

The Abortion Issue

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In this article, Mixie explains the conservative, liberal and moderate positions on abortion. For conservatives, life begins at the moment of conception. Therefore, abortion is the taking of a human life. Conservatives usually allow for abortion only when the mother's life is in danger as per the conditions of The Principle of Double Effect. The liberal position on abortion is that only those who possess the five personhood characteristics have full moral rights, which includes the right to life. Prior to the attainment of these personhood characteristics, there is no "person" in the moral sense and, therefore, no right to life. Since fetuses do not possess these characteristics, their termination is not immoral. The moderate position is that just because a fetus may be a person, it does not necessarily follow that its termination is always immoral. Moderates argue that the "right to life" really means the right not to be killed unjustly. Each case needs to be analyzed to make this determination.

Vocabulary:

Proponents:	those supporting a position
Spermatozoa:	male sperm
Oocyte:	female eggs
Ovulate:	to produce and discharge female eggs

Part VI. Contemporary Ethical Issues: Abortion

Discontinuity:	not continuous
Viability:	the ability of the fetus to live outside the mother's womb
Untenable:	unacceptable

Concepts:

Principle of Double Effect:

Five Personhood Characteristics:

Good Samaritan:

The Right to Life:

Questions:

- 1. What are the strengths and weaknesses of the conservative position on abortion?*
- 2. What are the strengths and weaknesses of the liberal position on abortion?*
- 3. What are the strengths and weaknesses of the moderate position on abortion?*
- 4. Why does Thomson use such imaginative examples?*
- 5. What is Warren's position on infanticide?*

The Abortion Issue

There is no other issue in our society today that stirs up emotions like the issue of abortion. Yet, there is little understanding of the underlying philosophical arguments for the different positions on this issue. It is very important for proponents on all sides of this issue to understand, or at least try to understand, the reasoning of their opponent's position. With greater dialogue comes greater understanding, and with greater understanding comes the possibility of genuine and sincere debate and, perhaps, changing of positions. We will begin with an explanation of the conservative position. Then we will consider the liberal position, and finally we will consider the moderate position.

The Conservative Position

The conservative position on abortion is that human life begins at the moment of conception. Conservatives argue that this position is justified by the biological fact that at the moment of conception all the genetic material is present for the formation of a new individual life. Prior to this moment, when eggs and sperm are separate, there is no new individual human life.

This position is most forcefully argued for by John T. Noonan, Jr., in his article entitled "An Almost Absolute

Value in History." He says, "The positive argument for conception as the decisive moment of humanization is that at conception the new being receives the genetic code. It is this genetic information which determines his characteristics, which is the biological carrier of the possibility of human wisdom, which makes him a self-evolving being. A being with a human genetic code is a man" (Noonan 1970, 52).

The main question this position is trying to answer is, "When is the appropriate point at which to make a moral distinction of what constitutes a new human life?" All moral judgments must rest upon distinctions. The more justified the moral judgment is, the less arbitrary the distinction must be. Therefore, if the distinctions are not to appear arbitrary, they should relate to some real difference in probabilities. Regarding the abortion debate, Noonan writes, "There is a kind of continuity in all life, but the earlier stages of the elements of human life possess tiny probabilities of development. Consider for example, the spermatozoa in any normal ejaculate: There are about 200,000,000 in any single ejaculate, of which one has a chance of development into a zygote. Consider the oocyte which may become ova: There are 100,000 to 1,000,000 oocytes in a female infant, of

which a maximum of 390 are ovulated. But once spermatozoon and ovum meet and the conceptus is formed, such studies as have been made show that roughly in only 20 percent of the cases will spontaneous abortion occur. In other words, the chances are about 4 out of 5 that this new being will develop. At this stage in the life of the being there is a sharp shift in probabilities, an immense jump in potentiality. To make a distinction between the rights of spermatozoa and the rights of the fertilized ovum is to respond to an enormous shift in possibilities” (Noonan 1970, 53).

