

## 13 Personhood Begins at Conception\*

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Professor Schwarz defends the traditional pro-life position on abortion: since abortion entails the intentional killing of an innocent human person who exists from the moment of conception, abortion is unjustified homicide, and consequently, morally wrong, even if the pregnancy resulted from rape or incest. Although he believes that a woman has a right to terminate her pregnancy if continuing it will result in her death (what some call “the life of the mother” exception), he does not consider such termination an “abortion,” since the intention is to save the life of the mother rather than to kill the fetus even though the procedure if performed before fetal viability will result in the fetus’s death. Professor Schwarz responds to the position defended by Mary Anne Warren (see Chapter 12): the fetus is a human being but not a person. He argues that Professor Warren and others who defend similar arguments confuse *being a person* with *functioning as a person*. They mistakenly infer from the fetus’s lack of certain functions that it is therefore not a person.

### A THEORY ABOUT HUMAN BEINGS AND PERSONS

LET US NOW EXAMINE a theory that defends abortion on the grounds that the child in the womb, though undoubtedly a human being, is not a person, and that it is only the killing of persons that is intrinsically and seriously wrong. The theory consists of two major theses: First, that killing human beings is not wrong; second, that the child (in the womb and for a time after birth) is human but not a person. I shall argue that both of these theses are mistaken.

This theory recognizes that abortion is the deliberate killing of an innocent human being, but it denies this is wrong because it denies that it is wrong to deliberately kill human beings. What is wrong is killing human beings who are persons. Now, of course, many human beings are persons, for example, normal adult human beings, and it is wrong to kill them because they are persons. But small infants, such as newborn babies or babies in the womb, though they are undoubtedly human, are not, according to this theory, persons. And so it is not intrinsically wrong to kill them. That is, it is not wrong in itself, though it may be wrong

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because of adverse consequences. A small child, therefore, has no right to life as a normal adult does, and if the child is unwanted, he may be killed.

Thus, the theory allows for abortion and infanticide alike. It rejects the typical pro-abortion lines, such as viability and birth. It agrees that there is no morally significant difference between "before" and "after." But instead of saying that killing a human being is *wrong* on both sides of such a line, it claims that it is *right* (or can be right) on both sides of the line.

Joseph Fletcher expresses this view when he remarks, "I would support the . . . position . . . that both abortion and infanticide can be justified if and when the good to be gained outweighs the evil—that neither abortion nor infanticide is as such immoral."

Michael Tooley has an essay entitled, "A Defense of Abortion and Infanticide." If the idea that killing babies is morally right is shocking to most people, Tooley replies in his essay that this is merely an emotional response, not a reasoned one. "The response, rather than appealing to carefully formulated moral principles, is primarily visceral," he says. And, "It is reasonable to suspect that one is dealing with a taboo rather than with a rational prohibition." His position is: "Since I do not believe human infants are persons, but only potential persons, and since I think that the destruction of potential persons is a morally neutral action, the correct conclusion seems to me to be that infanticide is in itself morally acceptable."

I want to show that the theories held by Fletcher, Tooley, and others are absolutely wrong. Infanticide and abortion are both morally wrong, as wrong as the deliberate killing of an older child or an adult, and thus our emotional response of shock and horror at killing babies is completely grounded in reason and moral principles. I want to show that a small child, after birth or still in the womb, is a person, as much a person as the rest of us; that the notion of person as used by these writers is a special one, a narrower concept, and

not the one that is crucial for morality. I want to make clear why the attempts to show that a small child is not a person are mistaken, and that all human beings as such are persons.

## THE ARGUMENT OF MARY ANN WARREN

In an argument for this theory, Mary Ann Warren examines "the traditional argument that since (1) it is wrong to kill innocent human beings, and (2) fetuses are innocent human beings, then (3) it is wrong to kill fetuses." This argument, she claims, is "fallacious," because "the term 'human' has two distinct, but not often distinguished, senses." In premise one, human means person, or full-fledged member of the moral community, a being whom it is wrong to kill. In premise two, on the other hand, the term human refers merely to a member of the biological species human, as opposed, say, to a rabbit or an eagle. Warren's claim is that mere membership in a biological species is morally irrelevant and thus does not confer on the being in question a right to life.

