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Flesh of the Unborn: On the Political Philosophy of the Unborn

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ABSTRACT

This work situates the unborn¹ within the wider discussions in political philosophy. Much existing work on the unborn's relevance to theoretical discussions focuses on personhood, moral status and pregnant bodies. However, this work argues that the embryonic or fetal body is the crux of political philosophy's interest in the unborn. There is less work on whether or not to protect the unborn by virtue of having a body, yet it is important because the embryonic or fetal body complicates the boundaries of the unborn's membership to humanity. This work unpacks the relevance of political philosophy in furthering the discussions on the body of the embryo or fetus. The unborn's membership to humanity is inescapably embodied because it is with and through a body that the unborn gains access the human world and touches discussions on moral status, personhood, identity and rights. Three cases are provided to substantiate these discussions: moral status, birth restrictions and gene editing, all of which are related to how the embryonic or fetal body becomes a contested space for membership to humanity. This work concludes that the political philosophy of the unborn contributes to both academic scholarship and political life by problematizing what virtues ought to govern laws and policies on the unborn. Discussions imply that the connection between the contested embryonic or fetal body and political philosophy gathers a variety of deep and important questions, which justifies an intellectual and practical pursuit.

KEYWORDS

political philosophy, unborn, pregnancy, discourse, ethics, moral status

¹ For the purposes of this study, the term "unborn" refers to an offspring of a human mammal.

Situating the Unborn in Philosophical and Political Discussions

There is a growing concern on international legal imperatives for the unborn (Haaf, 2016). Debates are vibrant on the moral and legal aspects of the unborn, especially in terms of how civil law ought to see the unborn's moral and legal status (Simić, 2018). It is in this context that a review of various fields of studies exploring the unborn gain relevance. There are many disciplines and area studies that deal about the unborn from biology to feminist studies to ecology. To be sure, the idea of disciplinary boundaries has been attacked by many scholars, claiming that our experiences are overlapping, messy and cannot be exclusively contained within one field of study. The fetus is an overlapping subject that cannot be restricted to disciplinary turfs. Yet, while it is important not to be caged in disciplinary boundaries, there is a good reason to make use of these boundaries to direct discussions to future trajectories. A subject as controversial as the embryo or fetus is a space to discuss what we seek to realize through philosophy and politics in dealing with an entity in the borderline of membership in humanity. Indeed, discussing the unborn can be "more philosophical than political" or "more political than philosophical". The former deals with moral or ethical discussions which are recurrently theoretically debated and the latter embarks on an interplay of interests and voices among political actors and institutions. The unborn is found sitting uneasily between these spheres as it is in itself a subject of ambiguity. As such, it is informative to analyze how disciplines choose discourses or level of talk about the unborn. This level of talk determines the level of reality about the unborn, from which decisions and resolutions can be drawn.

Philosophy and political science discourses can bring the unborn to different polarities of discourses. For instance, general philosophical discussions about the unborn surfaces ethics of life and reproduction that follow some *prima facie* principles such as non-maleficence, beneficence, autonomy, and justice, and virtues such as fidelity, compassion, practical wisdom, justice, fortitude, temperance, integrity and self-effacement. These questions are rooted in the issue of who are entitled to these ethical principles and in particular, whether or not the unborn can be protected by such principles. Some scholars would then argue that the way to look at this is seeing the embryo or fetus as having capacity to be a person under appropriate circumstances, i.e. specific intrinsic qualities (i.e. cells, genes) for development² (See Buckle, 1988). Yet, when contentions on what interpretation of morality is to be taken and applied to rules that govern society, the discussion about the unborn takes a political turn. Political science puts the discussion about the unborn towards cases of reproductive autonomy or freedom and identity and body politics of uterus-owners. It may problematize maternal mortality among marginalized sectors or gender discrimination in infrastructures and everyday life of pregnant persons. A political science approach to the unborn would dwell on the extent of democratic participation

² For instance, a seed is a potential plant (since it possesses the capacity to become a plant; it will become a plant if it lives long enough). In the same manner, while an embryo or fetus is not yet an actual person, it has the properties to be a person and it will become a person, if its growth is unhindered and if it lives long enough.

in which political actors deliberate about the unborn. So, whereas general philosophy deals with questions of metaphysics, ethics and epistemologies of the unborn, political discussions dwell more on civil interests aspect of the unborn, such as how the unborn fits “the concept of law’s subject: the legal person” (Haaf, 2016).

