

Abortion

Two familiar arguments

We can distinguish restrictive from permissive views concerning abortion. Those who favor the restrictive view often argue that abortion is wrong always (or typically) because the fetus is a person with a right to life. Those who favor the permissive view often deny that this is so and stress a woman's right to bodily autonomy. (Naturally, the appeal to bodily autonomy does little to persuade those who believe that the fetus is a person whose rights will be violated if a pregnant woman were to decide to terminate her pregnancy.)

Persons and rights

The philosopher John Noonan thought that this argument supported the restrictive view that abortion is typically wrong:

- (1) It is a self-evident truth that it is wrong to kill innocent human beings.
- (2) Fetuses are innocent human beings.
- (C) It is wrong to kill fetuses.

Noonan thinks that it is self-evident that anything that has humanity has the right to life and that it is self-evident that it is wrong to kill anything with such rights. As for the claim that the fetus is an innocent human being, he thinks it is obvious that the fetus is innocent (what could they be guilty of?) and obvious that the fetus is human (if something's biological parents are human, it is human).

Persons (cont.)

Critics say that this argument equivocates. We can talk about humanity in a moral and in a biological sense. Lets' say that x has biological-humanity iff x is homo sapien. Let's say that x has moral-humanity iff x has the sort of rights that we do.

On the first reading, the argument is this:

- (1') It is a self-evident truth that it is wrong to kill x if x is innocent and x has humanity in the moral sense.
- (2') Fetuses are innocent and have humanity in the moral sense.
- (C') It is wrong to kill fetuses.

On the second reading, the argument is this:

- (1'') It is a self-evident truth that it is wrong to kill x if x is innocent and x is biologically human.
- (2'') Fetuses are innocent and they are biologically human.
- (C'') It is wrong to kill fetuses.

The problem with the first argument is that while it is self-evident that it is wrong to kill x if x is innocent and has humanity in the moral sense, there's no reason (yet) to think that the fetus has humanity in that sense. The problem with the second argument is that while (2'') is clearly true, (1'') is clearly false. It is not self-evident that it is wrong to destroy unused embryos that are not needed for IVF treatments. Thus, there is no consistent reading of Noonan's argument on which the premises are uncontroversially taken to be true.

Our debate

While some would argue that the issue turns on whether the fetus has rights (or 'humanity' in Noonan's sense), Marquis and Thomson think that it is a mistake to focus on fetal rights. Marquis thinks that the case for the restrictive view does not depend upon whether the fetus has rights. Thomson thinks that even if the fetus had rights, abortion could still be permissible in a wide range of cases.

The badness of death and the wrongfulness of killing

I think this topic is interesting because I think these are interesting questions:

The Death Question: What makes death bad for the one who dies?

The Killing Question: What makes killing wrong (when it is)?

Not everyone thinks that death is bad for the one who dies. Some Stoic philosophers have argued that death is not bad for the one who dies because when it is, you are not and when you are, death is not. The thought that death might be positively unpleasant or just perpetually frustrating depends upon the thought that you are the kind of thing that might survive your own death. Given the plausible assumption that you will be annihilated when you die, you cannot argue that death is bad on the grounds that death is positively unpleasant.

How can death be bad for the one who died?

Those who reject the Stoic view that death is not bad for the one who dies will argue that death is a harm (not just to those who survive, but also to the one who died). A plausible account of the harmfulness of death is the deprivation account of death's badness. On one account that seems quite plausible, an event harms you if you would have been better off if the event had not occurred. (To determine whether you would have been better off if the event had not occurred, we do a counterfactual comparison. We ask whether your overall level of welfare would have been greater than it actually is if the event had not occurred.)

With this account in place, we could argue that death is bad for the one who dies (when indeed it is bad for the one who dies) if the subject would have been better off if they had not died. The dead, you might say, have a 0-level of welfare. If alive the deceased would have had some level of welfare greater than, say, the level of welfare they would have if they were alive but in a persistent vegetative state, then you might think that their continued existence would have been a benefit to them.

