

# SOCIAL ETHICS

**Morality and Social Policy**

**Fourth Edition**

**Thomas A. Mappes**

**Jane S. Zembaty**

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FOURTH EDITION

Thomas A. Mappes

Frostburg State University

Jane S. Zembaty

University of Dayton

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**Morality and Social Policy**

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Social Policy

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# About the authors

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# Preface

Is the death penalty a morally acceptable type of punishment? Is the interest of human beings in eating meat sufficient to justify the way in which we raise and slaughter animals? Do more affluent individuals and countries have a moral obligation to eliminate starvation and malnutrition among the needy? Is society justified in enacting laws that limit individual liberty in sexual matters? What obligations, if any, does society have to undo some of the self-perpetuating inequalities caused by past racial and sexual discrimination?

The way we answer such moral questions and the social policies we adopt in keeping with our answers will directly affect our lives. It is not surprising, therefore, that discussions of these and other contemporary moral issues often involve rhetorical arguments whose intent is to elicit highly emotional, unreflective responses. This book is designed to provide material that will encourage a reflective and critical examination of some contemporary moral problems. To achieve this end, we have developed chapters that bring the central issues into clear focus, while allowing the supporting arguments for widely diverse positions to be presented by those who embrace them.

With the appearance of this fourth edition, we are confident that *teachability* will continue to be the most salient characteristic of *Social Ethics*. All of the editorial features employed in earlier editions to enhance teachability have been retained in the fourth. An introduction to each chapter both sets the ethical issues and scans the various positions together with their supporting argumentation. Every selection is prefaced by a headnote that provides both biographical data on the author and a short statement of some of the key points or arguments to be found in the selection. Every selection is followed by questions whose purpose is to elicit further critical analysis and discussion. Finally, each chapter concludes with a short annotated bibliography designed to guide the reader in further research.

We have tried to provide readings that are free of unnecessary technical jargon and yet introduce serious moral argumentation. Further, in order to emphasize the connection of contemporary moral problems with matters of social policy, we have liberally incorporated relevant legal opinions. We have taken substantial editorial li-

cense by deleting almost all the numerous citations that usually attend legal writing in order to render the legal opinions maximally readable to the nonlegal eye. Those interested in further legal research can check the appropriate credit lines for the necessary bibliographical data to locate the cases in their original form. We should also note that, where appropriate, both in legal cases and in other readings, we have renumbered footnotes.

We would be remiss not to express our indebtedness to all those whose work is reprinted in these pages. We are also indebted to Joy Kroeger-Mappes, Frostburg State University, for her helpful critical comments, and to the following reviewers who provided us with very useful reactions and suggestions: Edwin B. Allaire, University of Texas, Austin; Fred J. Blomgren, Monroe Community College; Paul Carrick, Harrisburg Area Community College; Allen Davidoff, University of Cincinnati; David B. Fletcher, Wheaton College; Robert Good, Rider College; Richard J. Hall, Michigan State University; Karen Hanson, Indiana University; Harold Hatt, Phillips University; Robert Hollinger, Iowa State University; Richard Lippke, James Madison University; Don Marquis, University of Kansas; Alistair Moles, California State University–Sacramento; Charles Pinches, University of Central Arkansas; Nelson Potter, University of Nebraska; Mary Ellen Ross, Trinity University; Tara Smith, University of Texas; Kathy Squadrito, Purdue University; Mark Timmons, Memphis State University; and Robert S. Trotter, William Jewell College. Shelley Drees, Michelle Benson, and Linda McKinley deserve thanks for their help with manuscript preparation, Matt Walls deserves thanks for his valuable assistance in proofreading, and we continue to be grateful to the reference librarians at both the University of Dayton and Frostburg State University.