The Relevance of Political Philosophy

This work argues that the wisdom of political philosophy is necessary to account for why and how societies ought to deal with the unborn. The relevance of political philosophy is found in virtues and normative claims that are contested in political situations. For instance, it problematizes the concept of universal abortion laws in light of “what ought to be”. In this sense, political philosophy treats the unborn in terms of what virtues ought to govern laws and policies on the unborn. Political philosophy asks questions about the beliefs upon which political institutions and actors employ as guide to determine unborn’s political status in the society. The starting point for these questions is locating the unborn along the standing debates between the moral theories. Dealing with the moral status of the unborn is an abstract matter, which does not have a cut and dry answer; and yet the questions about the unborn are extraordinarily pressing such as how shall international laws be organized for the unborn, and in saying that, there is a tacit reference that there can be universal goals and we can determine what these goals should be. So, instead of merely asking what standpoints contemporary legal systems have toward the unborn, political philosophy further asks what normative principles can be used as guide in the case of the unborn human. The next question is what means should we undertake to carry out these normative guidelines. This then elucidates the validity of the generalizations and the theories used in political philosophy.

The political philosophy of the unborn accommodates the unborn's abstract character *vis-a-vis* human laws. It links the metaphysical and ethical discussions of the unborn to some practical and empirical inquiries such as legal and medical implications of the epistemological complexities of the unborn. Political philosophy therefore unpacks the subject of the unborn by considering the unborn as a political entity imbued with contesting normative claims. It takes the wisdom of philosophical thought to understand the value judgements about the unborn, the embryonic or fetal body and pregnancy within the boundaries of politics such as sovereignty, governance, law and order. The task of political philosophy of the unborn is to account for the connection between the unborn and general political concepts, practices and institutions (e.g. state, individual, rights, community and justice). Corollary to seeing the relationship between the unborn and the political order is seeing how the unborn is ethically situated within a specific political order. These links can help illuminate the kind of moral actions that are justified to be enacted towards the unborn. The aim is to arrive at an understanding of the unborn from a normative perspective as grounds for what is deemed right and the good in politics and political organization. For instance, it is situated in the literature dealing with arguments regarding the threats that the unborn may induce to its maternal organism. The narrower concern

of political philosophy is based on how these principles are integrated in governance. The political philosophy of the unborn is also explicitly laden with norms such as discussions on state policies on fertility, regulation of births and reproductive technologies, and whether/what measures are ethically sound to implement these policies. Debates on this matter centered on the conflict between the survival of the embryo or fetus versus the life and/or health of the maternal organism. Most discussions divide groups into having pro-choice and pro-life leanings. Finally, another level of discussion seeks to unpack whether or not there is indeed a conflict or logical inconsistency between ascribing moral status to the embryo or fetus and granting abortion rights to maternal organism.

The Unborn's Body: A Universal Subject of Inquiry?

That the unborn's body is both epistemologically and politically contentious for rights recognition makes it a vibrant space for discussion (Burda, 2009). For one, the body has been a space of debates and discussions for political philosophers as "the body is not a thing, it is a situation" (de Beauvoir, 1949/2010, p. 68). However, much existing work on this topic falls under practical ethics and focuses on epistemological justifications on why or why not the unborn deserves rights. There are, for instance, longstanding debates about the basis of granting rights such as personhood and moral status – all of which are connected to having a soul or mind. Yet, there is less work on whether or not to protect the unborn by the very virtue of having a body. Most scholars have discussed whether or not an embryo or fetus has a personhood or consciousness (see Benn, 1973; Buckle, 1988; English, 1975; Finn, 2018; Smith & Brogaard, 2003), yet not much work has asked when an embryo or fetus begins to have a legitimate body and when can this body be protected; or should state policies recognize at all the embryonic or fetal body as basis for the statutory protection of the unborn.

