

## DWORKIN, THE ABORTION BATTLE, AND WORLD HUNGER\*

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## ABSTRACT

This essay relates the struggle to eradicate world hunger to the battle over abortion. It criticizes the Dworkin's defense of the legality of abortion, by presenting arguments so that those in both sides of the abortion debate (pro-abortion and pro-life) spend their time and resources in the fight against world hunger instead of the abortion battle, in which both sides could work together. In the fight over whether and to what extent abortions should be legal, great expenditures of effort are merely neutralizing each other. Meanwhile, fighting world hunger is much less wasteful, and less costly for civil harmony and for the position of morality in our culture. Various counter-arguments – invoking cost-effectiveness considerations, or the distinctions between doing and letting happen or between compatriots and foreigners– can be refuted.

**Key words:** Abortion, Dworkin, global hunger, moral priorities, civil harmony.

## RESUMEN

### DWORKIN, LA CONTROVERSIA SOBRE EL ABORTO Y EL HAMBRE GLOBAL

Este ensayo relaciona la lucha con suprimir el hambre en el mundo, con la controversia sobre el aborto. Critica la defensa de Dworkin de la legalidad del aborto, y presenta razones para que las personas en los lados pro-vida y pro-elección inviertan su tiempo y recursos en la lucha contra el

hambre en el mundo, en lugar de la controversia sobre el aborto, en la cual ambos lados podrían trabajar juntos. En la lucha sobre si, y en qué medida, los abortos deben ser legales, un gran gasto de esfuerzo es simplemente neutralizando entre las perspectivas pro-vida y pro-elección, mientras que combatir el hambre en el mundo es mucho menos despilfarrador y costoso para la armonía civil y para la situación de la moralidad en nuestra cultura. Varios contra-argumentos, como aquellos que invocan consideraciones sobre el costo-beneficio, la distinción entre hacer y dejar hacer, o entre los compatriotas y los extranjeros, pueden ser refutados.

**Palabras clave:** Aborto, Dworkin, hambre global, prioridades morales, armonía civil.

## I. INTRODUCTION

There is, in many countries today, an intense and sometimes acrimonious public and academic struggle over abortion. The main intellectual dispute –henceforth the abortion debate or abortion controversy– concerns the question what position the state, and specifically the law, *ought* to take: Should they tolerate abortions on demand, at least in the early stages of pregnancy; or should such abortions be legally prohibited, and those having and performing them be punished? This debate is part of a larger, political struggle –henceforth the abortion battle–

which is about what position the state and the law do and will *in fact* take on abortion.

Ronald Dworkin has recently made a serious and sensitive contribution to the abortion debate (DWORKIN, 1993). His central claim is that this controversy is best understood not as a debate over whether unborn human beings are persons with interests and a right to life, but rather as a debate over how best to interpret a profound belief in the intrinsic value of human life that is shared on all sides. The main motive behind Dworkin's attempt to understand the abortion controversy in this new way is political: He shares the goal of various recent authors of finding common ground between the disputants or helping Americans live together even while they disagree about abortion (and much else)<sup>1</sup>. But he firmly asserts (DWORKIN, 1993: 9) that achieving this goal is unrealistic so long as one side believes that women have a fundamental right to choose an abortion, while the other holds that abortion violates an unborn person's right to life.

But aren't these precisely the beliefs on the two sides? According to Dworkin:

Yes and no. Those on the pro choice side do indeed believe that women have a fundamental right to choose an abortion, and Dworkin fully agrees with them that women have this right, and ought to have it legally, during the first two trimesters of pregnancy. Ostensibly, Dworkin addresses then those on the pro life side. His argument is supposed to show that they –the great majority of them, anyway– do not really believe that a human fetus has a right to life, however firmly they may *think* that they believe this. It is supposed to show that these pro lifers really hold two other beliefs. They believe, *first*, that human life in all its forms has intrinsic value, a certain sanctity, which is violated when a human fetus is aborted. Dworkin says that this belief is shared by most on the pro choice side, including himself. Most pro lifers believe, *second*, that, even in the early stages of pregnancy, the violation of the sanctity of human life through an abortion morally outweighs the ordinary frustrations a pregnant woman may have to endure by carrying her fetus to term, and that it is therefore morally wrong to have or perform an *ordinary* abortion, i.e., one not involving special circumstances. Special circumstances obtain when the mother is extremely young or her pregnancy threatens her own health or is due to

<sup>1</sup> Dworkin specifically mentions in this vein Tribe 1990 and Rosenblatt 1992. Though he makes serious efforts to incorporate the European (mainly British) political experience, his discussion is nevertheless strongly focused on the United States, and particularly on the period since the Supreme Court, in *Roe v. Wade* (1973), affirmed a woman's constitutional right to choose an abortion during the first six months of her pregnancy. I follow Dworkin in discussing the abortion controversy primarily within this context, while sharing his view that the issues are relevantly similar in many other countries.

rape or incest. This second belief is, of course, rejected by Dworkin and his allies on the pro choice side.

If Dworkin's restructuring of the pro life position succeeds, then the abortion debate is about how much weight to give to something we all agree is a disvalue: to the violation of the sanctity of human life through an abortion. This would be nice for both sides in that the disagreement would turn out to be based upon a deeper agreement and also in that the disagreement would turn out to be about the weighing of competing values – just the sort of issue about which reasonable persons can disagree without losing respect for one another. It would, moreover, be *very* nice for Dworkin's own pro choice side. How much weight should be given to the violation of the sanctity of human life through an abortion– this seems to be just the kind of question we do not want the state to settle for everyone. This is so, because this question is intensely personal (DWORKIN, 1993: 106, 172), extremely controversial in our culture (DWORKIN, 1993: 151), and also, most importantly, “*essentially* religious” (DWORKIN, 1993: 155). By frequently expressing the belief that we supposedly all share in terms of the *sanctity* (and only rarely in terms of the intrinsic value) of human life, Dworkin prepares the ground for the refrain of his text, which appears throughout with minor

variations: “The crucial question is whether a state can impose the majority's conception of the sacred on everyone” (DWORKIN, 1993: 109). Not surprisingly, Dworkin maintains that the only reasonable answer to this question is *No*. And he warmly invites his pro life opponents to come around to the view that the disagreement about whether ordinary abortions are wrong, like other spiritual and religious disagreements, calls for mutual tolerance rather than criminal law coercion by the state: Since we all have come firmly to accept that the state should not be mobilized to prevent citizens from making what some of us regard as religious errors, reformed pro lifers will be glad to accept that the state should not be mobilized to prevent what they regard as a serious underestimate of how gravely an abortion offends the sanctity of human life (cp. DWORKIN, 1993: 164f). They can still hold that the state may encourage reflective, responsible and conscientious decisions about abortions by requiring women to absorb relevant information and by imposing a waiting period upon them<sup>2</sup>. But reformed pro-lifers will agree that the state must not force a particular decision upon women.

It takes some chutzpah to announce – in the third decade of an intensive public debate over whether abortion on demand should be legal– that one side

<sup>2</sup> Dworkin himself opposes such a waiting period as unduly coercive (1993: 173f). But I think he would hold that the restructured pro life view he outlines could plausibly permit (or even require) it. He is taken to task for this in Stroud (1996).

to this debate has severely misunderstood its own most basic beliefs, that those who often refer to themselves as the right to life movement do not really believe that every human fetus has a right to life. Should it turn out that many pro lifers will indeed – after having Dworkin explain to them the true nature of their own beliefs– accept his restructuring of their position, then I will surely not want to stand in their way. I strongly doubt, however, that this will happen, that Dworkin himself seriously believes this will happen (and even that Dworkin *thinks* that he believes this will happen). I suspect rather that, while Dworkin ostensibly addresses the pro life side, his real target audience is his own allies in the pro choice camp. His message is that good liberals owe no accommodation to pro lifers who seek to outlaw abortion on demand, because such pro lifers are really only trying to impose their religious convictions upon their fellow citizens.

In the remainder of this essay, I will first give reasons for doubting that Dworkin’s argument will make any headway with those on the pro life side. I will do this by criticizing his argument –showing why I do not find his restructuring of the pro life position compelling (Section II) and why the usual pro life position does not seem to me to be infected by the deep

inconsistencies Dworkin claims to find in it (Section III). I will then try to show that what Dworkin declares impossible is possible after all: that significant common ground can be developed between the pro choice and the pro life sides, even if the latter do reaffirm their harshest claim: that abortion, at least in ordinary circumstances, is murder (Sections IV VIII).

## II.

While the new self understanding Dworkin offers to the foes of abortion has considerable intellectual appeal – much more, certainly, than my brief sketch could reveal– his argument nevertheless has three important weak spots. The next section (III.) will discuss two of these, which are weaknesses in how Dworkin supports his claim that those now committed to the standard pro life position have compelling reason to embrace the dramatic revisions he offers.