I'd rather be in Philadelphia



Before he died, W.C. Fields said that that's what he wanted on his tombstone. He died in the hospital on a day he despised (Christmas). Suppose that if he hadn't died then, he would have been enjoying drinks with friends in Philadelphia. If so, that death harmed him (to some degree). Suppose instead that if he hadn't died then, he would have died a horribly painful death shortly thereafter. If so, his death didn't harm him in that it only deprived him of great agony.

(The second version of events is much closer to reality and so I doubt he would have much preferred spending those hours awake in Philadelphia.)

When is the worst time to die?

On the deprivation account, the worst time to die is the time at which you would suffer the greatest loss. If your life is uniformly has some positive level of well-being, an earlier death is thereby a worse death and the degree of the badness of a death is determined by the amount of aggregate well-being lost.

It does seem that it is tragic for someone to die young when they have so much to live for. The account gets this much right. If earlier death is (in many circumstances) a worse death, you might wonder what the deprivation account says about the death of the fetus. (It's actually a tricky issue.)

A question about killing

Marquis' focus is on the killing question, not the death question. It's clear that it is wrong to kill one of us. He wants to know what makes killing wrong (when it is wrong).

While your death might harm others, we wouldn't want to say that the wrongness of killing derives entirely from the effects that your death has on others. His suggestion is that killing is wrong because it deprives us of our lives and thereby deprives us of the goods they contain.

Notice that he thinks we can explain the wrongness of killing one of us without assuming that life is intrinsically valuable, without invoking the notion of personhood, and without first establishing that the victim had rights that were infringed. (It might be that life is intrinsically valuable, that we are persons, and that we have rights, but while these things might make a killing worse, we don't have to invoke these assumptions to explain how some killing is wrong.)

The fetus' future

Marquis argues for the restrictive view of abortion by arguing that the very same reason that explains why it is wrong to kill one of us is a reason not to perform an action known to result in the death of the fetus. He does not defend the view that the fetus is a person, but he does defend the view that the fetus is like a person in this respect—the fetus has a future like ours. If so and the fetus' future is good for the fetus, perhaps this argument for the restrictive view is sound:

P1: The fetus has a future like ours, one that is typically good overall.

P2: If the fetus' future is typically good overall, losing that future would typically result in a great loss.

C1: The fetus would typically suffer a great loss if it were destroyed.

P3: It is wrong to cause losses.

C2: It is typically wrong to destroy the fetus.

Notice that the argument does not assume that the fetus is a person, only that it has a future like ours. While the biological considerations do not support the view that the fetus is a person (in the moral sense), they might still support the view that the fetus has a future like ours.

Objections

Q1: Have I always been a person?

Q2: Can anyone really feel my pain (or pleasure)?

It seems that I am *essentially* a person (i.e., I'm a person and I couldn't have been anything else). If that's right, I've always been a person (although I've been other things besides). If the fetus isn't a person, I've never been a fetus.

It seems that your pains/pleasures are yours and yours alone. If nobody can literally feel your pleasure/pain, pleasurable/painful experiences that benefit/harm you cannot directly benefit/harm others. If you are numerically distinct from any fetus (see above), there is no fetus that is better off simply by virtue of the fact that your life is going well for you.

Marquis is wrong. The fetus doesn't have a future anything like ours. Our future is one in which we enjoy pleasurable experiences and pursue our own ends. The fetus' future includes none of this. Instead, the fetus' future involves turning into something else. Since the fetus is not sentient or sapient during this process, nothing that happens during this process can benefit/harm the fetus. Thus, the fetus cannot be harmed by the loss of its future.

Objections

Marquis either has to argue that you were once a fetus or that your pleasurable experiences benefit both you and something distinct from you (even if it's not cognizant of them in any way). If he could show that you're not essentially a person or show that the fetus is a person, he might be able to deal with the previous objection. This objection, however, might prove more difficult.

The crucial moral assumption in Marquis' argument seems to be this:

(HP) It is prima facie wrong to harm someone/cause something to lose something valuable.