"Yes, a fetus is biologically human (human in the genetic sense), but that does not make it the kind of being who has a right to life. It is only persons (those who are human in the moral sense) who have such a right. It is wrong to kill persons, and if a human being is not also a person he does not have a right to life, and it is, or often can be, morally right to destroy him." This, in essence, is Warren's argument.

Warren offers an analysis of what is a person, a full-fledged member of the moral community:

I suggest that the traits which are most central to the concept of personhood, or humanity in the moral sense, are, very roughly, the following:

1. consciousness (of objects and events external and/or internal to the being), and in particular the capacity to feel pain;

2. reasoning (the developed capacity to solve new and relatively complex problems);
3. self-motivated activity (activity which is relatively independent of either genetic or direct external control);
4. the capacity to communicate, by whatever means, messages of an indefinite variety of types, that is, not just with an indefinite number of possible contents, but on indefinitely many possible topics;
5. the presence of self-concepts, and self-awareness, either individual or racial, or both.

This, she acknowledges, is not a full analysis of the concept of a person. It is not a list of necessary and sufficient conditions for being a person. But, she says, this does not matter.

All we need to claim, to demonstrate that a fetus is not a person, is that any being which satisfies none of (1)–(5) is certainly not a person. I consider this claim to be so obvious that I think anyone who denied it, and claimed that a being which satisfied none of (1)–(5) was a person all the same, would thereby demonstrate that he had no notion at all of what a person is—perhaps because he had confused the concept of a person with that of genetic humanity.

We can now see Warren's argument for abortion in its entirety. A fetus is human in the genetic sense; that is morally irrelevant. A fetus is not human in the moral sense; he is not a person since he satisfies none of the criteria she has outlined. Not being a person, he has no right to life, and abortion is morally permissible. The same applies to the child after birth. "Killing a newborn infant isn't murder." Infanticide is wrong, according to Warren, only to the extent that the child is wanted, that there are couples who would like to adopt or keep him. "Thus, infanticide is wrong for reasons analogous to those which make it wrong to wantonly destroy natural resources, or great works of art."

But destroying natural resources or works of art is not always wrong, and certainly not

wrong in the sense in which murder is wrong. Warren acknowledges this when she says, "It follows from my argument that when an unwanted or defective infant is born into a society which I cannot afford and/or is not willing to care for it, then its destruction is permissible."

### BEING A PERSON AND FUNCTIONING AS A PERSON

The failure of Warren's argument can be seen in light of the distinction between being a person and functioning as a person. Consider Warren's five characteristics of a person: consciousness, reasoning, self-motivated activity, the capacity to communicate, and the presence of self-concepts. Imagine a person in a deep, dreamless sleep. She is not conscious, she cannot reason, etc.; she lacks all five of these traits. She is not functioning as a person; that is part of what being asleep means. But of course she is a person; she retains fully her status of being a person, and killing her while asleep is just as wrong as killing her while she is awake and functioning as a person.

Functioning as a person refers to all the activities proper to persons as persons, to thinking in the broadest sense. It includes reasoning, deciding, imagining, talking, experiencing love and beauty, remembering, intending, and much more. The term *function* does not refer here to bodily functions, but rather to those of the mind, though certain bodily functions, especially those of the brain, are necessary conditions for functioning as a person.

When Warren points out that a fetus satisfies none of the five traits she mentions, she shows only that a fetus does not function as a person, not that it lacks the being of a person, which is the crucial thing.

At this point several objections are likely to be raised: First, the sleeping person will soon wake up and function as a person, while the being in the womb will not.

In reply, neither the sleeping person nor the being in the womb now displays the qualities of a functioning person. Both will display them. It is only a matter of time. Why should the one count as a real person because the time is short, while the other does not, simply because in her case the time is longer?