In this regard, the unborn is a rightful subject to political philosophy because the fetal body complicates the boundaries of membership to humanity. While the stage of being an embryo and fetus are necessary to becoming a living human being, it is highly contested if during the process of becoming, the embryo or fetus is already a member of the human species entitled of protection and all other welfare that the body politic can offer. The interim period towards humanhood makes a case for the unborn as a provisional member of society. While a fetus is not yet a fully-developed person, it is considered as an aspect of life and ecology deemed to be taken care of, just in the case of elements found in nature. To be sure, there is an ongoing debate whether or not the fetus should be seen in the same level as that of other elements of nature (see Ojala & Lidskog, 2011). Indeed, the fetus possesses a controversial body with a survival status that is governed by others and the circumstances that preexisted it. On this basis, it is of particular interest to political philosophy to inquire about the place of the embryo or fetus in governance. In this sense, an embryo or fetus is understood as being in a distinct political and moral position since it is under a preparatory stage with a range of inherent risks to both itself and the maternal organism (Haaf, 2017).

Thus, the embryo or fetus exhibits a contestable political identity that challenges the philosophical questions about the nature of human beings.

Examining the political philosophy of the unborn leads to the inquiry whether the principles in political philosophy are to be regarded with a universal validity that is applicable to the unborn, or whether these principles are rather to be construed as assumptions that only make sense within certain theoretical frameworks. Inquiries on the nature of the embryonic or fetal body create a space of negotiation on whether it is a universalizable subject or an entity with inscriptions of meanings which only make sense within specific contexts (Grosz, 1994). This leads to the question about the scope of what is universalizable assumption about human beings in relation to the demand for ethics and virtue towards the unborn. The problematique of universality is found in the complexity of “oughtness”. How to govern especially in a cosmopolitan world is premised on some shared moral principles, whether in the form of some abstract ideas such as preservation of life, liberty and dignity or in the form of societal goals such as achieving peace or pursuit of general happiness. Such bases for collective human arrangements involve the notion of a shared “oughtness”, thereby claiming the possibility of the universality of some international laws. However, criticisms to the universality of “oughtness” come to play when considering the many versions of “what ought to be”. While universal prohibitions are present in legal practice such as those against various types of aggression (e.g. murder and rape) (Brown, 1991), these restrictions are still based on specific context of causation, intention and voluntary behavior (Mikhail, 2002).

The critique of the idea of universal principles concerning the unborn, its *modus operandi*, liberties and restrictions are reflective of the broader and long-standing question about the existence of any universal principle and parameters of morality. Theoretical polarities in the field of ethics have left scholars with completely different views – (1) those who believe in the subjectivity of moral violations and (2) those that argue for distinguishing between universal moral violations from violations of social conventions. The former is usually associated with hermeneutic traditions and cultural relativism, which see morality as determined by the “art of interpretation” and that having a universal human rights is imperialistic and hegemonic (Ochsner, 1979, p. 54). In contrast, the latter is advocated by a number of scholars who presume that human beings hold an inherent moral judgment based on a complex set of universal standards and principles (e.g. Rawls, 1971). This view argues that societies share universal abstract concepts that every human being is entitled to such as life, liberty, and pursuit of happiness. Thus, the issue on the universality of governance principles to the unborn bears witness to the relevance of political philosophy.

Stemming from a long history of debates, this work argues that the unborn’s body opens up a platform for universal claim. Determining the normative dimensions about the nature of the unborn’s body in relation to ethics, politics and law is not an easily resolvable feat. While it makes sense to contest that every virtue is potentially political, and therefore not universal, to say so is to run the risk of making a “rescue narrative” (Smith, 2002) under the logic of relativity. In so doing, it may close further discussions. First, to dismiss the claim of universal virtues as hegemonic can be

accomplished only through taking a universalizing reason. Arguing against any universal virtue to deal with the unborn is in itself an act of universalizing and uses the same logic of universality to propel an argument. To say that universal virtues yield to its own exclusions does not in itself escape the totalizing and dismissive logic of generating its own universalities, hence ironically excluding other epistemologies. Second, seeing the politics of universalization as a hegemonic process does not take into account the founding character of the embryo or fetus and pregnant individuals within the anthropocentric framework. Arguing against the notion of universal virtues, which labels the unborn as a subject only relevant to human history as if there was no other way to make sense of its existence aside from the purpose of being a human (Addelson, 1999; see Ojala & Lidskog, 2011). When applied to the issue of the unborn, the presence of a universal entity (fetus) or condition (in the case of pregnancy) is assumed, *ergo* the issue of universalism is insufficiently addressed, if at all. Finally, having politically-laden virtues need not necessarily be problematic and does not preclude human beings to set normative ends to reflect and offer conjectures about political life. An investigation of how the fetal body becomes an arena of contestation in light of normativities contributes to the understanding of its relevance to theory and practice, between what was, is, and possibly, also, what may come to be.

