

Analysis of the Moral Philosophy of Abortion

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Abstract: The US Supreme Court overturned Roe v. Wade in 2022, ending 50 years of the protection of women's abortion rights by constitution. This incident has increased the urgency of resolving the ongoing dispute over the morality of women's abortion rights. The debate is centred on whether a fetus has a personality right, and whether this right could override a woman's right to abortion. This essay will examine arguments that it is immoral to abort a fetus even if it cannot be defined as a person, as well as those that it is not immoral to abort a fetus even if it can be defined as a person. Finally, as a fetus is not a member of the moral community, the argument that its right to life cannot override a woman's right to abortion will be defended. These arguments lead to one conclusion: abortion is not immoral.

Keywords: Abortion rights, personhood of fetus, pro-life, pro-choice, moral community.

1. Introduction

Whether abortion is moral or not has always been a subject of research in philosophy, and the answer to this question directly affects the formulation of laws and therefore the fate of women and unborn fetuses. There are two main controversies surrounding the issue of abortion. The first is whether a fetus can be defined as a person, and the second is whether abortion is a moral or immoral act. The issue of personhood is central to discussions on the morality of abortion, and there remains debate concerning at which stage in the process from fertilisation to birth a fetus can be considered a person. Due to the diversity of perspectives on abortion, the focus of this essay would be on the debate over the morality of abortion the question of whether a fetus should be recognised as a person. Judith Jarvis Thomson put forward a thought experiment in which she was forced to medically connect with a violinist to maintain his life, and compared it with the circumstances faced by an unexpectedly pregnant woman. She came to the conclusion that even if the fetus is a person, in many cases, it still has no right to ask the mother to maintain its life, so abortion is not immoral. Perry Hendricks objected to Thomson's point of view, proposing that it is immoral to make a fetus suffer from fetal alcohol syndrome (FAS) even if the fetus is not a person, indicating that it is also immoral to kill a fetus. Philosopher Don Marquis also thinks that abortion is immoral, even if the fetus is not a person, because the fetus has a future-like-ours (FLO). Mary Anne Warren refuted the above two points, claiming that the fact of a fetus' genetic humanity does not mean that it has complete personhood, so it does not belong to the moral community. Therefore, even if a fetus may have a preliminary and potential right to life, it cannot exceed the right of women as actual people to have an abortion. The main dispute between Warren and Perry Hendricks and Don Marquis is not whether the fetus has the right to life but who takes precedence when the rights of the fetus conflict with those of the mother.

Warren also explores Thomson's claim that it is difficult to prove that abortion after an accidental pregnancy of a non-raped woman is not immoral. This essay will argue that Warren's point of view is the most promising. In this article, Thomson's point of view and its flaws will be discussed, next follows why her opponents, Hendricks and Marquis, also failed, and finally analyse Warren's point of view, why it succeeds, and consider her objections.

2. The Thomson Argument

In *A Defence of Abortion*, Judith Jarvis Thomson proposed the following situation: One day you wake up and find that a violinist's circulatory system has been implanted in your body[1]. The reason for this procedure is that the violinist has kidney disease, and only you can save him. You are then asked to allow the violinist's circulatory system to stay plugged into your body for nine months. If unplugged from your body, the violinist will die. So, do you have a moral obligation to allow the violinist to use your body for nine months? If you disconnect him, is it immoral?

Thomson gave a clear definition of the right to life based on the premise that the fetus and the mother have an equal right to life, '*The right to life consists not in the right not to be killed, but rather in the right not to be killed unjustly*'[1]. In cases when the existence of the fetus threatens the mother's life, it is impossible for a third party to choose between the two since both lives are innocent and the danger is not the fault of either party; however, the mother herself has the right to choose to have an abortion because of her right to self-defence. This conclusion raises two questions: 1) Is it morally permissible for a mother to have an abortion if the existence of the fetus does not threaten her life?; and 2) Is abortion immoral if the mother had some responsibility for becoming pregnant?