Second, the sleeping adult was already self-conscious, had already solved some problems. Therefore, she has a history of functioning as a person. The child in the womb has no such history. Thus Tooley argues that “an organism cannot have a serious right to life [be a person] unless it either now possesses, or did possess at some time in the past, the concept of a self . . . [what is required for functioning as a person].” The human being sound asleep counts as a person because she once functioned as a person; the child never did, so she does not count as a person.

True, there is a difference with respect to past functioning, but the difference is not morally relevant. The reason the child never functioned as a person is because her capacity to do so is not yet sufficiently developed. It cannot be, for she is near the beginning of her existence, in the first phase of her life.

Imagine a case of two children. One is born comatose, and he will remain so until the age of nine. The other is healthy at birth, but as soon as she achieves the concept of a continuing self for a brief time, she, too, lapses into a coma, from which she will not emerge until she is nine. Can anyone seriously hold that the second child is a person with a right to life, while the first child is not? In one case, self-awareness will come only after nine years have elapsed, in the other, it will return. In both cases, self-awareness will grow and develop. Picture the two unconscious children lying side by side. Almost nine years have passed. Would it not be absurd to say that only one of them is a person, that there is some essential, morally relevant, difference between them? Imagine someone about to kill both of them. Consistent with his theory, Tooley would have

to say: “You may kill the first, for he is not a person. He is human only in the genetic sense, since he has no history of functioning as a person. You may not kill the second, since she does have such a history.” If this distinction is absurd when applied to the two born human beings, is it any less absurd when applied to two human beings, one born (asleep in a bed), the other preborn (sleeping in the womb)?

In short, when it comes to functioning as a person, there is no moral difference between “did, but does not” (the sleeping adult) and “does not, but will” (the small child).

Third, a sleeping person has the capacity to function as a person and therefore counts as being a person, even though this capacity is not now actualized. In contrast a child in the womb lacks this capacity, so he does not count as being a person.

This is the most fundamental objection, and probably underlies the preceding two objections. In considering it, compare the following beings:

- A. A normal adult, sound asleep, not conscious.
- B. An adult in a coma from which he will emerge in, say, six months and function normally as a person.
- C. A normal newborn baby.
- D. A normal baby soon to be born.
- E. A normal “well proportioned small scale baby” in the womb at seven weeks.
- F. A normal embryo or zygote.

Case A, the normal adult sound asleep, is someone who has the being of a person, who is not now functioning as a person, and who clearly has the capacity to function as a person. I want to show now that all the other cases are essentially similar to this one. That is, if case A is a person—a full-fledged member of the moral community, a being with a right to life, whose value lies in his own being and dignity, and not merely in his significance for others (like the natural resources and works of art), a

being whose willful destruction is murder—each of the other cases is a person as well.

The objection claims that the being in the womb lacks the capacity to function as a person. True, it lacks what I shall call the *present immediate capacity* to function, where responses may be immediately elicited. Such a capacity means the capability of functioning, where such a capability varies enormously among people, and normally develops and grows (as a result of learning and other experiences).

The capability of functioning as a person is grounded in the *basic inherent capacity* to function. This is proper to the being of a person and it has a physical basis, typically the brain and nervous system. It is a capacity that grows and develops as the child grows and develops.

This basic inherent capacity may be fully accessible, as in a normal sleeping adult. It then exists in its present immediate form. It may also exist in other forms where it is latent, as in reversible coma. I shall call this the latent-1 capacity, where the basic inherent capacity is present but temporarily damaged or blocked. In a small child, the basic inherent capacity is there but insufficiently developed for the child to function in the manner of a normal adult. I shall call this the latent-2 capacity.

Let me turn to the actual refutation of this objection. I will begin with cases A through E (replies 1 and 2), then case F (3), then abnormal or handicapped human beings (4).

(1) The beings on our list, A through E, differ only with respect to their present immediate capacity to function. They are all essentially similar with respect to their basic inherent capacity, and through this, their being as persons.

