TEN INTRODUCTORY LECTURES ON BIOETHICS

ABORTION AND MORAL STATUS

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BACKGROUND

• Abortion is nothing new
  • Methods for terminating pregnancies date back to ancient Egypt

• Safe abortions became possible after penicillin
  • Where abortion is illegal, it is unsafe

• Legal abortion is safer for the pregnant woman than childbirth
  • Restrictions can’t be justified on basis of protecting women

• The morality of killing the fetus
KILLING AND MURDER

• Abortion opponents say that abortion is murder; murder is wrong, so abortion is wrong

• Abortion kills the fetus, but is it murder?

• Whether a killing counts as murder depends on two issues
  • Who (or what) is killed?
    • Nonhuman animals, human cells, including gametes, may be killed, but not murder
  • Is the killing a recognized exception to prohibition?
    • E.g., killing in self-defense

• Does the fetus have the same moral status as born human beings?
MORAL STATUS

• Who counts/matters morally, and on what basis?

• Not limited to abortion
  • Moral treatment of animals
  • Moral status of brain-dead and PVS individuals
    • When does a human life end?

• In abortion, question is not, is the fetus alive?
  • Of course it is, and so are gametes

• Rather, is the fetus “one of us”? Does it have a right to life?
  • It is human, but is moral status based on “genetic humanity”?
  • When does the life of a human being begin?
CONSERVATIVE POSITIONS

• Often linked to religious views, but need not be
  • Scientific rationale: At conception (fertilization), a new human organism, with its own unique genetic code comes into existence
  • Every successive stage is just development

• Extreme conservative
  • The zygote (fertilized egg) is a human being with the rights of any human being, including a right to life

• Moderate conservative view
  • The beginning of an individual human life is implantation (about 2 weeks after fertilization)
  • Beginning of clinical pregnancy
  • Impossibility of twinning
  • Huge jump in probability

• Moderate conservative opposed to abortion, but not morning-after pill
IS ABORTION EVER JUSTIFIABLE FOR CONSERVATIVES?

• Extreme conservative: no
  • Direct killing of one human being by another justified only in self-defense
  • Abortion is not self-defense, even when the woman’s life is at stake
    • The fetus is innocent, not an attacker.

• Moderate conservative: sometimes
  • Abortion is justifiable when necessary to save the woman’s life and preserve health
  • The pregnant woman is not morally obligated to sacrifice her own life/health to save the life of her fetus
ABORTION IN CASE OF RAPE

- **Extreme conservative**
  - Impermissible
  - Unjust to kill the innocent child because its father was a rapist

- **Moderate conservative**
  - Permissible
    - A woman should not be forced to carry and bear her rapist’s child
FETAL INDICATIONS

- **Extreme conservative**
  - Never a justification for termination of pregnancy

- **Moderate conservative**
  - May justify termination if defect is very severe
    - Incompatible with continued existence (e.g., anencephaly, Trisomy 13, 18)
  - Abortion not justifiable if the child can have a worthwhile life (e.g., Down syndrome)
    - A few states in US have passed laws prohibiting abortion for Down syndrome
      - Conflict with *Roe v. Wade*; unconstitutional
She charges conservative with a fallacy: changing the meaning of “human being” in their argument

- Biological sense: member of species *homo sapiens*; genetic humans
  - Human fetus is of course biologically human
    - Not a dolphin or a cat
- Moral sense: full-fledged members of the moral community, or persons
  - Persons are beings with certain psychological characteristics, including consciousness, self-consciousness, capacity for language and reason

Because all the persons we know are also genetic humans, easy to think that all and only genetic human beings have full moral status

This is precisely what Warren denies
WHY WARREN REJECTS SPECIES AS BASIS FOR MORAL STATUS

- There could be persons who are not human
  - Fictional aliens: E.T., Mr. Spock
  - Real life: Chimps, gorillas, dolphins, elephants, Neanderthals?

- To exclude these from moral community solely on basis of species membership seems arbitrary: speciesism

- Implies that being genetically human not necessary for full moral standing

- But is it sufficient?
  - Warren: no. Humans who lack capacity for consciousness (PVS, anencephalics) are not persons/lack moral standing
IMPLICATIONS FOR ABORTION

• During early gestation, before they have any possibility of consciousness, fetuses have no person-making characteristics
  • Early abortion is clearly justifiable

• Rejection of argument from potentiality
  • Potential persons have potential rights, not actual ones
  • Gametes are also potential persons

• Even a late fetus is less of a person than the pregnant woman, so her reasons for termination outweigh the fetus’s claim to live

• Abortion is justified throughout pregnancy
CRITIQUE OF PERSON VIEW

- Seems to prove too much
- Justifies more than abortion
  - Infanticide?
  - Severely disabled?
  - Elderly demented?
• Both sides have got it wrong.

