

19. HOW NOT TO ARGUE ABOUT ABORTION¹

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ABSTRACT. The most important contribution which professional philosophers could make to the debate concerning abortion would be to produce a detailed conceptual analysis of the sorts of situations in which abortion is typically contemplated and/or performed and a set of moral considerations and/or principles which would be applicable to any such case. I argue that the sorts of hypothetical cases and fanciful analogies typically used by philosophers in their discussions of abortion can be either appropriate or inappropriate for this purpose, and attempt to illustrate this difference by considering several possible interpretations of some of the scenarios discussed in J.J. Thomson's classic paper "A Defense of Abortion" together with some of my own.

The most visible participants in the public debate concerning abortion tend to take the most extreme positions, pro-abortionists² likening abortion to elective surgery, which is usually one's right, and anti-abortionists likening it to murder, which is obviously wrong.³ They also tend, understandably, to direct our attention to extreme cases about which our moral intuitions and theirs are most likely to agree, pro-abortionists inviting us to consider cases in which someone has just discovered that she is pregnant due to rape or incest, or that her life is threatened by her pregnancy, and anti-abortionists inviting us to consider cases in which abortion is performed extremely late in pregnancy simply for the convenience of the prospective mother, where "convenience" is spelled out in terms which have little if any moral significance. Both of these approaches to the problem of abortion are unfortunate because (1) the need for moral guidance is greatest among those who do not find themselves in such extreme circumstances, and who collectively constitute the vast majority of those who typically contemplate having an abortion, and (2) considerations which apply in extreme cases are not adequate and might not even apply in typical cases. Abortion is typically contemplated by women who are pregnant as a result of a voluntary, nonincestuous relationship which was known to carry with it at least some risk of pregnancy. It is typically performed after the fetus is recognizably human (though not necessarily a person) but before it is viable, and there is seldom a known risk that the fetus may be deformed if allowed to develop. Finally, there is seldom a morally significant risk to the life or health of the prospective mother. Thus what one must usually decide is whether it is moral or immoral to destroy a living human fetus in these sorts of circumstances.

One would hope that professional philosophers, who have been specially trained to deal with conceptual and normative issues of the sort involved in the abortion controversy, would be able to make a positive contribution here, but many philosophical papers dealing with this issue also tend to defend extreme positions, and to direct our attention to extreme or borderline cases.⁴ Moreover, philosophers tend to compound the problem by their inappropriate use of fanciful analogies which disguises the fact that their arguments apply only in extreme cases if at all. Hypothetical examples and analogies may legitimately be used to make a point about a specific sort of situation, or even to make a general point about one particular aspect of abortion, but any meaningful philosophical contributions to the abortion controversy must take into account considerations relevant in typical cases, and hypothetical examples and analogies should at least be used in such a way as not to detract from this objective. My intentions in this paper are thus (1) to illustrate both the appropriate and the inappropriate use of argumentative devices of this sort, (2) to delineate what I consider to be the relevant features of any "typical" case of abortion, and (3) to suggest the sorts of questions to which philosophers ought to address themselves if they hope to make a positive contribution to this debate.

I shall take as my paradigm the well-known paper by Judith Jarvis Thomson entitled "A Defense of Abortion".⁵ I must emphasize that I have chosen Ms. Thomson's paper not because it is an easy target (which it is not) but because it is well-known and among the best of its kind. In her most famous example, Ms. Thomson asks us to imagine the following case:

You wake up in the morning and find yourself back to back in bed with an unconscious violinist. A famous unconscious violinist. He has been found to have a fatal kidney ailment, and the Society of Music Lovers has canvassed all the available medical records and found that you alone have the right blood type to help. They have therefore kidnapped you, and last night the violinist's circulatory system was plugged into yours, so that your kidneys can be used to extract poisons from his blood as well as your own. The director of the hospital now tells you, "Look, we're sorry the society of Music Lovers did this to you--we would never have permitted it if we had known. But still, they did it, and the violinist now is plugged into you. To unplug you would be to kill him. But never mind, it's only for nine months. By then he will have recovered from his ailment, and can safely be unplugged from you".⁶

She then asks us whether it would be morally wrong for a person in this situation to disconnect himself from the violinist, and concludes that it would not, at least not necessarily. This is an effective and appropriate use of a fanciful analogy to make the point that even if a human fetus is a person and has a right to life, it does not follow from that alone that abortion is wrong.

Let us now consider an inappropriate use of this example. Let us suppose that we attempt to use this example to show that abortion is always morally permissible, even if the fetus is a person.⁷ Presumably, the argument would look something like this:

(1) If a fetus is a person, being pregnant is analogous in all relevant respects to being biologically connected to a violinist in the manner previously described.