Thus the adult in a coma, case B, is not essentially different from the sleeping person in case A. Person B is in a deep, deep sleep; person A in a comparatively superficial sleep. Person B cannot be awakened easily; person A can be. Person B is in a very long sleep; person A is in a short sleep, say 8 hours. Both have the basic inherent capacity; in A it is present imme-

diately; in B it is latent-1. That is certainly not a morally relevant difference. If the status of persons is to be viewed in terms of capacity to function as a person, then surely a latent-1 capacity (temporarily blocked—person B) qualifies as much as a nonlatent capacity (present immediate—person A).

Consider now the newborn baby, case C. He too has the physical basis for functioning as a person (brain, nervous system, etc.). Only his overall development is insufficient for him to actually function on the level of the normal adult. He has a latent-2 capacity. Thus there is an essential similarity between cases B and C, the adult in a coma and the newborn baby. Neither has the present immediate capacity to function as a person. Both take longer than the sleeping adult (case A) to wake up from their slumber. But both have a latent capacity to function, because they both have the basic inherent capacity to function. In the case of B, the impossibility of eliciting an immediate response is due to an abnormality, which brought on the coma. In the other, case C, this is due to the fact that the being is not yet far enough along in his process of development. In both cases the basic inherent capacity is there, it is merely latent.

Cases C and D, babies just after birth and just before birth, are clearly the same in terms of their capacity to function as persons. Birth is, among other things, the beginning of vast new opportunities to develop the basic inherent capacity to function by seeing, hearing, touching, etc., a capacity that is equally present just before birth.

Case E, a baby at seven weeks, has “all the internal organs of the adult”; and “after the eighth week no further primordia will form; *everything* is already present that will be found in the full term baby.” It is these “internal organs” and “primordia” that constitute the physical base of the basic inherent capacity to function as a person. They are substantially present in both the very young preborn child, at seven and eight weeks (case E), and the

older preborn child (case D). Thus the cases D and E are essentially similar with respect to their basic inherent capacity, and because of this, their being as persons.

In brief, cases A through E are essentially similar. Cases B through E are similar in themselves (each represents a latent capacity); and, taken together, in comparison with A (present immediate capacity). There is no essentially difference among cases B through E. If a person whose lack of present immediate capacity to function is due to a disorder (as in case B) should be respected as a person, then surely a being whose lack of this capacity to function is due to insufficient development (cases C through E) should also be respected as a person. Both are beings with the potential to function as a person; and this they can only have if they have the basis for it, that is, the being of a person. Case B represents a latent-1 capacity, cases C through E, a latent-2 capacity; both are forms of the basic inherent capacity to function, proper to the nature of a person. If a latent-1 capacity (B) is a mark of a person, then surely a latent-2 capacity (C through E) is also a mark of a person. Both B and C through E represent beings who will have the capability to function as persons, who lack this capability now because of the condition of the working basis of this capability (brain, nervous system, etc.). In one, that condition is one of disorder or blockage, in the other, the lack of development proper to the age of the being in question.

(2) The essential similarity among the beings A through E is also established if they are imagined as the same being: a being in the womb developing from seven weeks to birth (E to C), then lapsing into a coma (B), then recovering (A). Thus if there is a person at the end (A), there is also that same person at the beginning (E). It is the same person going through various stages, representing first a latent-2 capacity, then a latent-1 capacity, and finally a present immediate capacity.

I am now a being capable of functioning as a person (present immediate capacity). Many years ago I was a small newborn baby, and before that a smaller child in my mother's womb. My capabilities have changed, they have increased as my basic inherent capacity to function as a person has developed; but I remain always *the same person*, the same essential being, the being who has these growing capabilities. If I am essentially a person now, I was essentially a person then, when I was a baby. The fact that my capabilities to function as a person have changed and grown does not alter the absolute continuity of my essential being, that of a person. In fact, this variation in capabilities presupposes the continuity of my being as a person. It is *as a person* that I develop my capabilities to function as a person. It is because I am a person that I have these capabilities, to whatever degree.

And so the basic reality is being as a person. This is what entails your right to life, the wrongness of killing you, the necessity of respecting you as a person, and not just as a desired commodity like a natural resource.

(3) Let us turn now to case F, the zygote or embryo. There are three considerations that show the essential similarity between this case and cases A through E.