Ultimately, an examination of the thoughts and works of political philosophers reveals either general virtue systems (e.g. Plato, Aristotle, Hobbes, Locke, Hume, Hegel and J. S. Mill) or general frameworks to understand political life (e.g. Machiavelli, Rousseau, Bentham, Marx, Ibn Khaldun, Arendt, Berlin, Dewey, Foucault, Gramsci, Habermas, Rawls, Sartre and Taylor). In any case, these intellectual activities provide a sense of “what ought to be” either in terms of moral guidelines or frameworks to human action. What the political philosophy of the unborn contributes to these discussions is problematizing the virtues of human beings using the embryonic or fetal body as a point of inquiry on how we should collectively and politically arrange the interests, capacities, voices involved thereof. Thus, it is both important to question uncontested normative expectations and at the same time, decide on “what ought to be”.

Of Law, Constitutions and the Unborn

Political philosophers such as Hobbes, Locke, Rousseau, Mill and many others have used the body as a metaphor to underpin several of their arguments about political concepts such as “heads” of state, long “arm” of the law, and “heartlands” of countries (Cannon, 1941). These words originated from the Latin *corpus*, which means “body”, and thereafter developed to terms such as “international body” for cross-country organizations, “corps” commander for military leaders, and “corporations” for business establishments (Nedermann, 1992). Here, the body is not only a metaphor for societies but a tool to realize that we are part of the bigger whole. This surfaces in the discussions about the extent to which this “bigger whole” accommodate membership. This leads to questions such as: how accommodating should constitutions be of the unborn? How often, and how, should laws concerning the unborn adjust based on local cultures, value-systems and practices? What are

the implications of a written constitution about the unborn on moral and political polarities of particular cultures? There is no simple answer to these questions. But the works of political philosophers offer some guidance. Law can serve as the basis of moral obligation (i.e. Locke's *divine law* and *natural law*), regulation of human actions (i.e. Mills' *Limits to the Law*), or means towards rights and justice (i.e. Rawls' *Law of Peoples*). These views share the notion that law is accountable towards some moral and ethical guidelines, evident in some fundamental principles implicit to the morally-laden legal terms such as obligatory, permissible, and forbidden, or their equivalents (Bybee & Fleischman, 1995). However, there is a need to discuss the extent to which this applies to the embryonic or fetal body. The succeeding sections offer three cases that discuss how the unborn is situated within legal policies through its body: moral status, birth restrictions and gene editing.

The Unborn and the Maternal Organism: Debates on Moral Status

Depending on specific histories and culture about pregnancy, different kinds of constitutions come about, which have generated specific rules for the unborn. But an important normative concern of political philosophy with respect to the unborn is that it faces the issue of the autonomy of the pregnant person or maternal organism in making preferences where this person may confront often conflicting values, desires and beliefs against the unborn (Gillon, 1985). This gives rise to the question about the moral status of the unborn. If the moral status of the unborn can be established, constitutions will have solid grounds for a universal stand on the unborn (see Buckle, 1988). Yet of a more fundamental consideration is whether or not having a moral status is necessary for granting rights to the unborn. The issue on moral status collapses into broader questions concerning the relationship between the maternal organism and the unborn. When the pregnant human body and human embryonic or fetal body are juxtaposed with each other, the question on their distinction from each other surfaces. Since legislation on rights only applies to human history, discussions center humanhood of the embryo or fetus such that if the embryo or fetus is not a constitutional person, then it cannot be granted any constitutionally protected right to life, liberty, and property, nor is it entitled to the equal protection of the law. A pressing debate related to this is whether or not the embryo or fetus has a moral status. Some scholars agree that a mental capacity to desire continued existence, which are attributable only to developed persons, is a requirement to be granted a moral right to life (see Dawson & Singer, 1990; c.f. Boonin, 2003).