In the last slide, I explained why we might think that if the fetus loses its future, it doesn't thereby lose anything of value. We might also object to Marquis' argument on the grounds that (HP) is mistaken.

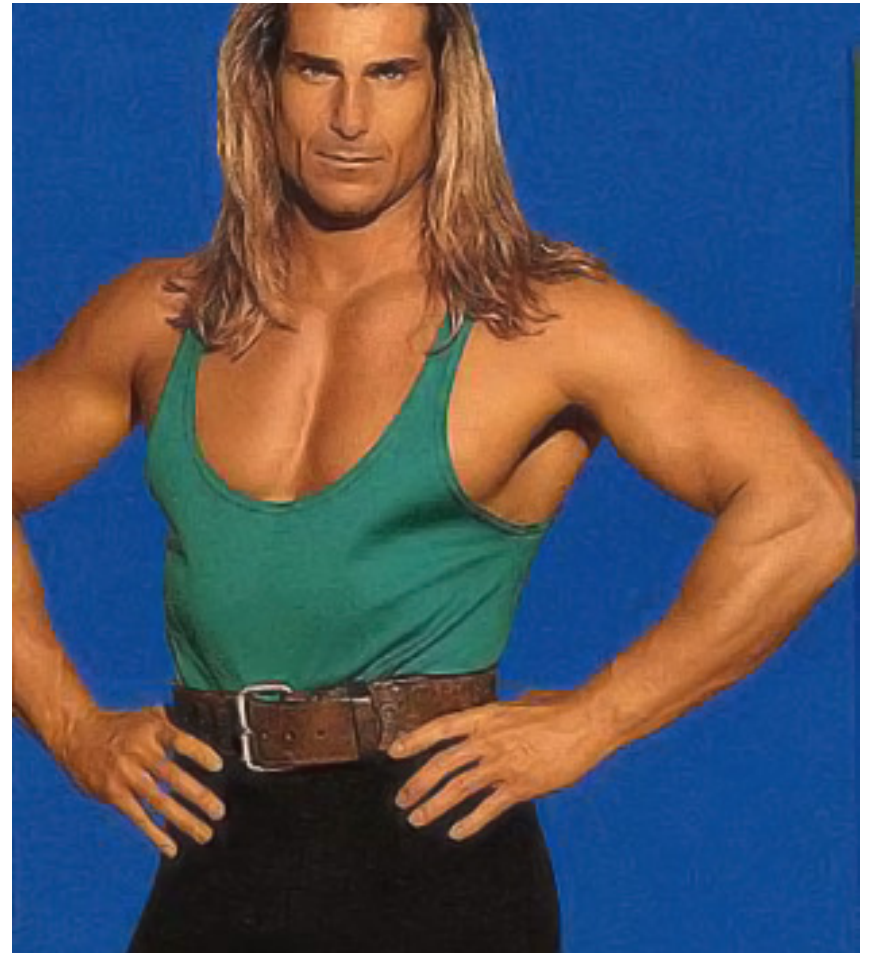
Harms

Let's suppose that if an agent causes another to lose something of value, this agent causes another a harm. Can there be harms without wrongs?

Harms and Wrongs

Let's suppose that if an agent causes another to lose something of value, this agent causes another a harm. Can there be harms without wrongs?

My lady love locks eyes with Fabio and decides to ride off with him on horseback. My life is now significantly worse than it was before. I've been harmed, but I haven't been wronged.



Harms and wrongs

If I could win the race, I would win the prize. Struggling to finish, the second place runner passes me on the home stretch. I don't win the prize and so I can't pay my mortgage. I've been harmed, but I haven't been wronged.



Objections

Suppose x would be good for you to have. If someone causes you to lose it, you'll be harmed (unless you get something of equal or greater value in its place). If you have no claim to x and no claim against someone causing you to lose x, someone can harm you without wronging you.

If this is so, it doesn't follow from the fact that the fetus' future is good for the fetus that it would be wrong to cause the fetus to lose it. This depends upon whether the fetus has a claim on its future and a claim against those who perform actions that prevent/don't assist the fetus from reaching its future. How can we show that the fetus has a claim on the assistance of the pregnant woman? I don't know, but I know that Marquis hasn't even tried to do that. I cannot see how his argument for the restrictive view could succeed until he has done that.

