

Abortion and Euthanasia

(Please note: These are rough notes for a lecture given in November 2003, mostly taken from the relevant sections of *Philosophy and Ethics* and should not be reproduced or otherwise used verbatim.)

In all probability, you will have already considered the moral issues concerning abortion and euthanasia at GCSE level, and will therefore be familiar with the basic arguments for and against each of them. At AS level, the same information will be relevant, but it is also important that you relate the arguments to the various ethical theories that you have studied, and be able to present your own views in the light of them.

Abortion

The abortion debate has centred on the conflict between the right to life of the foetus and the right of a woman to choose whether or not she will have a child, for whatever reason. Hence the opposing camps have generally been labelled 'pro-life' and 'pro-choice'.

When does human life begin? At what point in the process that goes from the tiny bundle of cells that forms the early embryo, through the developing fetus, to the moment of birth, should what is growing be regarded as a new human individual?

Note:

The term 'embryo' is used for the developing bundle of cells in the first 8 weeks after fertilisation; the term 'fetus' is used from that point through until birth.

In the UK, The Abortion Act of 1967 allowed abortion up to 28 weeks gestation, provided that the approval of two doctors was given, and if continuing the pregnancy threatened the life, physical or mental health of the mother or the physical or mental health of existing children, or if there was substantial risk that the child would be born with serious physical or mental handicap. Prior to 1967, abortion was illegal.

The Human Fertilisation and Embryology Act, which came into force in 1991, reduced the upper limit to 24 weeks, except if a mother's life or health was in danger, or if there was a serious risk of foetal handicap. This change came about because it became possible for babies to survive from 24 weeks gestation.

The principle behind this legislation therefore is that, whatever the validity of reasons for an abortion, a foetus should be given legal protection if it is possible for it to survive outside the womb. If that principle is adhered to, then with the advance of technology and the resulting viability outside the womb at an earlier stage, the legality of abortion will be progressively reduced.

Some arguments and problems:

Key Questions:

At what point does the life of an autonomous human being, with rights as an individual, begin? Is a fetus an individual? Do we become individuals with rights only at birth?

One idea put forward by Peter Singer and Deane Wells in *The Reproductive Revolution*, 1990, was an ectogenetic solution to this problem. Ectogenesis is the keeping alive of a young foetus in an artificial womb. If that became possible, they argued, then the issue of whether a woman should continue with her pregnancy could be separated from the issue of killing the foetus – since it could simply be transferred out into an artificial womb.

At the moment, that solution to the problem is not technically viable, and it also tends to follow the traditional line of weighing the rights of the mother over those of the foetus. But what would be the moral situation of those in charge of such an artificial womb? Would they not take on exactly the responsibility and moral dilemmas of the mother? What if the foetus was shown to have abnormalities at a later stage? Should it then be 'aborted' from its artificial womb? The problems remain.

A rather crude but vivid analogy in favour of the right of a woman to choose abortion was presented in a controversial article by Judith Jarvis-Thomson entitled 'A Defence of Abortion' (1971). She asked the reader to imagine the situation of a woman who is kidnapped and wakes up in a hospital, finding that she has her circulatory system plugged into that of a famous violinist, whose supporters have kidnapped her for that very purpose. The hospital staff explain that she has exactly the right blood for the violinist, and must remain attached to him. On the other hand, she should not complain, because she could be unplugged in nine months' time.

Jarvis-Thompson argued that, in those circumstances, it would not be unjust for the woman to request to be unplugged from the violinist, even if he were to die as a result. On the other hand, if the violinist did in fact survive, the woman would not have the right to kill him.

Notice how crucial this is. Some people argue that the foetus has a right to life if it can be shown to be an individual person (in other words, that its rights can be separated from those of the mother).

Jarvis-Thomson argued, however, that even in the case of a separate adult human being, there was no absolute right to make such a claim on the body of a woman.

