



## Regarding Life at the Beginning

*Gilbert Meilaender*

Anyone who has followed the debate about abortion over the last forty years or so will know how hard it is to say anything genuinely new about the issue. Nor, at least in my judgment, has James Mumford quite managed to do so in his book *Ethics at the Beginning of Life*. But Mumford, a postdoctoral fellow at the Institute for Advanced Studies in Culture at the University of Virginia, has managed to think through the central issues of the abortion debate in ways that are unusually perceptive and helpful. To read his argument with care is to have one's judgment sharpened and illumined. (What a shame, then, that Oxford University Press should charge a discouraging \$110 for the book!)

Although it is evident from the concluding chapter that Mumford has significant theological interests and learning (and his book does, after all, appear in the "Oxford Studies in Theological Ethics" series), the work

primarily takes up the topic of abortion from a philosophical rather than a theological perspective. It offers, as he puts it, "an immanent *philosophical* critique of beginning-of-life ethics," because "the primary challenge to reigning 'liberal' moral and political conclusions comes not from religion but from a rival philosophical tradition." That rival tradition, which grounds Mumford's evaluation of the standard arguments in support of abortion, is phenomenology.

Those who might fear to begin the book lest they drown in a sea of philosophical jargon are in for a treat. Mumford's use of seminal thinkers in the phenomenological tradition, including Husserl, Merleau-Ponty, and Heidegger, is clear and accessible. The aim of phenomenology is to offer an account of the first-person perspective—to try to capture our primary experiences of the world. Phenomenology does not peer through the disembodied lens of an

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objective scientific or philosophical theory, but rather aims to achieve “a direct and primitive contact with the world,” in Merleau-Ponty’s words. And if, as in this instance, the phenomenon we seek to understand is “human emergence,” what do we see?

We see bodies, but bodies that are never alone; bodies that emerge “out of the bodies of others, *every single time*.” Because life always emerges from life, we cannot talk about “the appearing of the newone”—this is Mumford’s welcome coinage for a human being emerging in the womb—“without in the same breath speaking of the experience of the mother.” So Mumford proceeds to do precisely that, drawing on the work of philosophers such as Iris Marion Young and Luce Irigaray. They point out that pregnancy involves a personal encounter with a being who is “other” than the pregnant woman, but with whom she also coexists. Further, the newone’s presence is hidden, since its presence can hardly be distinguished from the mother’s. The beginning of their encounter is veiled, and so the newone must be recognized in its hiddenness.

To understand this hidden coexistence is to be reminded that the possibility of abortion confronts us with the most primitive of ethical problems: that of recognizing another as one who must be included “within my sphere of concern,” as Mumford puts it. This “question of

the boundary” is not only personal but political, since we must always ask “who counts” as a member of our community. Hence, the first question phenomenology invites us to ask about abortion has to do with recognition. Do the standard arguments in defense of abortion really take seriously the phenomenon of human emergence?

Mumford examines the two secular theories of recognition that have been most central to defending abortion: what he calls an “empathetic” approach, growing out of a philosophy that depicts human encounters in terms of dialogue, and a capacities-based approach, which depicts human encounters in contractual terms. He first describes how each approach shapes our vision of that extraordinary encounter between the pregnant woman and the newone within her, and then, turning from descriptive phenomenology to normative ethics, asks whether either of these theories of recognition accurately depicts the situation of pregnancy in which abortion may be contemplated.

The empathetic approach, as Mumford describes it, is rooted in the ideas of Martin Buber, the twentieth-century thinker who is famous for having characterized encounters with the Other—with nature, with a person, or with God—in terms of two subjects: *I and Thou*, as his book was titled (published in English in

1937, from the 1923 German *Ich und Du*). The I–Thou relation is in contrast to the only other possibility Buber entertains, the I–It relation, in which a subject stands over against an object. Only in the I–Thou encounter, according to Buber, can there be true mutuality or reciprocity, and only there is authentic human existence to be found.

This exclusivity of the I–Thou encounter is the focus of Mumford’s critique. The Buberian scheme, Mumford writes, “idealizes” interpersonal encounters; any encounters that fall short of the mutuality of subject answering to subject are judged less than fully human. This view threatens to devalue those human encounters in which (now quoting Emmanuel Levinas) “there is a difference of level between the I and the Thou.” According to Levinas’s critique of Buber, feeding the hungry and clothing the naked may be classified as I–It rather than I–Thou encounters, yet there (in Mumford’s words again) we “take responsibility for the other even if he offers no response.” Thus there may be important forms of human togetherness that cannot be shoe-horned into the I–Thou encounter model. Buber himself realized this shortcoming and, as Mumford details, tried in later essays to include in the I–Thou relation more thoroughly than he had before the less-than-complete forms of reciprocity

in human relationships. But others, notably Karl Barth, went beyond even Buber in insisting upon reciprocity as “the absolute condition for authentic encounter” (as Mumford puts it). This enormous emphasis on agency implies that any interaction with someone “unable to put himself before the other and declare who he is, automatically fails to attain to the level of authentic existence.”