The present section discusses the third, which is the weakness of the link between Dworkin’s new construal of the pro life position and the political attitude he believes follows from it. I find it doubtful, that is, whether Dworkin’s construal of the pro life position leads as easily to toleration as he suggests. In fact, his argument becomes rather sketchy at this point. He simply says that construing the pro

life position as giving greater weight to the sanctity of human life “ties it to an important tradition of religious toleration with substantial roots in all genuine modern democracies” (DWORKIN, 1993: 20). But surely someone might accept Dworkin’s construal of the pro life position and nevertheless hold that, quite apart from any religious beliefs, the violation of the sanctity of human life through an abortion *so plainly* morally outweighs the ordinary frustrations a pregnant woman may have to endure by carrying her fetus to term that the state *must* or at least (through democratic legislative procedures) *may* ban the abortion of any healthy fetus, when the pregnancy is not due to rape or incest and does not seriously endanger the mother’s vital interests. Analogous settlements prevail throughout the developed countries on such issues as animal sacrifices, polygamy, and pedophilia. In the first issue, two disvalues must be balanced against each other: a violation of the value of animal life and of our human stewardship for all life on Earth against the frustrations endured by those prevented from worshipping as their

religion requires. The second issue involves balancing the concern to discourage morally offensive relations between men and women against the frustrations endured by those prevented from shaping their private lives as they prefer. In these cases, Dworkin as well as most citizens of the developed West –with strong support from the dominant religious denominations– do not believe that the state must allow each adult to balance the two disvalues as he or she deems fit. Rather, we hold that our states must (or at least may) prohibit the practices in question, which is precisely what in fact they do.<sup>3</sup> It remains an open question, then, why those accepting Dworkin’s new construal of the pro life position should end up supporting the political settlement Dworkin himself favors: the legality of any abortion on demand during the first two trimesters.

Dworkin is not the only one who has sought to support this political settlement by appeal to some ideal of religious toleration. During the past 15 years or so, many arguments of this sort have been produced in the United States. The two put forward by Mario Cuomo, then

<sup>3</sup> The three analogues clearly show that Dworkin cannot establish the crucial link to toleration merely through rhetorical questions like the one cited above (from DWORKIN, 1993: 109), or: “Does a decent government attempt to dictate to its citizens what intrinsic values they will recognize, and why, and how?” (DWORKIN, 1993: 117). We *do* dictate in just this way when we outlaw animal sacrifices, multiple marriages, and pedophile relations even if desired by both the minor and his or her parents. The analogues show something else as well. Dworkin argues that women must be legally free to have an abortion, for “if a majority has the power to impose its own views about the sanctity of life on everyone, then the state could *require* someone to abort, even if that were against her own religious or ethical convictions” (DWORKIN, 1993: 159). But this is plainly false. Our widely shared belief that the state may *prohibit* animal sacrifices, polygamy, and pedophilia surely does not entail that the state may also *require* them.

Governor of the State of New York, and John Rawls are the best known.<sup>4</sup> Their general strategy, pervasive in Dworkin’s book as well (especially DWORKIN, 1993: 156ff), is to argue for restrictions on the reasons that may legitimately be adduced in public political debates and in justification of state coercion. Any exercise of state power ought to be justifiable with reasons that are available in the shared public culture and thus generally accessible to all those subject to this power. Even if one is convinced, for instance, that requiring citizens to attend religious services would save countless souls from eternal damnation, one is not to support, to vote for, or to help enforce such a measure if all one can adduce in its support is one’s own religious faith, however firm and sincere. The same constraint –by Rawls referred to as the “*duty of civility*”– is then invoked to settle the abortion controversy, along these lines: “You propose that abortions be legally prohibited and punished by the state. Implementation of this proposal would constitute an exercise of state power against your fellow citizens. Such an exercise of state power must be justifiable with public reasons. The notion that an early human fetus has a right to life on a par with that of a human being already born is, however, grounded in certain religious convictions

–concerning ensoulment, perhaps, or the sanctity of human life– that are not part of our public culture and so not generally accessible. Hence the proposed use of state power is illegitimate”.

Though I cannot here discuss this view thoroughly, let me mention three objections to it which have not so far, I believe, been satisfactorily answered. First, significant doubts have been raised about whether a reasonably clear and uncontroversial distinction can be drawn between justifications that are and those that are not “generally accessible” or “available within the public culture”. Second, is it really reasonable to demand that citizens put aside their most deeply held moral convictions, that they ignore what they firmly believe to be wrongs and injustices of the greatest gravity, merely because the reasons for their convictions are not part of the public culture?<sup>5</sup>

Third, it can plausibly be argued that the constraint cuts not only one way. In the argument we have just considered, the constraint works only in conjunction with a certain assumption about the burden of proof. It is assumed that what stands in need of justification is the exercise of state power against women and their doctors. Dworkin, though he relies on this assumption throughout, does not

<sup>4</sup> Cuomo’s argument was presented in a 1984 speech at Notre Dame University in Indiana, which is reprinted as Cuomo 1993. Rawls’s argument was developed around the same time and is now comprehensively restated in Part II of Rawls (1993). Dworkin cites both arguments with approval (DWORKIN, 1993: 31 and 252n13, respectively).

<sup>5</sup> Both kinds of doubt are raised, for example, in Greenawalt (1987). See also Galston (1990).



argue for it or even formulate it clearly. An exemplary formulation of it is offered by Judith Thomson: “One side says that the fetus has a right to life from the moment of conception, the other side denies this. Neither side is able to prove its case. (...) Why break the symmetry by letting the deniers win instead of the supporters? The answer is that the situation is not symmetrical. (...) What the supporters want is a licence to impose force; what the deniers want is a licence to be free of it. It is the former that needs the justification” (THOMSON, 1995: 14). But one might assign the burden of proof to the other party on the ground that it is really the *pro-lifers* who want a licence to be free of force: a licence for unborn human beings not to be forced out from where alone they can continue to live, and that it is really the *pro-choicers* who want a licence to impose force: a licence for pregnant women to force their unviable offspring out of their bodies to certain death. To be sure, those forcibly prevented from having an abortion have the capacity to demand a justification while those forcibly removed from a womb do not. In this respect, the situation is indeed asymmetrical. But why should this be a morally relevant asymmetry? And if the exercise of force

against a human being needed a justification only if that human being herself can demand one, then why should we not legalize the killing of late fetuses, and babies, as well?

In the absence of a response to this challenge, one could then turn the tables and argue *for* the legal prohibition of ordinary abortions, as follows: “You demand that the exercise of state power for the sake of protecting the physical integrity of human beings be confined to those who have been born (or to those beyond the second trimester). But this proposed discrimination must be justifiable with reasons that are available in our public culture. The notion that the moral status of an early fetus is far below the equal moral status of human beings already born is, however, grounded in convictions – concerning the falsehood of certain religions perhaps– that are not part of our public culture and so not generally accessible. Hence the proposed discriminatory use of state power is illegitimate”<sup>6</sup>. The availability of such a parallel argument makes clear that the constraint by itself cannot settle anything so long as we lack an authoritative assignment of the burden of proof which neither side can reasonably reject.

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<sup>6</sup> This argument is roughly parallel to how the constraint could be adduced –now to universal acclaim– in favor of women’s suffrage: The burden of proof is to be placed on those favoring *unequal* moral status. This line of thought has considerable force, I believe, against Dworkin’s argument, which assigns an inferior moral status to a human fetus, a status that is gradually elevated as the human and natural “investment” in it becomes more substantial (DWORKIN, 1993: 91 100). It has no force, however, against libertarian proponents of legalized abortions –discussed below– who concede that a human fetus has the same moral status as a human being already born.

### III.

Let us proceed to what I consider the other two important weak spots in Dworkin's argument. First, it is doubtful whether Dworkin has really shown the standard pro life position to be in the kind of deep trouble that would, he believes, push its adherents to look for a plausible alternative. Without such a push, they may not take enough of an interest in his alternative construal to experience the pull of its intellectual appeal. Second, it is doubtful whether pro-lifers would really find Dworkin's construal of their position to be the next most attractive alternative. Indeed, Dworkin does not assert this and does not even consider the question. Should the standard pro-life position really come to be seen as untenable, then other plausible new construals, perhaps much less conciliatory ones, will also emerge; and pro-lifers might well find one of these other restructurings more attractive than the one Dworkin proposes. These two weaknesses run into each other; their identities depend on how precisely or vaguely the standard pro life position is understood. Either way, the key question is whether pro lifers really have compelling reason to accept as dramatic a restructuring of their position as Dworkin has proposed to them.

The position Dworkin thinks pro lifers should abandon, on pains of inconsistency, can be sketched through the following four claims:

- (0) Even an early human fetus has interests.
- (1) Even an early human fetus is a person.
- (2) Even an early human fetus has a right to life.
- (3) Abortion is murder.

Pro-lifers generally believe (3) on the basis of (2) and, in some cases at least, (2) on the basis of (1). Dworkin holds that both (1) and (2) presuppose (0), though he correctly concedes that pro-lifers typically take no position on (0).

