BOOK SYMPOSIUM

The Ethics of Killing: Problems at the Margins of Life

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SUMMARY

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There are important moral problems for which we ought not to expect reliable guidance from our untutored moral intuitions. Conspicuous among these are problems involving the killing of beings whose metaphysical or moral status is deeply uncertain or controversial—beings such as human embryos and foetuses, new-born infants, anencephalic infants, human beings that are by nature radically cognitively impaired, human beings who have become profoundly demented or irreversibly comatose, and animals, such as chimpanzees and gorillas, with comparatively high cognitive capacities. There is considerable divergence of intuition about such beings both within and across different societies and many people find, on reflection, that their own intuitions about such beings are weak, unstable, or even conflicting. To understand the morality of killing such beings, or of allowing them to die, we therefore need help from both metaphysics and ethical theory.

One important consideration is what the boundaries of our existence are. There may well be cases in which our moral concern is misplaced because the individual we believe to be present has in fact not yet begun to exist or has already ceased to exist. So it is important to understand when we begin to exist and what the conditions of our ceasing to exist are.

I argue that we are neither incorporeal souls nor human organisms. If I am not a soul, I cannot exist without being physically embodied. But if I am not identical with this organism, it is possible that I began to exist after it did and may cease to exist before it does, or indeed before it dies. I argue that this is in fact the case: that we are embodied minds that begin to exist when the foetal brain develops the capacity to support consciousness, which occurs sometime between 22 and 30 weeks after conception. We continue to exist as long as

those areas of the brain in which consciousness is realised retain the capacity for consciousness. When that capacity is irreversibly lost, we cease to exist.

If this is right, abortions performed prior to 22 weeks (which constitute the vast majority of abortions) do not kill someone like you or me but instead prevent one of us from existing. What they kill is merely an unoccupied human organism that has neither interests nor rights. These abortions are therefore morally comparable to contraception.

An abortion performed after one of us has begun to exist in association with the foetal organism has a victim: it kills some*one* rather than just some*thing*. How should we think about the killing of such a being? Common sense morality holds that the wrongness of killing a person—an individual that is at least minimally self-conscious and rational—does not vary with the degree of harm caused to the victim. To kill a person is wrong, when it *is* wrong, because it is an egregious violation of the intrinsic worth of the person herself. But the killing of an animal is objectionable only because of the effect on its interests; the wrongness of killing an animal therefore does vary with the degree of harm caused to the victim. Is a late abortion objectionable for the reason that killing a person is wrong or is it objectionable only because of the harm it inflicts on the foetus?

A conscious foetus seems morally intermediate between a person and an animal. It is different from both in significant ways. I argue, however, that the intrinsic properties that might be thought to distinguish a foetus morally from an animal—its potential and its membership in the human species—are not in fact sources of moral *status*. The killing of a conscious foetus is therefore governed by the same moral principles that govern the killing of an animal. A late abortion is objectionable to the extent that death is bad for the foetus.

How bad is that? If the badness of death for an individual were proportional to the amount of good life the individual would lose by dying, the death of a foetus would be the worst possible death, since a foetus loses the whole of a human life. But in fact death seems less bad for a foetus than for an older child or adult. The reason for this, I argue, is that a foetus would be only weakly related to itself in the future in the ways that make it rational for an individual to care about his (or its) future in an egoistic way. The badness of death, in short, is a function of both the magnitude of the good of which the victim is deprived and the degree to which the victim at the time of death would have been related to himself (or itself) in the future by the relations that ground rational egoistic concern—relations that, on my view, include physical, functional, and organisational continuity of the brain and correlative relations of psychological continuity. It is, to put it crudely, the fact that the foetus is psychologically almost completely cut off from its own future that makes its death less bad for it, despite the magnitude of the good it loses. Because of this, and because the killing of a foetus is governed by considerations of harm rather than by the kinds of considerations that govern the killing of persons, late abortion may often be justified if the interests that favour it are significant.

The basic form of this argument extends, with qualifications, to early infanticide as well. The main difference between abortion and infanticide, I contend, is that the reasons that may favour infanticide are in general

substantially less weighty than those that may favour abortion, primarily because infants cannot pose the uniquely intimate burden on a single person that a foetus imposes on the woman who carries it.

The moral status of those who have become demented is importantly different from that of an infant, even if their current cognitive capacities are no higher than an infant's. The values and autonomous preferences that a demented individual had when she was a person may continue to make a claim on us, just as at least some of them will even after the person has ceased to exist.

In the final chapter I argue, as others have done, that brain death is not sufficient for the death of a human organism. But that is largely irrelevant if we are not organisms. What matters is when *we* die or cease to exist. And while brain death is sufficient for the ceasing to exist of someone like you or me, it is not necessary. For the brain can lose the capacity to support consciousness while remaining a living organ. When that happens, as in at least many instances of persistent vegetative state, there may remain a living human organism but, as is true of a living, preconscious foetus, there is no one there at all.