

Rand the Moderate¹

Alexander Tabarrok

Introduction

In their essay, "Rand on Abortion: A Critique," Johnson and Rasmussen (2000) claim that Rand's views on abortion are inconsistent with her "Aristotelian commitments" and thus that one view or the other must be abandoned (247). The claim is overly bold and is made even more so by the inadequacy of their arguments.²

Johnson and Rasmussen (hereinafter J&R) argue that "the crucial premise of Rand's argument [for abortion] is her claim that unborn children are not human beings" (248). They then claim that this view conflicts with Rand's axiom of identity and in particular they ask:

If Rand wishes to maintain that an unborn child is not an actual human being, but merely a potential one, then we are entitled to ask: What kind of being is it *actually*? Even if it is merely a potential human being, it must be an actual *something*. What species does it actually belong to? Is it a chipmunk? Is it cabbage? Is it a seahorse? (248)

In the triumphant conclusion to their argument, J&R then report that in fact biology tells us "[w]hat emerges from the union of human sperm and human egg is a blob of *human cells*" (249).

J&R's argument is either sophomoric or, at best, an attempt at sophistry. Is it not obvious that the union of human sperm and human egg results in human cells? Do we really need the authority of biology to clarify such matters? The fact that J&R believe that Rand's views can be refuted by stating the obvious is a sure sign that their argument has gone badly wrong (any thinker worth grappling

with is unlikely to be defeated by a statement of the obvious).

To be precise, J&R's argument rests on an equivocation between the use of human as an adjectival description of cells and the use of human as a noun meaning a member of the human species. The cells of my liver are human cells but they are not a human. It is thus nonsense to argue that "by Rand's criterion, being a blob of *human* cells is all that it takes for an organism to be a person"!!! (249). Clearly this is false, both as a statement of Rand's criterion (by which the authors apparently refer to the axiom of identity) and also as a statement of fact.

Thus, note the equivocation in J&R's statement: "Even if it is merely a potential human being, it must be an actual *something*. What species does it actually belong to?" (248). This implicitly suggests that if something is not a human being (noun sense) then it cannot be human (adjectival sense). The equivocation is overcome by noting that there is no logical contradiction between asserting that 'this zygote is not a human being' and 'this zygote is a human zygote.'³

J&R's *logical* argument against Rand's position thus never gets off the ground. It is certainly possible to argue that zygotes and what follows are special in an empirical sense, namely they may develop into persons. J&R, however, strangely take this to mean that "once egg and sperm have successfully united, the product is an *actual* human being" (250). It is unclear why they think this true or why others should accept this statement as a definition. Consider the analogous statement, 'once eggs, water and flour have been mixed together the product is an actual cake.' Clearly, the latter statement is false or at least not true unless we define cake in just such a way as to make the statement true. Rather than batter this argument further, however, I will argue that this whole line of attack is misconceived.

Rand's Argument for Rights

J&R look to biology to answer questions of morality and political philosophy, questions that biology cannot answer. Rights are not to be found "in" nature and contrary to what J&R argue, Rand does not deduce rights from personhood or from "simply being human."

Rights, in Rand's view, are not discovered or deduced—they are created, and created for a *purpose*.⁴ Understanding the purpose of rights holds the key to understanding Rand's views on abortion.

In "Man's Rights," Rand (1964a) notes that:

A "right" is a moral principle defining and sanctioning a man's freedom of action in a *social* context. . . . Thus, for every individual, a right is a moral sanction of a positive—of his freedom to act on his own judgment, for his own goals, by his own voluntary, uncoerced choice. (93)

And—

Rights are a moral concept . . . the concept that preserves and protects individual morality in a social context—the link between the moral code of a man and the legal code of a society, between ethics and politics. (92)

From these two passages, it becomes clear that the concept of rights does not apply to an embryo or a fetus because the embryo or fetus has no freedom of action to define or sanction. The embryo cannot and does not act on its own judgment; it does not have its own "goals."⁵ If we define coercion as physically forcing someone to act against their will, then it is clear that a fetus cannot even be coerced as it has no will. (I deal below with stages of pregnancy in which the fetus may be argued to have a will.) Rights do not apply to embryos and fetuses because rights have no purpose in this context and thus cannot be objectively justified.