However, there are several problems with this argument:

First of all, the violinist is a separate individual, who is imposed upon the kidnapped woman, whereas the developing foetus may be considered to be part of her body. Whatever the moral justification for doing so, the act of unplugging the violinist is therefore very different from that of terminating a pregnancy.

Secondly, the woman is effectively being used as a machine for supplying blood. Let us suppose that a philanthropist had loaned to the hospital a life-support machine. A desperately ill person is hooked up to it and is being kept alive. Then the philanthropist returns and demands his machine back, unplugging the patient. Would that be morally acceptable? Is there not an implied contract, if the arrangement is freely entered into? Jarvis-Thompson's argument could then only support abortion in the case of rape (which would effectively be the situation she describes, since the woman is kidnapped, and finds herself 'pregnant' with the violinist against her will).

By saying that unplugging the violinist is not the same as taking active steps to kill him once he has recovered, she implies that abortion is not acceptable once the foetus has reached the point of viability.

Some books, for example *The Abortion Myth*, by Leslie Cannold (Allen and Unwin, 1998) have argued that one should take into account the whole experience of pregnancy and motherhood, and that women should be trusted to make their own decisions over abortion. It also takes into account the social and gender issues surrounding abortion.

If it is argued that a new life exists and should be protected from the moment of conception, there is a further problem: twins.

There are possible stages at which the embryo may divide and produce two or more individuals:

a) It can happen on about the 4th or 5th day after the egg is fertilised. In this case, each twin will go on to develop its own placenta.

b) It can happen at about the time when the embryo becomes implanted in the womb. In this case, the twins will have the same placenta, and may be identical.

c) It may happen at about the 12th or 14th day, by which time the resulting twins will have to share the same amniotic sac, and may be joined ('Siamese twins').

Until about the 14th day, it is therefore not possible to say whether there will be a single or multiple birth. It is therefore sensible to think of the embryo as a unique human person before the time when it is possible that it will become twins?

Sometimes twins are formed, but then re-combine to result in a single birth. If each is an individual with rights from the moment of conception, is the surviving foetus guilty of murder? **This extreme situation highlights the problem of taking the single genetic identity established at conception as the unquestioned basis of human individuality.**

Euthanasia

Fundamental issues are similar to those of abortion. When life should be considered to have ended? Does an individual have the right to take active steps to end his or her life, or the life of another person.

- The intentional killing of another person is considered to be **murder** (unintentional killing is **manslaughter**). In the case of the intentional killing of someone on compassionate grounds, the penalty may be reduced to manslaughter, on what is generally termed

'diminished responsibility' (a term which is used in a variety of situations, where there are exceptional circumstances leading up to the killing).

- Hence, while suicide was made legal in the UK in 1961, helping someone to kill themselves (**assisted suicide**), killing them at their own request (**voluntary euthanasia**) as well killing someone in order to save them further suffering even though they have not requested it (**involuntary euthanasia**) all remain illegal in the UK.
- Further issues concern the difference between actively taking steps to end the life of someone who is seriously ill (**active euthanasia**) and simply discontinuing treatment that keeps them alive (**passive euthanasia**).
- Should a person whose life is maintained on a machine, and who is in a '**persistent vegetative state**', unable to communicate or participate in the normal activities and relationships that constitute human living, be considered to have a life that is worth prolonging? Should a person who is conscious of being in such a state have the right to ask for that life to be ended?
- When should life be considered to have ended? Is a person on a life support machine 'alive'? Normally, a person is considered to be dead if brain activity ceases.

Note: In some countries (e.g. Holland; Australia) euthanasia has been allowed under strictly controlled circumstances. Ethical debate here concerns whether or not there are **any** circumstances in which it should be permitted, and – if so – what controls should be put in place to ensure that it always operates in a way that directly and obviously is in the best interest of the person concerned.