**Thomas A. Mappes**  
**Jane S. Zembaty**

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# Contents

Preface	xi
<b>CHAPTER 1 ABORTION</b>	<b>1</b>
Introduction	1
Mary Anne Warren, <i>On the Moral and Legal Status of Abortion</i>	9
Jane English, <i>Abortion and the Concept of a Person</i>	18
Don Marquis, <i>Why Abortion Is Immoral</i>	27
L. W. Sumner, <i>Abortion: A Moderate View</i>	33
Justice Harry A. Blackmun, <i>Majority Opinion in Roe v. Wade</i>	39
Justice William H. Rehnquist, <i>Opinion in Webster v. Reproductive Health Services</i>	45
Suggested Additional Readings for Chapter 1	54
<b>CHAPTER 2 SURROGATE MOTHERHOOD AND REPRODUCTIVE TECHNOLOGY</b>	<b>56</b>
Introduction	56
Herbert T. Krimmel, <i>The Case against Surrogate Parenting</i>	61
Justice Robert N. Wilentz, <i>Opinion in the Matter of Baby M</i>	68
Bonnie Steinbock, <i>Surrogate Motherhood as Prenatal Adoption</i>	78
Barbara Katz Rothman, <i>Surrogacy: A Question of Values</i>	84
Peter Singer, <i>Creating Embryos</i>	88
Susan Sherwin, <i>Feminist Ethics and in Vitro Fertilization</i>	97
Suggested Additional Readings for Chapter 2	103



<b>CHAPTER 3 EUTHANASIA</b>	<b>105</b>
Introduction	105
James Rachels, <i>Active and Passive Euthanasia</i>	110
Thomas D. Sullivan, <i>Active and Passive Euthanasia: An Impertinent Distinction?</i>	115
James Rachels, <i>More Impertinent Distinctions and a Defense of Active Euthanasia</i>	121
Marcia Angell, <i>Euthanasia</i>	132
Stephen G. Potts, <i>Objections to the Institutionalisation of Euthanasia</i>	136
Justice William H. Rehnquist, <i>Majority Opinion in Cruzan v. Director, Missouri Department of Health</i>	140
Suggested Additional Readings for Chapter 3	146
<b>CHAPTER 4 THE DEATH PENALTY</b>	<b>148</b>
Introduction	148
Justices Potter Stewart, Lewis F. Powell, Jr., and John Paul Stevens, <i>Opinion in Gregg v. Georgia</i>	154
Justice Thurgood Marshall, <i>Dissenting Opinion in Gregg v. Georgia</i>	164
Igor Primoratz, <i>A Life for a Life</i>	168
Stephen Nathanson, <i>An Eye for an Eye?</i>	175
Ernest van den Haag, <i>Deterrence and Uncertainty</i>	182
Jeffrey H. Reiman, <i>Civilization, Safety, and Deterrence</i>	184
Suggested Additional Readings for Chapter 4	187
<b>CHAPTER 5 SEXUAL MORALITY</b>	<b>189</b>
Introduction	189
<i>Vatican Declaration on Some Questions of Sexual Ethics</i>	195
Thomas A. Mappes, <i>Sexual Morality and the Concept of Using Another Person</i>	203
Vincent C. Punzo, <i>Morality and Human Sexuality</i>	217
Richard D. Mohr, <i>Gay Basics: Some Questions, Facts, and Values</i>	223
Justice Bryon R. White, <i>Majority Opinion in Bowers v. Hardwick</i>	232
Justice Harry A. Blackmun, <i>Dissenting Opinion in Bowers v. Hardwick</i>	235
Suggested Additional Readings for Chapter 5	240