Because the moment of conception is the point in time when all the genetic material necessary for a new human life is present, conservatives argue that this is the most morally defensible point in time when a distinction can be made. Some might ask what a change in biological probabilities has to do with establishing humanity. “The argument from probabilities is not aimed at establishing humanity but at establishing an objective discontinuity which may be taken into account in moral discourse. As life itself is a matter of probabilities, as most moral reasoning is an estimate of probabilities, so it seems in accord with the structure of reality and the nature of moral thought to found a moral judgment on the change in probabilities at concep-

tion” (Noonan 1970, 54). The conservatives are trying to justify drawing a moral distinction between the conceptus, when sperm and eggs meet and all the genetic information for a new individual is present in one organism, and when the sperm and eggs are separate and the genetic information for a new individual is not present in one organism. Because the moment of conception represents an enormous jump in probabilities, conservatives argue that this is the best point in time to make the moral distinction regarding when a new life with full moral rights begins. To grant full moral rights to sperm and eggs separately is not morally justified.

What other alternatives have philosophers and theologians presented as an alternative to the moment of conception as the point where humanity becomes realized? Historically there have been four: viability; experience; the feelings of adults; and societal membership.

Viability means that the fetus can live outside the mother’s womb. Some have argued that this is the best criterion for determining when humanity is realized because the fetus is no longer totally dependent upon the mother for survival. Critics of this position point out that although it may be true that at the point of viability the fetus is no longer completely

dependent upon the mother for survival, the fetus is still completely dependent upon some type of “stand-in” mother for survival. The fetus is by no means self-sufficient at this point and neither are infants and young children. Viability also depends upon the current state of technology and varies in different racial groups. Opponents point out the dubious outcome of this position by arguing that it leads to the conclusion that humanity will ultimately depend upon technology and also implies that some racial groups become human before others. Both conclusions seem untenable

A second distinction has been attempted in terms of experience. According to this position, humanity depends on the formation of experience, such as having lived, suffered, possessing memories, etc. Those who do not possess these experiences are considered not to be human or less than fully human. Opponents of this position point out that the fetus is already experiencing and reacting, for example it is responsive to touch and brain waves can be detected after eight weeks. Plus there is the difficulty of dealing with those who have their memory erased through injury. Do they become less human as a result of lost experiences?

A third distinction is made by

appealing to the feelings of adults. For example, we do not usually have funerals for fetuses, whereas we do have funerals for the youngest of children who die. Opponents of this position point out that feelings are notoriously an unreliable guide to base the humanity of others upon. While we may mourn the death of a ten years old boy more than his 90-year old grandfather, this has more to do with unrealized potentiality and promise than with any indication of the humanity of either. It is also pointed out that feelings can be the basis for uncompromising prejudice and great injustice, as with racial, religious, or sexual discrimination.

A fourth distinction is made by appeal to societal membership. It is argued that only those who are perceived as members of society are entitled to full human rights and privileges, the primary right being the right to life. One only needs to look at our history to see the potential for abuse that this distinction can lead too. When society decides who is human this distinction often reflects the deepest prejudices. Examples of such consequences abound, such as slavery and forms of discrimination.

When all alternative positions have been analyzed, conservatives argue that the moment of conception provides the best time when a morally defensible

distinction can be made. All other positions are morally untenable.

So, does this mean that conservatives do not allow abortion under any circumstances? The answer is no. Conservatives usually allow abortions in those cases when the mother's life would be in danger if the pregnancy were to continue. This exception is not inconsistent with the position that new human life begins at the moment of conception because it appeals to the moral principle called the Principle of Double Effect. The Principle of Double Effect says that in those cases where an action will produce two effects, one being intentional and having good results, and one being unintentional and having bad results, the action is morally justified because the *intended* effect will have good results. For example, suppose a young woman is married, gets pregnant, and is then involved in a terrible car accident. The doctors tell her that due to her injuries her life will be in jeopardy if she continues the pregnancy. Here, the Principle of Double Effect would allow this woman to terminate her pregnancy. The good intended effect is that her life will be saved. The bad unintended effect is that the fetus will not live. If it were possible to remove the fetus and have it survive such as at viability, then the termination of the fetus would be

unjustified.