However, others find this reasoning rather weak because this criterion for rights means accepting that infants, the severely retarded, or those in coma do not deserve a moral status either. Some would discuss the differences in stages of being "pre-born" implying that moral status must be based on the stage of development of the embryo or fetus. For instance, Suki Finn (2018) argues that while, logically, fetus has the capacity to develop into a person in the womb, that actual condition has no appropriate capacity to develop into a person in the future without the maternal agent. Regardless of the stage of development, a pressing concern remains: is having a *potential* for life a morally relevant characteristic that justifies ascribing an embryo or fetus a moral

status in its current condition? Some scholars see potency in terms of both capacities to develop and to be harmed as well (see Manninen, 2007/2014). For instance, she states that all human beings are in the state of being potentially sick and thus justifying health coverage of people who have actual illness impending. Likewise, it is also not a question of having the desire to be a person in order to possess an interest in it. Moral status then is deserved if possessing it “constitutes a benefit for the individual that potentially possesses that property and a denial of that moral right constitutes a harm” (Manninen, 2007/2014, p. 202).

The discussions that constitute potentials in personhood are rooted from the issue on whether or not the fetus is part of the maternal organism or a separate entity, only residing in a host’s womb. On the one hand, some would argue that the fetus is a separate entity from the pregnant person and that pregnant persons are morally liable to their human embryo or fetus in case they deliberately cause impairment to embryonic or fetal health and development and have not fulfilled the duties and obligations of their social contract as parents; thus it is legitimate to penalize pregnant persons for causing harm to human fetuses (Murphy & Rosenbaum, 1999; Smith, 1989). On the other hand, natalists would argue for fetal parthood or the claim that the embryo or fetus is a physical part of the pregnant person and condemn any view that pits pregnant individuals against their offspring or that protects the embryo or fetus “qua fetus” (Johnsen, 1986). Viewed in legal terms, this poses some queries on statutory restrictions for pregnant individuals. In the case of abortion, for instance, whereas the constitutional status of pregnant individuals who are persons with basic rights is necessarily superior to that of non-persons, the embryo or fetus becomes an entity of contestation against which the rights of the pregnant agent might be affected.

Yet there is another strand of discourse that complicates the embryonic or fetal parthood debate and takes an ecological view on matters concerning the unborn. Situating the embryo or fetus in an ecological perspective puts into question the very concept of individuality and the sacredness of DNA as the basis of individuality and personhood (Nelkin & Lindee, 1996). It renders futile the debate on whether or not there is one or two persons in the case of pregnancy because the pregnant organism is a symbiosis rather than a space of contestation for individuality and personhood (Gilbert & Tauber, 2016). This has implications on the policies regarding abortion, because it offers a counter narrative that one’s genome determines one’s essence in the process of fertilization, which renders as non-issue the uniqueness of either the pregnant individual or the embryo or fetus.

The State and Moral Obligation: The Case of Birth Place Regulations

Birth is a process that separates the maternal organism and the unborn-turned-newborn human being. Here, the relationship between the state and the unborn makes case for discussion under political philosophy in terms of the state’s action towards stillbirths or death of the unborn before or during delivery. Death that occurs in the context of unborn-to-newborn transition complicates death and what kind of deaths can be normatively acknowledged. It is important because death is

a universal concern, upon which some universal legal norms such as the “right to life” are underpinned. The unborn complicates the “right to life” because while the fetal body is subject to the threat of death, it carries the issue on whether or not this kind of death is worthy of statutory protection. Ethical issues surrounding birth place regulation are informative in this regard. Birth place restriction is claimed to be an answer to the soaring number of maternal deaths and stillbirths allegedly blamed against “unskilled” birth attendants (Montagu et al., 2017). This kind of policy requires pregnant individuals to give birth only in hospitals and lying-in centers and midwives are no longer allowed to deliver in homes. Yet it opens up questions on whether or not the state infringes any right of those who refuse giving birth in medical facilities in light of the argument that “[p]regnancy is not an exception to the principle that a decisionally capable patient has the right to refuse treatment, even treatment needed to maintain life” (The American College of Obstetricians and Gynecologists, 2016, pp. 1–2). The unborn’s body, in this context, becomes relevant because stillbirth or the potential death of the unborn at birth is legitimized as grounds for statutory intervention to the decision of the maternal organism.

