

# **‘To arrive where we started, and know the place for the first time’: Heidegger, Phenomenology, the Way Human Beings First Appear in the World, and Fresh Perspectives on the Abortion Debate**

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Intellectual stalemate in the abortion debate can be traced in part to its being framed as a standoff between religion and secular philosophy. While the former is thought to generate a broadly ‘pro-life’ position, the latter is associated with more ‘pro-choice’ thinking. This essay attempts to break free of this framing by criticising the philosophy informing ‘pro-choice’ positions, but not by resorting immediately to religious arguments but rather by drawing upon a rival *philosophical* tradition – the movement within twentieth and twenty-first Continental philosophy which was and is phenomenology. A phenomenological approach to human ‘emergence’, and in particular an application of the framework Heidegger developed in *Being and Time* (1927), leads to a radical questioning of whether contemporary English-speaking beginning-of-life ethics have adequately taken into account the way human beings come forth in the world.

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There is little more to add to the debate about abortion. That’s a view shared by many people, whether in the academy, in Parliament, in the media or in wider

public discussion. Despite deep polarization on the issue, particularly in the U.S., one position really has won out. The status quo may be one some want to radicalize — increasing access to abortion for some groups, or extending a woman's right to an abortion later into her pregnancy. Overall, though, abortion is legal and its reality is widespread. There is no real constructive argument to be had over the *existing* state of affairs. Indeed, in terms of intellectual justifications of abortion, the twenty-first century has so far seen the publication of two books — Jeff McMahan's *The Ethics of Killing* (2002) and David Boonin's *A Defense of Abortion* (2003) — which, together considered exhaustive, have been said to mount 'forceful arguments about abortion [which] substantially advance the case for a liberal position' (DeGrazia 2003). The implication is that the debate is dead; the impasse — whose entrenchment broadly favours the 'pro-choice' side of the argument — unlikely to be overcome anytime soon.

One reason for this intellectual stalemate is because the debate has often been framed as a standoff between religion and secular philosophy. Whilst the former is thought to generate a 'pro-life' position, the latter is associated with more 'pro-choice' thinking. Coupled with the assumption that faith rests on unverifiable claims, what we're left with is an incontestable justification of abortion.

Yet when you click the 'Accept' button to confirm those terms and conditions — when, that is, you see the struggle as one between faith and reason — you inadvertently smuggle in the assumption that the philosophy undergirding the pro-choice position is coherent in itself. That it is a philosophy which makes sense of things; takes into account the deep structures of reality; properly factors in the forms of life and features of nature; is fundamentally truthful and descriptively adequate rather than being of a particular time and a particular place, riding high at one moment in history.

In my book *Ethics at the Beginning of Life* (Mumford 2013), from which this article compiles extracts, I contest these assumptions. But I question the essential 'purchase on reality' of the philosophy informing the liberal position by drawing upon a rival *philosophical* tradition. It is the movement within twentieth and twenty-first Continental philosophy which was and is phenomenology that I bring to bear upon the fundamental account of human 'emergence' implied by today's most well-known secular ethicists. Rather than immediately resorting to religious arguments against abortion I develop an immanent critique of the reigning intellectual paradigm. My contention is that the whole panoply of arguments, justifications and distinctions which make up beginning-of-life ethics are deeply flawed because they fail to take into account the particular way in which human beings come forth in the world.

'*Zu den Sachen selbst!*' ('Back to the things themselves!') (Husserl 2001: 168). That was the rallying cry of Edmund Husserl, founder of phenomenology. What it captures is his overriding aspiration to establish a method of reflection returning to the world and trying to see it as for the first time. Phenomenology thus aims to achieve a more accurate description of the world and the experiences it furnishes by returning to the first-person point of view, to 'whatever is immediately evident to consciousness as it wakes up and looks around it' (Lacoste 2000: 109). Yet while Husserl pioneered the way, the thinker who, as it were, 'came up in his

slipstream' was Martin Heidegger,<sup>1</sup> and it is with the phenomenological work accomplished in his *Being and Time* (1927)<sup>2</sup> that I will mainly be engaged here.

