

Warren

The Legal and Moral Status of Abortion

Warren's Dilemma

- Either a fetus has a right to life or it doesn't.
 - If a fetus has a right to life, then abortion is immoral.
 - If a fetus doesn't have a right to life, then abortion is moral.

Nature of the Debate

- If one assumes that the fetus has a strong right to life, then questions about the mother's responsibility play a role in the abortion debate. (as in Thompson)
- Warren argues that the permissibility of abortion depends not on the mother but on the right to life of the fetus.
 - The fetus has no right to life.
- Right to life = member of moral community = beings with full and equal rights = personhood

I. Who has a right to life?

- In virtue of what properties do we classify someone as having a right-to-life?
 - If x has these properties p, then x is y.
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- (i) Humans have a right-to-life in virtue of being a person.
 - Personhood: a) sentience, b) emotionality, c) reason, d) capacity to communicate, e) self awareness, f) moral agency
 - Which of these does Warren argue for? c & e? a?

What is a Person?

- What's a person?
 - an entity with moral status; a locus of rights
- Even if fetus lacks the properties of a person, does that mean that it has no right-to-life?
 - What about entities who don't have these properties of personhood? (e.g., fetus, mentally handicapped, comatose).
 - Is it possible or arguable that a potential person has a right-to-life?
- Warren must say they don't have a right-to-life because they don't have these properties

Doesn't a Fetus Have a Right-to-Life Anyway?

(ii) But, don't some of them have a right-to-life anyway?

- How to defend (ii)? Two options:
 1. They had or will have moral faculties (properties of persons)
 2. Need a "bright line", a definitive point where a fetus becomes a person. The way we distinguish what does/doesn't have a right-to-life doesn't help concerning fetuses. A mouse meets more of Warren's criteria than a fetus.
 - The issue is that the fetus will become a person, and the mouse won't. The debate about a right-to-life has to refer to the future. But, is there any chance for consensus about where the "bright line" is?

II. Warren's Version of the "Anti-abortion Argument"

1. It's wrong to kill innocent human beings.
 2. A fetus is an innocent human being.
 3. So, it's wrong to kill a fetus.
 4. Abortion kills a fetus.
 5. Therefore, abortion is wrong.
- - COMPARE:
 1. Chateau Stephen is dry.
 2. Whatever is dry is not wet.
 3. Chateau Stephen is not wet.

Characteristics of Arguments Depending on Ambiguity

- a. word has more than one meaning
- b. premises in the argument are plausible only if the word is interpreted in more than one way
- c. the conclusion only follows if the ambiguous word is interpreted in the same way
 - What's the meaning of "human being" in the antiabortion argument?
 - (i) genetic: meaning is a purely biological notion
 - (ii) moral: humans have rights or certain moral status; i.e., persons

Analysis of the Anti-abortion Argument

- If you interpret premises (1) and (2) to mean genetic, then (2) is T, but (1) is F, or clearly not true.
- If one interprets both premises in the moral sense, then (1) is T, but (2) is F, or not clearly true.
- Both premises need more support, depending on the meaning applied.

III. Warren's Space Explorer Analogy/ Potential Person Argument

A potential person has “no” right-to-life

1. the rights of a potential person never outweigh the rights of an actual person
2. is there a moral difference between fetus and clones? does the analogy work?
3. fetus not a person, but what's wrong with aborting a fetus?
4. but, do potential people have a right-to-life?

Space Explorer Analogy Analysis

Analogy Event	Cloning	Abortion	Issues
Birth process	artificial	natural	Is course of nature always “right”?
Killing	potential person/clone	potential person	Compare to zygote in lab—OK to not find a host? (sure)
Conception site	test tube	uterus	What's the importance in the relationship between the fetus and the woman?

- Warren's Conclusion: “a woman's rights to liberty and the control of her own body outweigh whatever right to life a fetus may have merely by virtue of its potential personhood.”

Potentiality Argument Against Abortion in Marquis

- Marquis' Argument
 1. If Xs have the right to Y, then potential Xs have the right to Y.
 2. Persons have the right to life.

 3. Therefore, potential persons have the right to life
- Premise (1) = False
 - e.g., potential presidents don't have right to presidency
 - Marquis is not using the potentiality argument to bridge the gap between adults and fetuses. FLO is based on the adult's potential to have a future of value.

Warren's Argument Against Infanticide

- 1) It's wrong to destroy anything from which others would derive much pleasure.
 - 2) An infant is something from which others would derive much pleasure.
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- 3) Therefore, it is wrong to destroy/kill an infant.

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- PROBLEM: "wrong" of premise (1) and (3) have different implications.
 - Wrong of killing an infant due to harm done to that infant. But, harm toward (1) might refer to an inanimate object, e.g., a painting. But, harm toward an inanimate object is not the same kind of harm done toward an individual. So, there's a problem with the principle grounding the argument.
 - Regardless of adequacy of infanticide argument: late-term abortion is permissible because the fetus has no rights against the mother; birth "marks the end of the mother's right to determine its fate"

Sentience/Consciousness Argument

1. If you can be harmed in ways that matter to you, then you are sentient/conscious.
 2. Fetuses aren't sentient.
 3. Fetuses can't be harmed in ways that matter to them.
 4. Only entities that can be harmed in ways that matter to them have moral concerns.
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5. Fetuses have no moral concerns.

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- Warren thinks that the fetus has no moral status and thus holds no rights against the mother. This is true even in late-term pregnancies.