Contra J&R, Rand's theory of rights and her opposition to restrictions on abortion are not only consistent—the latter follows directly from the former. J&R may wish to dispute Rand's theory of rights or offer an alternative with the implication that zygotes and embryos have rights but they are wrong to say that Rand's theory is inconsistent.

The theory of rights outlined above shows that J&R are misguided to think that Rand uses the definition of man as a rational

animal to decide that the fetus is not a human being. As already noted, the issue is not whether fetuses are human beings but whether they are rights-bearers. Since embryos and fetuses do not possess the characteristics that make rights "right," they are not rights-bearers.⁶

What then of infants? J&R argue that "if the criterion for being human is the *actual usage* of one's mature rational faculty, then this does much more than deny that unborn children are human. It also denies that newborns, the mentally retarded, the insane, and the senile are human" (2000, 251–52). Of course, this is the same error once again. Rand's usage does not deny humanity; it denies that entities possessing immature or defective rational faculties are rights-bearers to the same extent as those possessing mature rational faculties. This is a virtue not a defect of Rand's theory.

Surely, any good theory of rights must imply that an infant does *not* have a right to possess a firearm, shoot cocaine, go where he or she will, or sign a binding contract. Parents routinely constrain their infants in ways that would violate the rights of adults but does not violate the rights of infants—they place their infants behind bars, for example (i.e., in a crib). Parents may even physically coerce their children (i.e., spank) without violating their rights.⁷ Without denying that our society often unjustly infringes the rights of children, and the mentally retarded, insane, and senile (just as the rights of adults are routinely infringed), I think it a necessity that any theory of rights be consistent with a restriction of rights in these cases. It does not follow, of course, that infants etc. have no rights, only that their rights are restricted as a function of the immaturity or diminishment of the rational capacity.⁸

The Randian theory of rights thus shows a virtuous economy. A theory of rights based on simple "humanity," for example, needs to be supplemented with a theory of why the number and scope of rights increases as children become adults. Rand's theory uses the same elements to explain the existence of rights as to explain why the number and scope of rights increases with adulthood.

Siamese Twins and Unchosen Obligations

J&R try to establish that the fetus has rights by referring to unchosen obligations, for which they offer the Siamese twin example. They write:

Would Rand seriously argue that Siamese twins have no positive obligations to one another? Could one Siamese twin sign up for skydiving lessons without the consent of the other? Could one take drugs without the consent of the other? Could one commit suicide without the consent of the other? (253)

Based on the Siamese twin example, J&R want to argue from "unchosen biologically-based positive obligations" to rights "between human beings who cannot exist separately" (253). The issue of unchosen obligations, however, is a red herring. Unlike embryos, there is no question that each Siamese twin possesses the characteristics necessary to be a rights-bearer, *regardless of the existence or non-existence of unchosen obligations*. J&R want to argue that since Siamese twins must have regard for the rights of one another so must a mother and fetus. But we already know that both Siamese twins have rights, while this is precisely the question at issue with regard to fetuses. The Siamese twin example cannot shed light on whether fetuses have rights and so cannot advance the J&R argument.

Another way of seeing the above point is to note that the Siamese twin example is entirely ordinary. It often occurs that two or more people have rights to the same thing. A father may pass land on to his two sons, Peter and Hans. It would be a violation of Hans' rights were Peter to sell the land to some third party without Hans' permission. It would be a violation of Peter's rights were Hans to dump hazardous waste on the land without Peter's permission. Ownership and use of the same body parts is unusual but not different in principle from joint ownership of land. The Siamese twins no more have unchosen obligations to one another than do Peter and Hans—in both cases the obligations follow from rights

rather than the other way around.

In fact, the Siamese twin example differs from that of fetus and mother in *two* important respects. First, as indicated above, it is clear that both Siamese twins are rights-bearers while this is precisely what is at issue with regards to the fetus. Second, in the Siamese twin example, it is clear that ownership of the relevant assets is joint. While in the case of the mother and fetus, it is the mother who has pre-existing rights to her body and the fetus that is "trespassing." In the latter case, it does not follow that the fetus has a right to remain in the womb even if it is a rights-bearer in other respects.⁹ Consider a slightly different version of the Siamese twin example, as described by Judith Jarvis Thomson:¹⁰

