

## MARQUIS'S "AN ARGUMENT THAT ABORTION IS WRONG"

### I. Preliminaries

#### A. Definitions:

1. *Abortion*: An action intended to bring about the death of a (human) fetus for the sake of the woman who carries it.
  - a) *Comment*: It would probably be better to define 'abortion' as 'an action intended to bring about the termination of a pregnancy with the expected consequence that the fetus will die'. (The death of the fetus may not be an intended effect, but it is surely a foreseen effect.)
2. *Fetus*: A developing human being from the time of conception to the time of birth.

B. *The Symmetry and Parity of the Standard Arguments on the Moral Status of the Fetus*: Marquis argues that the typical pro-choice and anti-abortion arguments are remarkably symmetric with respect to making unjustified assumptions and ignoring relevant evidence and criticisms. These arguments wind up in a stand-off, he thinks.

C. *The Centrality of the Moral Status of the Fetus*: Marquis asserts that "whether abortion is morally permissible boils down to the question of whether fetus have the right to life" (p. 220). This may be an overstatement of his position. In the essay on which this selection is based, he concedes that abortion might be morally permissible in some cases even if the fetus is the sort of being whose life it is seriously wrong to end and at several points he realizes that there might be other reasons why abortion is morally impermissible.

### II. Marquis's Argument:

A. *What's Wrong with Killing*: Marquis begins with the extremely plausible assumption that progress can be made on the abortion dispute if we turn our attention to the question of what is wrong with killing beings like us who we believe it is clearly wrong to kill.

1. *Deprivation of Valued Experiences*: Marquis considers and rejects the view that what is wrong with killing is the deprivation of experiences that the individual currently values. Though the value of our future is a value *to us*, it does not have to be something we currently value.
2. *Deprivation of a Future Like Ours (FLO)*: Marquis argues that the wrongness of killing beings like us consists in the deprivation "of a future of value. Killing someone is wrong, in general, when it deprives her of a future like ours" (p. 222).
  - a) *What Sort of Future*: Clearly, if there are some sorts of animals (with experiences) that it is not a serious moral wrong to kill, it can't be a serious moral evil to deprive a being of *any* sort of future. Presumably, Marquis believes that depriving a snail of its future experiences does not make the killing of snails in order to make escargot a serious moral wrong. Marquis doesn't say much about what sort of future is necessary to make the deprivation a serious moral wrong. For reasons noted below, he doesn't think he has to.
  - b) *Marquis's Arguments for FLO*:
    - (1) *The Considered Moral Judgment Argument*: Marquis claims that FLO fits with our considered judgments about the wrongness of killing. It accords with what one finds bad about one's own death. (The rest of the arguments are, really, appeals to what fits with our considered moral judgments, too. The difference is

that, here, Marquis is talking about our considered moral judgment about the specific issue of what is wrong with killing.)

- (2) *The Worst of Crimes Argument:* FLO explains why killing someone is the "worst crime." Harming people in other ways may deprive them of some value in the future, but killing them deprives them "of all of the value of [their] future, not merely part of it" (p. 223).
    - (a) *Note:* This argument seems to presuppose that there is no afterlife. I don't see how it can be used by someone who believes that we continue to exist and have experiences (potentially valuable ones) after our physical death. Since many people do hold this belief—and particular many people who oppose abortion—this argument won't be acceptable to some who object to abortion.
  - (3) *The Appeal to Cases Argument:* FLO gives the correct answers problem cases about killing, such as euthanasia and suicide. In particular, when it is clear that the killing will deprive an individual of a life like ours, it is clear that it is (other things being equal) significantly morally wrong to kill. When it is clear that killing will not deprive an individual of a life like ours, it is clear that (absent other considerations) it is not significantly morally wrong to kill. When it is unclear whether it is wrong to kill or not wrong to kill, that is precisely because it is unclear whether we are depriving an individual of a future like ours.
  - (4) *The Analogy to Animals Argument:* Here Marquis is arguing that the FLO argument avoids drawing arbitrary lines in the same way that concern for the suffering of animals avoids drawing an arbitrary line between human suffering and the suffering of animals. In the case of FLO, the arbitrary line would be between the depriving an adult of a future like ours and depriving a "younger" human being of a future like ours—something Marquis is, I think, suggesting is ageism.
    - (a) *Criticism:* The line is not arbitrary if there is a morally relevant difference between the fetus and other human beings. Those who reject FLO and offer another account of the wrongness of killing may well believe there is a morally relevant difference—for example, the capacity to value or the presence of sentience.
- B. *Application to the Abortion Argument:* The fact that Marquis doesn't say what sort of future is necessary for it to be a serious moral wrong to deprive an individual of it future would call into question the application of his analysis to members of other species (real or imagined). But he thinks he doesn't have to solve this problem to apply his analysis to the case of the fetus. He argues that "the loss of the future to a standard fetus, if killed, is . . . at least as great a loss as the loss of the future to a standard adult human being who is killed" (p. 73). Therefore, if we are correct in thinking that the killing of a "standard adult human being" is a serious moral wrong for the reasons Marquis identifies, we must also think that the killing of a fetus in an abortion is a serious moral wrong.