• We need to go back to basics: What makes killing wrong?

• Killing deprives the one killed of a future of value, a “future like ours” (FLO)
  • Not based on genetic humanity; not speciesist
  • Not based on being a person now
  • Not based on a characteristic one potentially has; we now have FLO

• Fetuses also (usually) have FLO, so (usually) wrong to kill fetuses
  • Exception: severely disabled enough to lack FLO
WHEN DOES THE LIFE OF A HUMAN BEING BEGIN?

- The FLO argument based on assumption that the fetus has a valuable future
- The fetus is the same individual as the born human being; they have the same future
- Whether I am killed now or at age 40 or 15 or prior to birth, killing deprives me of my valuable future, and that’s what’s wrong with it
- True iff we are essentially human organisms
- Jeff McMahan disagrees
• We are not essentially human organisms
  • Identical twin brain transplant example
  • “You go where your mind goes”

• We are essentially embodied minds

• The fetus is not me; it is my empty organism

• I come into existence when my mind does, when my empty organism becomes conscious

• Early abortion is not the killing of “one of us”
  • More like contraception in that it prevents one of us from coming into existence
THE INTEREST VIEW
(BONNIE STEINBOCK)

• Pro-choice

• What endows a being with moral standing and rights is the possession of interests
  • Having moral standing/rights protects a being’s interests
  • No interests, moral standing/rights meaningless

• Infants, cognitively impaired all have interests that can and should be protected by rights
  • Not as restrictive as person view
    • Not based on views about identity
SENTIENCE AND INTERESTS

- Possession of interests conceptually connected with sentience (capacity for experience)
  - Automobiles vs. animals
  - Plants and bodily organs
    - Things can be objectively good for them, but they lack a subjective welfare
    - Nothing can be done “for their sake”
    - It doesn’t matter to the non-sentient fetus if it is killed
  - Having FLO doesn’t give the fetus a stake in its future now
  - Abortion is no more a harm to the early fetus than to gametes that are killed/prevented from fertilization
MORAL STATUS OF FETUSES

- Prior to onset of sentience, they have no moral standing
  - Morally, comparable to human gametes

- When does sentience occur?
  - Controversial
  - This much can be agreed: certainly not prior to 17 wks; certainly by third trimester

- Fetuses at all stages have value for prospective parents
  - Killing of a fetus in attack on pregnant woman is wrong
  - Consistent with legal abortion
A GRADUALIST VIEW

• Prior to sentience, fetus has no interests of its own, so its interests play no role in abortion decision

• As fetus develops, it becomes relevantly similar to newborn
  • Acquires interests of its own, particularly interest in not experiencing pain
  • Protective instincts of society also kick in

• Gradualist position: reasons for abortion should be stronger in late gestation
  • Neither conservative nor traditional liberal can take this plausible position
LATE ABORTIONS

• In US, *Roe* declared a constitutional right of women to choose abortion prior to viability (24-28 weeks)
  • After viability, states may, if they choose, prohibit abortion
  • EXCEPT where abortion necessary to preserve woman’s life or health (broadly interpreted)

• In fact, many women in US lack access to abortion, especially in rural areas
  • Abortion not covered by federal Medicaid dollars
  • These factors contribute to later abortions
THE INTEREST VIEW ON LATE ABORTIONS

• Sentient fetus has interest in avoiding pain
  • Anesthesia should be administered in late abortions, if can be done without risking woman’s health

• Sentient fetus has weak interest in continued existence
  • Moral reasons for abortion in late gestation should be robust
    • They almost always are

• Legal restrictions on late abortions are unwarranted
  • George Tiller: Trust women
THE OTHER BASIS FOR ABORTION

- Moral status of the fetus only part of justification of abortion
- Equally important, women’s rights to bodily self-determination
- Women are not fetal containers
  - No woman should be forced to continue a pregnancy if she is not ready to be a mother
  - Contraception preferable to abortion, but abortion still necessary as back-up
- Controlling fertility essential to women’s equality
- Laws prohibiting or restricting abortion are unjustifiable
  - As are laws forcing/coercing abortion