Lecture Notes
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1. Biography. Page references in these notes are to the original version of the essay: Don Marquis, “Why Abortion Is Immoral,” The Journal of Philosophy 86 (April 1989): 183-202. “M” = Marquis (pronounced “MAR-quess”). The essay has been reprinted 89 times, as of January 2012. Marquis (born 1935) is Professor of Philosophy at the University of Kansas (in Lawrence, Kansas), where he began teaching in 1967 (while working on his doctoral degree). He earned his Ph.D. degree at Indiana University in 1970, when he was 35 years old. (Some people have their doctorates by 27.)

2. The context of the abortion debate.

a. M’s objective. M’s objective in this essay is to show that “abortion is, except possibly in rare cases, seriously immoral” (183). (Parse this.) Later, he says that “abortion is presumptively very seriously wrong, where the presumption is very strong—as strong as the presumption that killing another adult human being is wrong” (194). He says that this position, which makes no reference to religion, is unrepresented in the recent philosophical literature.

b. Reception. M’s essay was published in the prestigious Journal of Philosophy. Three critiques were published in this journal in May 1990 (by Ann E. Cudd [M’s colleague at the University of Kansas], Peter K. McInerney of Oberlin College, and Alastair Norcross of Syracuse University), and several others have appeared in other journals. M has responded to some of the critiques.

c. Law versus morality. M is not concerned, at least in this essay, with what the law is or should be. Could someone consistently say (as New York Governor Mario Cuomo and several other prominent politicians have said) that abortion is immoral but should be legal? (Compare adultery and promise-breaking, which most people think are wrong but which few would say should be prohibited and punished by law.) Should feminists care about the morality of abortion? Isn’t their concern equality under the law?

d. What is distinctive about M’s argument? (i) It does not use manipulative language, such as “pro-life”; (ii) it makes no reference to religion; (iii) it makes no appeal to personhood; (iv) it makes no appeal to potential personhood; (v) it makes no use of the ambiguous terms “human life” or “human being”; (vi) it does not imply that contraception is wrong, but does imply that infanticide is wrong (i.e., it threads the needle).

3. Argumentative symmetries and deadlock/stalemate/standoff. M uses the labels “anti-abortion” and “pro-choice.” If his view is that abortion is immoral, why not use the most favorable label for that view, namely, “pro-life”? Discuss the rhetoric of the debate:

<table>
<thead>
<tr>
<th>Pro-Choice*</th>
<th>Self-Chosen</th>
<th>Contains “Pro”</th>
<th>Accurate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Anti-Life</td>
<td></td>
<td>Inaccurate</td>
<td></td>
</tr>
<tr>
<td>Pro-Abortion</td>
<td></td>
<td>Contains “Pro”</td>
<td>Inaccurate</td>
</tr>
</tbody>
</table>
M says that there is an argumentative symmetry, to wit (see my handout entitled “Anti-Abortion and Pro-Choice Arguments”):

a. **The typical anti-abortion argument (e.g., John T. Noonan Jr).** Fetuses are alive/babylike/genetically human; therefore, abortion is wrongful killing (murder). (Like cases should be treated alike.) Formally:

   i. Possession of characteristic C is sufficient for having a right to life.
   
   ii. Fetuses possess C.
   
   Therefore,

   iii. Fetuses have a right to life.

   Premise i includes too much: cancer-cell cultures; anencephalics.

b. **The typical pro-choice argument (e.g., Mary Anne Warren).** Fetuses are not persons/rational beings/agents/social beings; therefore, abortion is not wrongful killing (murder). (Unlike cases should be treated differently, in proportion to their differences.) Formally:

   i. Possession of characteristic C is necessary for having a right to life.
   
   ii. Fetuses do not possess C.
   
   Therefore,

   iii. Fetuses do not have a right to life.

   Premise i excludes too much: infants; the comatose; the senile; the demented; the severely retarded; the severely mentally ill.

M says that both premises (ii and ii) “seem to be true” (184), which creates a “standoff” (#1). The problem is that the intermediate premise in each case is not explicated. The arguments presuppose “some general moral principle that ties a characteristic of fetuses to having or not having the right to life or some other moral characteristic that will generate the obligation or the lack of obligation not to end the life of a fetus” (184).

4. **Dealing with the (initial) standoff.** Each side tries to show that the other side’s moral principle is implausible. Specifically: The anti-abortionist embraces a broad principle that includes fetuses, but the broadness is said to include too much (human cancer-cell cultures, for example, are “human life”). The pro-choicer embraces a narrow principle that excludes fetuses, but the narrowness is said to exclude too much (infants, the severely retarded, the mentally ill). Thus, we have another (higher-level) standoff (#2).
5. Ambiguities. The terms “human being” and “person” are ambiguous, the former between a biological and a moral sense, the latter between a psychological and a moral sense. If a term is used in a biological or psychological sense, then no evaluative conclusion follows from it. If the term is used in a moral sense, then it begs the question. For example:

   a. All fetuses are human beings.
   b. All human beings have a right to life.
   Therefore,
   c. All fetuses have a right to life.

This is AAA-1, which is valid, but the argument is unsound. If “human beings” is a biological category, then a is true and b arguably false. If “human beings” is a moral category, then b is true and a arguably false.

   a. No fetuses are persons.
   b. Only persons have a right to life.
   Therefore,
   c. No fetuses have a right to life.

This is AEE-2, which is valid, but the argument is unsound. If “persons” is a psychological category, then a is true and b arguably false. If “persons” is a moral category, then b is true and a arguably false.