First: The continuum argument applies here as well. The adult now sleeping is the same being who was once an embryo and a zygote. There is a direct continuity between the zygote at F and the child at E, through to the adult at A. If the being at the later stages should be given the respect due to persons, then that same being should also be given this respect when he is at an earlier stage.

Second: It may be objected that the zygote lacks "a well-developed physical substratum of consciousness"—that it lacks the actual physical basis (brain, nervous system, etc.) for the basic inherent capacity to function as a person. This is incorrect. The zygote does not lack this physical basis; it is merely that it is now in a primitive, undeveloped form. The zygote has

the essential structure of this basis; a structure that will unfold, grow, develop, mature, which takes time. As Blechschmidt states, “. . . the fertilized ovum (zygote) is already a form of man. Indeed, it is already active. . . . All the organs of the developing organism are differentiation products of each unique (fertilized) human ovum.” That is, the organs that form the physical basis for the more developed basic inherent capacity to function as a person (at various stages, E to A) are “differentiation products” of what is already present in the zygote. Thus the zygote has, in primitive form, the physical basis of his basic inherent capacity to function as a person. In the adult this same basis exists in developed form.

The zygote actually has the basic inherent capacity to function as a person because he has the essential physical structure for this. This structure is merely undeveloped:

The zygotic self cannot actually breathe, but he *actually has* the undeveloped capacity for breathing. Nor can this zygotic self actually think and love as an adult does, but he *actually has* the undeveloped capacity for thinking and loving. And the human zygote could not actually have such undeveloped capacities unless he actually IS the kind of being that *has* such capacities. Just as it is obviously true that only a human being can have the *developed* capacities for thinking and loving, it should be obviously true that only a human being can have the *undeveloped* capacities for thinking and loving.

Elsewhere, Robert Joyce remarks:

A person is not an individual with a *developed* capacity for reasoning, willing, desiring, and relating to others. A person is an individual with a *natural* capacity for these activities and relationships, whether this natural capacity is ever developed or not—i.e., whether he or she ever attains the functional capacity or not. Individuals of a rational, volitional, self-conscious nature may never attain or may lose the functional capacity for fulfilling this nature to any appreciable extent. But this

inability to fulfill their nature does not negate or destroy the nature itself.

A being at the beginning of his development cannot be expected to possess what only that development can provide for him. He is already the being who will later function as a person, given time. The sleeping person is also a being who will later function as a person, only he will do it much sooner. What they each have now—a fully developed brain in one case, and a potential brain, that which will grow into a developed brain, in the other—is a basis for their capacity to function as persons. It is the same essential basis, one undeveloped, the other developed. It is merely a matter of degree; there is no difference in kind.

One must already *be* a human being in order to develop the human brain necessary for the present and immediate capacity to function as a person. As we noted earlier, “*only a human being can develop a human brain, a human brain cannot develop before a human exists.*” “Human being” means of course “human person,” the same being in different phases of his existence.

Third: Imagine a person J solving new and relatively complex problems (item 2 on Mary Ann Warren’s list).

1. Person J *is doing* this.
2. Person K *has the capacity* to do this (like the sleeping person A on the list).
3. Person L *has the capacity to learn* to do this (to learn what is necessary for having this capacity; for example, a child in school).
4. Person M *has the capacity to acquire*, by natural development, what is necessary for the capacity to learn to do this.

What is true of person M applies to a newborn baby (C), or a baby about to be born (D), or a much younger baby, at seven weeks (E). It applies equally to that same being at a still earlier stage of her development, as a zygote (F).

There is a continuity here. If being a person is approached from the point of view of capacity to function as a person, then clearly persons K, L, and M are essentially alike. Each is removed by one or more steps from the person J, who is actually functioning as a person. None of these steps is of moral or metaphysical significance. In reverse order from M to J, there is, respectively, a capacity to acquire, a capacity to learn, and a capacity to do what the next being represents. If doing is to count for being a person, then surely the capacity to do, the capacity to learn to do, and the capacity to acquire what is needed to learn to do must also count.