This was brought home to me recently because my partner's mother, who is 83, decided to join the Euthanasia Club, as she calls it. She has signed a form to the effect that, if she finds herself in a situation where she is ill and unconscious, and therefore unable to be consulted, she wants to be now just allowed to die, but she wants to be 'put down'. And that is what her doctor, after consultation with the family and colleagues, will do. She, of course, lives in the north of Holland. She now feels relieved that she does not have to worry about her life dragging on in a way that would only be a burden to others but do her no good. She is a very practical woman, and not religious.

Key question:

For both abortion and euthanasia, the key question is 'What constitutes a human life?' Only once that is answered, can we sensibly decide when human life should be considered to have started or stopped, and when it should have the protection of the law and receive moral consideration.

Key to doing well at A level is to appreciate and apply the various ethical theories to these practical issues:

Utilitarianism – especially 'preference utilitarianism' – is important in medical and nursing ethics. Autonomy of the individual is a key consideration here. Doctors should not be allowed to follow their own wishes, or research interests, in determining treatment. Patients come first: that is basic to framing professional ethics of all sorts.

But can 'the wishes of a patient' necessarily always be followed? What is the patient seeks his or her own harm? The difficulty is in establishing criteria which all can accept for what constitutes benefit of harm. Utilitarianism only works if one can assess the results of an action, and decide whether or not, on balance, they are to the advantage of all concerned.

Hence, a utilitarian will consider the preferences of the mother, in the case of abortion, along with the potential harm to other children in the family, for example. In the case of euthanasia, the utilitarian balance is between the advantages of life rather than death, both for the person concerned but also for their relatives, friends and carers.

One of the limitations of this process is that it requires careful and impartial judgement. But can we be detached and objective enough to assess what should be done, without acknowledging that our judgement is clouded by our own history and experiences?

I may know, for example, that it is in the best interests of an old or sick pet that it should be put down. That might also correspond to my own interests at a practical level. But that does not make the decision any easier; and in the end it is generally taken because there is a prior and overwhelming desire to see an end to the animal's suffering.

In other words, the utilitarian judgement may be used to justify an action that is taken primarily on the basis of a strong emotional reaction to an intolerable situation.

Pro-life groups and others cannot accept a simple utilitarian judgement on such matters, since they hold that human life has an absolute value. A value that must be upheld, even if the result is additional suffering for those concerned. In other words, that it is better for a natural course of events to take place, whatever the consequences, rather than to take life.

Comment:

All human life will eventually come to an end; so the sum total of all advantages and disadvantages is Zero. What counts is not an end point - but the value of the process that leads to that point - the quality of life, or enjoyment etc, along the way.

Thus, the fact that we cannot achieve a final or definitive assessment of happiness should not, in itself, deflect us from using a utilitarian argument. – because otherwise we'd never be able to use a utilitarian argument for any issue. But it needs to be balanced against other considerations.

Natural Law claims that we should use reason to examine the place and purpose that everything has within the universe, and we should act in a way that reflects that understanding.

It makes the benefits to those concerned a secondary matter, compared with the basic nature of the act of euthanasia or abortion in itself. From this perspective, abortion appears to go against Natural Law, since it frustrates the natural outcome and purpose of conception. Euthanasia deliberately interferes with the natural process of dying.

Hence it is very different from a utilitarian argument in terms of what it takes into account. That does not discount the benefit of those concerned, since Aquinas argued that natural law should provide 'an ordinance of reason for the common good', but it makes the benefits to those concerned a secondary matter, compared with the fundamental nature of the act of euthanasia or abortion in itself.

So, in the case of abortion or contraception, for example, Natural Law looks at the place procreation has within our understanding of what it is to be human. What does it mean to have conceived a child?

From this perception, the act of abortion appears to go against Natural Law, since it frustrates the natural outcome and purpose of conception.