Admittedly, Heidegger was far more interested in death than in birth. In fact he refers to the latter only twice in his text of 1927, and on both occasions the first 'pole' of human existence is immediately overwhelmed by the second. ('Factual Dasein [the human subject] exists as born', he writes, 'but as born, it is already dying, in the sense of Being-towards-death' [§72, 426]). Nevertheless, the famous *dasein-analytik* Heidegger developed in *Being and Time* — the existential phenomenological framework he delineated — uniquely illuminates features of our coming-forth into the world which our systems of morality have neglected for too long. In what follows, taking Heidegger's text as a point of departure I try, as T. S. Eliot put it, 'to arrive where we started and know the place for the first time'. Sticking with Heidegger's deepest convictions, and aided by insights added by later phenomenologists Heidegger influenced (such as his student Hans Jonas), I apply Heidegger's thought to an area he feared to tread. Having done this, I will then explore **one example** of a key premise in the abortion debate the validity of which phenomenology calls into question — the selection of 'viability' as the all-important cut-off point for legal terminations.

Of Heidegger's most famous text Jean-Yves Lacoste has written:

The most obvious realities are often the last to be brought to conceptualization. Thus it happens that location, as a transcendental feature of the humanity of man, had not really been thought before 1927, when, before proceeding to an imposing reorganization of the *quaestio de homine*, Heidegger proposed to understand what we are through the primordial figure of being-in-the-world. (Lacoste 1994: 9)

Lacoste's contention is that fairly late in the history of philosophy does the significance of our context as 'children of the world', the question of our location, receive the attention it deserves. Lacoste's contention is that only in *Being and Time* does the question of 'Where I am?' take priority over that of 'Who I am?' Only there are we given a thorough treatment of the significance of the fact that as human beings we must be in a place, have a context and maintain 'an essential relation with the here or there' (Lacoste 1994: 7). Only in the twentieth century does an ancient Gnostic heresy — in Heidegger's own summary, 'the naïve presupposition that man is, in the first instance, a spiritual Thing which subsequently gets misplaced 'into' a space' (§29, 83) — come to be thoroughly extirpated.

If it is Heidegger's organizing analysis of location which brings the phenomenon of contingency into view, then the specific concept within his text which captures the essence of that contingency is *Geworfenheit* — 'thrownness' or, differently

<sup>1</sup> The complexity of the relationship between Husserl and Heidegger is beyond the scope of this essay. Heidegger was Husserl's assistant at Freiburg from 1919–1923, before shamefully removing his Jewish teacher's name from the dedication of *Being and Time* when it was reprinted in Germany after 1933. My reading of Heidegger presumes that *Being and Time* may still be thought of as distinctly phenomenological in character whereas Heidegger's later work, c. post-1930, may not.

<sup>2</sup> Page references to this edition (as well as section references) hereafter cited parenthetically in text.

translated, 'foundness or givenness' (Dreyfus 1991: 173). This is how Heidegger introduces his term:

The characteristic of Dasein's Being — this 'that it is' — is veiled in its 'whence' and 'whither', yet disclosed in itself all the more unveiledly; we call it the 'thrownness' (*Geworfenheit*) of this entity into its 'there'; indeed, it is thrown in such a way that, as Being-in-the-world, it is 'there'. The expression 'thrownness' is meant to suggest the facticity of its being delivered over. (§29, 174)

Admittedly, at first glance this is pretty obscure. What does it mean to say we've been 'thrown into' the world? And whither have we been thrown?

What Heidegger's concept of *Geworfenheit* seems to be getting at is what one commentator terms the 'essentially passive or necessitarian aspect of [our] disclosure of [ourselves] and [our] world' (Mulhall 1996: 75). By which is meant our 'capacity to be affected by the world, to find that the entities and situations [we] face matter to [us], and in ways over which [we've] less than complete control' (Mulhall 1996: 75). It is our continually being impacted by things outside our control — by situations and phenomena and events and objects whose existence preceded and does not depend on ours — that reveals to us an essential ontological truth: before we are agents in the world we are subject to it.