Clearly, the crucial claims here are (2) and (3). Claims (0) and (1) are abstract, philosophical claims that do not seem to have a clear and shared meaning within the public abortion controversy—and the extensive poll data Dworkin provides do not elucidate how these claims are understood or how widely they are endorsed. If (2) and (3) fall, the pro life position will have been dramatically transformed and, if they survive, the standard pro life position will also have survived in its essentials. Once someone has firmly endorsed or denied (2) and (3), his or her views on (1) and (0) are of precious little political, practical, or personal relevance. Dworkin denies this on the ground that claims (2) and (3) presuppose (1) and (0)—that, in particular, it makes no sense to attribute a right to a being that has no interests. But he offers no defense for this assertion. Judith Thomson, the leading philosophical theorist on rights and a

staunch defender of abortion rights, allows that “we lack a compelling rationale” for asserting the dependence of rights on interests and that she therefore “know[s] of no conclusive reason for denying that fertilized eggs have a right to life” (THOMSON, 1995: 12). This should suffice to show that it is not, *pace* Dworkin, unreasonable today to affirm (2) while denying (0).

The inconsistencies that put pressure on standard pro life position derive from the fact, says Dworkin, that the great majority of pro-lifers are also committed to

(4) Abortion should be legal in some circumstances.

Dworkin adduces (DWORKIN, 1993: 13f) various polls in support of this attribution. Among the more recent findings he cites are the following: A 1991 Gallup poll found that 48.3 percent of Americans hold that abortion is murder<sup>7</sup>. A 1990 Wirthlin poll found that 60 percent of Americans consider the statement that “all human life, including that of the unborn, should be protected” either extremely convincing or very convincing and that roughly the same was true for the statement that “every unborn child has a basic right to life”. The same poll found, on the other hand,

“that only 7 percent said that abortion should be illegal in all circumstances, and only 14 percent said that it should be legal only when necessary to save the life of the mother” (DWORKIN, 1993: 14). This is confirmed by a 1992 Time/CNN poll, finding only ten percent maintaining that abortion should be illegal in all circumstances. The polls do indeed show, then, that large majorities of pro lifers –namely somewhere between 79 percent and 89 percent of those who profess to believe that abortion is murder or that every unborn child has a basic right to life<sup>8</sup>– are willing to permit abortions in cases of rape, incest, fetal deformity, or a threat to the mother’s vital interests.

Before proceeding to examine whether (4) really is inconsistent with (2) and (3), I should point out that, even if it were, the inconsistencies could still be resolved either way. Dworkin reasons that, since (4) is inconsistent with (2) and (3), those who are committed to (4) cannot *really* believe that a human fetus has a right to life and that abortion is murder. But one might just as well reason the other way around: Since (4) is inconsistent with (2) and (3), those who believe in (2) and (3) cannot *really* believe that abortion should be legal in some circumstances. Politically, it is a wide open question how those 38 50 percent

<sup>7</sup> 36.8 percent agree that “abortion is just as bad as killing a person who has already been born, it is murder” and 11.5 percent agree that “abortion is murder, but it is not as bad as killing someone who has already been born”.

<sup>8</sup> Estimating on the basis of the poll findings I have cited, this percentage would be at least: (48.3% 10%)/48.3%, and at most: (60% 7%)/60%.

of Americans who now believe (2), (3), and (4) would react, if they were to accept the inconsistencies Dworkin alleges. It is entirely possible that many of them would join the ranks of what is now a minority (of 11 21 percent) among pro lifers: those who hold that abortion should be illegal in all circumstances<sup>9</sup>. Such a backfiring of Dworkin's effort is all the more likely, because he offers no argument at all against this most radical pro life view—his entire effort is concentrated on those moderate pro-lifers who accept (4), i.e., favor some exceptions.

It is then perhaps fortunate on the whole for Dworkin's cause that the inconsistencies he purports to find are rather dubious. Let us consider first the alleged inconsistency of (2) and (4). A great deal of intellectual energy has been expended on showing how these two beliefs are consistent, and Dworkin makes no effort toward demonstrating that all these attempts have failed. I

cannot do justice to this vast literature here, of course, but let me discuss at least one well-known and formidable attempt, which argues that the right to life is limited by basic liberty rights<sup>10</sup>.

On this view, I do not violate your right to life by failing to rescue you from mortal danger when this rescue would impose upon me considerable cost. Likewise, a woman does not violate the right to life of her fetus if—through a drug, hot bath, or physical procedure—she separates the fetus from herself. A right to life includes no right to be nurtured and sustained at considerable cost. One is not required to offer the hospitality of one's body to others for months at a time, even when their lives depend on it. The best known version of this view has been presented by Judith Thomson<sup>11</sup>. Her essay vividly stresses the great cost involved in undergoing an unwanted pregnancy. Even the right to life of a grown person does not, she maintains, require others

<sup>9</sup> This, of course, was the position of the Pope John Paul II (1995).

<sup>10</sup> Two other classic attempts, through which only narrower sets of exceptions might be justified, involve the doctrines of self-defence and double effect. The former limits the right to life so that one may kill another when this is necessary to protect oneself against a threat he poses, even through no fault of his own. A woman may therefore cause the death of her fetus when it threatens her survival (or perhaps merely her health), even if this fetus has a right to life. The latter doctrine limits the right to life so that one may perform an action that one foresees will result in the death of an innocent human being, if this death is not intended either as an end or as a means and if the good the action will produce both cannot be attained at lesser cost and is sufficiently large to balance the evil of the death foreseen. Aiming to preserve the life (or perhaps merely the health) of a pregnant woman, her doctor may therefore take necessary measures that will foreseeably result in the death of her fetus. Although these two ways of incorporating exceptions into the standard pro life position go back at least to Aquinas, Dworkin mentions neither of them. Both doctrines are discussed in Grisez (1970) and in Donagan (1977: sections 3.3 and 5.3). See also Anscombe (1981: 54-81), and Foot (1977).

<sup>11</sup> Thomson 1971. Dworkin briefly mentions Thomson's view *en passant* (DWORKIN, 1993: 54, 249n4), but he does not engage with its substance.

to preserve this life at such high cost to themselves. Her defense of the permissibility of abortion is then compatible with assigning to a human fetus as much of a right to life as to human beings already born<sup>12</sup>.

It may be thought that a view like Thomson's justifies all abortions and is thus incompatible with anything recognizable as a pro life position. But this is not so. One can plausibly hold that I do have a duty to rescue you even at very considerable cost, if your being in mortal danger is a foreseeable consequence of something I have voluntarily done. And one can then insist, analogously, that a woman has a duty to complete a normal pregnancy if her pregnancy is the foreseeable consequence of her own prior voluntary conduct. Conceived along these lines, the right to life of the fetus could rule out the legalization of abortion on demand and still be consistent with the usual indications of rape, fetal deformity, and serious danger to the mother's vital interests.

Let us now consider the alleged inconsistency of (3) and (4). It is unlikely that many Americans would affirm that

murder should be legal in some circumstances. It is therefore also unlikely that many respondents understood (3) in the sense of "every abortion is murder". For, so understood, (3) and (4) together do entail—in a very straightforward way that makes this implication hard to miss—that some murders should be legal. Instead of assuming that 38-50 percent of the respondents were either extremely stupid or in favor of legalizing some forms of murder, we should therefore rather assume that they understood the word "abortion" in (3) as referring only to those abortions that they believed should be illegal. This conjecture is not implausible: The class of ordinary abortions on demand vastly outnumbers all other abortions (some or all of which these respondents claimed should be legal), and this class is also, after all, what the great public abortion debate is almost exclusively about. People holding that abortion should be legally available only in exceptional circumstances (rape, incest, fetal deformity, and/or danger to the mother) often refer to themselves as anti abortion. And this shows that they use "abortion" to refer to the largest, central class of unexceptional cases.

<sup>12</sup> Thomson's argument seems quite safe in Anglophone legal systems and moral thought, which require persons to act as "Good Samaritans" only in exceptional circumstances. Thus Donald Regan argues quite convincingly that the finding in *Roe v. Wade* could plausibly be defended on equal protection grounds: It is unfair to impose upon pregnant women Good-Samaritan requirements far more stringent than those imposed on other persons (REGAN, 1979). Societies shaped by continental European jurisprudence, by contrast, tend to conceive the right to life as imposing stronger positive duties, whose cost thresholds may lie above the cost of an unwanted pregnancy. In such contexts Thomson's conclusion may then not be compatible with assigning to a human fetus as much of a right to life as to human beings already born.

Whether my conjecture is correct or not is, of course, an empirical matter which only additional poll data could settle conclusively. One needs to ask those who endorse (3) and (4) what the special circumstances are under which they believe an abortion should be legally permissible. And one then needs to ask them further whether abortions under these special circumstances are also murder. Now suppose that my conjecture turns out to be mistaken. Suppose, that is, that significant numbers of Americans really do believe that certain kinds of abortion, though murder, should be legal nevertheless. Even then, they still would not hold inconsistent beliefs. There would be an inconsistency in their beliefs, and hence a compelling reason for them to restructure their position, only if they also affirmed

(5) Murder should be illegal in all circumstances.