This principle is also used in other moral dilemmas, such as during times of war. Suppose your enemy is using missiles to attack you and they are located in civilian areas. Are you justified in destroying the missiles even though there is a risk that civilians might be hurt? According to the Principle of Double Effect your intended good effect is to destroy the missiles to keep your country safe, while the unintended bad effect might be the harming of civilians in your enemy's country. Therefore, you are justified in destroying the enemy missiles.

In cases of rape and incest, the conservative position is rather difficult for many people to accept because it does not allow for abortion. Although this position might appear rather harsh, it is consistent with the position that new human life begins at the moment of conception. Regardless of how a human being is conceived, whether from loving parents or a violent rape, once conceived all human beings have full moral rights and this includes a right to life. A person's right to life is superior to all other rights. It is important to note that reported abortions resulting from rape and incest are roughly 2% to 3% of the 1.4 million annually reported abortions.

The Liberal Position

The liberal position on abortion is that only a person has full moral rights, which includes the right to life, and the fetus does not fulfill the requirements of personhood. This position is most forcefully argued for by Mary Anne Warren in her article entitled, "Abortion Is Morally Permissible." Warren criticizes the conservative position by arguing that it is not biological or genetic humanity that is the important point in the abortion issue, but personhood in the moral sense. She says, "I suggest that the traits which are most central to the concept of personhood, or humanity in the moral sense, are, very roughly, the following: 1) Consciousness (of objects and events external and/or internal to the being), and in, particular, the capacity to feel pain; 2) Reasoning (the developed capacity to solve new and relatively complex problems); 3) Self-motivated activity (activity which is relatively independent of either genetic or direct external control); 4) The capacity to communicate, by whatever means, messages of an indefinite variety of types, that is, not just with an indefinite number of possible contents, but on indefinitely many possible topics; 5) The presence of self-concepts and self-awareness, either individual or racial, or both" (Warren 1973, 79).

It is not biological humanity that provides a moral distinction for the liberal position, but rather the attainment of certain personhood characteristics. It is the possession of these characteristics that bestow moral rights upon an individual. Warren continues, "In searching for such criteria, it is useful to look beyond the set of people with whom we are acquainted, and ask how we would decide whether a totally alien being was a person or not. (For we have no right to assume that genetic humanity is necessary for personhood.) Imagine a space traveler who lands on an unknown planet and encounters a race of beings utterly unlike any he has ever seen or heard of. If he wants to be sure of behaving morally towards these beings, he has to somehow decide whether they are people, and hence have full moral rights, or whether they are the sort of thing which he need not feel guilty about treating as, for example, a source of food" (Warren 1973, 82).

Someone might ask whether there is a relationship between fetal development and the right to life because we know that as the fetus develops it begins to develop more of the personhood characteristics, for example the fetus has the ability to feel pain after eight weeks. Warren's answer is a resounding no! There is no relationship between fetal

development and the right to life. “Thus, in the relevant respects, a fetus, even a fully developed one, is considerably less person-like than is the average mature mammal, indeed the average fish. And I think that a rational person must conclude that if the right to life of a fetus is to be based upon its resemblance to a person, then it cannot be said to have any more right to life than, let us say, a newborn guppy (which also seems to be capable of feeling pain), and that a right of that magnitude could never override a woman’s right to obtain an abortion, at any stage of her pregnancy” (Warren 1973, 84).

According to the liberal position, only persons have full moral rights, including the right to life. If a being does not possess the five personhood characteristics, then they do not possess full moral rights. It is important to note that although the five personhood characteristics are acquired over time, that is, not all at once, the acquisition of full moral rights, including the right to life, is acquired all at once and not progressively. Beings cannot possess some personhood rights sooner than others, but they are acquired all at once when all five of the characteristics are acquired.

Someone might ask whether there is a relationship between potential personhood and the right to life because we

know that full fledged members of the moral community, that is those with full moral rights, come from fetuses. Warren’s response is that potential persons have potential rights and actual persons have actual rights. The greatest right of a potential person, the right to life, is less important than the minimal rights of an actual person, for example, the right not to be inconvenienced.