Heidegger goes further than this, however. In *Being and Time* he shows himself willing to be more concrete in his depiction of *Geworfenheit* by devoting a chapter to how we are 'thrown in' among other people in the world. The Cartesianism Heidegger targets throughout his treatise famously revolves around the conception of a self-possessed subject: I am who I am first; I am affected by the world second. But if, as Heidegger contends, this conception is untenable; if, on the contrary, affectedness is ontological or basic, then it follows that people are among the things which affect me at my very core. The corollary of the Cartesian affirmation that I am who I am first and affected by the world second is that I am first in isolation and second in community. Differently put, if it is true that 'I think therefore I am', it is also true that I think by myself. And therefore the overhauling of the Cartesian subject involves for Heidegger an affirmation of the reality that Being (Sein) is fundamentally Being-With (Mitsein). Here is the thesis-statement:

In clarifying Being-in-the-world we have shown that a bare subject without a world never 'is' proximally, nor is it ever given. And so in the end an isolated 'I' without Others is just as far as from being proximally given. (§25, 152)

'Being-with', the phenomenon of sociality, provides the indispensable context for all our encounters in the world: 'The others already are there with us in Being-in-the-World' (§25, 152). And who are 'the others'? They are 'those from whom, for the most part, one does not distinguish oneself — those among whom one is too', those 'encountered environmentally' (§25, 155). So, we are not free-floating subjects who flit in and out of community at will. Rather, in the crowd is where we find ourselves. Accordingly, 'concern' for another person, him or her mattering to us, is not an option we select. It is intrinsic to our way of being; it is natural for us. The presence of the neighbour, the presence of my 'fellow', is, Heidegger asserts, as

obvious as ‘the equipment with which one is daily concerned’ (§26, 158). Other people are always near to hand.

Yet — and here I move beyond what Heidegger explicitly wrote to an application of his thought to the phenomenon of becoming — it is not just that we are thrown into a world in which ‘they are there too’ (§26, 154). The truth is that in our origin that reality is radicalized. Because in terms of our emergence in the world we are thrown *directly* into encounter. Rather than being drawn up from the dust like Adam, we begin in another’s body.

This phenomenon — our derivation from each other, the fact that ‘our bodies have been conceived and grown in the bodies of others, and our children grow in our own bodies’ (Lingis 2005: 98) — is of course specific to the sort of beings we are. Unlike inanimate objects which can be ‘classified as instances of a kind on the basis of likenesses’, living species ‘are connected by a genealogical relation that is constitutive’ (Spaemann 1996: 239). In Robert Spaemann’s analysis:

One member of the species could not exist without others, nor without definite ties of affinity. Among the higher forms of life this relation has a sexual component. The community of the species is a reproductive community first and foremost. (239).

Aquinas had had the same phenomenon in view when, teasing the bounds of thought, he wrote that ‘existence is something the creature has only from another; considered as left to itself it is nothing’ (Aquinas 1271: 715). So, I do not come forth of my own accord — I am not self-posed — but depend for my existence upon the union of my parents. It is from out of a nexus of personal and biological relations, from the succession of generations, that we rise to ‘take our life’. New members of our race come forward because of an act that was, but need not have been, performed by its older members.

That our coming-forth has been left to the discretion of other people allows us to speak of our being ‘thrown into’ existence, of the fundamental fortuitousness of our presence in the world. The essence of this contingency, best defined as the ‘reality of possibility’, is the ‘un-necessariness’ of my coming-to-be. It was possible for me not to be, and yet I am. ‘It sent a chill down my spine’, muses the teenage speaker of Terrence Malick’s *Badlands*, ‘and I thought where would I be this very moment ... this very moment, if my Mom had never met my Dad?’ My generation is no way determined: there are a million and one contingent factors that led to my creation — the chance meeting of my parents, their ‘luck’ one night (i.e. not *every* sperm and egg). And then of course there are the ‘genuine’ mistakes. Here, for example, is a moment from Lionel Shriver’s extraordinary novel, *We Need to Talk About Kevin*:

‘I didn’t put in my diaphragm’, I mumbled when we were through.

