

## THE ABORTION ARGUMENT

### I. Terminology

#### A. The Moral Status of Abortion

1. ***Anti-Abortion Position:*** The extreme version of this position holds that abortion is always morally wrong. It is probably fair, though, to hold that any position according to which abortion is a serious moral wrong that can be justified only in exceptional circumstances is an anti-abortion position.
2. ***Neutrality:*** This position holds that abortion (understood here as the intentional termination of a pregnancy resulting in the death of the fetus) is, in itself, morally neutral. Abortion may, of course, have secondary effects (on the woman, for example) that could raise moral considerations.

#### B. The Moral Status of Legal Restrictions on Abortion

1. ***Pro-Choice Position:*** The extreme version of this position holds that there should be no legal restrictions on a woman's right to get an abortion. It is fair, though, to think of any position that opposes any *significant* restrictions on a woman's right to get an abortion as being a pro-choice position.
2. ***Abolitionism:*** The extreme version of this position holds that the state should prohibit all abortions. Again, we can extend the term to include positions holding that the state should prohibit abortion in all but the most exceptional situations.

C. **The Fetus:** I will use 'fetus' to refer to the developing human being during all stages of gestation.

### II. When Does Life Begin: The Problem

- A. ***Life:*** But the issue is not really when does *life* begin. Of course a normal developing fetus is alive. But so is an unfertilized egg or a sperm cell. So are fish, ferns and funguses. Most people think that it is okay to kill these things. Let's assume that they are right. Then the issue that is of importance in the abortion controversy is not when does life begin, but when does a certain kind of life begin?
- B. ***Humanity:*** The issue is not even when is the fetus *human*. As a biological or genetic classification, the fetus of a human being is certainly human (excepting extreme mutations, I suppose). But so are the unfertilized egg and the sperm cell. So is every cell of your body. No one thinks that this gives the cells of your body a right to life.
- C. ***Personhood:*** The issue seems to be: "When does a *person's* life begin? (When does a *human life* begin?)" For the purposes of discussing abortion, let's just agree to mean by 'a person', the sort of being who has a right to life. (Some actual or conceivable non-human animals might, then, be persons in this sense.)

### III. When Life Begins—The Answers

- A. ***The Conservative Position:*** A person's life begins at conception.
- B. ***Moderate Positions:*** A person's life begins sometime after conception but before birth.

1. Common suggestions include: the onset of heartbeat, brain activity or self-initiated movement; sometimes viability (the capacity to live outside the womb) is cited; sometimes the capacity to feel pain is pointed to.

C. **The Liberal Position:** A person's life begins at (or possibly sometime after) birth.

1. Typically those taking a liberal position on abortion cite the presence of consciousness or self-awareness as a requirement of being a person.

#### IV. The Rules of the Game—How We Evaluate the Answers

A. **The Principle of Relevant Difference:** If two things are accorded a different moral status, they must differ in some other relevant respect.

B. **The Thought Experiment:** We will imagine cases, some of them very far-fetched and bizarre, and see what we want to say about them. Then we will use the principle of relevant difference to challenge the various answers that have been given to the question of when life begins.

#### V. The Rationales for the Answers

##### A. The Conservative Position

1. **Genetic Humanity:** The life of a person begins at conception because at that point the fetus has the full complement of human genes.

a) **Criticisms:** What science establishes is that the fetus is *genetically* human. Being genetically human is neither a necessary nor a sufficient condition for having a right to life.

(1) It is not necessary because of the possibility of nonhuman intelligent beings.

(2) It is not sufficient because every cell of your body is genetically human—scientific evidence proves this. But no one thinks that every cell of one's body has a right to life.

2. **Genetic Uniqueness:** The life of a person begins at conception because at that point the fetus is a genetically unique individual (unlike the individual cells of your body).

a) **Criticisms:**

(1) Genetic uniqueness is not necessary for a right to life; consider that identical twins are not genetically unique.

(2) More importantly, genetic uniqueness is not a sufficient condition for a right to life; individual animals are genetically unique, so plausibly are individual egg and sperm cells, but these do not have a right to life.