Someone might ask if infanticide is morally acceptable based upon the five personhood characteristics set forth by Warren. It is interesting to note that because of her strong stance on the relationship between the five personhood characteristics and the acquisition of full moral rights, she was asked this question. Warren argues that although killing a newborn infant is not murder, “it does not follow, however, that infanticide is permissible” (Warren 1975, 45). She gives two reasons. Her first is that there are people who would like to have the infant and would be willing to care for it, therefore, its destruction is unnecessary. Her second reason is that even if there are no other people who would want to care for the infant, we as a society would rather have our taxes pay for orphanages than have the infant killed. Although some might argue that these same two conditions could also hold for fetuses, Warren argues

that there is a crucial difference, “so long as the fetus is unborn, its preservation, contrary to the wishes of the pregnant woman, violates her rights to freedom, happiness, and self-determination. Her rights override the rights of those who would like the fetus preserved, just as if someone’s life or limb is threatened by a wild animal, his right to protect himself by destroying the animal overrides the rights of those who would prefer that the animal not be harmed” (Warren 1975, 46).

Once the fetus is born, however, Warren argues that “its preservation no longer violates any of its mother’s rights, even if she wants it destroyed, because she is free to put it up for adoption” (Warren 1975, 47). Although the moment of birth does not mark any sharp discontinuity regarding the possession of the right to life, it does mark the end of the mother’s right to determine the fate of the infant.

It might disturb some to know that for unwanted or defective infants who are born into a society which cannot afford or is unwilling to care for them, Warren argues that their destruction is permissible.

The Moderate Position

As we have seen, the debate

between conservatives and liberals on the abortion issues is thought to turn on whether the fetus is a person. That is, it seems reasonable to think that if the fetus is a person, abortion is morally impermissible, and if the fetus is not a person, abortion is morally permissible.

The conservative argument is based upon two critical premises. First is the idea that the fetus is a moral person with a right to life. The second has to do with the strength of the right to life relative to other rights. It is claimed that one person’s right to life necessarily outweighs another person’s right to control her own body.

Instead of trying to show that the fetus is not a person, Judith Jarvis Thomson in her article entitled “A Defense of Abortion,” tries to show that it is not necessarily true that one person’s right to life outweighs another person’s right to control what happens to her body when these rights come into conflict. She does this by producing an example in which a person’s right to control what happens to her body outweighs another person’s right to life. Suppose you wake up one morning and find that a famous violinist’s circulatory system has been plugged into your’s, so that your kidneys can be used to extract poison from his blood as well as from your own. He needs

to remain plugged into you for nine months. If you unplug him, he will die because there is no other person who has the right blood type (Thomson 1971, 48). Here is a situation in which the violinist's right to life comes into conflict with your right to control what happens to your own body. Is it morally permissible for you to unplug the violinist, given that you know he will die when you do so?

Now the fact that you were hooked up to the violinist against your will reflects the situation of rape. A young girl is raped against her will, as you were hooked up against your will. If you argue that you have the right to unhook yourself even though someone will die as a result, then why doesn't the young girl who was raped have the right to "unhook" herself even though someone will die? This brings up an interesting point because according to the conservative position, abortion is not morally permissible even in cases of rape.

According to the moderate position, abortion is morally permissible under certain circumstances, such as rape, incest, and where the mother's life is in danger. But what about the cases where a woman voluntarily indulges in intercourse, knowing of the chance she might become pregnant, and then she does become pregnant. Is she not in part

responsible for the presence, in fact the very existence, of the unborn person inside of her? Even though she did not invite the unborn person in, she certainly seems to have at least a partial responsibility for its being there and doesn't this give the fetus a right to the use of her body?