Thomson's defense of abortion



Thomson addresses an argument for the extreme view:

P1. Because the fetus is a person, the fetus has the right to life.

P2. If the fetus has the right to life, it is never permissible to have an abortion.

C. Abortion is never permissible.

Acorns

Although she thinks that the fetus is no more a person than an acorn is an oak tree, Thomson is willing to grant for the sake of discussion that the fetus is a person because she thinks that it doesn't follow that the extreme view is correct. Even if we grant that the fetus has the right to life, the right to life is not the right not to be killed.

The violinist

You wake up in the morning and find yourself back to back in bed with an unconscious violinist. A famous unconscious violinist. He has been found to have a fatal kidney ailment, and the Society of Music Lovers has canvassed all the available medical records and found that you alone have the right blood type to help. They have therefore kidnapped you, and last night the violinist's circulatory system was plugged into yours, so that your kidneys can be used to extract poisons from his blood as well as your own. The director of the hospital now tells you, "Look, we're sorry the Society of Music Lovers did this to you--we would never have permitted it if we had known. But still, they did it, and the violinist is now plugged into you. To unplug you would be to kill him. But never mind, it's only for nine months. By then he will have recovered from his ailment, and can safely be unplugged from you." Is it morally incumbent on you to accede to this situation? No doubt it would be very nice of you if you did, a great kindness. But do you have to accede to it? What if it were not nine months, but nine years? Or longer still? What if the director of the hospital says. "Tough luck. I agree. but now you've got to stay in bed, with the violinist plugged into you, for the rest of your life. Because remember this. All persons have a right to life, and violinists are persons. Granted you have a right to decide what happens in and to your body, but a person's right to life outweighs your right to decide what happens in and to your body. So you cannot ever be unplugged from him." I imagine you would regard this as outrageous.

Objection

Of course, you didn't consent to the violinist using your kidneys, so the case isn't analogous to the case of pregnancy unless the pregnancy is due to rape.

So what? The extreme view says that abortion is never permissible because the fetus has the right to life. A defender of the extreme view could say that the reason that the abortion is permissible is that the fetus doesn't have the RTL unless the woman became pregnant as the result of consensual sex, but this seems like a strange view. Don't we know that we have the right to life without knowing whether we resulted from consensual sex? Surely a fetus, an infant, a child, and an adult have the rights that they do as a function of what they are, not as a result of what was involved in their creation.

Other exceptions

What if the fetus is a threat to the life of the pregnant woman? If the fetus has the right to life, doesn't it follow that it would be impermissible for a woman to take steps to defend herself if the fetus posed a threat to her health?

Not unless the right to life is the right not to be killed. It seems that you don't have the right not to be killed in self-defense, so the right to life is not the right not to be killed. Perhaps the right to life is better understood as the right not to be killed unjustly. If there is a justification for causing the fetus' death, perhaps it would be permissible to terminate a pregnancy to preserve the health of the pregnant woman.

Accidental pregnancy

Suppose the fetus isn't a threat to the pregnant woman and the woman is pregnant as a result of consensual sex. Would it be permissible then to have an abortion if the fetus has the right to life? That seems to depend upon whether the right to life provides a right to be provided with what is necessary to live. If it is not, perhaps a pregnant woman has the right to terminate her pregnancy even if that deprives the fetus of that which they need to continue to live.

Objection: But a woman who has sex knows that she has raised the chances of pregnancy.

Response: Does it follow from the fact that you raise the chances of getting pregnant by heading out at night for a drink that you lose the rights you otherwise have if you don't bring along a well-trained army to protect yourself from sexual assault?

Thomson v. Marquis

For Marquis, the issue has to do with harms. Thomson argues (rather persuasively) that the issue isn't just about whether the fetus has value or whether the fetus' future is valuable, but also upon whether a pregnant woman has special responsibilities to the fetus (and whether the fetus has any claim on the pregnant woman to assist it).