You stirred. ‘Is it dangerous?’

‘It’s very dangerous’, I said. Indeed, just about any stranger could have turned up nine months later. We might as well have left the door unlocked. (Shriver 2005: 50)

And though artificial contraception may have changed much about human life, it has not altered its fundamental precariousness, the fact that so much depends on so little, the ‘What are the chances!’ aspect of the human condition. In other ages other factors perform the same role as the forgotten diaphragm in Shriver’s

account: trivial omissions leading to the arrival of a completely new, never-seen-before member of the human race.<sup>3</sup>

Yet while at one level pregnancy constitutes the most fundamentally contingent encounter of all, at another level, from the perspective of *parents*, is this really what is usually experienced? Perhaps in unplanned pregnancies ('I didn't put in my diaphragm') 'contingent' might be the right word to describe the encounter between mother and child. But what of all those occasions where a couple have sexual intercourse *intending* to conceive? When a man and a woman 'try for a baby', and then that child surfaces. Can that newcomer really be considered a stranger? Is its advance really unexpected, or has a woman not voluntarily chosen to enter into a relationship with her offspring?

'Nowhere else does a phenomenon come forward with such a facticity' (Marion 2003: 200). In a rare example of a phenomenologist dealing directly with procreation, Jean-Luc Marion argues that the child's coming-forward always retains 'the character of an unpredictable arrival (*arrivage*) — an arrival that is unforeseen, always uncertain even while it is hoped for with a firm hope' (Marion 2003: 199). In other words, even though a couple certainly play a part in the generation of their offspring, 'it is never enough to will and to decide 'to make' a child for him to come about as a fact' (Marion 2003: 199). Why? Because 'the will to beget never absolutely guarantees fertilization, any more than a will not to beget always protects against it' (Marion 2003: 199). There are enough contingent factors involved in procreation, even in artificial procreation, that to view the phenomenon as an automatic process, a straightforward instance of cause and effect, is to impose a falsifying vision on the phenomenon. For 'while (in principle) he proceeds entirely from us, he nevertheless does not depend exclusively on us to come or not to come' (Marion 2003: 199).<sup>4</sup> If there is such scope for chance, then, may not even the most planned of pregnancies also be the most contingent of encounters? And anyhow, even if we could achieve total control over the occasion and circumstance of conception, what there will never be control over is the 'who' of the one conceived. That a couple want a 'baby' is one thing; that they get *Marcus* is something quite different, outside all their imaginings and beyond their expectation. As Hans Jonas wrote in a distinctly Heideggerian vein: 'utmost facticity of 'thisness', utmost right thereto, and utmost fragility of being meet here together' (Jonas 1984: 135).

Inside the body of our mother is the first site in the world into which we are thrown: that is the reality which Heidegger has helped to bring into view. But what

<sup>3</sup> My choice of the word 'contingent' is not intended to preclude a theological account of creation. Pope Benedict XVI, writing in response to a natural scientist's observations that the coming into existence of human beings is 'the result of chance', makes the point that such observations 'express anew what the faith over the centuries has referred to as the 'contingence' of the human person, which, then, from faith became prayer: I did not have to exist but I do exist, and you, O God, wanted me to exist' (Ratzinger 1995: 52-53). More could be said, of course, about the doctrine of creation and the way it allows for the coincidence of divine and human causality. Through the notion of 'secondary causes', for example — God's gift in creation of a discrete causality to human beings — Christianity came to advocate a concept of nature which was then denied by a more mechanically-minded modernity, with thinkers such as Sturmius, Malebranche and Leibniz 'tracing instead all events in the world back to God's immediate law-governed operations' (Spaemann 1987: 111).