But to attribute this inconsistency to large numbers of Americans strains credulity. It is simply incredible that many happily believe that all abortions are murder and all murders should be illegal and some abortions should be legal. In any case, if Dworkin is targeting those who hold this happy belief triplet and hopes to convince them of the complex pro life view he suggests, then he surely has his work cut out for him.

In this section, I have shown that Dworkin has failed to prove his

assertion that the standard pro life position is inconsistent. In fact, he has not even seriously tried. I have also sketched, with the help of Thomson's work, how exceptions can fit into this position. I do not know whether this sketch can be specified in a way that will ultimately prove philosophically defensible. But this is irrelevant. The decisive point is that, at the current state of public and philosophical debate, it is entirely reasonable to believe that claim (4) is consistent with both (2) and (3).

Of course, the fact that Dworkin has shown no good reasons for taking (2) and (3) to be inconsistent with (4) does not mean that his political appeal will fail. Just as people often cling to their beliefs even when they have good reasons to revise them, so they often revise their beliefs even when they have no good reasons to do so.

#### IV.

I have criticized a man and a book which I also admire. It is time, then, to make myself a target as well by offering a constructive argument of my own. My argument parallels Dworkin's insofar as it also seeks to mobilize elements within the conventional pro life position toward a certain modification of it. It differs from his by asserting no inconsistency in this position. My conclusion asserts something Dworkin explicitly denies: that significant common ground can be developed between the pro choice and pro life sides even if the latter adhere to

their harshest claim: that ordinary abortions are murder.

The common ground I will try to develop is on a third level, which is generally ignored (and not only by the protagonists in the abortion debate). Let me recapitulate the two familiar levels. On the first level, we have the substantive issue how abortion ought to be treated by the law: whether, to what extent, and how severely abortions should be proscribed and punished. In this debate, a central role is played, quite properly, by the question whether having or performing an abortion is morally wrong and, if so, how grave a wrong it is. As we have seen, those who hold that abortion should be outlawed generally claim that any unborn human being has a moral right to life, a right to be brought to term, which has the same weight as the right to life of those already born. They could also, however, defend their opposition to permissive abortion laws by taking a somewhat weaker position: that there is a moral duty not to terminate a human life and that this duty overrides all other ordinarily available moral considerations, such as a woman's moral right to exercise control over her body and a couple's right to pursue their own happiness<sup>13</sup>. Those who hold that ordinary abortions on demand should be legal often claim that there is no such duty (and hence no moral right to life) at least early in a pregnancy. But it

would be sufficient for them to claim that the duty (and the right), if it exists, is not strong enough to override a woman's moral right to exercise control over her body and a couple's right to pursue their own happiness.

On the second level, we have the meta issue concerning what arguments may properly be advanced on the first level and how the burden of proof should be assigned. Here those favoring legal abortions argue that it would be wrong to impose severe restrictions on the liberty of women on grounds that are "essentially religious" or at least are dependent on a conception of the meaning of human life which is not shared by all and which it is not unreasonable to reject. Those opposed to legal abortions on demand can give a similar argument: that it would be wrong to withhold from some human beings the most basic legal protections extended to all others and to do so on grounds that depend on a conception of the meaning of human life which is not shared by all and which it is not unreasonable to reject.

Claims and counter claims on these two levels have been put forward, defended, and disputed many times. Yet, they have had little impact on the abortion battle. However much we might wish to see this battle decided by arguments rather than by sheer political clout, there seems

<sup>13</sup> We have seen how either of these views can be combined with the belief that abortion may or should be legally permitted in certain exceptional circumstances.

to be little evidence at present that the vast energies expended on attempts to develop common ground on these two levels will lead to progress by convincing significant numbers on either side to change their minds.

The relevance of the third issue depends on the fact that, in our world, wrongdoing, injustice, and suffering are so pervasive that those who are resolved to mitigate these evils must make painful choices about the allocation of our scarce time, money, and energy. There is not merely the problem that we must, often under conditions of great uncertainty, choose which means to use in order to combat some particular morally significant evil.<sup>14</sup> There is the further problem that we must choose which particular morally significant evil(s) we should try to combat in the first place. This latter problem, unlike the problem of choosing means, is a genuinely moral problem. It has not, however, been much examined. There is a good bit of discussion of moral conflicts and dilemmas, where an agent must violate one of several determinate rights or duties (hurt someone or break a promise, kill one innocent or let two innocents die, etc.). Very little attention has been paid to what one might call *moral competition*, where scarce resources must be allocated among several morally important projects or causes. This lack of discussion may

indicate a preference for leaving such questions to private reflection. In a world in which so many people do next to nothing by way of trying to combat the evils around them, one is not eager to criticize those who care and are doing something for having the wrong priorities. Even at the risk of doing just that, I will here conduct a somewhat more public reflection.

What I want to examine is whether, in the world as it is, one can sustain this appeal: “Let us, for the time being, quit the abortion battle and let us instead concentrate on another task with respect to which we can agree that it has at least equal moral urgency”. Politically, this appeal favors one side—the status quo, whatever it may be in a given jurisdiction at a given time—by steering both sides away from the abortion battle. But intellectually the appeal differs from arguments on the other two levels in that it does not bear on the abortion controversy. It does not touch the merits of the case and thus, substantively, does not favor one side or the other. Relatedly, my appeal can be addressed to both sides at once. Not with exactly the same justification perhaps, because, in order to convince someone that another cause is of at least equal moral urgency, we may have to appeal to particular moral beliefs of hers as revealed by the stand she takes on abortion. But perhaps with similar

<sup>14</sup> For example, someone concerned to mitigate world hunger may face the question of whether she can do this most effectively by doing volunteer work abroad, by going into politics, by writing a book, by becoming a fund-raiser for Oxfam, or by accumulating a lot of wealth for future donations.



justifications. It would be highly desirable if both sides could be shown to have reason to work together for the alternative moral cause instead of working against each other in the political battle over abortion.

To save space, I will here present my appeal only to one side: to those who believe that abortion ought to be illegal. One reason for addressing them first is that it is they who are currently more heavily involved in the attempt to change the legal status quo. Another reason is that my appeal must initially seem especially hopeless when addressed to the proponents of outlawing abortion. They are being asked to put up with (what they see as) the legally authorized killing of millions of innocent and defenseless human beings. What existing or impending evil could be of comparable moral importance? The proponents of permissive abortion laws, in the opposite scenario, are being asked to put up with (what they see as) massive legally mandated infringements of women's rights to exercise control over their own bodies and of couples' rights to pursue their own happiness. This is surely, for them, a very grave evil. But it does not entirely outclass other moral evils, such as the horrifying evils of rape and domestic violence and the evils of sexual harassment and discrimination, which are still all too

pervasive in our culture. So I am rather confident that, if my appeal can be made plausible to those who believe that abortion must be outlawed, then it will also be possible to make this appeal plausible to those who believe it should be legal to have and perform early abortions on demand. Here I attempt only the first, more difficult task.

V.

My appeal must point to some cause that can compete for moral priority with the cause of outlawing abortion. I choose for this role the cause of mitigating and eradicating world hunger. Simplifying to some extent, we can then entertain the following straightforward binary choice. Consider someone who is sincerely convinced that every abortion constitutes the deliberate destruction of an innocent human life and that this is a grave moral evil. Such a person has moral reason to join the battle against abortion: to participate in demonstrations and blockades of abortion clinics, to engage in political work aiming for laws or constitutional amendments that outlaw abortion, and so forth. But then this same person also lives in a world in which some twenty million persons, many of them children, die every year from poverty-related causes such as starvation, diarrhea and other cheaply curable diseases.<sup>15</sup> Since

<sup>15</sup> Many details are provided in Grant (1993). He reports that every year some three million children die from simple diarrhea, which could be cured with a 15 cent oral rehydration pack, and some 3.5 million die of pneumonia and one million of measles, both also easily curable. Further detailed statistics can be found in the United Nation Development Program's annual *Human Development*

the needless deaths of unborn human beings constitute a grave moral evil, so, too, must the needless deaths of innocent children. Our sample person, accordingly, has moral reason to join the fight against world hunger: to donate time and money to food aid organizations, to engage in political work designed to stimulate concerted government initiatives, and so forth.

Given scarcity, it is clear that the two causes compete: Any bit of effort (time, money, energy) devoted to either one of them could be devoted to the other instead. Hence the question: Does it matter, morally, which of these two causes one supports? And, if so, which cause ought to be given precedence?<sup>16</sup> Let me sketch three moral considerations that favor giving precedence to the struggle against world hunger.