At a purely descriptive level, therefore, the philosophy of dialogue tends to conceal the kind of human encounter that takes place between a mother and her emerging newone, “relegating” it to “the subpersonal realm.” The newone’s hiddenness, its inability to speak, its seeming lack of agency—that is, the characteristics of how each one of us emerges into the world—obscure our vision of the truth about human beginnings.

**T**he other secular theory of recognition thinks not in terms of dialogue but of contract. In its own way it too conceals the truth about human emergence. This understanding of recognition, which Mumford identifies with early Western modernity, fails to uncover the “contingency or fortuitousness” of that encounter between mother and newone. “By picturing as normative encounters which are transactional—that is, relations entered into voluntarily by fully-fledged agents—the Contract model has served to obscure the

way human beings first appear in the world.”

This contract model, so central to the political theories of Hobbes and Locke, invites us to think of encounters in a particular way: “the contract constitutes a strictly symmetrical encounter;...I enter into a relationship with someone who is, in all the relevant respects, like me.” Moreover, contractual encounters are always ones that we mutually arrange; they are “voluntarily entered into and clearly willed by both parties.” When a contract is our fundamental model for depicting human relations, we conceive of ourselves as essentially isolated individuals who enter into social bonds only if we please. That is, to use the Heideggerian terminology, our *being-in-the-world* is not necessarily (unless we so choose) a *being-with*; the contract model depicts *being-with* as an inessential, voluntary add-on to our lives. By contrast, a phenomenological account of human emergence suggests that *being-with* marks human life from the outset, even though only over time do we become capable of arranged, contractual encounters.

If the truth is that our very first relationship when we come into being is one that is not reciprocal, we can understand why a pregnant woman might, at least some of the time, experience her encounter with the newborn as burdensome and onerous. That, of course, is to

forget momentarily how she herself first emerged, but, more important, it means that we have a decision to make. Shall we regard the burden of this asymmetry as an indication that human beings should be independent and self-sufficient? Or should we see in it an intimation of the truth that, from the start and always thereafter, we are dependent on each other? A phenomenological analysis of human emergence suggests that “the secret to the meaning of human life—our need of each other—is given away by its newest members.”

Mumford’s assessment of these two secular theories of recognition should now be clear. If we attempt to base recognition upon the kind of interaction made central by Buber’s philosophy of dialogue—in which each being reveals himself to the other and the two can engage in dialogue; in which each empathetically sees in the other one like himself—we will not be able to recognize human beings as they actually emerge in the world. For in our first emergence, we are by no means ready to engage in the type of dialogue that the empathetic approach idealizes. And if we instead take the contractual path, recognition of the presence of another human being will require that the other possess the sorts of capacities that make possible fully arranged, voluntary, contractual relationships. But these capacities are present in different degrees, and they therefore provide

no adequate foundation for human equality. Still more important, none of us could have developed these capacities had others not interacted with us in the course of our life. Thus, if “a child comes to think of itself as a person only to the extent adults treat it as such, to take the possession of a concept of self as a condition of entry would in practice mean that older members of the human race could reject younger ones simply by retarding their development.”

If we take seriously the inadequacy of these secular theories of recognition, we may be persuaded to take more seriously the truth about human emergence: “We do not come forth under our own steam,” and so neither the mutuality of partners in dialogue nor of parties in contract can truly characterize the relation between mother and newone. Rather, we must recognize the newone as one of us, one whose presence counts before it has the agency to become an equal Thou to our I, or the capacities to consent to contract; one who counts from the outset.

**T**his analysis does not answer all the important ethical questions raised by the possibility of abortion. It opens our eyes to recognize *what* the newone is, but we still cannot ignore the *where*: the very unusual place the newone is to be found. Even if we come to see that the newone must count as one of us,

need the mother be obligated to offer it her continuing bodily support? This is a question that philosophers have dealt with in creative, occasionally bizarre, terms, most famously the thought experiment that Judith Jarvis Thomson offered in a highly influential 1971 article. Thomson asks the reader to imagine a scenario in which you have been kidnapped, hooked up to an unconscious violinist in order to remove poisons from his body, and told that he need only remain connected to you for nine months in order to be saved. Would it not be entirely permissible, she asked, to disconnect oneself, even if doing so meant that the violinist could not survive?