<sup>4</sup> Marion adds here, 'even the most complex technologies designed to provoke artificial fertilization (or at least assisted fertilization, fertilizations that are in part nonnatural) do not attain, and by a significant margin, the almost absolutely certain, predictable, and flawless results obtained by technologies designed to produce industrial objects; on the contrary, the results here derive only from statistical causalities, without strict determinism and with astonishingly weak rates of success' (2003: 199).

else can be said about the character of this ‘original encounter’? Two further things may be said. That human beings have been thrown into (1) a relationship which is *particular* and (2) a relationship which is *asymmetrical*.

(1) Myth has long proved a useful source of counterfactuals, for how things might otherwise be but are not. And one myth which haunts both Greek and Judaeo-Christian traditions is the myth of autochthony. ‘Autochthony’ (literally: ‘from the same soil’)<sup>5</sup> describes an asexual form of reproduction whereby ‘figures’ bypass the original encounter and, instead of gestating in the body of another of their kind, come forth directly from the earth. So, just as Adam is drawn up directly from the dust, in Greek mythology the founders of Thebes are sown from the dragon’s teeth. The Phoenician prince Cadmus, guided by the Delphic oracle, dispatches a number of his men to obtain water from the Castalian spring. But when they arrive, the sacred guardian of the spring, a water-dragon, falls upon them, killing everyone. Cadmus retaliates swiftly, slaying the dragon before, on the instruction of Athena, sowing the dragon’s teeth into the ground. Then, in an instant, up from the earth spring a ‘crop’ of warriors (*spartoi*, ‘sown’), appearing (like Eve and Aphrodite) fully-formed but (unlike Eve and Aphrodite) also armed, ready to make war not love. For some reason Cadmus then whittles down their number by throwing a jewel in their midst to stimulate a skirmish, the last five autochthons left standing going on to become, along with Cadmus, founders of Cadmeia (or Thebes).

What is interesting about this myth is that human emergence in the world is being conceived along the lines of natural biological reproduction. Cadmus sows the teeth of the dragon just as an oak tree (or, alternatively, a dispersal agent such as a bee or even a gardener) drops seed and waits for growth. The myth of the founding of Thebes, according to which the seeds instantly bear fruit, thus models a speeded-up version of a natural process. And yet, even though an oak tree’s reproduction is ‘natural’, its form of reproduction is not for that reason qualitatively different from artificial reproduction. So, as A. Samuel Kimball notes, the sci-fi film *The Matrix* conjures up a world in which human beings are cloned and cultured in mechanical wombs. At one point in the film the camera cuts to a close-up of a foetus ‘suspended in a placenta-like husk, where its malleable skull is already growing around the brainjack’, before then pulling back to reveal the husk ‘hanging from a stalk [being] plucked by a thresher-like farm machine’ and, finally, offering a wide shot of endless ‘FETUS FIELDS’ (Kimball 2001: 190). Dystopias aside, the point is simply that, whether sown in the ground or farmed in a factory, what we have on the autochthonous model is mass reproduction.

Intriguingly, it is this myth of autochthony which Thomas Hobbes buys into. We may not be obliged to believe in its literal truth as a statement of origins, but, for the sake of the argument, he writes:

Let us return again to the state of nature, and consider men as if but even now sprung out of the earth, and suddainly (*like* mushrooms) come to full maturity without all kind of engagement to each other. (Hobbes 1983: 117)

<sup>5</sup> From the Greek: ‘Auto’ here meaning ‘same’ and ‘chthonic’: Greek for earth, from the Indo-European dhghem, source of the Old English *guma*, man, as in bridegroom; origin as well of the Latin *humus*, earth, from whence *humus*, exhume, humble, humiliate; of the Latin *homo*, the root of hominid, homicide, and so on; and of the Latin *humanus*, hence of human and humane. *The American Heritage Dictionary of Indo-European Roots*<sup>2</sup>, quoted in Kimball 2001: 185.

Again, then, men who spring up from the earth like mushrooms do so 'suddenly', not needing time to appear; and, what's more, they appear on the scene having bypassed the 'original encounter'. They emerge outside of the context of a *particular* relationship: 'without all kind of engagement of each other'.