Similarly, it will be argued that the body grows old, or contracts disease, and we naturally strive to keep alive in spite of that. To deliberately say 'no' to life therefore goes against what 'God' offers – and remember that, for the vast majority of those arguing from a natural law standpoint, the theory is linked to belief in God, since it was promoted primarily by Aquinas, who sought to reconcile philosophy and the Christian faith.

Issue:

A key issue for the natural law approach concerns when an individual human life can be said to begin. At conception? At birth? At some point in-between?

Science gives only a general guide on this:

Something is generally defined as being alive if it is a complex system that is self-replicating and self-determining.

It is then said to be conscious if it responds to the environment, and appears to do so in a way that implies choice.

E.g. a wooden block responds to being pushed by toppling over. An animal similarly pushed will turn, look at the person pushing it, and will decide how to respond. Hence the animal is conscious and the wood is not.

The thing you have to decide, therefore, is whether you are going to consider an embryo a 'human life', or whether it is just a potential to become a human life. Similarly, you need to ask if the person who is unconscious and dying slowly is still considered an individual human being.

If they are, then they should be given all the rights of a human being, and not treated as a 'thing' to be disposed of.

BUT, that does not settle the matter – because, in the case of euthanasia, one might argue that respect for that individual might mean following his or her expressed wish to be allowed to die with dignity in such circumstances.

In the first century, the philosopher Cicero said 'True law is right reason, in agreement with nature.' – and that is the most clear statement of what a Natural Law approach seeks to put into practice. (So it works quite well without any religious backing.)

On the other hand, there is always going to be a problem with an ethical theory that gives us general principles, because it leaves us with the difficult task of knowing how to apply it to particular cases. The old term for doing that was 'casuistry' – and it got a bad name, simply because clever lawyers could argue for almost anything, and bend the laws to fit the case they wanted to make.

Kant's ethical theory is very different, as you will know. It concerns the categorical imperative. The first formulation of this is that you should act only in such a way that you could will the maxim (or principle) of your action to become a universal law. In other words, that you should be prepared to allow everyone to do what you propose to do, if you are to consider your action moral.

Now that can have some application to the issues of abortion and euthanasia – since you could argue that everyone should have the right to decide to have an abortion, or to have their life ended, in certain circumstances. As so often with Kant, his ethical theory gives a general and abstract framework which does not easily get translated into the particular situations in which people find themselves.

BUT far more relevant is the second formulation of the categorical imperative, which states that people should be treated as ends, never only as means.

If the unborn child is considered to be an individual, then its life should not be assessed on the basis of the benefit or otherwise that it offers to the mother and others concerned, but should be treated as an end in itself. Similarly with those who are seriously ill; their lives should be viewed as ends in themselves, and the needs of other people should not be used to justify ending them. Hence, abortion or euthanasia could only be justified if it were seen as being directly of benefit to the person concerned – i.e. that continuing to live would, on balance, be against their own interests on the grounds that it would involve more suffering than that person (if able to make a rational decision) would find acceptable.

Another approach is that of Situation Ethics – as put forward by Fletcher in the 1960s. A **situationist** view would be that it is unrealistic to try to legislate on such matters, and that what counts is to do the most loving thing in each situation. This would be very much in line with those who support 'mercy killing' on the grounds that love demands that they no longer allow a situation of intolerable suffering to continue. But who is to decide what is most loving? Most loving for whom? For the mother who cannot cope with the thought of having this child? For the relatives who cannot bear to watch their loved-one suffer? For the foetus who may not get a chance to live? For the sick person who may or may not get some further benefit from life?

Just as, for Kant's theory, we have a general principle that is not easily translated into particular situations – so here too, we have a general wish to do that which is most loving, but that does not actually tell us WHAT the most loving thing is.

A **religious response** to any of these issues might argue that all life is created by God and is therefore sacred. God alone has the right to decide what should happen. However, religious people are seldom able to apply this consistently across the whole range of ethical issues. They often want to take direct action to change a situation (e.g. to feed those who are starving) – why then should this not be applied to the situation of the unborn or the terminally ill?