Mumford does not dismiss such analogies out of hand, but he analyzes them in order to demonstrate how they depict pregnancy as “*invasion*,” a depiction which a phenomenological investigation of initial human appearing will not admit” (his emphasis). The structure of the argument, Mumford shows, is not as unusual as Thomson’s creative analogies might seem to suggest. There is a long tradition, especially in reflection upon warfare, of the possibility that one might justifiably kill an aggressor in the course of defending oneself against attack. One is morally allowed to try to preserve one’s own life when it is attacked. In the course of defending yourself, you may also kill your assailant, not because this was your

direct intention but because doing so turned out to be inseparable from the permitted self-defense.

Similarly, Thomson and others have thought of the newone as an aggressor threatening not only the bodily autonomy but also in some cases the life of the pregnant woman. Mumford is quite ready to allow that the analogy applies to some unusual cases of pregnancy, but he challenges the way Thomson uses the life-threatening case as a normative one for ordinary instances, even while she acknowledges that this case is highly out of the ordinary. If a woman has been raped, the resulting pregnancy constitutes “a serious ongoing invasion” of her bodily integrity. If her very life is threatened by the presence of the newone—in the case, for example, that she has uterine cancer—then, again, it is not wrong to regard the newone as an attacker. In technical terms, it is a “material aggressor”: though subjectively innocent in the sense that it intends the mother no harm, the newone’s continued presence constitutes an objective threat to her life that she may rightly resist.

If it were possible for the mother to resist by withdrawing her bodily support without resulting in the newone’s death, then she should. But the phenomenon of human emergence is such, the bodies of mother and newone are so intertwined, that this will often be

impossible. Hence, in these quite limited cases, Mumford believes that “homicidal self-defense” is morally justified. To this extent, he parts company with the traditional Roman Catholic view.

These cases, however—in which a pregnancy constitutes a serious ongoing invasion of a woman’s body, either because her life is threatened or because the newone’s presence carries the continued presence of a rapist—are the extent to which Mumford can find any force in the kinds of body-snatcher arguments offered by Judith Jarvis Thomson and others. The problem with a view like hers is that even when “*the scenario changes, the analogy stays the same*” (Mumford’s emphasis). To continue to think in terms of an analogy that depicts the newone as a material aggressor is to envision ordinary, even if unwanted, pregnancy as if it were also an invasion—as if the newone were trespassing where it had no business rather than being in the place from which all of us have naturally emerged. To suppose this would require us to think of every asymmetrical encounter as an attack.

Because this view is not persuasive, in the circumstances of ordinary pregnancy the central moral issue will be *what* the newone is rather than *where* it is. That is to say, we are returned to the question of recognition. If, as Mumford

has argued, the two main secular theories of recognition do not really take into account the phenomenon of human emergence, we must accept one of two conclusions: either the human beings who are most dependent and vulnerable (because their emergence is veiled, as ours once was) will be deprived of the protections afforded to those who are stronger and able to insist that they do count, or we will need to find some other ground on the basis of which we should recognize and count as members of our community even those who do not threaten us and are too weak to claim their rights.

Enter theology. Up to this point the analysis has been phenomenological, the critique ethical. But in a brief concluding chapter, Mumford turns to theology to shed light on another ground of recognition—what Nietzsche called “the Christian moral hypothesis.” Drawing on a sermon of Gregory of Nazianzus, a fourth-century Christian theologian, Mumford seeks to draw out an understanding of what it means that human beings carry the image of God. That concept of the *imago Dei*, which is quite sketchy in the biblical literature, has been fleshed out in several different ways in the course of Christian history.

Mumford draws from Gregory an understanding that connects the *imago* with our shared humanity, with “the fact that we come from

each other.” But it is not just the species that deserves our respect. We emerge not just as members of the human family sharing a common nature but also as non-replicable persons. In this way, we bear the divine image. And, of course, the newborn shares with us that status. We should, therefore, recognize the newborn as one of us, as one who counts. We are left then with “a choice between an irreducibly religious model of recognition...and Nietzsche’s power-play according to which only those strong enough to claim rights” will be ascribed them.

There is more that could and probably should be said in order fully to develop this constructive proposal. But Mumford says enough to challenge those who cannot see the relevance—the deeply humanistic relevance—of religious belief for our public discourse about abortion. Even apart from that challenge, the analysis of the rest of the book is probing, both in its depiction of human emergence and in its critique of secular theories of recognition. This is a work of serious philosophical argument, well worth our taking seriously.

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