Some myths are better than others, though, and in terms of describing the phenomenon of human emergence, the stork story from German folklore marks an improvement upon dragon's teeth and mushrooms. Baby in beak, the stork offers a special home-delivery service, bringing to one individual couple one new individual to be reared, and thereby emphasizing the reality that human procreation is *particular*. By contrast with the mass reproduction/autochthonous model, where one 'parent' can as easily spawn a million offspring as it can one (the relationship between the two being totally variable), in the stork myth the deal is discrete: in one pairing, one baby and one couple.

That said, how accurate *is* the stork analogy? For in reality there is no third party which presents newborn babies to deserving couples. We do not receive our children straight from the hand of God. Rather, they arrive, as we have seen, because parents 'have a hand' in the generation of those whom they are to rear. And for the reason that they can bring *forth* those whom they are to bring *up*, the myth of the baby in the beak fails to account for the phenomenon of procreation. The stork story seems to provide for more prudish cultures a 'noble lie' for children curious about where babies come from. Beginning its explanation decidedly late in the game, the stork story presents human arrival as something lying within the shared purview of man and woman. The baby is brought to both at the same time, therefore neglecting the 'privileged relation' the mother enjoys with the newone.<sup>6</sup> Hiding from view the fact that, compared to the mother, everybody else, including even the father, always remain at one remove, the stork story arguably plays out a masculine fantasy according to which 'their' child is equally given to both of them. Therefore, it's not just that (contra the dragon's teeth, *Matrix* or mushroom myth) a new member of the species is thrown into the context of a particular encounter between two people. Contra the stork story, a new human being is then 'attached' to one of those parents in particular, brought forth and developed inside the body of the mother. The primary location of the human being is a relationship of unparalleled exclusivity. The baby is begotten by two but brought forth by one.

(2) Having seen that human beings are not mass-produced but thrown into an encounter which is radically particular, the second aspect of kinship to acknowledge is what Paul Ricoeur terms the 'originary *asymmetry* between the self and the others' (Ricoeur 2004: 26; my italics); that is, the fact that our first relationship in the world is in no way reciprocal but that one person 'contributes' far more to the relationship than the other. We have seen how the essence of the contingency surrounding human beginnings has to do with the fact that our coming-forth depends upon the interaction of adult members of our kind. But what we must add is that it is not only our *origin* which is dependent upon other people: so too is our *arrival*.

At one point in the course of the unsentimental depiction of pregnancy proffered by *We Need to Talk About Kevin*, Lionel Shriver's speaker writes about the

<sup>6</sup> In an effort to get past the loaded vocabulary choices of 'foetus' and 'unborn child' throughout *Ethics at the Beginning of Life* I employ the term 'newone' to designate the prenatal human organism.

‘humbling price of a nine month freeloader’ (Shriver 2005: 58). Human beings first appear in the world as dependants living in and off their host. Once ‘here’, we cannot come any further without another person’s help. ‘A family’, wrote Gabriel Marcel, ‘is not created or maintained as an entity without the exercise of a fundamental generosity’ (Marcel 1951: 87). Our being brought forth into the world — that is, our parturition as well as our conception — is only possible if we suck up all nourishment and all energy from our host. Human beings stand in need of the fundamental support-network which is kinship because they do not emerge fully-formed like Adam, nor fighting-fit like the autochthonous Theban warriors. Rather, ‘naked I came from my mother’s womb, | And naked I will depart’ (Job 1:21).<sup>7</sup> Empty-handed, with neither possessions nor properties, is how human beings turn up in the world. Which is why Hans Jonas, again following through Heidegger’s thought, spoke of ‘the radical insufficiency of the begotten’ (Jonas 1984: 134).