First, the *Argument from Doubt*. The proper legal status of abortion is highly controversial. Honest, intelligent, knowledgeable and, well intentioned persons have come to opposite conclusions –there are many such persons on either side. This fact gives me some reason to doubt the soundness of my own conviction in this matter. This doubt is of little relevance in situations

where I must act on my conviction or its opposite, where I am, for example, asked for advice by a woman who is considering an abortion. But the doubt may be of great relevance when I face competing moral claims. There is virtually no serious dispute over the question whether the starvation of children constitutes a significant moral evil. Almost everyone agrees that it is morally important to mitigate and, if possible, to eradicate such unnecessary suffering. Therefore, I have (other things being equal) less reason to doubt my belief in the moral importance of joining the world hunger struggle than I have to doubt my belief in the moral importance of joining the abortion battle. Hence I have a reason to devote my efforts to the former cause in preference to the latter –guided by the thought that, other things being equal, I should direct my efforts toward causes in whose moral importance I have more confidence at the expense of other causes whose moral importance is more doubtful.

This argument is quite different from the second level argument we have considered in Section II above. There the key idea was that I have a duty of civility to abstract from certain of my most deeply held convictions when I find that they cannot be based on ideas available in the shared public culture. I

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*Reports.* Of course, there may be some minor disputes about the exact numbers. But they do not matter. The numbers I provide in the text would have to be wildly off for my argument to be affected.

<sup>16</sup> The straightforward binary choice I am entertaining in this paragraph is a simplification, because one might be active in both causes. The arguments to come might then be taken to show only that one should allocate *more* effort to one cause than to the other. I leave this complication aside, partly to save space and partly because morally active persons tend to concentrate their efforts on one cause (and, I think, reasonably so).

am not to act on such convictions in the public arena—at least when this would result in significant state coercion of persons who reasonably reject these convictions. Here, by contrast, what is invoked is not a moral duty, but an epistemic principle: When a conviction finds less support among those whom I consider competent to judge matters of the relevant sort, then I should be less certain of it and act accordingly. This principle is of broad application. Suppose you are a meteorologist and your calculations show that a major storm will hit some island, destroying both of its main cities. Other meteorologists, whom you respect, believe that only the southern city will be destroyed. You are not convinced. You will insist that both cities be put on alert. But you should nevertheless recommend, I believe, that (other things

being equal) scarce evacuation efforts be concentrated on the southern city.<sup>17</sup>

Second, the *Argument from Moral Waste*. Most efforts devoted to the abortion battle simply cancel each other out. This waste is not merely temporary, because it is likely that neither side will be able to achieve a permanent victory, i.e., a victory that would not need to be defended through continued political mobilization.<sup>18</sup> So the battle will go on, and much moral effort will continue to be wasted on shifting the legal situation back and forth over the same terrain. In the struggle against world hunger, by contrast, there is no moral waste. Here we have virtually no opponents who feel morally called upon to ensure that starvation continue despite our efforts to eradicate it. Hence I have another reason for devoting myself to the struggle against

<sup>17</sup> This epistemic principle probably does not hold quite across the board. In particular, it may not hold when there is some negative logical or causal connection between what people believe about some proposition and the truth value of this proposition itself. A classic example is the so called contrarian school of stock market prognosis: If most serious investors are convinced that the stock market is about to rise, then (so contrarians believe) the stock market is likely to go down. The optimists, after all, are presumably already heavily invested in stocks. So future demand for stocks must come from non optimists who are turning more optimistic. A large proportion of optimists is then a bad sign: It shows that there are few investors left who still might turn more optimistic; and it also shows that there are many investors who could turn more pessimistic. In the case of abortion, this limitation of the epistemic principle does not apply. There is no good reason for believing that an *increase* in the number of serious persons taking one side of the abortion debate makes it *less* likely that this side has it right.

<sup>18</sup> The US Supreme Court verdict in *Roe v. Wade* is no permanent victory, because it may well be overturned by the same court through the votes of new judges appointed by Republican Presidents. Such an overturning would be no permanent victory either, because the US Congress would then come under pressure to take compensatory action and the battle would also be carried into state legislatures, where new anti abortion laws would need to be passed. The hope of settling the matter through a constitutional amendment seems extremely unrealistic at this point; and even such an amendment could be overturned again. The 18th amendment to the US constitution, outlawing alcohol consumption, was adopted in 1920 and overturned in 1933 through the 21st amendment.

world hunger—guided by the thought that, other things being equal, I should give precedence to causes where people’s moral efforts will support and complement one another rather than cancel each other out.

Third, the *Argument from Civil Harmony*. When we face each other across the seemingly unbridgeable abyss of a deep moral controversy—with each side convinced that what the other advocates is morally intolerable—then it is all too easy to forget how much, morally, we have in common. A protracted battle over abortion tends to weaken the moral cohesion of our society by undermining the sense that we are jointly committed to a scheme of shared principles, values and ideals. A protracted struggle for the eradication of world hunger would heighten this sense: It would unite us against a common “enemy” rather than pit us against each other as in a civil war. Hence I have a third reason to devote my efforts to the struggle against world hunger—guided by the thought that, other things being equal, I should give precedence to moral causes that unite me with others over causes that put me at odds with them.

One might object to the last two arguments that no one should be asked to switch causes, as it were, without assurances that those on the other side are willing to do likewise. I disagree. For one thing, such assurances are impractical. It is simply impossible to negotiate a phased withdrawal from the abortion battle on the model of the phased withdrawal of intermediate range nuclear missiles from Europe. Moreover, the above arguments are meant to demonstrate (for now only to the pro-life side) that even the worst case scenario of unilateral withdrawal is preferable to continuing the battle over abortion. Suppose that only those on one side of the abortion controversy were to heed my appeal. They would then be doing something that, from their own point of view, is of at least equal moral importance as continuing to hold up their side of the abortion battle. Yes, the other side might then win. But this, too, could have its good side. For the other side would then have no more work to do on the abortion front, and at least some of the moral effort they would have devoted to that cause is therefore likely to flow into other moral causes, such as the eradication of world hunger, which are supported by both sides.<sup>19</sup>

<sup>19</sup> A proponent of permissive abortion laws might present the following counterargument: “Perhaps, if we allowed abortion to be outlawed, much moral effort would be freed up for other causes. But the “moral case load” would dramatically increase as well. There would be large numbers of additional babies born unwanted and into the worst of social circumstances. It is then unlikely that our quitting the abortion battle would enable us significantly to reduce the incidence of moral evils.” I won’t here go into the complex empirical issues that a proper evaluation of this counterargument would have to address, because I want to concentrate on formulating the appeal to those on the other side, who believe that abortion should be legally prohibited.

VI.

Turning now to possible objections against giving precedence to the world hunger struggle, let us first consider the *Distinction between Doing and Letting Happen*. Deliberately bringing about some given harm is generally considered to be much more wrong than merely failing to prevent a like harm. So while the evil of a child dying of hunger is indeed at least equal to the evil produced by an abortion, it is still far more wrong to have or perform an abortion than to fail to save a child from death by hunger. It is therefore more important to support the battle against abortion than to work against world hunger.

As it stands, this counterargument is unsuccessful, because its conclusion does not follow from its premise. The premise entails only that it is more important not to have or perform an abortion than to save a child from starvation. But the conclusion (and our initial question) concerned a different comparison: the importance of preventing abortions had or performed *by others* versus the importance of preventing hunger deaths. Such failures to prevent are, in both cases, instances of letting happen. And nothing in the argument shows that it is more important not to let abortions happen than not to let (the same number of) children die of hunger. Of course, it might be said that to prevent killings is always morally more important than to prevent other

deaths. But this is a different distinction whose moral significance (so far) enjoys little recognition in ordinary or academic discourse. It is generally not thought less important to rescue one innocent child from drowning than another from being deliberately killed.

The objection can be renewed by invoking the further *Distinction Between The Responsibilities Of Participants And Those Of Nonparticipants*. The children who are starving to death in the poor countries are foreigners. Insofar as we fail to help them, we let their deaths happen; we surely do not participate in their deaths in any way. The human beings whose abortion we might be trying to prevent by changes in the law are, however, our compatriots. In their deaths we do play a role and we thus do, in a sense, help bring these deaths about. For, as citizens of a democratic society, we co determine, and thus share a special responsibility for, its laws and social institutions. Permissive abortion laws are unjust in that they engender a larger number of abortion deaths than would occur if abortion were more stringently prohibited and strictly punished. By upholding such laws, we citizens are responsible not merely for letting these additional deaths happen. We are responsible for helping to bring these deaths about by participating in maintaining and enforcing a legal system that, by permitting abortions, foreseeably results in these extra deaths.

To illustrate the force of this revised counterargument, consider the case of slavery as it existed in the US before 1860. Slavery was not a popular crime committed by individuals, like the robbing of mail coaches, but it was an injustice deeply embedded in the practices and institutions of the United States: in its voting laws, fugitive slave laws, and so forth. The creation, continuation, and enforcement of these laws was authorized by the electorate. And the members of this electorate, unlike their foreign contemporaries, were therefore, morally, participants in this slavery. A wealthy Swede might have been as well positioned, causally, as most US citizens were to protect slaves or to lobby for legislative reform. But he was not a participant in the injustice, and for him the suffering of these slaves was thus morally on a par with much other suffering the world over. US citizens, by contrast, even those who owned no slaves themselves, did bear a special responsibility, because it was their legislation that authorized, and thereby engendered, widespread slavery.