On the one hand, this regulation may be in “good faith” to avoid stillbirths as a manner of assisting the unborn-to-newborn transition to the interest of the maternal organism. But on the other hand, the state may reveal itself to be punitive and costly for the maternal organism. Hannah Arendt, for instance, with her notion of natality, can expand a discussion on the connection between the unborn’s birth and death. She explains that death signifies the loss of a unique identity as much as birth means coming to life of new members of the world who are “unique, unexchangeable, and unrepeatable entities” or participants of the world (Arendt, 1958, pp. 96–97). In the same light, Thomas Nagel (1970) offers a reimagination of the unborn’s death, that is, framing death as part of a whole ecosystem which ends one’s participation as a member of both natural and social worlds, instead of loss in existence of an ego, thereby making the death of the embryonic or fetal body non-moral, which can be considered as a loss in the Earth symbiosis rather than contesting whether or not it is a loss or “life”. This provides some starting point on how to assess statutory interests in the death of the fetal body and its implications to the unborn’s membership to society. This issue on membership taps on the idea of viewing maternal and fetal bodies as a public property to justify the state regulation of birth and possibly the utilization of adequate antenatal and delivery care services. Political philosophy offers rich discussions on whether or not there is a clear moral interest for states to regulate birthing processes that justifies the exercise of police power (the limiting of individual rights by the state for public good).

Nature, Medicine and the Unborn: The Case of Genetic Editing

Aside from embryonic or fetal deaths, medical advances concerning the unborn serve as yet another controversial subject for political philosophy. Medical practices are ethically contested not only within statutory boundaries but also as universal moral issues. One of the most pressing recent debates is on gene editing of an embryo after employing *in vitro* fertilization (IVF) and preimplantation genetic diagnosis (PGD)

(Savulescu, 2001; Williams, 2015). Advances in genomics enable the detection of diseases through extracting embryonic or fetal DNA from the maternal organism's blood, which aims to repair the fetal gene through gene editing. As in the issue of cloning human beings, the legalization of gene editing for creating ideal fetuses is contentious in terms of whether or not creating "perfect fetuses" is a goal worthy of pursuit for humanity.

Given advances in genetic technology, preventing the birth of a fetus with disability or a severe genetic disorder becomes an option. If genetic engineering becomes safe and effective, furthermore, then this may enable even to enhance the genes of the already healthy fetuses. However, there are questions on the moral permissibility of such enhancements. Specifically, moral considerations are placed over the treatment–enhancement distinction (Selgelid, 2014). Debates are usually polarized between bio-conservatives (e.g. Carlson, 2001; Kevles, 1985) and bio-liberalists or transhumanists (e.g., Harris, 2007; Savulescu, 2001). These positions discuss the lines between permissible and impermissible genetic manipulation. On the one hand, bio-conservatives argue that being merely human has its value (Fukuyama, 2002); and because enhancement technologies would often only be accessible to the financially endowed, it is might exacerbate inequalities (Mehlman & Botkin, 1998). On the other hand, bio-liberalists question what could be so different and morally wrong about genetic enhancement given that some enhancements such as hair growth and liposuction for aesthetic purposes are permitted (Agar, 2014). One of the prominent arguments is the Principle of Procreative Beneficence (PB), which premises that parent(s) are morally obliged to select embryos or fetuses which are most likely to have the best life, including enhancement (when possible) based on available genetic information (Savulescu, 2001). Some would also argue that intention to enhance must be weighed as there are enhancements aiming to exceed human "natural" limitation (what transhumanists advocate) and enhancement that seeks optimization (see Baertschi, 2014). Scholars agree though that ethical discussions on eugenics revolve around the topic of liberty restrictions and threat to equality (Buchanan et al., 2000; Nozick, 1974). Critics of medicalisation argue that this process obscures our understanding of what is rather natural (Parens, 2013).

This raises the question on the ethical boundaries of in-utero genetic interventions and what states should do on policies regarding these medical practices. Ethics is crucial when legislation assigns moral meanings to the disabled fetal body as a qualifier for policy restriction. Controversy comes at different levels – selecting the best features for an embryo is one thing; genetic prevention to eradicate disability is also one thing; but to desire to change the fetus' features for enhancement purposes is yet another case. Prenatal diagnosis of a severe genetic disorder may count as an exceptional circumstance that justifies genetic manipulation. However, gene editing in the context of enhancing the offspring is argued to be different from mere treatment and requires further ethical assessment (Selgelid, 2014). Political philosophy such as Rawl's (1971) *Theory of Justice* is useful to provide discussions for such interests. For instance, Rawls (1971) recognizes "the interest of each to have

greater natural assets” (p. 92) and that citizens “want to insure for their descendants the best institutional responses. While the unborn is treated in light of its dev genetic endowment (assuming their own to be fixed)” (Rawls, 1971, p. 107). However, if these natural endowments can be modified before birth through genetic editing, then liberty for genetic enhancement would be permissible for Rawls. Yet, this liberty may produce further inequality as technology may not (yet) be accessible to all. On the more pragmatic level, this issue opens up questions on what kinds of ethical systems are the most “workable” to discuss how eugenics link liberty and equality, and from there, establish an ethical spectrum as a rough guideline for how to act on the information revealed by genetic tests and weighing the choices involved in enhancement-related fetal surgeries.