<b>CHAPTER 6 PORNOGRAPHY AND CENSORSHIP</b>	<b>242</b>
Introduction	242
Justice Warren Burger, <i>Majority Opinion in Paris Adult Theatre I v. Slaton</i>	248
Justice William Brennan, <i>Dissenting Opinion in Paris Adult Theatre I v. Slaton</i>	252
John Stuart Mill, <i>The Harm Principle</i>	256
Charles H. Keating, Jr., <i>Pornography and the Public Morality</i>	258
G. L. Simons, <i>Is Pornography Beneficial?</i>	261
The Attorney General's Commission on Pornography, <i>The Question of Harm</i>	267
Helen E. Longino, <i>Pornography, Oppression, and Freedom: A Closer Look</i>	274
Mark R. Wicclair, <i>Feminism, Pornography, and Censorship</i>	282
Suggested Additional Readings for Chapter 6	288
<b>CHAPTER 7 DISCRIMINATION AND PREFERENTIAL TREATMENT</b>	<b>290</b>
Introduction	290
Mary Rowe, <i>Barriers to Equality: The Power of Subtle Discrimination to Maintain Unequal Opportunity</i>	296
Lisa H. Newton, <i>Bakke and Davis: Justice, American Style</i>	306
Justice Lewis F. Powell, Jr., <i>Opinion in University of California v. Bakke</i>	308
Edwin C. Hettinger, <i>What Is Wrong with Reverse Discrimination?</i>	315
Charles Murray, <i>Affirmative Racism</i>	325
Derek Bok, <i>The Case for Racial Preferences: Admitting Success</i>	333
Lawrence A. Blum, <i>Opportunity and Equality of Opportunity</i>	336
Suggested Additional Readings for Chapter 7	345
<b>CHAPTER 8 ECONOMIC JUSTICE AND WELFARE</b>	<b>347</b>
<u>Introduction</u>	<u>347</u>
<u>John Hospers</u> , <i>What Libertarianism Is</i>	<u>352</u>
Henry Shue, <i>A Basic Right to Subsistence</i>	<u>359</u>
Justice Harry A. Blackmun, <i>Majority Opinion in Wyman v. James</i>	366
Justice William O. Douglas, <i>Dissenting Opinion in Wyman v. James</i>	369
Trudy Govier, <i>The Right to Eat and the Duty to Work</i>	372
Peter G. Germanis, <i>Workfare: Breaking the Poverty Cycle</i>	384

Mary <u>Hawkesworth</u> , <i>Workfare and the Imposition of Discipline</i>	387
Suggested Additional Readings for Chapter 8	395
<b>CHAPTER 9 WORLD HUNGER</b>	<b>397</b>
Introduction	397
The Presidential Commission on World Hunger, <i>Why Should the United States Be Concerned?</i>	403
Peter Singer, <i>Famine, Affluence, and Morality</i>	406
Garrett Hardin, <i>Living on a Lifeboat</i>	413
Robert N. Van Wyk, <i>Perspectives on World Hunger and the Extent of Our Positive Duties</i>	420
Suggested Additional Readings for Chapter 9	431
<b>CHAPTER 10 ANIMALS</b>	<b>433</b>
Introduction	433
Peter Singer, <i>All Animals Are Equal</i>	437
Bart Gruzalski, <i>The Case against Raising and Killing Animals for Food</i>	447
Tom Regan, <i>The Case for Animal Rights</i>	454
Carl Cohen, <i>The Case for the Use of Animals in Biomedical Research</i>	458
Mary Anne Warren, <i>Human and Animal Rights Compared</i>	467
Suggested Additional Readings for Chapter 10	475
<b>CHAPTER 11 THE ENVIRONMENT</b>	<b>476</b>
Introduction	476
William F. Baxter, <i>People or Penguins: The Case for Optimal Pollution</i>	480
William Godfrey-Smith, <i>The Value of Wilderness</i>	486
Bernard E. Rollin, <i>Environmental Ethics</i>	492
Peter S. Wenz, <i>Ecology and Morality</i>	499
Lilly-Marlene Russow, <i>Why Do Species Matter?</i>	505
Ramachandra Guha, <i>Radical American Environmentalism and Wilderness Preservation: A Third World Critique</i>	513
Suggested Additional Readings for Chapter 11	522

(g) Certainly common, and perhaps most common of all, are those instances in which having a child will interfere with the happiness of the woman, or the joint happiness of a couple, or even the joint happiness of a family unit that already includes children. Here there are almost endless possibilities. The woman may desire a professional career. A couple may be content and happy together and feel their relationship would be damaged by the intrusion of a child. Parents may have older children and not feel up to raising another child, and so forth.