This chain argument shows not only the essential similarity between the zygote (F) and the child at later stages (C through E) but also the essential similarity among the beings A through F.

We are now in a better position to understand the real significance of past functioning as a person, which is present in the adult (asleep or in a coma), and absent from the child. It is a sign that the being in question is a person. Because a certain being has functioned in the past, he must be a person. But if he has not, or we do not know it, it does not follow that he is not a person. Other indications must also be examined. In the case of a small baby, born or preborn, including the zygote stage of a baby's existence, there are three such indications.

One, the continuum of being, the identity of the person. The baby is now the same being, the same "self" that the child will be later on. "I was once a newborn baby and before that, a baby inside my mother." Since it is a human being's essential nature to be a person, this being—as a zygote, as a seven-week-old baby, as a newborn—is always a person.

Two, the continuum of essential structure for the basic inherent capacity to function as a person. The baby as a zygote has the essential physical structure that represents this capacity. Both in the primitive form of development and

in all later stages of development, there exists the same essential structure.

Three, the continuum of capacities, to acquire, learn, and do. The zygote has the capacity to acquire what is needed to learn to function as a person.

If a being is not now functioning as a person, is he a person? Two perspectives can be used in answering this question: present to past and present to future. An affirmative answer in either case suffices to indicate that the being in question is a person. Present to past: yes, he is a person because he functioned as a person in the past. Present to future: yes, he is a person because he will function as a person in the future, based on the three-fold continuum. The mistake of writers such as Tooley is to ignore the second of these.

(4) Let us turn, finally, to the case of abnormal, or handicapped, human beings. Does the analysis offered here—that the beings A through F are essentially similar with respect to their being as persons—apply equally to abnormal, or handicapped, human beings?

It certainly does. A handicapped person (physically, mentally, or both) has the same being of a person as the rest of us who are fortunate enough not to be so afflicted. He has, with this, the same dignity, the same rights as the rest of us. We must "do unto him" as we would want others to "do unto us" if we were afflicted with a handicap. Just as there is no morally relevant difference between a normal functioning person and a small child who cannot yet function as a person because of his lack of development, there is also no morally relevant difference between the normal functioning person and one incapable, or less capable, of doing so. Any one of us who now has the present immediate capacity to function as a person may lose it through a severe illness or accident. If that happened to you, you would still have the same status of being a person, the same dignity and rights of a person.

Even a very severely abnormal or handicapped human being has the basic inherent



capacity to function as a person, which is a sign that he is a person. The abnormality represents a hindrance to the actual working of this capacity, to its manifestation in actual functioning. It does not imply the absence of this capacity, as in a nonperson.

The normal adult and child were selected for this analysis because it is in them that the essence of functioning as a person, or its usual absence because of (normal) lack of development, can most easily be seen and understood. Once recognized there, it applies equally to all persons, regardless of the degree to which they are able to accomplish it.

To conclude this part of the main argument: would Mary Ann Warren admit the adult sound asleep to the status of person? If not, she is saying it is acceptable to kill people in their sleep. Suppose she admits sleeping person A. She must then admit sleeping person B, the one in a longer, deeper sleep. The only differences are the length and nature of the sleep. In each case there is a being with a capacity to function as a person, who will, if not killed, wake up to exercise it. Clearly there is no morally relevant difference between them. This proves decisively that present immediate capacity to function as a person is not necessary to being a person. This is plainly true of the newborn baby C. Having then admitted B as a person, Warren is forced to admit C as well, for the two cases are essentially the same; no present immediate capacity to function as a person, the presence of latent capacity, rooted in the basic inherent capacity.

With this, Warren's whole argument is destroyed. For she herself claims that, in terms of their intrinsic nature, their being (as persons or nonpersons), the newborn baby (C) and the preborn baby (D through F) are morally on a par. Neither (her argument shows) can now function as a person. Both, I have shown, have the basic inherent capacity to function as persons. In all of these cases, there is the same being, with the same essential structure of a person, differing only with respect to the

degree of development of the capacity to function as a person.