Over the course of human history this phenomenon has been evaluated very differently. There is an intriguing passage in his *Natural History* when Pliny the Elder betrays his own view of this aspect of the human condition:

But man alone on the day of his birth Nature casts away naked on the naked ground, to burst at once into wailing and weeping, and none among all the animals is more prone to tears, and that immediately at the very beginning of life ... This initiation into the light is followed by a period of bondage such as befalls not even the animals bred in our midst, fettering all his limbs; and thus when successfully born he lies with hands and feet in shackles, weeping — the animal that is to lord it over all the rest. (7.1.2-3)

Given the agility and strength of its adult members, it is the extreme vulnerability and radical weakness of the baby, bursting ‘at once into wailing and weeping’, which makes the Roman statesman so indignant. The contrast between the ‘end’ of a human being (in the sense of his full flourishing or earthly destiny) and his beginning is too much for Pliny. It’s as if he thinks that man, destined to be king of the jungle, is simply entitled to better treatment in his infancy. The prince has been short-changed.

And Pliny’s point relates as much to the condition of the newone as to that of the newborn. For could he not have voiced the same indignation about the state in which the newone subsists, remaining in its mother’s womb only because it’s not yet strong enough to be cast ‘naked on the naked ground’? Another scandal, then: the animal that is to lord it over all the rest starts out fully dependent on its mother.

‘Man *alone* on the day of his birth Nature away casts naked on the naked ground.’ A second issue Pliny’s passage raises is the distinctiveness of *human* arrival in the world. ‘This initiation into the light is’, he writes, ‘followed by a period of bondage such as befalls not even the animals bred in our midst.’ In other words, Pliny not only wants to contrast man’s beginning with his end; he also wants to contrast man’s beginning with that of other animals. And what this second contrast illuminates so dramatically is the fact that, in terms of man’s initial state of ‘bondage’, there is no qualitative difference between the newone and the newborn. Whereas a foal or a calf rises to its feet only moments after its ‘initiation into the light’, clambering almost immediately up onto the level of its parent, the distinction between a human mother and a human child remains to a much greater extent intact after birth. The human

<sup>7</sup> See also Ecclesiastes 5:15.

neonate does not grow up as rapidly as the young of other species do: it is not that much stronger or self-sufficient than when it was in utero. The only real change is that now it can survive off more than one person, since the mother no longer necessarily enjoys the 'privileged relation'. Now the baby's life can depend on people other than its mother — its father, the shepherd who picked baby Oedipus off Mount Ida, the She-Wolf who reared Mowgli. Whatever the exact situation, the baby still depends on someone. Even outside the womb newborn humans remain dependants.

Having explored some aspects of a phenomenological account of human emergence, I will now finally, as promised, assess its significance for perhaps the most pivotal construct in secular beginning-of-life — that of viability.

Forty-six years ago, when parliament passed the Abortion Act, it did not declare all pregnancy terminations legal. It didn't say that every creature resident in its mother's womb was now outside the protection of the law. Rather, it established what was effectively a two-tier response to abortion, with broad defences covering abortions carried out in the early part of pregnancy and a more restrictive response to those carried out after 28 (now amended to 24) weeks. Why 28 weeks? Because, crucially, that was when the foetus was thought to be 'viable', described in an earlier piece of legislation, the Infant Life (Preservation) Act 1929, as the point at which the foetus was 'capable of being born alive'. This was the point that was picked, the point when the state accepts a compelling interest to safeguard human life, when we may rightly think of the new one as our equal (of sorts), as an entity that is to be afforded increased protection.

Six years later, the American judiciary followed the British legislature in also selecting viability as the threshold below which termination was permitted. In the landmark case *Roe v. Wade* (1973) Justice Blackmun defined viability similarly: as the moment when a foetus becomes 'potentially able to live outside the mother's womb, *albeit with artificial aid*' (Blackmun 1973: 114; my italics). That adverb was in fact something of a misnomer. By 'potentially', Blackmun and western civilization with him didn't really mean 'potentiality' in the strict philosophical sense. Less developed foetuses are potentially separable from their mothers simply by virtue of the fact they are human and that's what humans tend to become. No, 'viability' designated instead an actual here-and-now capacity for independent existence, by which of course was meant birth. These entities still deserving of defence could be born now; they could survive the onset of breathing and oral feeding; they could make it.