In addressing the first question, Thomson argues that if one assumes the minimum thing a person needs to continue their life is something they have no right to be given at all, then others in turn have no obligation to provide that person with the necessities they need for survival[1]. She provided an example to support this claim: a person needs Henry Fonda to touch their forehead in order to survive. This, however, does not make Henry Fonda obligated to fly to this person and offer his help. Although Henry Fonda would be kind if he did so, and refusing could be seen as cold-blooded, it is not his moral obligation to help this person. However, abortion differs from this example in that Henry Fonda has no special obligation to a stranger who needs him, but a mother may have some special obligation to a fetus. This leads us to the second question, which is concerned with whether a mother has a special obligation to a fetus resulting from her behaviour. This is where we reach the weakest point of Thomson's argument. Her argument is used to prove that abortion for women whose pregnancies result from rape is not immoral, but when women have sex voluntarily or do not take contraceptive measures, her argument becomes invalid. In response, Thomson gave an example of a burglar entering a house: when we opened the window for ventilation, we knew that it would increase the risk of burglary, but we did it anyway because we wanted fresh air; this does not mean that burglars have the right to enter our house. To some extent, this analogy weakens arguments insisting on the mother's obligation to the fetus, but it is not complete. Thomson admits that her argument can only prove that at least many abortions are not unfair killings, but there may still be some abortions that are indeed unfair killings, a conclusion both unclear and dubious.

3. The Impairment Argument (TIA) and FLO Argument

Perry Hendricks and Don Marquis disagree with Thomson, and both think that abortion is immoral even if the fetus is not a person. Hendricks proposed The Impairment Argument (TIA)[2]:

'The impairment principle (TIP): if it is immoral to impair an organism O to the nth degree, then, ceteris paribus, it is immoral to impair O to the n+1 degree.'

1. *Causing an organism O to have FAS is immoral (P1).*

2. *If causing O to have FAS is immoral, then, ceteris paribus, killing O is immoral (from TIP).*
3. *Therefore, killing O is immoral (P2).*
4. *If one aborts O, then she kills O (P3).*
5. *Therefore, to abort O is immoral (C).'*

In this argument, Hendricks refers to mothers who continue to consume unsafe amounts of alcohol knowing that this behaviour may cause FAS in the fetus. He believes that since it is immoral to make a fetus suffer from FAS, it is certainly immoral to cause more serious damage to a fetus by killing it.

Although Hendricks responded to some criticism, the biggest flaw in his argument is that it is essentially based on recognising the fetus is a person. In P1, he used the word organism. However, in addition to humans, animals and plants also belong to this category, but it is obvious that killing animals is not necessarily immoral, at least in some cases, and killing plants is not immoral. Although Hendricks might say that plants and some animals cannot contract FAS and are therefore not relevant to his argument, according to TIP, FAS can be replaced by many other diseases or injuries. For example, it may or may not be immoral to feed a dog laxatives, knowing the dog will have diarrhoea as a result, depending on whether the dog can be included in the moral community. Therefore, if P1 is true, it must be proved that the fetus is a member of the moral community, otherwise, it would not be immoral to make it suffer from FAS. In addition, the FAS example corresponds to Thomson's view on unjust killing (injury here), but does not consider the possibility of just killing (injury), that is, Hendricks does not consider that the rights of the mother may conflict with the right to life of the fetus. He did not discuss the possibility of circumstances under which a mother could have an abortion to defend her rights.

Marquis, who reaches the same conclusion as Hendricks but through different arguments, thinks that abortion is immoral because the fetus has a '*future-like-ours (FLO), which means the set of experiences that constitute her personal future and that she would otherwise have been able to enjoy had she not been killed*' [3]. Marquis and Hendricks appear to make a common mistake by failing to provide strong evidence to explain why the mother's rights do not override the fetus' right to life. The fetus is innocent and should not be killed because it has a FLO, but the mother is also innocent. As Thomson argued, if a person has no right to be given the minimum they need to continue living, then others have no obligation to provide them with the necessities they need for survival. Thus, a mother has no obligation to make sacrifices for the potential and future rights of the fetus.

The above three philosophers have conducted moral analyses of abortion on the basis of not discussing whether the fetus is a person or not. On the surface, the conflict between pro-life and pro-choice arguments lies in how to define and deal with the right to life of the fetus. In fact, on a deeper level, this is actually a dispute about the priority of conflicting rights. Marquis and Hendricks did not explain why they prioritise the fetus in this conflict, they only emphasised the right of the fetus not to be killed. Therefore, if we want to solve this conflict, we need a theory to explain how to prioritise conflicting rights.