You wake up in the morning and find yourself back to back in bed with an unconscious violinist. A famous unconscious violinist. He has been found to have a fatal kidney ailment, and the Society of Music Lovers has canvassed all the available medical records and found that you alone have the right blood type to help. They have therefore kidnaped you, and last night the violinist's circulatory system was plugged into yours, so that your kidneys can be used to extract poisons from his blood as well as your own. The director of the hospital now tells you, "Look, we're sorry the Society of Music Lovers did this to you—we would never have permitted it if we had known. But still, they did it, and the violinist now is plugged into you. To unplug you would be to kill him. But never mind, it's only for nine months. By then he will have recovered from his ailment, and can safely be unplugged from you." (Thomson [1971] 1984, 174)

There is no question that the violinist is a rights-bearer. But does the violinist or the Society of Music Lovers have a right to force you to stay tied to him, even to save his life? He does not. If the violinist does not have a right to force you to stay tied to him, then *a fortiori*, an embryo, a questionable rights-bearer at best, does not have a right to have his mother carry him to term.¹¹

Rand on Motherhood

J&R's interpretation of Rand on motherhood is uncharitable at best. When asked in the *Playboy* interview whether a woman who devotes herself to home and family instead of a career is immoral, Rand (1964b, 7) answers:

Not immoral—I would say she is impractical, because a home cannot be a full-time occupation, except when her children are young. However, if she wants a family and wants to make that her career, at least for a while, it would be proper—if she approaches it as a career, that is, if she studies the subject, if she defines the rules and principles by which she wants to bring up her children, if she approaches her task in an intellectual manner. It is a very responsible task and a very important one, but one when treated as a science, not as a mere emotional indulgence.

J&R do not quote Rand fully, as I have done above; if they had done so they could hardly have written that Rand thinks "[m]otherhood deserves only an afterthought and cannot be morally justified in its own right." Let alone that Rand suggests that "for a woman, the greatest impediment to a truly human existence is childbearing." Or pregnancy, in Rand's view, "is a sickness to be cured" (2000, 258). None of this has any foundation whatsoever in Rand's comments.

In the quote, Rand speaks well for herself, so only a few comments are in order. Rand is correct that once the children are in school, devotion to "home" is likely to become dull, unchallenging and unfulfilling.¹² Rand is echoing here Betty Friedan's *The Feminine Mystique*, which argued that:

[Women] were the victims of a pervasive system of delusions and false values under which they were urged to find personal fulfillment, even identity, vicariously through the husbands and children to whom they were expected cheerfully to devote their lives. This restricted role of wife-

mother, whose spurious glorification by advertisers and others was suggested by the title of the book, led almost inevitably to a sense of unreality or general spiritual malaise in the absence of genuine, creative, self-defining work.¹³

Thus, in her views on family, Rand is well within the feminist mainstream. J&R may wish to argue that the feminist mainstream is actually "masculinist," as they assert of Rand, but given the evidence from Friedan and given that today most women do want to pursue education and careers, they will have a difficult time of it.

It is worth noting that another word for the 'false value' that Friedan and other feminists saw as influencing women "to find personal fulfillment, even identity, vicariously through the husbands and children to whom they were expected cheerfully to devote their lives," is *altruism*. Surprisingly, the connection between feminism and Rand's analysis of altruism is relatively unexamined. Yet, women have been the victims of altruism, *par excellence* (Branden 1999, 225).

Finally, Rand's argument that family should be treated as a career, "as a science, not as a mere emotional indulgence," hits the mark. Raising children is the only "very important" job that one can fall into by accident. It is unfortunate but true that some women do have children as an "emotional indulgence"; witness the millions of teen pregnancies that occur every year because the teenager wants to feel loved. Needless to say this is a tragedy, especially for the children who are raised irresponsibly, unscientifically and without study or sustained thought.

The idea of "career" was central to Rand's vision of life. Thus, Rand's insistence that motherhood be treated as a career is no denigration of motherhood but rather a recognition of its great importance.

Conclusion

Rand did not write a lot about abortion. But unlike her views on just about any other subject, her views on abortion are well within the contemporary American mainstream.¹⁴ A large majority of people

today support a women's right to abortion along the lines established by *Roe v. Wade*. Rand's positions on motherhood and family are also well within the mainstream. Furthermore, contrary to J&R, Rand's views fit neatly within her philosophic framework of Aristotelianism and individual rights.

