

## WARREN ON THE MORAL AND LEGAL STATUS OF ABORTION

### I. The equivocation in the standard argument for the fetus's right to life.

#### A. The standard argument:

1. All human beings have a right to life.
2. Fetuses are human beings.

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Therefore, 3. Fetuses have a right to life.

**B. The equivocation:** In the first premise, 'human being' is used in a moral sense. If it is used in a biological sense, then it is obviously question-begging because this is just the central question at issue in the discussion of abortion. But in the second premise, 'human being' must be understood in the biological sense, for if it is understood in the moral sense *this* premise would beg the same question.

### II. The Criteria for Personhood (Humanity in the Moral Sense): Warren argues that the following criteria are relevant to being a human being in the morally relevant sense of the term—for being a person.

#### A. The criteria:

1. *Consciousness*—including the capacity to feel pain
2. *Developed reasoning ability*
3. *Self-motivated activity*
4. *Capacity to communicate* (in creative ways)
5. *Presence of self-concepts* (self-awareness)

**B. Their interpretation:** Warren claims that these criteria are “jointly sufficient” for personhood; that is, that anything that meets all of them is certainly a person. However, they are *not* “individually necessary”. This latter concession means that a thing can fail to meet some of the criteria and still be a person. However, she argues that nothing that fails to meet *all* of these is a person (a member of the moral community).

**III. Warren's Argument:** Early stage fetuses satisfy *none* of the criteria for membership in the moral community. Later stage fetuses satisfy these criteria no more fully than many non-human animals to which we do not accord a right to life. (She implicitly invokes a version of the principle of relevant difference to argue that it would be inconsistent to accord the fetus a right to life if we deny it to non-human animals who satisfy these conditions as fully as the fetus does.)

**IV. Potentiality:** There is one property that most human fetuses have that no (known) non-human animals have: the *potential* to develop into a being that meets *all* of Warren's criteria. Therefore, Warren needs to argue that potentiality for meeting these criteria is *not* a sufficient condition for membership in the moral community. As we will see, there is some unclarity about the notion of potentiality.

**A. Potentiality *per se*:** This form of the potentiality argument claims that the mere fact that the fetus is potentially a person—that is, that there is some conceivable scenario in which it *would* develop into a person—ensures that it is a being with a right to life (or at least that its destruction is a serious moral wrong).

1. Warren's Alien Cloners Example

**B. Active potentiality:** This form of the potentiality argument holds that it is the fact that the fetus as an active potential to become a person, in the sense that without further interference by humans (or aliens), the fetus will develop into a person, ensures that the fetus has a right to life (or at least that its destruction is a serious moral wrong).

1. Warren's Alien Cloners with a Conveyor Belt

**C. Active, Natural Potentiality:** This form of the potentiality argument holds that it is the fact that the fetus as an active *natural* potential to become a person, in the sense that without *unnatural* interference by humans (or aliens) at any time, the fetus will develop into a person, ensures that the fetus has a right to life (or at least that its destruction is a serious moral wrong).

1. Q-radiation and the Ozone Layer

## V. Criticisms of Warren's Position

**A. Infanticide:** The most obvious objection to positions like Warren's is that if she were correct, not only would the fetus not be a full member of the moral community, but neither would the infant. Hence, we could construct as good an argument for the permissibility of infanticide on her terms as we can for abortion. The criticism proceeds to argue that since this is clearly an unacceptable consequence, Warren's position on the moral status of the fetus is clearly wrong.

1. The criticism assumes, wrongly, that the only argument against infanticide must be based on the intrinsic moral status of the infant. Other arguments, some of which are suggested by Warren, are possible. In addition, perhaps the moral safety argument or some other argument designed to show the desirability of marking the legal recognition of the right to life at birth could be given.

a. This reply opens the possibility that the very same arguments that would condemn infanticide will be applicable to abortion. Warren will have to argue that this is not so to establish her final conclusion about the moral and legal status of *abortion* as opposed to merely a conclusion about the moral status of the fetus.

**B. Philosophical Insufficiency:** Like almost every attempt to address the abortion issue, Warren's approach is philosophically unsatisfying. In addressing the personhood issue (the issue of full membership in the moral community), she does more than merely list what things *are* persons and what things *are not*. She gives a list of criteria that she claims are relevant to personhood. However, she fails to explain *why* having these characteristics is relevant to having a right to life (or any particular moral status). A philosophically satisfying account would show why having certain characteristics entailed that an entity had a right to life (or why its destruction was a serious moral wrong).

**C. Distinguishing Dispositional and Potential Characteristics:** Warren argues that merely having the potential for the relevant characteristics of personhood is not sufficient for full membership in the moral community. However, it is not necessary to have the characteristics *occurrently*, either. An unconscious (sleeping or anesthetized) person does not lose her membership in the moral community. Warren criteria must be applied *dispositionally*. That is, it must be possible for a being who is not *at the moment* conscious, self-aware, able to communicate, and capable of reasoning and self-motivated activity to nevertheless be a full member of the moral community. But we understand dispositional properties in terms of what would be (occurrently) true *if* certain conditions were met. (If we were to wake him, he would . . . ; if we were to remove the anesthetic, she would . . .) Unfortunately, this is just how we understand potentialities. If Warren is to avoid classifying sleeping people with newly conceived fetuses, she will have to distinguish potential from dispositional properties.