4. A Defence of the Warren Argument

As mentioned above, Thomson, Marquis and Hendricks all framed their arguments on abortion around accepting that a fetus has exactly the same right to life as an adult, a position refuted by Mary Anne Warren. She keenly pointed out that this is only the first step in determining what kind of moral rights a fetus has. Accepting the claim that a fetus has the right to life does not prove that abortion is immoral. The second step is to determine whether the maternal or fetal rights take precedence [3]. Marquis and Hendricks emphasise the rights of the fetus and argue that it is immoral to violate these rights, while Thomson emphasises the rights of the mother and demonstrates that the mother has no obligation to provide the necessary conditions for the survival of the fetus. Warren tried to compare these two perspectives to determine the priority. In doing so, she put forward a core argument, 'a

fetus cannot be considered a member of the moral community'[4]. In order to further prove that abortion is not immoral, some other premises are needed. This argument can be constructed as follows:

P1: An organism that does not belong to the moral community does not have the same rights as members of the moral community.

P2: A fetus cannot be considered a member of the moral community.

P3: Fetuses do not have the same rights as members of the moral community.

P4: The right to life of the fetus cannot override the rights of the mother as a member of the moral community.

C: Abortion is not immoral.

P1 can be considered a self-evident premise because determining whether something belongs to a moral community itself is to distinguish different rights. Warren gave a fuller argument for P2 by introducing two concepts: genetic humanity and moral humanity. Thomson, Marquis and Hendricks did not differentiate between the two in their arguments, but the distinction is necessary and meaningful. As for how to judge whether an organism has moral humanity, Warren identified several of the characteristics of consciousness, including self-motivation, reasoning and especially the ability to perceive pain. Although a fetus, particularly a mature fetus in the late growth stage, has some preliminary consciousness characteristics, it is certainly does not have the level of consciousness of a baby of several months old, or even other mammals; rather, is almost as conscious as a fish[4]. Given most of the criteria used to identify individuals within specific communities, it is clear that fish cannot be included in the moral community without complete personhood, so a fetus is not a member of the moral community.

If P1 and P2 are true, it logically follows that P3 must also be true. However, if we want to further prove P4, we need to be clear about what kind of rights a fetus has, even accepting that it does not have the same rights as members of the moral community. Doing so may challenge P4, nonetheless, it is necessary to examine whether the rights of a fetus cannot exceed the mother's right to an abortion. Warren's definition of the rights of the fetus is vague. She first explains that these rights are incomplete, and then points out that they are potential rather than practical. This conclusion is likely to be disputed due to the implication that the incomplete right of a fetus to life cannot compete with the right of the mother to have an abortion. If a person's life was threatened and it was necessary to kill a dog to save the person's life, most people might not find it controversial to claim that killing the dog in such a case would not be immoral. However, consider a weakened version of Thomson's violinist analogy: suppose a person connects the dog's circulatory system to his body due to his own negligence. This connection will not threaten people's lives, but if the connection is cut off, the dog will die. In this case, there may be some controversy about whether it is immoral to cut off the connection. We have proved that P2 is true, and the violinist has been replaced by an existing organism without complete moral humanity. However, when a mother's pregnancy is not caused by rape, but by voluntary sex, and the mother knows that there is a risk of pregnancy before having sex, the conclusion is still controversial. This is especially true if effective contraceptive measures were not taken because this kind of informed but apparently negligent behaviour may create special obligations between the mother and the fetus, which is the difference between you and a strange violinist.

