

Why the immorality of consuming alcohol during pregnancy cannot tell us that abortion is immoral: A reply to Hendricks

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Abstract

Recently, Perry Hendricks argued that abortion is immoral even if the fetus is not a person. He did so by arguing that causing a future child to suffer from fetal alcohol syndrome is wrong because it is an impairment, and an abortion would be an even more substantial impairment. Here I reply that the argument depends on ignoring relevant facts that are essential for moral decision-making. Moreover, if we adapt the argument to consider these essential facts, then the argument fails because it no longer applies to the case under consideration.

KEYWORDS

abortion, impairment argument

1 | INTRODUCTION

In his 'Even if the fetus is not a person, abortion is immoral: The impairment argument', Perry Hendricks argues that abortion is immoral even if the fetus is not a person. Hendricks' argument is quite simple:

1. Causing an organism O to have FAS is immoral (from P1).
2. If causing O to have FAS is immoral then, *ceteris paribus*, killing O is immoral (from TIP).
3. Therefore, killing O is immoral.
4. If one aborts O, then she kills O.
5. Therefore, to abort O is immoral (2019, p. 248; footnotes removed).¹

As we can see, the argument depends on the application of two separate premises: P1 and TIP. P1 is—I believe—uncontentious and

it states that '[i]t is immoral to give a fetus FAS' (p. 246). Here, 'FAS' stands for *fetal alcohol syndrome*, which can cause—as Hendricks exemplifies—cognitive impairment, such as an inability to count and tell the time in seventh grade (*ibid*).

TIP ('the impairment principle') states that 'if it is immoral to impair an organism O to the nth degree, then, *ceteris paribus*, it is immoral to impair O to the n+1 degree' (p. 247).

In this reply, I will present two potential problems with Hendricks' argument. First, I will argue that the interpretation of TIP makes it an unreasonable principle because it ignores facts that would be considered ethically relevant according to most standard normative theories. Second, I will argue that if we attempt to solve this problem by re-interpreting TIP, then the step from TIP to the second premise (P2) fails. Finally, I will end the reply by summing up the main conclusions.

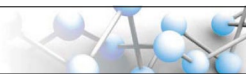
2 | WHY TIP IS UNREASONABLE

The first problem has to do with the *ceteris paribus* clause. Hendricks makes it clear that we should understand the requirement in the

¹Bare page references are henceforth to Hendricks, P. (2019). Even if the fetus is not a person, abortion is immoral: The impairment argument. *Bioethics*, 33(2), 245–253. <https://doi.org/10.1111/bioe.12533>

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following sense: 'let us take the *ceteris paribus* clause to be met only if the relevant details surrounding the impairment in the antecedent are sufficiently similar to the relevant details surrounding the impairment in the consequent' (ibid). Moreover, Hendricks shows through examples that by 'relevant details surrounding the impairment' (ibid), he means the nature of impairment (i.e., that the impairment causing $n+1$ degrees includes the impairment causing n degrees) and what that impairment entails (e.g., whether the impairment gives the impaired other benefits). Hendricks also thinks that if the impaired has consented to the impairing action, then TIP does not kick in.

However, if the *ceteris paribus* clause in TIP should be limited to concern only the qualities of and facts associated with the impairment (excluding, for example, the consequences and/or intentions of the decision to cause the impairment), then TIP is just plainly false according to most standard normative theories. The problem is that the moral decision involves various consequences that are ignored on this reading of TIP (such as the action of, as well as the consequences for, the potential mother). Most standard consequentialist and deontological theories would hold that consideration for the mother should be part of the moral evaluation. Moreover, most deontologists would also think that her intentions matter. Since TIP conflicts with standard normative theories, we cannot—if we rely on those theories—use TIP to draw conclusions about what is immoral, which is precisely what Hendricks does with P2.

3 | WHY RE-INTERPRETING TIP WILL NOT HELP

A possible way of rescuing Hendricks' argument would be to re-interpret TIP, in particular the *ceteris paribus* clause, to include a broader set of considerations (i.e., all the facts that should normally be considered in a moral decision according to standard normative theory). If so, we would have to say that the *ceteris paribus* clause should apply not only to the impairment as such, but also to the complete moral decision about whether to perform the action that would (possibly) cause an impairment. While there are many alternatives for how to do that, I will use a nonspecific example to illustrate that the inclusion of relevant moral facts invalidates the step from TIP to P2. Why? Because the decisions are not relevantly similar.

While the basic choices under consideration can differ substantially when we spell them out sufficiently to evaluate them, I need not consider all options to prove my point. I will start by assuming that the choice of whether to consume alcohol during a certain period of the pregnancy is made by the person who previously decided to have the pregnancy.

If so, the choice of whether to consume alcohol is standardly a choice between a present-time pleasure or social convenience, and the (long-term) risks to the future child. Simply put, it is a choice between a small benefit for the self (i.e., the future mother) and a substantial risk for the potential child (which, of course, also includes severe consequences for the mother). This choice is obviously very different from the choice of whether to abort the fetus, which

involves mid- and long-term considerations for both the potential mother and the potential child. The choice is a forking path that includes considerations and possibly different futures *not* included in the consideration of whether to consume alcohol (i.e., futures without the potential child). Hence, if we modify TIP to rescue it, then Hendricks' second premise is false because the re-interpreted *ceteris paribus* clause is not satisfied: the actions considered in the antecedent and consequent are not sufficiently similar.

One may argue that I have set aside a possibility that would have made the choices similar, since I assumed that the potential mother had decided to have the pregnancy when she was deciding whether to consume alcohol. However, for Hendricks' argument to work, we have to isolate the drinking choice from the abortion choice, for the argument would otherwise be circular (i.e., we would have two decision situations: one in which the potential mother considers whether to *drink and abort* and another in which the potential mother considers whether to *abort*). Moreover, if the choice of whether to consume alcohol also included the choice of whether to abort, TIP could not be applied under any reading considered here, because the possible outcomes of the consequent would not correspond to an impairment to the $n+1$ degree relative to the n degree impairment in the antecedent.

4 | SUMMATION AND CONCLUSION

I have argued that the *ceteris paribus* clause in TIP conflicts with most standard normative theories. Moreover, if we re-interpret the *ceteris paribus* clause to conform to standard normative theories, then TIP no longer supports P2, and Hendricks' argument fails. This creates a seemingly unavoidable dilemma for Hendricks' argument: either it is in conflict with standard normative theories or it is invalid.

CONFLICT OF INTEREST

The author declares no conflict of interest.

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