Views like those of Warren and Tooley do not reach the crucial point: the fact that a human being functions as a person or has the present and immediate capacity to do so, is not the ground for his dignity, preciousness, and right to life; rather, that decisive ground is the fact of his *being* a person.

### THE REALITY OF THE PERSON SEEN THROUGH LOVE

Imagine a person you deeply love in a coma from which he will emerge in about thirty weeks, perfectly normal. Apply Warren's five criteria. He fails them all. He is not conscious, he cannot reason, he is incapable of self-motivated activity, he cannot communicate, he has no self-concepts or awareness of himself. This doesn't mean he is not a person; that he has no right to life of his own; that he could be killed if no one cared. He is just as real, just as precious, just as much a full person as if he were now capable of functioning as a person. It is just as important and necessary to respect him and care for him as if he were awake.

The child in the womb is in a comparable state, only his "sleep" is normal and is not preceded by a phase where he is able to function as a person. He is also unseen. But none of these makes a morally relevant difference. If one person in "deep sleep" (inability to function as a person) is to be respected and cared for, then the other person should be cared for and respected as well.

### THE DISTINCTION APPLIED TO SOME PRO-ABORTION VIEWS

Given our understanding of the distinction between being a person and functioning as a person, we can now come to a better

understanding of some of the things put forward by defenders of abortion.

**1. Drawing Lines.** We examined ten suggested places to draw the line between what is supposed to be merely a *preparation* for a person and the actual person. Every line proved false. In each case the same fully real person is clearly present in both sides of it. No line marks any real difference with regard to *being* a person; the person is there before as well as after. But many of these lines do have a bearing on *functioning* as a person. Thus a baby after birth interacts with others in a way not possible before birth. A baby who has reached sentience has developed an important dimension of his capacity to function as a person. And the presence of a functioning brain marks a significant milestone in the child's development as a functioning person. If these lines seem to have any plausibility, it is because one has in mind functioning as a person. But the plausibility evaporates when one realizes that the crucial thing is not functioning as a person, but being a person.

**2. The Agnostic Position.** Realizing that these lines do not work, some people say that it is simply not known when a human person begins to exist. What should be said is, rather, that it is not known when *functioning* as a person begins, for there is indeed no single place on the continuum of human life at which this begins. It is a gradual development. But the *being* of the person is there all along. And the development is what it is because the being of the person is there all the way through: it is the person's development. Agnosticism regarding functioning as a person should not lead to agnosticism regarding being a person.

**3. The Gradualist Position.** False when applied to the *being* of a person, the gradualist position is absolutely valid when applied to *functioning* as a person. That is indeed a matter of degree. We gradually develop our basic capacity to think and to communicate.

**4. The Notion of Potential Person.** False when applied to *being* a person, the notion of potential person has a validity when applied to *functioning* as a person. If by "person" we mean "functioning person," for example, a normal adult making a complex decision or reading a book, then clearly a child in the womb, or just born, or even at age one, is only potentially such a person. A baby is a potential functioning person; but he is that only because he has the actual being of a person.

#### HUMAN IS NOT MERELY A BIOLOGICAL CATEGORY

The theory advanced by writers such as Fletcher, Tooley, and Warren holds that killing babies is permissible because they are not persons; whereas, in fact, they are nonfunctioning persons. A functioning person is one who either is now actually functioning as a person, or has the present immediate capacity to do so. What the theory holds is that only functioning persons (and those who were once such persons) are truly persons. It may, therefore, be called the *functioning-person theory*.

Advocates of the functioning-person theory hold that it is not in itself wrong to kill human beings; that this can only be wrong when the being in question is a "person," as defined by the theory (one who has the present immediate capacity to function as a person, or has had it in the past). Such advocates hold that the single fact that a being is human does not constitute any reason for not deliberately killing it. Hence, they say, killing babies, born or preborn, is not in itself wrong. *If it is ever wrong, it is so because these babies are wanted and would be missed by adults.* The thesis, as Tooley puts it, is that "membership in a biological species is not morally significant *in itself*." In the words of Singer, "Whether a being is or is not a member of our species is, in itself no more relevant to the wrongness of killing it than whether it is or is not a member of our race." Warren says