The second explanation is more plausible, that is, the right of a fetus is only a potential right, not a right that actually exists. Before the mother carries and grows the fetus for nine months and successfully comes into the world through the danger and hardship of childbirth, its future and the rights it may one day have are potential. They may not happen, and potential rights that have not yet come to be cannot override the actual rights that have already been determined. The FLO argument claims that abortion is immoral because a fetus will have the same future as ours if it can be born, and abortion deprives it of that future. Imagine, for example, that you take 1,000 pounds and plan to buy

a stock. If the purchase is successful, you can get a total of 5,000 pounds with interest when the stock expires. However, You were mugged on the way to buy the stock so you failed to make the purchase and the fund was bought by someone else. After the thief is arrested, assuming that the law stipulates the thief should return the victim's principal, can you ask the thief to return 5,000 pounds instead of 1,000 on the grounds that you would have received 5,000 pounds in the future had you not been mugged? The answer is obviously no, because potential benefits are not existing benefits. If a fetus can be born, it may have the same future and rights as us but this cannot compete with the actual rights of an adult person. This refutes the FLO Argument as well as the Impairment Argument, which appears to be based on recognition of the former because excessive drinking during pregnancy actually threatens the future of the fetus after birth by potentially causing physical and psychological problems. These points all relate to the possible future and the rights that may be violated when the fetus becomes a member of the moral community. However, when the fetus is still a fetus, it has no ability to think or reason, so it is not possible to damage its reasoning ability. To sum up, P3 should be amended to state that a fetus does not have the same rights as members of the moral community but only has the potential rights that have not yet come to fruition. P4 is correct because potential rights cannot override actual rights that have been accorded to a person. It can be concluded that abortion is not immoral.

Warren's revised argument clearly contrasts the rights of the fetus with those of the mother. The fetus, who is not a member of the moral community and may only become one in the future, only has potential rights. As a member of the moral community that has experienced those rights, the mother's right to prohibit others from using her body and thus avoid being hurt or forced to make sacrifices should take priority over that of the fetus.

5. Objections to the Warren Argument

The revised Warren argument fundamentally and forcefully refutes Marquis' and Hendricks' arguments while simultaneously making up for the flaws in Thomson's argument rooted in her recognition of the complete moral rights of the fetus. However, two possible objections still need to be considered.

The first possible objection can be found in biological science research, which indicates that a fetus does not feel pain until the third trimester of pregnancy, when it is 30 weeks old, so P2 may not stand at that point. Because the standards for dividing the moral community are still controversial, many believe that the stage at which a fetus can perceive pain should be the standard of division. Under this standard, many animals have also been included in the moral community, and a 30-week-old fetus who can perceive pain should also be divided into the moral community. However, it should be pointed out that it usually takes 38-42 weeks from conception to childbirth, and 30 weeks means that it has entered the last stage of fetal life. Very few people choose to have an abortion at this stage. Perhaps it is immoral for this small number of people to have an abortion, but that is a separate discussion. Furthermore, it has been proved that a fetus cannot feel pain before 30 weeks, so a fetus younger than 30 weeks must not be considered to have complete moral rights and it is therefore not immoral for a mother to have an abortion to protect her rights.

The second possible objection is that even if one admits that a fetus has only potential moral rights, they also agree that potential rights cannot exceed actual rights. There is still a view claims that "our reactions to these cases are heavily influenced by whether we group victims together with their potential beneficiaries in a single situation or rather see them as inhabiting separate 'moral zones'"[5]. For example, they may still question whether it is immoral for a mother to have an abortion when she becomes pregnant without taking contraceptive measures, which could be seen as the equivalent of promising a future to a fetus through her own actions. In response to this objection, one must ask whether violating a promise signal sent due to negligence constitutes immoral behaviour. In addition,

in discussions about abortion, a point that has often been neglected is that sex is not a unilateral act of women, and contraception is also not the unilateral responsibility of women. This responsibility should be shared by women and the men with whom they are sexually active. However, if conception occurs unexpectedly, the hardships and dangers of the process of pregnancy and childbirth are borne by women alone. Even if it is assumed that a failure to take contraceptive measures may lead to unethical abortion, it is still unfair to prohibit abortion because it means asking women to bear consequences resulting from sexual activity in which they did not participate alone. Unfair laws and systems cannot be considered moral.

6. Conclusion

Warren has contributed the most promising argument in philosophical discussions about abortion. Because a fetus cannot be considered a member of the moral community, it does not have complete moral humanity, so its potential rights cannot override the actual existing abortion rights of women who belong to the moral community, so abortion is not immoral.

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