Thus,

(2) Terminating a pregnancy is analogous in all morally relevant respects to severing the biological connection referred to in this example.

(3) Severing one's connection with the violinist in this example would be morally permissible.

Thus,

(4) Terminating a pregnancy is also morally permissible.

This argument suffers from many of the logical defects of analogical reasoning in general, and the truth of (3), a premise, could be challenged; but the most important defect in this argument occurs in the first premise. As has often been pointed out in the literature,⁸ and as Thomson is well aware,⁹ the analogy referred to in the first premise would hold only in those cases in which one were impregnated without being consulted, which is ordinarily true only in cases of forcible rape. Since there is a morally relevant difference between being pregnant as a result of rape and being pregnant as a result of voluntary sexual activity, the analogy would hold true only in a small percentage of cases, so this example could not yield a general principle applicable without qualification to typical cases of abortion. The question in any *typical* case is whether it is morally permissible to extricate oneself from a situation which one regards as undesirable by killing a living human fetus when one is responsible, either wholly or in large part, for being in that situation in the first place. Could Ms. Thomson's analogy be reformulated to yield an answer to this question?

Let us suppose that I greatly enjoy the symphony, which I cannot ordinarily afford to attend, and that I am one of a select group of persons offered a free ticket, with the understanding that one of these persons is to be selected by lot to be biologically connected to the violinist in the aforementioned manner.¹⁰ If it should turn out that I happen to be the one who is selected, do our intuitions suggest that it would be morally permissible to sever this connection? If anything, they suggest the opposite, which in turn suggests that if a fetus is a person, abortion is typically wrong.

Let us now consider another of Ms. Thomson's examples:

People seeds drift about in the air like pollen, and if you open your windows, 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, however, 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 the use of your house? Surely not--despite the fact that you voluntarily opened your win-

dows, 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 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 the house without a (reliable) army.¹¹

In this example, Ms. Thomson is presumably trying to take into account some of the considerations not taken into account in the previous example, such as the fact that pregnancy (the implantation of a people-seed) is usually the result of voluntary activity (opening windows) in certain kinds of circumstances (when one has carpets and upholstered furniture), and that it might sometimes occur even when one has taken every reasonable precaution to prevent it (by installing fine mesh screens). Her conclusion is that a fetus (person-plant) conceived (implanted) under these circumstances surely has no right to the use of a woman's body (house).

One can certainly sympathize with someone who has taken every reasonable precaution to prevent pregnancy and is nevertheless faced with the prospect of giving birth to an unwanted child, and one virtue of this example is that it can be used to illustrate the fact that even if most pregnant women are at least partly responsible for their condition, there are various degrees of responsibility involved. We would presumably be less sympathetic if the person in Ms. Thomson's example frequently left all the doors and windows open and did not use any screens at all.

The people-seed example, however, is also defective, for several reasons. In the first place, the question raised here is whether a person-plant has a "right" to the use of someone's house, and this might depend on the extent to which it has been allowed to develop at any given time.¹² If (1) I open my windows only for brief periods of time, and vacuum my rugs and upholstery thoroughly immediately thereafter, or if (2) I carefully inspect my carpets and upholstery for several days or weeks after closing my windows and immediately uproot any "people-seedling" which happens to appear, it is less likely that I will be violating any rights than it would be if (3) I knowingly allowed a people-seedling to develop almost to the point where it could be transplanted to a house of its own, and then uprooted it and allowed it to die.¹³ Secondly, it is a mistake simply to assume that the violation or non-violation of rights is the only morally relevant consideration in cases of this sort. Thomson's point in the violinist example was that abortion is not necessarily immoral even if the fetus has a right to life. We must now consider the converse, i.e., that abortion is not necessarily moral, even if a fetus does *not* have a right to life. Even if person-plants have no rights whatsoever, it does not follow that it would be morally permissible to uproot them and feed them to the garbage disposal, especially during their later stages of development. Ms. Thomson might agree that this would sometimes be "morally indecent",¹⁴ but unless we can show that only violations of rights are immoral, I fail to see why she should not simply say that it would be immoral, rather than "morally indecent".