Fleshy Discourses: Unborn’s Body and Its Promises to Political Philosophy

The previous examples are suggestive that much still remains to be seen about the unborn’s place in humanity. There are still more to unpack when it comes to the political philosophy of the unborn. For instance, the discussions on whether or not the embryo or fetus is part of the maternal organism has only given importance to the embryonic or fetal body to the extent of discussing it as an “attachment” or “body part”. Yet there is a need to evaluate the assumption that if the embryo or fetus is a body part, then it does not have a rightful claim for legal protection. It leaves many questions such as those that deal with the legality of extracting body parts. For instance, if selling kidney is deemed illegal, it raises questions if the same logic can be applied to selling a fetal body for medical purposes such as placenta used for stem cell research? Moreover, the discussions on state intervention to avoid stillbirths call for further exploration as to how the fetal body challenges the “lived-body” of the maternal organism, creating instead a “co-lived body” such as being a *holobiont* or a symbiotic system (Gilbert & Tauber, 2016). Finally, the last example on eugenics seeks for discussions of the unborn’s body as an ownership and genes as commodity and investment. This opens discussions that examine genes as currency and potential sources of power that may structure populations into those in power and those without power based on their bodies when they were still unborn, thereby potentially creating a marginalized genes and continuing exclusions even before birth.

As things currently stand, the unborn’s body can be a signpost for further discussions with regards to discussions on political philosophy. Indeed, the embryonic or fetal body in the previous examples offers a promising dialogue on controversial alien body’s membership to human territory. The depths of this controversy suggest that the unborn’s membership to humanity is inescapably embodied. It is with and through a body that the unborn gains access the human world and touches discussions on moral status, personhood, identity and rights. As Drew Leder (1990) reminds us, bodies are ecstatic with a capacity to externally project itself towards others through perception, movement and thoughts. The embryonic or fetal body is not just an aggregate of evolving tissues, but a space through which the unborn, given its fleshy constraints, enters human discourses.

Conclusion: The Unborn as a Melting Pot

The discussions provided in this work have raised concerns about the moral status and political identity of the unborn. This implies that the connection between the contested embryonic or fetal body and political philosophy gathers a variety of deep and important questions, which form an intellectual and practical pursuit. The unborn is thus situated as a universal subject of inquiry in political philosophy by virtue of the complexity of its body and the normative standards applied thereof. In the end, various positions and debates about the unborn boil down to one common premise when it comes to the state – that statutory decisions seek normative bases. The relevance of ethics in the case of the unborn comes to play in providing a “mantra” or guiding principles (Boldizar & Korhonen, 1999, p. 280) upon which most laws are grounded on. Political philosophy provides benchmarks for statutory arrangements when it comes to the unborn. Finally, what inclusive and tolerant thought would go about telling societies on how to deal with the unborn? After all, the unborn is ambiguous and we all have our set of beliefs about maternal practices. Human beings either accept the validity of one principle or another, and some may feel that it is inappropriate to tell states how to lead and govern human population. After all, it is their territory, their culture, their decision.

Yet there is wisdom in recognizing that we need some guidance in one way or another in taking actions concerning a body-owner that is in the borderline of humanity, called the unborn. While there is no immediate answer to ethical dilemmas about the unborn, it is important to heed the importance of yielding to ethics as a logical base upon which succeeding discussions about the unborn can rest. In this context of evaluating political decisions, non-accountability to ethics can be a more potent source of malevolence than is the ambiguity of the unborn’s moral status. And the question on what kind of guidance is needed and how do we establish a universalizable principle for the unborn are the reasons why there is a need of a political philosophy of the unborn. This work therefore forwards the continued relevance of political philosophy in discussing international legal systems.

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