3. **Continuity Argument:** The life of a person begins at conception because from that stage on there is a gradual and continuous development into an individual that is clearly a person. Since there is no place in this development to draw the line (to say that before this time it is not a person and after this time it is), we must hold that a person's life begins at conception.

a) **Criticism:** The argument assumes three things which are doubtful and not defended:

(1) That there must be a sharp line between those things which are and those things which are not persons with a right to life

- (a) *Criticism:* This assumption ignores the fact that many believe that a person's life does not begin at a particular instant. Just as an acorn grows into an oak tree by a gradual and continuous process, so a fetus grows into a person by a gradual and continuous process. The fact that there is no place to draw the line does not mean that we must call an acorn an oak tree. Neither must we call a fetus a person.
- (2) That conception succeeds in drawing such a sharp line.
  - (a) *Criticism:* In fact, conception is, like almost all natural processes, gradual. Does it take place when the sperm cell touches the egg cell, when it enters the cytoplasm of the egg cell, when it enters the nucleus of the egg cell, when the genetic material of the sperm cell begins to unite that that of the egg cell, when it finishes uniting, when enough of it has united that there a healthy fetus could develop from the genetic material already united, . . . .
- (3) That there is no other relevant place to "draw the line."
  - (a) *Criticism:* Because of this assumption, this argument cannot be taken as conclusive until all suggestions for "drawing the line" have been refuted.

## B. Moderate Positions

1. **Heartbeat:** The argument here is that it is the stopping of spontaneous heartbeat that marks death so it should be the beginning of a heartbeat that marks the beginning of a person's life. Fetal heartbeat begins about 18 days after conception.
  - a) *Criticism:* We do not mark the end of a person's life with the cessation of spontaneous heartbeat.
2. **Viability:** A person's life begins when its life can be sustained outside of the womb. Currently, this takes place at about five to six months from conception.
  - a) *Criticism:* The point of viability changes with technology. If we could produce an artificial womb, a fetus could be viable from conception and, hence on this view, a person's life would start at conception. But it is not true that these technological advances change the time when a person's life begins.
3. **Spontaneous Movement:** A person's life begins when it is capable of spontaneous movement.
  - a) *Criticism:* Spontaneous movement is not necessary for a person to be alive. Even a fully paralyzed person may be alive.
4. **Brain Activity:** Since we mark death with the cessation of brain activity, we must mark the beginning of life with the onset of brain activity—about six weeks after conception.
  - a) *Criticism:* It is not just any brain activity which we think is relevant to the life of a person. If the entire cerebral cortex and cerebellum were destroyed, we would not think that the person's life was going on just because the brain stem was controlling body temperature.
5. **Physical Similarity:** From a very early point in pregnancy, the fetus looks like a person; it has fingers and toes, ears and nose, and it gets more like us as it grows. In its most extreme form, it holds that the right to life is actually based on physical similarity to a normal adult humans. A more plausible interpretation is that physical similarity to normal adults is good evidence that something has a right to life.

## a) Criticisms:

- (1) Physical similarity between fetuses and normal adult humans is not necessary for a right to life; consider the sort of intelligent nonhuman life imagined by science fiction writers.
- (2) More importantly, physical similarity is not a sufficient condition for a right to life; imagine a monkey surgically altered to look human, or a human being whose cerebrum and cerebellum are completely destroyed.

**C. The Liberal Positions**

1. ***Spontaneous Breathing:*** Defenders of this position argue that since we mark the end of life with the cessation of spontaneous breathing, we should mark the beginning of a person's life with the advent of spontaneous breathing. This is claimed to take place at birth.

a) *Criticism:* As a factual matter, the breathing impulse is claimed to arise much earlier. More importantly, we do not mark the end of a person's life with the end of spontaneous breathing.

2. ***Self-Awareness:*** Many defenders of a liberal position cite self-awareness as a requirement of personhood. This is taken to be the important mark of distinction between normal adult humans and animals; and it is argued, by defenders of this position, that it is what gives us a right to life.

a) *Criticism:* Best estimates of when self-awareness develops puts it well after birth—perhaps between the first and second years of life. This seems to entail that not only would abortion be permissible but so would infanticide—even simply for the convenience of the mother. But this is unacceptable.

- (1) *Reply:* Entails only that the newborn is not a person with a right to life. It does not entail that there is nothing morally wrong with killing infants for convenience or that the state does not have very good moral reason for prohibiting such acts.

But, if the defender of this position is also going to defend the right to abortions, then s/he must explain why it is wrong to kill infants even though they don't have a right to life on grounds which won't entail that it is also wrong to have an abortion.