## 2 The Biological Development of a Human Fetus

During the course of a human pregnancy, in the nine-month period from conception to birth, the product of conception undergoes a continual process of change and development. *Conception* takes place when a male germ cell (the spermatozoon) combines with a female germ cell (the ovum), resulting in a single cell (the single-cell zygote), which embodies the full genetic code, twenty-three pairs of chromosomes. The single-cell zygote soon begins a process of cellular division. The resultant multicell zygote, while continuing to grow and beginning to take shape, proceeds to move through the fallopian tube and then to undergo gradual *implantation* at the uterine wall. The unborn entity is formally designated a zygote up until the time that implantation is complete, almost two weeks after conception. Thereafter, until the end of the eighth week, roughly the point at which brain waves can be detected, the unborn entity is formally designated an *embryo*. It is in this embryonic period that organ systems and other human characteristics begin to undergo noticeable development. From the end of the eighth week until birth, the unborn entity is formally designated a *fetus*. (The term “fetus,” however, is commonly used as a general term to designate the unborn entity, whatever its stage of development.) Two other points in the development of the fetus are especially noteworthy as relevant to discussions of abortion, but these points are usually identified by reference to gestational age as calculated not from conception but from the first day of the woman’s last menstrual period. Accordingly, somewhere between the twelfth and the sixteenth week there usually occurs *quickening*, the point at which the woman begins to feel the movements of the fetus. And somewhere in the neighborhood of the twenty-fourth week, *viability* becomes a realistic possibility. Viability is the point at which the fetus is capable of surviving outside the womb.

With the facts of fetal development in view, it may be helpful to indicate the various medical techniques of abortion. Early (first trimester) abortions were at one time performed by *dilatation and curettage* (D&C) but are now commonly performed by *uterine aspiration*, also called “suction curettage.” The D&C features the stretching (dilatation) of the cervix and the scraping (curettage) of the inner walls of the uterus. Uterine aspiration simply involves sucking the fetus out of the uterus by means of a tube connected to a suction pump. Later abortions require *dilatation and evacuation* (D&E), *induction techniques*, or *hysterotomy*. In the D&E, which is the abortion procedure commonly used in the early stages of the second trimester, a forceps is used to dismember the fetus within the uterus; the fetal remains are then withdrawn through the cervix. In one commonly employed induction technique, a saline solu-

tion injected into the amniotic cavity induces labor, thus expelling the fetus. Another induction technique employs prostaglandins (hormonelike substances) to induce labor. Hysterotomy—in essence a miniature cesarean section—is a major surgical procedure and is uncommonly employed in the United States.

A brief discussion of fetal development together with a cursory survey of various reasons for abortion has prepared the way for a formulation of the ethical issue of abortion in its broadest terms. *Up to what point of fetal development, if any, and for what reasons, if any, is abortion ethically acceptable?* Some hold that abortion is *never* ethically acceptable, or at most is acceptable only where abortion is necessary to save the life of the pregnant woman. This view is frequently termed the *conservative* view on abortion. Others hold that abortion is *always* ethically acceptable—at any point of fetal development and for any of the standard reasons. This view is frequently termed the *liberal* view on abortion. Still others are anxious to defend more *moderate* views, holding that abortion is ethically acceptable up to a certain point of fetal development *and/or* holding that some reasons provide a sufficient justification for abortion whereas others do not.

### THE CONSERVATIVE VIEW AND THE LIBERAL VIEW

The *moral status* of the fetus has been a pivotal issue in discussions of the ethical acceptability of abortion. The concept of moral status is commonly explicated in terms of rights. On this construal, to say that a fetus has moral status is to say that the fetus has rights. What kinds of rights, if any, does the fetus have? Does it have the same rights as more visible humans, and thus *full moral status*, as conservatives typically contend? Does it have no rights, and thus *no (significant) moral status*, as liberals typically contend? (Or perhaps, as some moderates argue, does the fetus have a subsidiary or *partial moral status*, however this is to be conceptualized?) If the fetus has no rights, the liberal is prone to argue, then it does not have any more right to life than a piece of tissue such as an appendix, and an abortion is no more morally objectionable than an appendectomy. If the fetus has the same rights as any other human being, the conservative is prone to argue, then it has the same right to life as the latter, and an abortion, except perhaps when the pregnant woman's life is endangered, is as morally objectionable as any other murder.