The most important defect in this example, however, is once again that the crucial analogy breaks down. People-seeds drift about like pollen, implant themselves whenever they encounter a suitable environment, and then become person-plants, all in the natural¹⁵ course of events. No specifically human actions are required. Opening windows, although voluntary, does not initiate the natural process which leads to pregnancy; it simply allows it to occur by removing artificially constructed barriers. Moreover, there are only three things one can do if one does not wish to have a person-plant in one's home; (1) One can make it less likely, but not impossible, that implantation will occur; (2) One can make it physically impossible for implantation to occur, which requires what many people would regard as unreasonable sacrifices, or (3) one can destroy any person-plants which happen to develop. In other words, if abortion (the uprooting of a person-plant) is ruled out, the only fool-proof way of avoiding pregnancy is to make unreasonable sacrifices (by living without carpets and upholstery or by never opening one's windows and doors), since birth control (the use of screens) is not entirely reliable.

If human beings became pregnant in the same way that chickens lay (unfertilized) eggs, this might be an appropriate analogy. We might imagine that throughout the period of time between puberty and menopause, human females, without engaging in any sexual activity, become pregnant at more or less regular intervals simply in the natural course of events, unless they make some attempt to prevent it. Alternatively, we might imagine a chicken with the human capacity for thought and action which did not wish to have any eggs in her nest. She might choose to ingest a drug which made it less likely (though not impossible) that she would lay eggs, she might submit to drastic surgery that would make it impossible for her to lay eggs (an unreasonable sacrifice on her part), or she might simply destroy any eggs which she happened to lay.¹⁶ Even if we suppose that the destruction of eggs is for some reason morally undesirable, it could be argued that it would be even less desirable to require a free and responsible chicken to have eggs in her nest against her will, especially if she had voluntarily consumed a contraceptive drug.

Notice, however, that neither our humanoid chicken nor our gallinaceous human female would be in any way responsible for their natural tendency to produce offspring. There is, both in these two examples and in the people-seed example, a natural process which, if not actively interfered with or prevented, is likely, in the natural course of events, to produce an egg (or a fetus). Since this process has not been initiated by any human action or activity, there is no human being who is responsible for the occurrence of this process itself.¹⁷ Moreover, the only action which could be taken by the principal agents in these examples and which could be totally relied on to prevent the natural outcome of these processes from occurring would by hypothesis be unreasonably heroic, which seems to imply that no one could have a moral obligation to perform them and that it would be morally unjustifiable to require their performance. Thus, failure to perform an action of this sort would not in itself render one morally responsible for the occurrence of the outcome in question. From this it seems to follow that so long as one takes all *reasonable* precautions against the occurrence of the outcome in question, one cannot be held responsible for this outcome in the morally relevant sense if it occurs. In reality, however, pregnancy is a natural outcome of a process which not only is but *must* be initiated by

human activity. In the case of forcible rape, of course, the requisite activity is not initiated and performed by the prospective mother, but in the vast majority of actual cases, pregnancy is the result of a process which is initiated at least in part by actions voluntarily and knowingly performed by the prospective mother¹⁸ and which would not otherwise occur in such cases, and this is true whether or not the person in question performed other actions intended to lessen the likelihood that pregnancy would occur. If this is a morally relevant fact (and we certainly should not assume that it is not), Ms. Thomson's people-seed example is inappropriate for its purpose, simply because it fails to take this fact into account.

To illustrate the claim that we can be morally responsible for the outcomes of our voluntary actions even when we have taken precautions to prevent them, consider the following case: Suppose that my favorite form of amusement is to frighten people by shooting at them with a loaded gun in such a way that the bullet comes as close to them as possible without hitting them. We may suppose that my equipment and my ability as a marksman are such that the likelihood that anyone will actually be shot on any given occasion is comparable to the likelihood that a woman will become pregnant as a result of engaging in sexual activity on any given occasion in which no method of birth control is employed. We might also suppose, although this is not, strictly speaking, directly relevant to the point of this example, that my desire to engage in this activity is comparable in strength and frequency of occurrence to the sexual desires of most normal human beings, and that my aversion to actually hitting someone is comparable to the strongest possible aversion which someone might have toward being pregnant. If I were to wound or kill someone in this way, I would surely be held responsible, assuming (implausibly, perhaps) that I were not judged to be insane, even though I had no desire to harm anyone, and in fact was quite adverse to doing so.

Let us now suppose that, in order to substantially decrease the likelihood that anyone will be killed or wounded as a result of my activity, I purchase boxes of ammunition which I know to consist primarily, but not exclusively, of blanks. Let us also suppose that there is no way of guaranteeing that there will be no live ammunition in any such box, and that it is not possible to determine whether a given bullet is or is not a blank without firing it. Finally, let us suppose that the risk of harming anyone as a result of my activity is now comparable to the likelihood that someone will become pregnant as a result of engaging in sexual activity while using the most effective means of contraception available. If I now harm someone, am I morally responsible for the outcome of my actions, in spite of all my efforts to avoid doing so? I would argue that I am, although perhaps less so than before.