**D. Toward a Solution**

1. The beginning and the end of a person's life: Several approaches have tied the question of when a person's life begins to the question of when a person's life ends. This seems plausible. It doesn't answer the question, of course, but it helps us get clearer about it.
2. A philosophically satisfying answer must tell us in virtue of what characteristics an individual has a right to life, *and why* these characteristics generate a right to life.

## VI. The Larger Question of Abortion

- A. Even settling the question of when a person's life begins does not settle the question of whether and in what cases abortion is justified. One can, and some do, hold:
1. the view that abortion on demand is permissible even if the fetus is a person with a right to life; or,
  2. the view that abortion is never permissible even though the fetus is not a person with a right to life.

### B. Other Bad (or Badly Used) Arguments on Abortion

1. ***The Simple Bodily Rights Argument:*** A woman has an unconditional right to an abortion because everyone has a right to control her own body.
  - a) *Criticism:* It is simply false that a woman (or person generally) has the right to do whatever she wants with her body. If her actions violate the rights of others, then it is at least open to argument whether her bodily rights are overridden.
2. ***The Privacy Argument:*** Abortion is a matter of private morality and the government has no business legislating in such areas.
  - a) *Criticisms:* The notion of a 'private matter' must be defined. If it means, 'doesn't necessarily affect anyone but the woman', then this simply begs the question against the opposition by assuming that the fetus isn't an 'anyone'. If it means that it doesn't necessarily affect anyone but the woman and the fetus, then the state clearly has a right to legislate in "private matters" if the fetus is a person, for by this definition (on the assumption that the fetus is a person), child molestation is a "private" matter.
3. ***The Appeal to Disagreement:*** Decent, sincere people disagree about the moral permissibility of abortion. Where there is such disagreement, the government should not legislate.
  - a) *Criticisms:* The principle invoked here is probably morally unacceptable. There was once significant disagreement about the morality of slavery and in some countries there is still significant disagreement about the morality of wife-burning; but most would say that states have a right to prohibit such practices.
4. ***The "Coat Hanger Argument":*** The awful consequences of prohibiting abortion (infection, sterility and death in women resulting from illegal—and, therefore, typically unsafe—abortions) are often cited in defending the pro-choice position. These consequences are clearly morally significant (on any plausible moral theory), and they are clearly very bad. Therefore, abortion should not be prohibited or restricted to the point that women seek illegal abortions.
  - a) *Criticism:* This argument assumes that prohibiting abortion would not reduce the number of women getting abortions *or* it assumes that the death of the fetus is not an extreme moral evil. This is because if the death of the fetus *were* a great moral evil and prohibition were to decrease the number of abortions, then the serious harms to the woman would have to be weighed against the certainty of the great moral evil of the death of the fetus. The first assumption is highly implausible. (Even prohibition, which was no success from the annals of law enforcement, reduced alcohol consumption dramatically.) The second simply begs the question against the anti-abortion position.

5. ***The Secularist Argument:*** Much of our body of law coincides with the teaching of religious moralists but we are a pluralist society religiously. We are never justified in enacting into law principles that cannot be defended by secular (non-religious) appeals. While abortion may violate sacred principles of some religions, it does not violate the principles of all religions. Therefore, to prohibit abortion is to enact into law specifically religious principles, and this is wrong.
  - a) ***Criticism:*** This argument simply assumes that there is no secular argument against abortion (or for the prohibition of abortion). One certainly cannot conclude this from the fact that religions disagree about these matters. (Religions may disagree about the permissibility of animal, or even human, sacrifice; this hardly shows that laws against cruelty to animals, or against murder, cannot be given a secular defense.)

### C. Attempts to Avoid the Personhood Issue

1. ***The Moral Safety Argument:*** Even if we don't know whether the fetus is a person (has a right to life), we should prohibit all abortions. Given that it *might* have a right to life, we ought to err on the side of caution and prohibit abortions.
2. ***Thomson's Bodily Rights Argument:*** Even if the fetus is a person with a full-fledged right to life, this doesn't show that it has a right to the use of its mother's organs. (The right to life doesn't include the right to anything one needs to sustain one's life.) Thus, the bodily rights argument doesn't need to presuppose that the fetus does not have a right to life.