Discussions of the moral status of the fetus often refer directly to the biological development of the fetus and pose the question: At what point in the continuous development of the fetus do we have a human life? In the context of such discussions, "human" implies full moral status, "nonhuman" implies no (significant) moral status, and any notion of partial moral status is systematically excluded. To distinguish the human from the nonhuman, to "draw the line," and to do so in a nonarbitrary way, is the central concern. The *conservative* on abortion typically holds that the line must be drawn at conception. Usually the conservative argues that conception is the only point at which the line can be nonarbitrarily drawn. Against attempts to draw the line at points such as implantation, quickening, viability, or birth, considerations of continuity in the development of the fetus are pressed. The conservative is sometimes said to employ "slippery-slope arguments," that is, to argue that a line cannot be se-

curely drawn anywhere along the path of fetal development. It is said that the line will inescapably slide back to the point of conception to find objective support—by reference to the fact that the full genetic code is present subsequent to conception, whereas it is not present prior to conception.

With regard to “drawing the line,” the *liberal* typically contends that the fetus remains nonhuman even in its most advanced stages of development. The liberal, of course, does not mean to deny that a fetus is biologically a human fetus. Rather the claim is that the fetus is not human in any morally significant sense—it has no (significant) moral status. This point is often made in terms of the concept of personhood. Mary Anne Warren, who defends the liberal view on abortion in one of this chapter’s selections, argues that the fetus is not a person. She also contends that the fetus bears so little resemblance to a person that it cannot be said to have a significant right to life. It is important to notice that, as Warren analyzes the concept of personhood, even a newborn baby is not a person. This conclusion, as might be expected, prompts Warren to a consideration of the moral justifiability of infanticide, an issue closely related to the problem of abortion.

Though the conservative view on abortion is most commonly predicated on the straightforward contention that the fetus is a person from conception, other lines of argument are sometimes advanced in its defense. One conservative, advancing what might be labeled the “presumption argument,” writes:

In being willing to kill the embryo, we accept responsibility for killing what we must admit *may* be a person. There is some reason to believe it is—namely the *fact* that it is a living, human individual and the inconclusiveness of arguments that try to exclude it from the protected circle of personhood.

*To be willing to kill what for all we know could be a person is to be willing to kill it if it is a person.* And since we cannot absolutely settle if it is a person except by a metaphysical postulate, for all practical purposes we must hold that to be willing to kill the embryo is to be willing to kill a person.<sup>2</sup>

In accordance with this line of argument, though it may not be possible to show conclusively that the fetus is a person from conception, we must presume that it is. Another line of argument that is sometimes advanced in defense of the conservative view emphasizes the potential rather than the actual personhood of the fetus. Even if the fetus is not a person, it is said, there can be no doubt that it is a potential person. Accordingly, by virtue of its potential personhood, the fetus must be accorded a right to life. Mary Anne Warren, in response to this line of argument, argues that the potential personhood of the fetus provides no basis for the claim that it has a significant right to life.

In one of the readings in this chapter, Don Marquis argues for a very conservative view on abortion, although he does not argue for what is commonly referred to as “the” conservative view on abortion. Whereas the standard conservative is committed to a “sanctity-of-life” viewpoint, according to which the lives of all biologically human beings (assuming their moral innocence) are considered immune from attack,

<sup>2</sup>Germain Grisez, *Abortion: The Myths, the Realities, and the Arguments* (New York: Corpus Books, 1970), p. 306.

Marquis bases his opposition to abortion on a distinctive theory about the wrongness of killing. Although Marquis claims that there is a strong moral presumption against abortion, and although he clearly believes that the vast majority of abortions are seriously immoral, he is not committed to the standard conservative contention that the only possible exception is the case in which abortion is necessary to save the life of the pregnant woman.