### III. Replies to Objections

- A. *The Potentiality Objection:* The FLO argument basically says that the fetus has the potential for certain future states and, in virtue of this potential, has a right to life. But potential for a certain status does not give a thing that status.

1. *Marquis's Reply:* Marquis agrees that this would be an unsound potentiality argument. But the FLO argument doesn't use potentiality to "shoehorn" fetuses into the status that normal adults have. Instead, it is the potential of all humans (whether adults, children, infants or fetuses) to have a future of value that accounts explains why it is significantly wrong to kill them. This is a very different role for potentiality and one that is not subject to the objections raised to the unsound potentiality argument.
- B. *The Argument from Interests:* Sentience (the capacity to feel and have experiences) is a necessary condition for having any interests at all. The early stage fetus is not sentient. (Sentience begins about 22 weeks into the pregnancy.) Therefore, early stage fetuses cannot have interests and, in particular, cannot have an interest in experiencing a future like ours.
1. *Marquis's Reply:* Sentience is not a requirement in order to have moral interests. Temporarily comatose patients still have interests even though they are not sentient. Marquis diagnoses what he sees as a mistake in the objection as being based on confusing being able to *have* an interest with being able to *take* an interest in future states.
    - a) *Response from the Critic:* First, the diagnosis is pretty clearly wrong. The critic quite clearly believes that only sentient beings can have interests. The critic would use this to explain why inanimate beings and nonsentient animals cannot have interests (in the sense relevant to being a moral patient. More importantly, Marquis's counterexample to the Argument from Interests is disingenuous. No one believes that moral interests blink in and out of existence with the current sentience of the being who has them. The temporarily nonsentient person is still a sentient being in the dispositional sense. This person has been sentient in the occurrent sense and will be again. Interests survive these gaps in occurrent sentience. What the critic is saying is that sentience must be there first for the being to have any interests at all. Marquis has not refuted this claim.
- C. *The Contraception Objection:* Marquis's argument "proves too much." If it works to show that the fetus has a right to life, it also shows that the unfertilized egg and the sperm have a right to life. If so, then not only is abortion morally wrong but so is the use of contraception and the failure to bring about conception when one can. But since these things are not wrong, Marquis's argument is must be flawed.
1. *Marquis's Reply:* The argument turns, Marquis, says on whether there is an individual who is deprived of a future like ours. Because, prior to conception, there is no determinate individual that will, without interference, have a future like ours, the argument cannot be extended to egg cells or sperm cells.

Here is his argument:

- a. Prior to conception, there is no non-arbitrary determinate subject of harm.
- b. If there is no non-arbitrary determinate subject of harm, then no determinate thing was harmed.
- c. If no determinate thing was harmed, then no wrong has been done.
- \_\_\_\_\_
- d. Thus, the FLO account of the wrongness of abortion does not entail that contraception is wrong.

- a) *Response from the Critic:* This argument is clearly unacceptable. Here are two counterexamples:

- (1) *The Booby-Trapped Asteroid Cave:* Suppose that I explore a cave on distant asteroid and decide to plant a booby-trap to kill the next visitor to the cave. I know that no one living now—or even conceived yet—will be the next visitor. Because it takes so long for a spaceship to make it to the asteroid, it will be at least a hundred years before anyone else can visit the cave. But, sometime in the future, someone *will* visit the cave and that person will be killed by my booby-trap. On Marquis's account, accepting premises *a* through *c*, we can conclude that my action does not harm a determinate thing and, so, no wrong has been done.
- (2) *The Pre-poisoned Fetus:* Suppose that there is a recreational drug that causes some mild enjoyment but has disastrous consequences if it is ingested by a mother within a day prior to conceiving a fetus. It will alter the chemistry of the uterus so that any fetus conceived will have severe physical and mental defects. Notice, though, that prior to conception, there is no non-arbitrary determinate subject of harm. Therefore, by Marquis's reasoning, there is nothing wrong with taking the drug for a few minutes of pleasure even if you know you are going to conceive a child during the critical period. Your action harms no determinate thing and, so, no wrong has been done.

#### IV. Criticisms of Marquis

- A. *Structural Features of Marquis's Argument:* Marquis's argument relies fundamentally on an "inference to the best explanation." That is, he argues that his account of the wrongness of killing is the best account. Such arguments almost always have the following weakness: they cannot survey all the possible competing explanations. So, while Marquis's explanation might be better than those alternatives he actually considers, he can't give us much reason to believe that there is no better explanation that could be given. Still, this argument puts the burden on Marquis's opponent to give a better explanation of the wrongness of killing—one that doesn't entail that abortion is wrong.
- B. *The Alien Cloners Criticism:* Though Marquis seems to be right in claiming that he is not using a simplistic potentiality argument, his view seems subject to the same sort of counterexamples.
  1. *Warren's Alien Cloner Example:* You have been captured by aliens who plan to clone cells from your body. Now, every cell of your body that they plan to clone (and it doesn't have to be all of them as Warren supposes) is an individual (in Marquis's sense) with a future like ours. According to Marquis's argument, these cells have a right to life. Escaping would be wrong because, while you have a right to control you body (and escape), this isn't as important as the right to life (based on the FLO argument) of the cells that will be cloned.