I fully accept the significance of distinguishing between the responsibilities of participants and nonparticipants. I agree that the more advantaged participants in an institutional scheme bear an especially weighty responsibility for the justice of that scheme and the harms it produces. If the scheme is unjust and these persons do nothing about it, then they are

violating not merely a positive duty to help victims of injustice anywhere, but a more weighty negative duty not to participate in the imposition of unjust institutions.

I challenge, however, a key supposition of the revised counterargument: that our role with respect to world hunger is that of nonparticipants. It is at least not clear that, insofar as we do not protect the global poor, we merely let their deaths happen, that we do not participate in their deaths in any way. For the following hypothesis is plausible: The present global scheme of political and economic institutions profoundly affects the living conditions of the global poor. So long as the present world order remains intact, we can expect, for example, that vast income differentials will persist and that the daily number of deaths from poverty related causes will remain in the tens of thousands. By foreseeably producing these effects, the present global order is unjust insofar as there are feasible (i.e., practicable and accessible) institutional alternatives that would not produce such catastrophic human suffering.

This hypothesis may seem to be exposed to a devastating critique: “Extreme poverty and its distribution are obviously due to local causes. For some poor countries have decent governments while others are pervaded by corruption; some are embroiled in frequent wars and civil wars, while others are not; some are developing rapidly while others are

getting poorer every year; starvation is rampant in some and rare in others. Therefore, our global institutional scheme has very little to do with the deprivations suffered in the developing countries”.

This critique appeals to true premises, but draws an invalid inference. That our global economic order, obviously, cannot explain local variations in deprivations does not entail that it cannot explain their global incidence. This parallels how Japanese culture may figure in the explanation of the Japanese suicide rate or how the laxity of US handgun legislation may figure in the explanation of the North American homicide rate, without thereby explaining particular suicides/homicides or even inter city differentials in rates. In the latter two cases the need for a macroexplanation is obvious from the fact that there are other societies whose suicide/homicide rates are significantly lower. In the case of global economic institutions, the need for a macroexplanation of the overall incidence of malnutrition, say, is less obvious, because –apart from some rather problematic historical comparisons– the contrast to observable alternative global institutional schemes is lacking.

And yet, this need is perfectly clear upon reflection. Global institutional factors

have a considerable influence on national factors (e.g., on the political and economic institutions of esp. the poorer societies as well as on their cultures, technologies, and natural environments) and also on how such national factors affect individual lives. Our current world order is characterized by global markets for resources and commodities in conjunction with a division of the planet’s land surface into clearly delimited territories within which the holders of effective power are recognized as having jurisdiction over the territory’s persons and resources. These world-order factors certainly play a role in explaining the high incidence of undemocratic rule in the poorer societies as well as the vast inequalities in income among persons worldwide. This can be seen most clearly by reflecting upon how even rather minor (and clearly feasible) global institutional reforms would alter the overall incidence of human deprivation<sup>20</sup>.

If our global institutional scheme is indeed unjust on account of its foreseeable distributional effects, then the more affluent citizens of the developed countries –being the most advantaged participants of this scheme– bear a special responsibility for this injustice: It is through our participation and support that those institutions are upheld; and we are also in the best

<sup>20</sup> I have tried to support the relevant hypothesis by elaborating some examples, such as sharing global resources more equitably and protecting democratic governments of poor states from debts incurred by undemocratic predecessors. See Pogge (1989: esp. §24 – 1995b – 1996).

position to alleviate their worst effects and to work for institutional reforms. We are then not like uninvolved bystanders, who merely let massive starvation happen. Rather, our position is analogous to that of non-slaveholding US citizens before the Civil War, who were participants in the enslavement of blacks. By collectively imposing the existing global free market system with national ownership of territorial resources, we are bringing about a stable and predictable incidence of deprivation, thereby effectively excluding large segments of humankind, those who cannot translate their basic needs into effective market demand (purchasing power), from all but the most minimal benefits from planetary resources. By supporting this system, we participate in the starvation of millions.

The objection can be renewed one last time by invoking the further *Distinction Between Established And Engendered Harms*.<sup>21</sup> What makes abortion deaths especially outrageous from a moral point of view is that they are officially and explicitly permitted by the law, for whose content we citizens share responsibility. Hunger deaths, by contrast, however regularly and foreseeable they may be produced by the current global “rules of the game”

are not officially permitted by these rules. That this distinction makes a moral difference is shown, for instance, by reflection upon penal systems: We find it morally intolerable officially to authorize certain harms –rough interrogation methods by the police, low standards of evidence in criminal trials, disproportional punishments (such as the death penalty for drunk driving)– even if harm overall is thereby reduced<sup>22</sup>. This shows that, in assessing the justice of an institutional scheme, we assign more weight to harms it officially authorizes than to harms it merely foreseeably produces.

What this argument shows, convincingly in my view, is that it would be unjust for a society officially to authorize the killing of some human beings even if a much larger number of deaths from poverty could thereby be avoided. But I have not been trying to convince pro-lifers that permissive abortion laws are to be accepted as just –e.g., on the ground that there will be fewer premature human deaths with them than without them. To the contrary, I have accepted all along, if only for the sake of the argument, that permissive abortion laws are a very grave injustice, and I am willing to concede on this basis that, if we had to choose between institutions that authorize abortions and others that

<sup>21</sup> This distinction was first introduced in Pogge (1989: §3). I have since revised my view about its moral significance.

<sup>22</sup> See Pogge 1995a, Section V, for a detailed discussion.



produce extreme poverty (both roughly at current levels), the latter should be accepted as just. But our situation is not this, not one in which we must settle on a *design* priority among *conflicting* values. Institutions that do not permit abortions and also do not produce extreme poverty are easily feasible in this world. So current institutions are unjust in both respects. As participants in such doubly unjust institutions we face then a situation in which we must settle on an *implementation* priority among *competing* values: Which of these two injustices is it more urgent to overcome?<sup>23</sup>

My claim is that in this case the priority is reversed: In implementation, the larger injustice, which kills more human beings, must take precedence over the smaller that kills fewer (assuming equal prospects for eradicating either). This is so because the key reason for the opposite priority in matters of design does not apply here: By giving priority to the eradication of world hunger, one is not morally accepting the legal authorization of abortions on demand. The priority becomes even more

compelling in the present case where, as we have seen in the previous section, considerations concerning doubt, moral waste, and civil harmony all favor the greater urgency of combating the world hunger problem.

## VII.

This claim can surely be attacked in various ways. I will here focus on the three objections that strike me as the most important.

*First*, it may be said that, though the problem of world hunger is of greater magnitude than the problem of abortion, moral responsibility for this problem is much more widely diffused. Every one of us thus bears a smaller share of responsibility for the former problem than for the latter. We should, therefore, other things being equal, concentrate our moral efforts on the abortion problem at home, for which our individual responsibility is greater<sup>24</sup>.

Let us accept the moral mathematics this objection invokes<sup>25</sup> and concede that each well placed US citizen, sharing

<sup>23</sup> For the distinction between design and implementation priorities, see (POGGE, 1989: 127).

<sup>24</sup> I interpret the notion of responsibility this objection appeals to in objective terms: One bears more responsibility as one's conduct is more seriously wrong. Saying that we are responsible for world hunger means then that we act wrongly in upholding the social institutions that produce it. Any subjective notion of responsibility as guilt or blameworthiness is thus left aside. But let me say that objective responsibility entails subjective responsibility only under certain conditions, such as the absence of genuine and excusable factual and moral error.

<sup>25</sup> It could easily be challenged—for example by the claim that, when two persons together murder a third, the moral responsibility of each of the two is as weighty as that of a single murderer would be. I am not trying to resolve this issue here, but merely responding to an objection in its own

responsibility for both injustices, bears a smaller share of responsibility for the world hunger problem than for the US abortion problem. If roughly three times as many persons bear significant responsibility for the injustice of our global institutional scheme (on account of the poverty it produces) as bear responsibility for the injustice of the domestic institutional scheme of the US (on account of the abortions it produces), then each advantaged US citizen bears a roughly three times larger share of responsibility for US abortion deaths than for global poverty deaths<sup>26</sup>.

This factor of three is handily overcome, however, by the much larger number of poverty deaths. The number of persons dying from starvation and easily curable diseases each year is estimated to be somewhere around 20 million, while the number of annual abortion deaths in the US is only 1/15 of that.<sup>27</sup> While

three times more persons share responsibility for the injustice (on account of world hunger) of our global institutional scheme, this is more than made up for by the fifteen times greater magnitude of this problem. I assume here that the weight of (the responsibility for) an injustice increases with the number of deaths it engenders. This is in the spirit of the moral mathematics stipulated by the objection under discussion. For, surely, if the responsibility for an injustice gets diluted as more persons participate in it, then it must increase as more people get victimized by it. Otherwise those imposing unjust institutions could reduce their responsibility simply by pooling their operations. Our moral responsibility for poverty deaths outweighs then our moral responsibility for abortion deaths: Each of us, those who help uphold the current world order and the current permissive abortion regime in the US, is responsible for about five

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terms. For a sophisticated, if preliminary, treatment of moral mathematics, see (PARFIT, 1984: Chapter 3).