### MODERATE VIEWS

The conservative and liberal views, as explicated, constitute two extreme poles on the spectrum of ethical views of abortion. Each of the extreme views is marked by a formal simplicity. The conservative proclaims abortion to be immoral, irrespective of the stage of fetal development and irrespective of alleged justifying reasons. The one exception, admitted by some conservatives, is the case in which abortion is necessary to save the life of the pregnant woman.<sup>3</sup> The liberal proclaims abortion to be morally acceptable, irrespective of the stage of fetal development.<sup>4</sup> Moreover, there is no need to draw distinctions between those reasons that are sufficient to justify abortion and those that are not. No justification is needed. The *moderate*, in vivid contrast to both the conservative and the liberal, is unwilling to sweepingly condemn or condone abortion. Some abortions are morally justifiable; some are morally objectionable. In some moderate views, the stage of fetal development is a relevant factor in the assessment of the moral acceptability of abortion. In other moderate views, the alleged justifying reason is a relevant factor in the assessment of the moral acceptability of abortion. In still other moderate views, both the stage of fetal development and the alleged justifying reason are relevant factors in the assessment of the moral acceptability of abortion.

<sup>3</sup>One especially prominent conservative view is associated with the Roman Catholic Church. In accordance with Catholic moral teaching, the *direct* killing of innocent human life is forbidden. Hence, abortion is forbidden. Even if the pregnant woman's life is in danger, perhaps because her heart or kidney function is inadequate, abortion is impermissible. In two special cases, however, procedures resulting in the death of the fetus are allowable. In the case of an ectopic pregnancy, where the developing fetus is lodged in the fallopian tube, the fallopian tube may be removed. In the case of a pregnant woman with a cancerous uterus, the cancerous uterus may be removed. In these cases, the death of the fetus is construed as *indirect* killing, the foreseen but unintended by-product of a surgical procedure designed to protect the life of the woman. If the distinction between direct and indirect killing is a defensible one (and this is a controversial issue), it might still be suggested that the distinction is not rightly applied in the Roman Catholic view of abortion. For example, some critics contend that abortion may be construed as indirect killing, indeed an allowable form of indirect killing, in at least all cases where it is necessary to save the life of the pregnant woman. For one helpful exposition and critical analysis of the Roman Catholic position on abortion, see Daniel Callahan, *Abortion: Law, Choice and Morality* (New York: Macmillan, 1970), chap. 12, pp. 409–447.

<sup>4</sup>In considering the liberal contention that abortions are morally acceptable irrespective of the stage of fetal development, we should take note of an ambiguity in the concept of abortion. Does “abortion” refer merely to the termination of a pregnancy in the sense of detaching the fetus from the pregnant woman, or does “abortion” entail the death of the fetus as well? Whereas the abortion of a *previable* fetus entails its death, the “abortion” of a *viable* fetus, by means of hysterotomy (a miniature cesarean section), does not entail the death of the fetus and would seem to be tantamount to the birth of a baby. With regard to the “abortion” of a *viable* fetus, liberals can defend the woman's right to detach the fetus from her body without contending that the woman has the right to insist on the death of the child.

Moderate views have been developed in accordance with the following clearly identifiable strategies:

### 1 Moderation of the Conservative View

One strategy for generating a moderate view presumes the typical conservative contention that the fetus has full moral status from conception. What is denied, however, is that we must conclude to the moral impermissibility of abortion in *all* cases. In one of this chapter's readings, Jane English attempts to moderate the conservative view in just this way. She argues that certain abortion cases may be assimilated to cases of self-defense. Thus, for English, on the presumption that the fetus from conception has full moral status, some reasons are sufficient to justify abortion whereas others are not.