Notes

1. The views expressed in this article should not be taken to represent the views of *The Independent Institute* or any other organization. I would like to thank the editor, Ken Barnes, Carl Close, David Theroux and Wendy McElroy for comments. The usual disclaimer applies with special force on a subject as controversial as abortion.

2. In addition to misstating Rand's views, Johnson and Rasmussen misstate the views of Catholic natural law moralists many of whom, including Aquinas (who followed the lead of Aristotle) did not think that abortion, especially early abortion, was murder. Indeed, this was the official position of the Catholic church for centuries. The current position of the Catholic church was not fully in place until 1869. See Donceel 1970. Even if J&R had stated the Catholic position correctly, it is not hard to see that the moving force of Catholic prohibitions on abortion is Catholic theism and not Catholic Aristotelianism.

3. A zygote is the first product of the union of sperm and egg. Initially single-celled, it becomes a multi-celled zygote or conceptus until it firmly embeds in the wall of the uterus and is then called an embryo until about the eighth week of pregnancy (when brain waves can be monitored)—when it is called a fetus.

4. Discovery is the mode of intrinsicism and deduction the mode of rationalism, while for Rand rights are a "feat of political thinking." Cited under "Individual Rights" in Binswanger 1986, 217.

5. Having goals is not the same as acting in a goal-directed manner. Even the simplest of life-forms such as bacteria act in a goal-directed manner and many non-living things also act in a goal directed manner.

6. My characterization follows that of an oft derided and misunderstood passage in Galt's Speech (Rand 1961, 229): "If man is to live on earth, it is right for him to use his mind, it is right to act on his own free judgment, it is right to work for his values and to keep the product of his work." This passage has been much derided because it seems to be an equivocation on two different notions of the word right. Actually the passage is a clever use of the two notions that draws attention to the purposeful character and justification of individual rights.

7. I do not argue that physical punishment is necessarily a good idea—although I think mild corporal punishment may be justified in certain circumstances—only that some forms of coercion do not violate the rights of children.

8. Thus, I think it plausible that as fetuses near term and as they near the time when they fully enter a social context, they gain a restricted set of rights similar to, but not yet as extensive as, those of infants. In particular, as fetuses near term

they have a right to life but one that is trumped by the mother's right to life, i.e., abortion would still be allowed if necessary to save the life of the mother. On rights as trumps, see the discussion of the famous violinist below and note 9. Rand suggests a willingness to accept a continuum when she writes that "one may argue about the later stages of pregnancy." I believe that Roe v. Wade strikes a good and reasonable balance in this regard.

9. It is not inconsistent to assert that the mother has a right to abort the fetus and the fetus has rights against others. If the mother is kicked in the stomach, for example, and the fetus is injured or killed, the assailant could be prosecuted for violating both the rights of the mother and the fetus. The mother's rights trump those of the fetus but *only* the mother's rights are a trump.

10. It has been said that Thomson's paper is the most cited in all of philosophy. It is thus strange that J&R do not discuss this paper given its relevance.

11. The import of this argument is that the fetus may be aborted even if it has rights. It should be noted that since Rand did not believe that the fetus had rights it was not necessary for her to take a position on whether, supposing that the fetus did have rights, the mother's rights would trump those of the fetus. The famous violinist example is used here not to illustrate a position of Rand's but to show that on *no account* can J&R's Siamese twin argument sustain the position they wish it to sustain. See Thomson [1971] 1984, for further explication of the famous violinist example, including a discussion of voluntary and involuntary conceptions, etc. See also Rothbard 1998.

12. Note that for Rand the meaning of "career" is one of attitude, "constant progress, constant upward motion from one achievement to another" (see entries on "Career" in Binswanger 1986, 63). Thus, Rand's comments on family as a career can also extend to home-life more generally. I suspect that Rand would have liked Martha Stewart very much.

13. See the *Encyclopedia Britannica* (2000) entry on Betty Friedan.

14. It is odd that J&R assert that Rand "was one of the most vigorous advocates of abortion on demand" (2000, 259). Abortion is not central to Rand's philosophy or even her politics. Moreover, the phrase "abortion on demand" is usually taken to mean abortion available for free through a government hospital or public health insurance system—positions that Rand never supported.

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