There are, of course, many disanalogies between this example and the people-seed example, and these disanalogies would render this example inappropriate for many purposes. But for our present purpose, it seems to show that we are or at least can be morally responsible for the consequences of our own voluntary actions, even when we have taken all reasonable precautions to prevent them.¹⁹ It is this morally relevant fact which is not taken into account in Ms. Thomson's people-seed example, thus rendering it inappropriate for its purpose.

Since the problem of abortion involves both conceptual and normative issues, professional philosophers, who have been specially trained to deal with such issues, are in a very good position to offer both clarification and guidance concerning this problem. The greatest need for such clarification and guidance, considering both the numbers of people involved and the difficulty of the decisions which they must make, is among those who find themselves in what I have referred to as a "typical" situation. Philosophers who wish to make a meaningful contribution to the public debate concerning abortion should therefore construct their arguments in such a way as to be clearly relevant to these situations.

ENDNOTES

¹ I am indebted to Owen Herring, Gary Hochberg, and the Editor of *Philosophy Research Archives* for their criticisms of earlier versions of this paper.

² I shall use the term "pro-abortionist" to refer to anyone who would allow "abortion on demand", and the term "anti-abortionist" to refer to anyone who is opposed to any abortion whatsoever. Since these terms are both meant to refer to those who hold extreme positions, it should be obvious that those who hold more "moderate" positions would not be referred to in either of these ways.

³ Cf. Sumner, L.W., "Pro-abortionists tend to assimilate [abortion] to contraception while anti-abortionists tend to assimilate it to infanticide", in "Toward a Credible Theory of Abortion", *Canadian Journal of Philosophy*, Vol. IV, No. 1, September 1974, 164.

⁴ Cf. Langerak, Edward A., ". . . many of the most widely cited philosophical writings on abortion argue that the only coherent positions tend toward the extremes: all or most abortions are put into the same moral boat with either murder or, more frequently, elective surgery", "Abortion: Listening to the Middle", *Hastings Center Report*, October 1979, 24. The papers by Sumner (*Op.Cit.*) and Langerak are notable exceptions, as is "The Right to Life", R. L. Armstrong", *Journal of Social Philosophy*, 8 (January 1977), 13-19.

⁵ Thomson, Judith Jarvis, "A Defense of Abortion", *Philosophy and Public Affairs*, Vol. I, No. 1, 47-66.

⁶ *Ibid.*, 48-49.

⁷ Thomson does not claim to have shown this. Cf. *Op.Cit.*, 65, "I do not argue that it is always permissible".

⁸ Cf. Warren, Mary Anne, "On the Moral and Legal Status of Abortion", *The Monist*, Vol. 57, 49.

⁹ *Op.Cit.*, 49.

¹⁰ Cf. Warren, *Op.Cit.*, 51.

¹¹ Thomson, *Op.Cit.*, 59.

¹² Cf. Armstrong, Langerak, and Sumner.

¹³ These three possibilities correlate nicely with the three stages of fetal development discussed by Langerak and Sumner.

¹⁴ *Op.Cit.*, 65-66.

¹⁵ Throughout this discussion, I use the term "natural" to refer to any process or course of events which is not initiated by, and in this sense occurs independently of, human actions or activity, and to the outcome of any process or course of events of which this is true. I do not thereby wish to imply that human actions or their consequences are in any sense either "artificial" or contrary to the laws of nature.

¹⁶ In order to strengthen our analogy here, we may assume for our present purposes that eggs cannot be removed from a nest without destroying them in the process.

¹⁷ Although we are sometimes responsible for our omissions, this is due to special circumstances, whereas we are *prima facie* responsible for our actions and their consequences.

¹⁸ Throughout this paper, I do not wish to imply that a pregnant woman is solely responsible for her condition. The biological father typically bears at least as much responsibility as the prospective mother, and all of it in the case of forcible rape.

¹⁹ Several persons have suggested that a more reasonable and realistic example which could have been used in this context would be that of the responsibility which the driver of an automobile might have for any accidents which occur as a result of his driving, even if he drives very carefully, obeys all traffic regulations, etc. I have resisted the temptation to use an example of this sort because (1) I do not wish the sense of moral responsibility which I have in mind to be confused with the various sorts of "strict liability" which are sometimes employed in these sorts of cases and because (2) it quite often happens that someone other than the driver (whether it be other drivers, careless pedestrians, automobile manufacturers, road builders, or whomever) is primarily if not entirely responsible for the harmful consequences of his or her driving.