<sup>26</sup> Our global economic order is upheld and enforced chiefly by the “G 7” countries: the US, Japan, Germany, France, Italy, the United Kingdom, and Canada, whose combined GNP is 68 percent of the combined GNP of all countries. The population of the US constitutes about 39 percent of the aggregate population of the G-7 countries. When one adds the remaining eleven EU countries plus Switzerland, Norway, Hongkong, Singapore, Australia, and New Zealand, the combined GNP rises to 79 percent of the world total and the US population share shrinks to 32 percent. So it seems fair to suppose, in the spirit of the suggested moral mathematics, that each advantaged US citizen – however this group is defined – bears about a three times larger share of responsibility for the US abortion problem than for the world hunger problem. My calculations are based on the 1994 population and GNP figures provided in (UNDP, 1997: 194, 202, 218, 223).

<sup>27</sup> The latest figure released by the Centers for Disease Control and Prevention is 1,330,414 for 1993, after a peak of 1,429,577 in 1990. Admittedly, the true number is higher, because some abortions are performed unofficially –through a high dose of some widely available birth control pill, perhaps, or through a dose of privately imported RU 487. This is irrelevant, however, because outlawing abortions will certainly not reduce the number of such unofficial abortions (but rather increase them).

times as many poverty deaths as abortion deaths<sup>28</sup>.

*Second*, it may be said that, even so, responsibility for domestic injustice (producing deaths of compatriots) should count for more than responsibility for global injustice (producing deaths of foreigners). If this view were put forward as a piece of national chauvinism to the effect that American lives, say, are intrinsically more valuable than those of non Americans, it would not be worth discussing. But the view may be perfectly universalizable: Each person has more moral reason to care about the fate of compatriots than that of foreigners.

This is indeed something many believe firmly. One role national borders play in our world is that of defining spheres of

responsibility. The preeminent responsibility for any person's security and welfare is assigned to his or her compatriots.<sup>29</sup> And so we may indeed be tempted to think that, when children are starving in Ethiopia, Brazil, and Bangladesh, this is primarily the responsibility of other Ethiopians, Brazilians, and Bangladeshis, and only very tangentially ours.

However convenient, this thought cannot support a plausible objection. After all, the assignment of preeminent responsibility to compatriots is itself part of our present institutional scheme, whose justice was put into question by the above explanatory hypothesis about world hunger. The fact that our global economic institutions produce such high rates of deprivation is in good part a

<sup>28</sup> In making this rough calculation, I have ignored two important factors that would greatly strengthen my response to the objection. First, one can reasonably hold against an institutional scheme only *avoidable* deaths. What matters is how many *more* deaths it produces than its best feasible institutional alternative. Through feasible institutional reforms we can probably eradicate deaths due to global poverty much more fully than deaths due to abortion, as outlawing abortion would increase the number of illegal abortions. Our responsibility for US abortion deaths is then significantly less than, and our responsibility for world hunger deaths about the same as, I am suggesting in the text. Second, the catastrophe of global poverty does not manifest itself in deaths alone. It affects some 1.3 billion persons (about 23 percent of world population) who fail to reach "that income or expenditure level below which a minimum nutritionally adequate diet plus essential non-food requirements are not affordable" (UNDP, 1997: 5, 238). By upholding global institutions that produce massive global poverty, we are responsible also for a great deal of suffering on the part of those who, for the time being, manage to survive. Permissive abortion laws, by contrast, produce little serious harm beyond the deaths they engender. Note that my response to the objection can easily be extended to citizens of any rich country smaller than the US — one with a tenth of the US population, say. An advantaged person in this country bears the same share of responsibility for the world hunger problem as an equally advantaged person in the US and a roughly ten times larger share of responsibility for the national abortion problem, whose magnitude is, however, only roughly one tenth of that in the US.

<sup>29</sup> I ignore complications arising from the fact that persons may live away from their home country, temporarily or permanently. In such cases, the assigned responsibility for their security and welfare is shared between their fellow nationals and fellow residents.

consequence of the current assignment of responsibilities, in which the poor are told to look for relief from others little better off than themselves, while the affluent take care of one another. We have a deeper, ultimate responsibility for imposing the current global order, together with this assignment of responsibilities. And we cannot disconnect ourselves from this ultimate responsibility, no matter how many borders we institute and no matter how firmly we declare that our preeminent moral task is to look after one another rather than to eradicate world hunger and poverty<sup>30</sup>.

There is another flaw in the objection. The widely accepted moral priority for compatriots is understood to cover only positive, not negative duties: Not rescuing a compatriot is considered worse than not rescuing a foreigner, but killing a compatriot is not normally considered worse than killing a foreigner. My argument has been that, by helping to uphold unjust global institutions, we share a negative responsibility for the deaths these institutions produce just as we share a negative responsibility for the deaths produced by unjustly permissive national abortion laws. Since negative duties are

at stake, the suggested priority for compatriots does not apply in any case.

*Third*, someone with consequentialist leanings, convinced that we should make those moral efforts that offer the best probability weighted cost/benefit ratio, may claim that we can be more effective if we devote our efforts to the abortion battle rather than to the struggle against world hunger. Assessing such a claim is anything but straightforward. We might begin by splitting the comparison into two central cases: extrapolitical efforts aimed at mitigating the effects of unjust institutions, and political efforts aimed at reforming such unjust institutions themselves. In both cases, we might initially do the comparison in terms of lives saved.

Consider two organizations supported by volunteers and donors. One works to convince US women that they should not have abortions. It prints information, organizes demonstrations at abortion clinics, counsels women considering an abortion, helps arrange adoptions, and so forth. What difference does such an organization make to the US abortion rate? The honest answer is, I suspect, that no one really knows. But it is

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<sup>30</sup> For a more extensive argument to this conclusion, see (POGGE, 1992: 79-98). I point there to the counterproductive incentives provided by a conception of justice whose basic requirements on social institutions can be weakened or evaded through the introduction of national borders. These incentives may well have played a role in the decolonization movement of the 1960's and in the South African homelands policy. Even if not: That a moral conception provides such incentives — whether they affect conduct or not — should make us suspicious of this conception.

entirely credible that such an organization may every year convince thousands of women who would otherwise have had an abortion.

The other organization combats global poverty. It provides food, water, and shelter to persons in acute distress. We can get a sense of how cost effective such measures are from the fact that much of today's misery occurs in regions with annual per capita incomes below \$300. In such regions, where a family of five can get by on \$200 a year, it is extremely cheap, by Western standards, to improve people's living conditions enough to increase their chances of survival dramatically. As is well known from UNICEF advertisements, one pack of oral rehydration therapy (ORT) can cure life-threatening diarrhea for just 15 cents. Such an organization can be even more cost effective when it is not responding to acute emergencies: It may provide capital and expertise for investments that very poor people, compelled to live hand to mouth, cannot make on their own: grants or microloans for seeds, wells and irrigation, tools and simple machinery, livestock, literacy and numeracy, medical knowledge and supplies, and start up capital to open a business or cooperative. Support for such investments helps save lives not just in the current year, but for years to come. Funding the construction of a well that supplies safe and convenient drinking water, for example, can have a lasting impact on the infant mortality rate

in some area. This is one reason why it is difficult to calculate anything like a precise ratio of dollars donated to lives saved: The larger a time horizon we choose for evaluating the difference made by some program or initiative, the more uncertainty we face about how things would have developed in its absence. It is entirely possible that a \$300 investment will save thousands of lives over the next fifty years. But it is virtually impossible to be certain of something like this, even *ex post*.

The first comparison does not support a clear cut conclusion. But there are two factors that favor the cause of world hunger. Even with somewhat higher start up and monitoring costs, it is much cheaper to operate in a Third-World environment than in the United States. Moreover, it is easier to make lasting contributions to the struggle against poverty: contributions that, without requiring additional efforts, will continue to save lives in years to come. These considerations are surely not conclusive. But they may suffice to cast doubt upon the claim that extrapolitical efforts to prevent abortions are more cost effective than extrapolitical efforts to reduce global poverty.

The second comparison concerns organized political efforts aimed at institutional reform. As regards abortion, the aim is to have laws against abortion (providing for severe punishments) adopted and enforced in one's state. Even if this project succeeds, the

abortion rate would not be reduced to anywhere near zero. Many women would travel elsewhere to have abortions. Others would obtain abortifacient drugs from abroad or on the domestic black market, or would use other means of inducing an abortion themselves. Others again would find doctors or quacks willing to perform illegal abortions. Still, the number of abortions would probably decline significantly, as more care would be taken to avoid unwanted pregnancies and a larger share of such pregnancies would be brought to term.