6. What we need to end the standoff. M says we need “a more theoretical account of the wrongness of killing” (189). Everyone believes that it’s wrong to kill (normal, innocent, unconsenting) adult human beings, but why? (Compare dog barking. Everyone knows that they bark, but not even scientists know why they bark.) If we can answer this explanatory question, we may make progress on the question of abortion. Note: M wants to follow reason where it leads, not, as in the case of an ideologue, find rational support for a belief already held. (Discuss result- orientation and rationalization.) Here are some unacceptable answers:

   a. **Effect on killer.** Killing is wrong because it brutalizes the one who kills. (M says this has the cart before horse; the reason killing brutalizes is that it’s wrong.)
   b. **Effect on victim’s friends and relatives.** Killing is wrong because it harms those who care about the victim. (M says this can’t explain the wrongness of killing hermits.)

The correct answer: “What primarily makes killing wrong is . . . its effect on the victim” (189). Duh. The victim loses his or her life, which “deprives one of all the experiences, activities, projects, and enjoyments that would otherwise have constituted one’s future” (189). In being killed, I am deprived of what I now value and of what I would have come to value. Use the house metaphor: Life is the foundation upon which projects are built. Destroying the foundation destroys all that is or might be built on it. M says (or rather, implies) that this is an *inference to the best explanation*. No other natural property does a better job of explaining the wrongness of killing. See the chart of
overlapping circles.

7. Support for M’s account.

a. **It explains why we regard killing as one of the worst of crimes.** It takes away the most. This is not to say that death is the worst fate. Cf. Patrick Henry’s proclamation “Give me liberty or give me death!” (also, “Better dead than red”). M writes: “The loss of one’s life is almost the greatest misfortune that can happen to one” (194; italics added).

b. **It fits the attitude of those who are dying (of AIDS or cancer, for example).** These individuals “believe that the loss of a future to them that they would otherwise have experienced is what makes their premature death a very bad thing for them” (190).

c. **It explains why we think dying young is tragic as well as sad.** Dying old is merely sad.

8. Implications of M’s account. M thinks most readers will embrace the following implications:

a. **Does not exclude aliens.** “It is possible that there exists a different species from another planet whose members have a future like ours” (191). If so, it would be prima facie wrong to kill them. M points out that this goes against the standard anti-abortion line, which privileges humanity (often on theistic grounds). M is distancing himself from the religious right (e.g., Noonan).

b. **Does not exclude animals.** M is cautious here, saying only that “the futures of some actual nonhuman mammals on our own planet are sufficiently like ours that it is seriously wrong to kill them also” (191). This goes against the sanctity-of-human-life account. M is endearing himself to the left (e.g., Warren and Singer).

c. **Does not preclude active euthanasia.** If one’s future is without value because of the presence of pain or suffering, then death is not a loss to one; hence, killing would not deprive one of a valued future. (Note: What M should have said is that individuals are entitled to decide for themselves whether they have futures worth living.) Note that this goes against the sanctity-of-life view, which prohibits euthanasia. Again, M is distancing himself from the religious right.

d. **Does not exclude children and infants.** They have futures of value just like any adult. Personhood theories have a problem with infants, which leads to ad hoc accounts of the wrongness of killing them. (Use Warren and Tooley as examples.) M is endearing himself to the right (actually, to all).

In summary, M’s account has the strengths of both the personhood account and the sanctity-of-life account, but the weaknesses of neither. Use the partially overlapping circles to illustrate this. (Different theories/accounts can generate many of the same results.)

9. Applying M’s account to abortion. “The future of a standard fetus includes a set of experiences, projects, activities, and such which are identical with the futures of adult human beings and are identical with the futures of young children. Since the reason that is sufficient to explain why it is wrong to kill human beings after the time of birth is a reason that also applies to fetuses, it follows that abortion is prima facie seriously morally wrong” (192). Here’s my
reconstruction of M’s argument:

a. It is prima facie seriously morally wrong to cause another to lose all the activities, projects, experiences, and enjoyments that would otherwise have constituted his or her future personal life.

b. Killing a fetus causes it to lose all the activities, projects, experiences, and enjoyments that would otherwise have constituted its future personal life.

Therefore,

c. It is prima facie seriously morally wrong to kill a fetus (from a and b).

Explain the Latin expression “prima facie” (using a scale metaphor). Literally, it means “at first sight, on the first appearance, on the face of it, so far as can be judged from the first disclosure, presumably.” In law, a prima facie case is one “Such as will prevail until contradicted and overcome by other evidence” (Black’s Law Dictionary, 5th ed., 1071). The contrast is with an all-things-considered judgment or ultimate verdict (ultima facie). Presumptive case; pro tanto; default position. One of M’s critics, Ann Cudd, points out that his conclusion is weak. All it does is put something on one side of the scale. Whether the other side has enough to outweigh it is another question. Query: What goes on the other side? The mother’s life? Health? Career? Convenience? Does it matter whether she was negligent in becoming pregnant? M says that “abortion, like ordinary killing, could be justified only by the most compelling reasons” (194). It sounds like only the mother’s life is weighty enough. What about pregnancies caused by rape or incest? Read from M’s letter to me.

10. Summary of M’s essay. When lecturing on this essay, skip parts III and IV.

I. M sketches the standard “anti-abortion” and “pro-choice” arguments, showing that they produce a standoff.

II. M develops a theory of the wrongness of killing and applies it to abortion.

III. M examines and rejects rival theories of the wrongness of killing.

IV. M replies to the objection that “fetuses lack a property that is essential for the value-of-a-future argument (or any other anti-abortion argument) to apply to them” (198).

V. M shows that his analysis “does not entail that contraception is wrong” (201).

VI. M recapitulates his argument, claiming that “the problem of the ethics of abortion . . . is solvable” (202).