But if our emergence in the world is characterized by radical dependency, what sense did it ever make to take the achievement of 'viability' as the threshold below which abortion may be permitted? For in reality viability does not emerge until long after birth. The qualification Justice Blackmun added to his definition is particularly revealing: we may speak of viability when a foetus becomes 'potentially able to live outside the mother's womb, *albeit with artificial aid*' (Blackmun 1973: 114). In the case of our species, living outside our mother's womb is not synonymous with the achievement of independence; living apart from our mother does not entail living 'unaided'. Viability, more accurately, designates the point at which a child *might be kept alive* outside the womb, might, that is, become radically dependent on people other than its mother (i.e. 'survive' wrongly suggests that life is a project a newborn undertakes *tout seul*). For the same profound powerlessness that characterizes the life of the unborn characterizes that of the newborn. And therefore to really take viability as the criterion of inclusion within

the sphere of concern would mean human rights could never be conferred upon the very young, let alone the newborn, let alone third trimester fetuses. The amount of attention, the level of intensive care required to save the life of a baby born at, say, thirty weeks demonstrates that the position the West adopted forty years ago is in fact the one which least adequately accounts for the way human beings appear in the world.

A distinctly phenomenological ‘take’ on human emergence leads us, then, into something of an *aporia*. For a phenomenology of human emergence suggests that a construct such as viability cannot carry the conceptual weight expected of it. And there are other ‘moves’ and arguments and instincts which a phenomenological account similarly calls into question, which I explore in *Ethics at the Beginning of Life*. But let me conclude this article by stepping back from the debate and trying to see the bigger picture — to assess, that is, the larger contribution of phenomenology to the fraught ethical discourse surrounding the beginning of life.

What has been written here may seem a far cry from the reality of unwanted pregnancy. Writing about abortion not only as a man, but also as someone who has not experienced firsthand as a father the trauma of an unplanned conception, I am well aware that I write, as Kierkegaard put it, ‘without authority’. But the practical value of a phenomenological account of human emergence is this: that phenomenology impresses on us the *objectivity* of human emergence, the fact that the way that human beings make their entrances is a proper feature of the world we did not decide upon nor shape. By which I mean that, whether desired or not, what is coming forth is *real*. One couple may rejoice when they take a pregnancy test and realize ‘themselves’ to be with child. Another couple may be devastated. But the object which elicits these different emotions is the same. Going further, by helping us to state the obvious — that human beings, unlike Greek gods, arrive in the world *in the same way* — phenomenology at least prompts us to pay heed to that central dictum of the casuistic tradition we have inherited: to treat like instances of a kind in a like manner.

Another aspect of this *objectivity* relates to what theologian Stanley Hauerwas has castigated as ‘quandary ethics’. Quandary ethics involves the teaching of morality as essentially a succession of acute, complicated moral dilemmas, usually of a hypothetical kind. A famous example: what would you do if ... you were in charge of changing railway tracks and one day you saw a runaway but empty train carriage hurtling down the tracks towards a station rammed full of people; and all you need do to avert this crisis is change the tracks and send the carriage down a sidetrack ... except that, on the sidetrack, is a workman oblivious to the crisis. Do you sacrifice the man for the multitude? One problem with quandary ethics is that it leaves the impression that morality is entirely about dealing with things that have gone wrong in the world. But owing to the fact that a human being begins in the world as a minuscule entity, developing slowly over time — not in any way viable in its initial stages — a quandary ethics culture tempts us to think there is something wrong with that reality. That it constitutes some kind of predicament or pathology. Quandary ethics conflates situations of crisis — an ectopic pregnancy, a pregnancy where the mother’s life is at stake — with the far more numerous instances of healthy pregnancies. Above all, then, phenomenology seeks to illuminate occasions when making certain moral choices would be to fly in the face of reality, with the field of our action being the world as it is.

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