As regards world hunger, the aim is to induce the US government to take an active role, in concert with other Western governments, in enabling the global poor to meet their basic needs. To some extent this will involve increasing development aid to truly needy areas (which are often of little political or strategic interest). It may involve reforms in our global market system designed to insulate Third-World populations from precipitous declines in their exchange entitlements due to fluctuations in the price of some essential export or import commodity<sup>31</sup>. It may

also involve reforms in our global political system designed to reduce the incentives toward undemocratic forms of government. Finally, it may also involve some institutional mechanisms through which the benefits of the world's resources, as well as the burdens of various externalities, would be more fairly shared around the globe<sup>32</sup>. If the cold war is over for good, it seems entirely realistic to assume that popular pressure on G-7 governments could lead to significant reforms of this kind. In fact, it is possible to eradicate world hunger in less than a decade –and at minimal cost (below one percent of GNP of the rich countries).

The second comparison, again, does not support a clear cut conclusion. Significant political efforts would be required to induce the US government, and state legislatures, to take effective action against abortion. The same is true for initiatives against world hunger. But there are two factors that favor the latter cause. If we concentrate on the abortion battle, much effort will be lost to moral waste. Moreover, even a small stab at the world hunger problem –say one tenth of the reform needed to eradicate world hunger– would save at least two million persons annually from starvation<sup>33</sup>. No

<sup>31</sup> For some idea of the effects of such fluctuations, and for the notion of exchange entitlements, see (SEN, 1981).

<sup>32</sup> One such mechanism, involving a fair sharing of the benefits of deep-sea mining “to benefit all peoples, with special regard for the least developed countries,” was to have been part of the Law-of-the-Sea Treaty. It was killed, however, with the acquiescence of other rich countries, by the Clinton Administration. Other mechanisms that have been proposed are a Tobin Tax (TOBIN, 1994) and a Global Resources Dividend (POGGE, 1995b: section 3).

<sup>33</sup> “At least,” because such a partial program could concentrate on those measures, projects, and policies that are most effective. It is likely that (beyond some threshold) intelligent efforts to combat

realistically achievable victories on national abortion fronts could save that many lives.

I conclude that arguments from cost effectiveness are unlikely to undermine my thesis that we should give precedence to the struggle against global poverty over the battle against abortion. I have based this conclusion solely on considerations concerning lives saved<sup>34</sup>. If we take a broader view, my conclusion becomes even more compelling. First, efforts to combat Third-World misery cannot be neatly targeted at those 20 million persons who will needlessly die next year (as if we could know in advance who they will be). Such efforts must be directed, more broadly, at the 1.3 billion global poor who are now at risk. Reducing needless deaths among them by two million would involve helping some tens of millions of persons to become more self sufficient. Second, if tough laws against abortion were passed and enforced, many women and doctors would end up with lengthy prison terms. This may be just what they deserve. But as these people are jailed, they leave behind family members and relations: spouses,

children, parents, and friends. These other persons suffer as well, though they can hardly be said to deserve it. Third, joining the battle against abortion rather than the struggle against world hunger also has significant costs in terms of civil harmony –a topic to which I will now return in the final section.

VIII.

You may think that the appeal I have presented may itself undermine civil harmony. So far, those who were primarily concerned to combat world hunger had no quarrel with those fighting on either side of the abortion battle. My appeal is liable to open up a new front by initiating a battle over which of the two causes is morally more important.

In response, let me say that my appeal can at most initiate a new controversy, not a new battle. What is at stake in the abortion dispute is a question that must and will be answered, one way or another. There is only one position the law can take on abortion in each jurisdiction. What is at stake in my appeal, however, is of an entirely different character. I am certainly not

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world hunger will have declining marginal effectiveness. The “earlier” efforts can focus on situations where destitute persons are geographically concentrated and easy to reach, and where it does not take much to help them become self sufficient.

<sup>34</sup> I have also assumed that the death of an unborn human being due to abortion –no matter how early the stage of pregnancy– is morally equivalent to the death of a child or adult due to starvation. I have assumed this, because this is what many who have joined the battle against abortion believe. But those who find merit in my Argument From Doubt, or those who believe that the extreme, drawn out suffering involved in disease or starvation makes such a death significantly worse, may conclude that we should give precedence to the struggle against world hunger, even if we could save an equal number of lives in either cause.

trying to have morality legislated, so that it will be illegal to devote time, money, or energy to the abortion battle in preference to the struggle against world hunger. The choice between moral causes is one that each of us makes privately, guided by our own conscience; and this is certainly the way it should remain. Still, we normally do not make such choices in isolation. We discuss moral topics and priorities with one another. My appeal is meant as a contribution to such a discussion. If it is controversial, and will lead some readers to consider new ideas or arguments, so much the better. This does not pose a threat to civil harmony<sup>35</sup>.

By contrast, one great cost of the abortion battle is the breakdown of trust and good faith among citizens. One side suspects its opponents of considering

abortion a convenient method of birth control; the other suspects its opponents of a self righteous attempt to enslave everyone else to their religious convictions. My hope is that we can begin to overcome such deep suspicion and animosity by working together on a common moral cause. A concerted effort to eradicate global poverty could do wonders for the moral cohesion of our societies<sup>36</sup>.

It might even help us resolve the abortion controversy sometime in the future. Having worked together against world hunger, each side will be able to appreciate the moral sincerity of its opponents, and we will then be in a much better position to find a solution that both sides can live with. Here we can begin with mutually acceptable measures designed to reduce the

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<sup>35</sup> There is one kind of battle related to the topic of world hunger that exists quite independently of my appeal. There are those (myself included) who believe that we should, as a nation, devote ourselves to initiating the kinds of institutional reforms in our world economy that are necessary to eradicate world hunger. And there are others who believe we ought not so to commit ourselves (perhaps because such reforms, by diminishing the gap between rich and poor in the world, would reduce our standard of living — or, by lessening the dependence of the poor upon the rich, reduce our political clout.) This, again, is a disagreement about a question that must and will be answered, one way or another, in each nation. And so, if there are significant forces on both side, this disagreement may spawn political battles over whether this or that developed country shall be committed to the struggle against world hunger. But such battles are much less divisive than the abortion battle. Our opponents are not saying that our objectives are morally wrong (as is the case on both sides of the abortion battle). They are not even denying that our objectives are morally worthy. They are merely arguing that it is morally permissible to slow down or abandon the pursuit of these objectives on account of countervailing considerations that they deem to be morally significant as well. Also, such battles do not pose anything like the same threat to the standing of morality in our culture.

<sup>36</sup> It might do wonders, also, for the moral ties between nations. The relations between Japan, the US, and the Europeans —often strained by selfish and petty intergovernmental bickering over trade matters— could certainly benefit from the experience of collaboration on a moral program. And such a program would also do much to initiate trust and friendship between the peoples of the developed and the less developed countries.



number of abortions: improved availability of, and information about, birth control, day care, and adoption, as well as improved social support for single mothers. We will also be able to draw upon rapidly expanding medical expertise: It will be possible to abort many pregnancies in ways that do not result in a death. To be sure, political and medical progress cannot completely resolve the controversy. There may still be more born and unborn infants than adults are willing to raise (or bring to term). And there will still be the tragic cases of rape, incest, grave fetal deformities, and serious danger to the pregnant woman. It is not clear what sort of regulation or deference to conscience the law should impose in these matters. My point is that citizens with faith in one another's moral sincerity will be in a much better position to fashion a solution that is morally tolerable for most of them.

This brings me to a final thought. Whatever our moral convictions, we must be disheartened and alarmed by the low esteem in which morality is held in our culture. Two factors play major roles in explaining this fact. First, those who put forward moral claims and arguments are routinely, and often accurately, suspected of self righteous bigotry or of being concerned to promote their own interests. Where such selfish or self righteous motives are not readily apparent, they are gladly constructed and imputed by opponents.

Second, and relatedly, serious moral disputes are almost always interminable, so that it must seem as though morality is just so much background noise, so many rhetorical effusions that never make a difference to what happens, because they never convince anybody anyway.

In this respect, a concerted effort to eradicate world hunger could have a tremendous positive impact. It would focus our attention on a moral topic on which, at least on reflection, we have a deep and shared conviction: It is morally intolerable that we have arranged a world of plenty so that many human beings, through no fault of their own, must live on the brink of starvation. It rings hollow to say of this conviction that it is merely an opinion that can be just as easily denied as affirmed. And it also rings hollow to suspect those who are working to eradicate world hunger of self serving motives or of self righteous bigotry. So the struggle against global poverty has the potential of deepening our understanding of what morality is, and of what role it could play in a healthier public culture. Though materially costly, this struggle may greatly enrich our lives and our culture. This is not to deny the obvious: The most important reason for making a concerted effort to eradicate world hunger is, of course, the prospect of reducing world hunger.

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