem activation and the body with the cortical activation. Crosby's reaction to the first level of dualism gets reflected in his resistance to theories of Engelhardt and

Puccetti (Crosby, 1986, p.416). We have seen that these theories equate personhood with consciousness and define consciousness as personal consciousness – by which they mean self-consciousness or self-presence. We can perhaps describe this dualist self as hovering like a second-order layer over all conscious experiences and actions. It is this self that Himma holds to be the ‘inner I’ without which the images we experience would hang loose. It is this self that Himma reports Damasio and Parvizi as taking to be the core self, or the second-order witness or the protagonist. In Himma’s dualistic narrative, it is this self that the foetus typically lacks. For Crosby, on the other hand, a foetus cannot meaningfully be said to lose or lack, or come to gain, soul or personhood.

The second level of dualism between the brain and body is found in Himma’s account of the foetus at the pre-cortical phase being merely an inchoate mass. To be ensouled it has to be caused by the non-spatial soul to generate electrical activities in the brain. Now Crosby again would react that just as a non-spatial soul cannot create actions or behaviours through electrical activities of the brain, it cannot format an unformatted mass into a cerebrally structured body, so to speak. Further, as we have already noted, while the integrative electrical activities of the brain are essential for our intentional activities and subjective thinking – the brain itself will remain as an object – it never gets absorbed into our subjectivity. Hence for Crosby, it is the personalised body as an immaculate whole and not the electrical activities of the brain in isolation that holds the key to personhood. This approach clearly sets him apart from Himma’s theory.

Interestingly, for both Himma and Crosby, the phenomenon of twinning should not be read as going against the personhood of the foetus because for both of them, twinning will always remain a causal possibility on the life of a human. This phenomenon of twinning does not occur as linear addition of a heap, but as a causal transformation. A mere mass of cells – a mere unformed matter cannot bring about this causal transformation (Himma, 2001, p. 51).

4 Conclusion

We may wind up this paper by reiterating the minimally common thread that we have constructed as running through Crosby’s resistance to all the other theories of personhood noted above. For Crosby, it seems that being does not temporally precede consciousness in the embryo – the talk of consciousness coming, later on, cannot be accommodated in the seamless union of the two. Crosby does say that personhood, unless consciously exercised would remain utterly dormant, but this does not imply that there is an original state of being that is a mere possibility, a state of quiescence, the state of unorganised matter in the embryo that gets organised later on in the integrative development and activities of the brain. To talk of that pre-conscious being as dormant is simply to imply the impossibility of being without consciousness. This synthetic unity of being and consciousness rules out the framework of a linear one-dimensional time with empty slots jumping in the forward direction - in which the consciousness of the foetus comes to fill in a latter slot. In Crosby’s conception of being consciousness cannot get added to the foetus at a latter slot of this one-dimensional time-axis. Hence for him, conditioning a foetus with such characteristics is

useless and it can in no way justify personhood. Personhood is simply justifiable and can be judged in the light of its essence lying in the organism, i.e., "Being."

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