

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

A LIBERAL VIEW (MARY ANNE WARREN)

- 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?

A FUTURE LIKE OURS (DON MARQUIS)

- 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

JEFF MCMAHAN

- 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