### 2 Moderation of the Liberal View

A second strategy for generating a moderate view presumes the liberal contention that the fetus has no (significant) moral status even in the latest stages of pregnancy. What is denied, however, is that we must conclude to the moral permissibility of abortion in *all* cases. It might be said, in accordance with this line of thought, that even though abortion does not violate the rights of the fetus (which is presumed to have no rights), the practice of abortion remains ethically problematic because of its negative social consequences. Such an argument seems especially forceful in the later stages of pregnancy, when the fetus increasingly resembles a newborn infant. It is argued that very late abortions have a brutalizing effect on those involved and, in various ways, lead to the breakdown of attitudes associated with respect for human life. Jane English, in an effort to moderate the liberal view, advances an argument of this general type. Even if the fetus is not a person, she holds, it is gradually becoming increasingly personlike. Appealing to a "coherence of attitudes," she argues that abortion demands more weighty justifying reasons in the later stages of pregnancy than it does in the earlier stages.

### 3 Moderation in "Drawing the Line"

A third strategy for generating a moderate view, in fact a whole range of moderate views, is associated with "drawing-the-line" discussions. Whereas the conservative typically draws the line between human (having full moral status) and nonhuman (having no moral status) at conception, and the liberal typically draws that same line at birth (or sometime thereafter), a moderate view may be generated by drawing the line somewhere between these two extremes. For example, the line might be drawn at implantation, at the point where brain activity begins, at quickening, at viability, etc. Whereas drawing the line at implantation would tend to generate a rather "conservative" moderate view, drawing the line at viability would tend to generate a rather "liberal" moderate view. Wherever the line is drawn, it is the burden of any such moderate view to show that the point specified is a nonarbitrary one. Once such a point has been specified, however, it might be argued that abortion is ethically ac-



ceptable before that point and ethically unacceptable after that point. Or further stipulations may be added in accordance with strategies (1) and (2) above.

L. W. Sumner is committed in this chapter to the development of a moderate view in accordance with this third strategy. He argues that the fetus has no significant moral standing (status) prior to the point at which it becomes *sentient*—that is, capable of feeling pleasure and pain. With the emergence of sentience, however, he attributes (full) moral standing to the fetus. Thus he “draws the line” at this particular point of fetal development. Although Sumner considers all abortions morally permissible prior to this point, he does not consider all abortions morally impermissible subsequent to this point. In essence, then, he is also committed to an application of strategy (1).

#### 4 Moderation in the Assignment of Moral Status

A fourth strategy for generating a moderate view depends on assigning the fetus some sort of subsidiary or *partial moral status*. Although this approach is not reflected in the readings in this chapter,<sup>5</sup> it seems to have some measure of intuitive plausibility. It would seem, however, that anyone who defends a moderate view based on the concept of partial moral status must first of all face the problem of explicating the nature of such partial moral status. A second and closely related problem is that of showing how the interests of those with partial moral status are to be weighed against the interests of those with full moral status.

### ABORTION AND SOCIAL POLICY

In the United States, the Supreme Court’s decision in *Roe v. Wade* (1973) has been the focal point of the social policy debate over abortion. This case had the effect, for all practical purposes, of legalizing “abortion on request.” The Court held that it was unconstitutional for a state to have laws prohibiting the abortion of a previable fetus. According to the Court, a woman has a constitutionally guaranteed right to decide to terminate a pregnancy (prior to viability), although a state, for reasons related to maternal health, may restrict the manner and circumstances in which abortions are performed subsequent to the end of the first trimester. The reasoning underlying the Court’s holding in *Roe* can be found in the majority opinion reprinted in this chapter.

Since the action of the Court in *Roe* had the practical effect of establishing a woman’s legal right to choose whether or not to abort, it was enthusiastically received by “right-to-choose” forces. On the other hand, “right-to-life” forces, committed to the conservative view on the morality of abortion, vehemently denounced the Court for “legalizing murder.” In response to *Roe*, right-to-life forces adopted a number of political strategies. The most significant of these strategies will be discussed here.

Right-to-life forces originally worked for the enactment of a constitutional amendment directly overruling *Roe*. The proposed “Human Life Amendment”—declaring the personhood of the fetus—was calculated to achieve the legal prohibition

<sup>5</sup>Daniel Callahan embraces this approach in *Abortion: Law, Choice and Morality*, chap. 14, pp. 493–501.