Again Thomson provides some thought provoking examples for us to consider. "If the room is stuffy, and I therefore open a window to air it, and a burglar climbs in, it would be absurd to say, "Ah, now he can stay, she's given him a right to the use of her house – for she is partially responsible for his presence there, having voluntarily done what enabled him to get in, in full knowledge that there are such things as burglars, and that burglars burgle." It would be still more absurd to say this if I had had bars installed outside my windows, precisely to prevent burglars from getting in, and a burglar got in only because of a defect in the bars. It remains equally absurd if we imagine it is not a burglar who climbs in, but an innocent person who blunders or falls in. Again, suppose it were like this: people-seeds drift about in the air like pollen, and if you open your window, one may drift in and take root in your carpets or upholstery. You don't want children, so you fix up your windows with fine mesh

screens, the very best you can buy. As can happen, and on very, very rare occasions does happen, one of the screens is defective and a seed drifts in and takes root. Does the person-plant who now develops have a right to use your house? Surely not – despite the fact that you voluntarily opened your window, you knowingly kept carpets and upholstered furniture, and you knew that screens were sometimes defective. Someone may argue that you are responsible for its rooting, that it does have a right to your house because, after all, you could have lived out your life with bare floors and no furniture, or with sealed windows and doors. But this won't do – for by the same token anyone can avoid a pregnancy due to rape by having a hysterectomy, or anyway by never leaving home without a reliable army (Thomson 1971, 60).

Thomson provides these examples to help us think deeply about just what are the appropriate moral responsibilities for a woman who practices all the realistic safe guards while engaging in consensual sexual relations and becomes pregnant. Her position is that there are times when an unborn person does have a right to use its mother's body and there are times when it does not. If the unborn person does have a right to use its mother's body, then killing it would be unjust.

If it does not have a right to use its mother's body, then killing it would not be unjust. This leads Thomson to conclude that “the right to life consists not in the right to be killed, but rather in the right not to be killed unjustly” (Thomson 1971, 58).

Thomson makes one other point that is important to consider and that is the difference between the “Good Samaritan” and the “Minimally Decent Samaritan.” Recall the story of the Good Samaritan: Jesus said: “A man was going down from Jerusalem to Jericho, when he fell into the hands of robbers. They stripped him of his clothes, beat him and went away, leaving him half dead. A priest happened to be going down the same road, and when he saw the man, he passed by on the other side. So too, a Levite, when he came to the place and saw him, passed by on the other side. But a Samaritan, as he traveled, came where the man was; and when he saw him, he took pity on him. He went to him and bandaged his wounds, pouring on oil and wine. Then he put the man on his own donkey, took him to an inn and took care of him. The next day he took out two silver coins and gave them to the innkeeper. ‘Look after him,’ he said, ‘and when I return, I will reimburse you for any extra expense you may have (Luke 10:30-35).

The Good Samaritan helped the man even at cost to himself. Thomson feels that this would reflect a woman who becomes pregnant as the result of rape or incest and decides to continue with her pregnancy. She is going above and beyond what most people would think is necessary, similar to the Good Samaritan. Although she bears no responsibility in becoming pregnant, she is still willing to continue because of the unborn person she now carries. A Minimally Decent Samaritan would be the woman who engages in voluntary a sexual relationship, gets pregnant, and then decides to continue with the pregnancy. She is a minimally decent Samaritan because although she may not necessarily want to be pregnant, she realizes she does bear some responsibility in the pregnancy and is willing to accept the consequences of her actions.

Summary

We have examined the conservative, liberal, and moderate positions on the issue of abortion. We have seen that each approaches this very difficult question from a different perspective. Armed with the strength of biology, the conservatives argue that a new human life begins at the moment of conception. Therefore, it has a right to life which can only be taken

in cases of self-defense. Arguing that it is not genetic humanity that is crucial, but personhood, the liberal position holds that certain personhood characteristics must be attained to possess full moral rights, which includes the right to life. Prior to the attainment of this status, no moral rights are possessed, including the right to life. The new life can be terminated for any reason. The moderate position is between the conservative and the liberal positions and argues that there are circumstances when abortion is morally permissible, such as rape, incest, and when the life of the mother is threatened, and there are circumstances when it is not, such as inconvenience. The important point to keep in mind, according to the moderate position is that the right to life does not mean the right not to be killed, but rather, the right not to be killed unjustly.

Which of these positions is correct? This question must be answered by each of us individually, and collectively as a society.

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