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COMMENTS AND CRITICISM

SENSATIONALIZED PHILOSOPHY:

A REPLY TO MARQUIS'S "WHY ABORTION IS IMMORAL"*

IN a recent article, Don Marquis¹ claims to show "Why Abortion is Immoral." The title is, as I shall show, much bolder than what is warranted by his argument. This essay simply rebuts Marquis's initial assumption: that the only important question for settling the abortion issue is the moral status of the fetus, and the corroboration for this claim which he alleges to exist in the abortion literature. I mean this as only a partial reply,² and I do not claim to add to the positive argument here. In fact, I would not add to the thousands of pages written on this topic if I did not feel morally compelled to rebut what I see as a sensationalized and erroneous treatment of an issue of utmost current political importance.

In the beginning of his article, Marquis explicitly makes the assumption that "whether or not abortion is morally permissible stands or falls on whether or not a fetus is the sort of being whose life it is seriously wrong to end" (183). There are two issues that arise in assessing this claim: (1) Is the fetus the sort of thing that could have any rights or toward which we could have obligations? (2) Are these rights or obligations *prima facie* or absolute? Marquis's claim seems to conflate the two issues, assuming that whatever rights of, or obligations to, fetuses there are, they must be absolute.

The assumption that any obligations we have to fetuses are absolute, presented without argument, is philosophically (and politically) irresponsible. It is as if fetuses were things growing out in the garden, and the question of abortion were whether one may decide to till them under rather than let them come to fruition. The question of abortion inextricably involves (at least) two lives and a compelling bundle of rights on the side of the woman carrying the fetus, whatever we decide about the status of the fetus. Ignoring these rights makes about as much sense as considering the issue of the moral permissibility of killing adult, fully-conscious humans without considering the justification of self-defense. If no countervailing rights

* I would like to thank Neal Becker, Jack Bricke, Tony Genova, Leslie Jones, and JoAnn Reckling for helpful comments. I, alone, am responsible for any remaining errors.

¹ This JOURNAL, LXXXVI, 4 (April 1989): 183-202.

² This is only part of what was originally a longer reply, which is available on request from the author.

or other moral considerations were to be allowed to figure into the judgment, the criterion on which Marquis claims that abortion is impermissible, having a "future-like-ours," would also rule out killing in self-defense. He makes no exceptions to his claim that abortion is immoral. Thus, it seems that to be consistent he would also have to reject any self-defense plea in killing any human being.

The only justification Marquis provides for the dubious assumption that a fetus's right to its future is absolute and overriding is an appeal to his favorite authors on abortion. He writes:

Many of the most insightful and careful writers on the ethics of abortion . . . believe that whether or not abortion is morally permissible *stands or falls* on whether or not the fetus is the sort of being whose life it is seriously wrong to end (183, emphasis mine).

The list of authors Marquis provides is quite impressive. The claim he makes about their arguments here is false, however. They all consider rights (and other moral concerns) of the pregnant woman, and find cases in which her rights or concerns override any considerations in favor of the fetus.³ The authors cited can be divided into two categories: those who argue that abortions are permissible because the fetus is not the sort of being whose life it is seriously wrong to end,⁴ and those who argue that abortions are impermissible in most (but not all) cases because the fetus is such a being.⁵

³ Mary Anne Warren, "On the Moral and Legal Status of Abortion," *The Monist*, LVII, 1(1973): 43–61: "The immorality of abortion is no more demonstrated by the humanity of the fetus, in itself, than the immorality of killing in self-defense is demonstrated by the fact that the assailant is a human being" (p. 46). H. T. Engelhardt, Jr., "The Ontology of Abortion," *Ethics*, LXXXIV, 3 (1974): 217–234: "The rights of the mother regarding abortion are paramount. After all, she is the only actual person involved. . . . Consequently, it is to her that one owes overriding obligations" (p. 233). Michael Tooley, "Abortion and Infanticide," *Philosophy and Public Affairs*, II, 1 (1972): 37–65. Tooley claims that the argument is settled by the fact that the fetus is not a person, and endorses Judith Jarvis Thomson's general claims about what would be the case if the fetus were a person, namely, that the woman's rights override. Joel Feinberg, "Abortion," in *Matters of Life and Death: New Introductory Essays in Moral Philosophy*, Tom Regan, ed. (New York: Random, 1986), pp. 256–293: "Even if we grant that the fetus is a moral person and thus has a valid claim to life, it does not follow that abortion is always wrong" (p. 233). J. T. Noonan, Jr., *Private Choice* (New York: Free Press, 1979). Noonan urges the reversal of *Roe v. Wade*, but on many grounds, including the rights of the family and the poor, as well as his view that fetuses are the sorts of beings that it is seriously wrong to kill. Philip Devine, *The Ethics of Homicide* (Ithaca: Cornell, 1978). Devine allows that there are cases when abortion is not morally impermissible, see esp. ch. III. It also seems that one cannot legitimately ignore Thomson, "A Defense of Abortion," *Philosophy and Public Affairs*, I, 1 (1971): 47–66, as being among the most insightful writers on abortion. Her view is quite clearly opposed to Marquis's; the legal, if not in each case moral, permissibility of abortion stands on the rights of women to refuse to donate their bodies to others.

⁴ Warren, Engelhardt, Tooley, and Feinberg.

⁵ Noonan and Devine.

With regard to the first group, it is an obvious logical mistake to infer from:

(A) Since the fetus is not the sort of being whose life it is seriously wrong to end, it is morally permissible to abort.

that therefore,

(B) If it were the case that the fetus is the sort of being whose life it is seriously wrong to end, then it would be morally impermissible to abort.

The writers in the first group hold (A), but they make no claims like (B). That is, these writers merely claim that the fetus's lack of personhood is a sufficient, though not necessary, condition for abortion to be morally permissible. Marquis's phrase 'stands or falls' requires it to be both a necessary and sufficient condition on the permissibility of abortion.

In the second group, both authors deny (A), but allow that, in cases in which the mother's life is in danger, or, perhaps, the woman was a victim of rape, abortion is morally permissible, thus denying (B) as well. In these cases, they reason, the woman's right to life or her serious loss of well-being overrides the rights of the fetus. Thus, they regard the woman's rights as a relevant issue in deciding the moral permissibility of abortion, and so could hardly be said to argue that the moral permissibility of abortion stands or falls with the issue of whether it is wrong to kill fetuses.

Even if we might ultimately agree that the fetus is the sort of thing whose killing is so morally wrong as to overwhelm completely a woman's rights to privacy, health, medical care, and even life, the point surely needs argument. Nothing that has been said in the abortion debate to date has come close to settling this issue against the woman. So *at most* Marquis can claim to have shown "Why Abortion is Killing a Being-Like-Us." When one recalls that persons may legitimately be killed for many reasons, this title has not the same moral urgency of Marquis's.

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DOES A FETUS ALREADY HAVE A FUTURE-LIKE-OURS?

Some of the most interesting and underexplored issues in philosophy are those of how human beings are in time. A person's relationship to her future is very complex, particularly if time