

Philosophy 104, Ethics, Queens College, Spring 2006
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Lecture Notes, April 24

I. Application of Marquis's FLO Theory to abortion

1. Abortion deprives an individual fetus of a future like ours.
 2. Depriving an individual of a future like ours is wrong.
- So, abortion is wrong.

II. How do we determine whether Warren or Marquis has the correct criterion?

Marquis and Warren present competing criteria for personhood.
We should not decide between the two criteria on the basis of the conclusions they yield.
One should not argue that abortion is permissible, so Warren's criterion is right.
Or, conversely, that abortion is impermissible and so Marquis's criterion is correct.
These choices would beg the question.

Here is a non-question-begging point:

Marquis relies in his argument on the notion of a 'future like ours', which he says is a future of value.
But, what makes our futures valuable, whereas the future of a rock has no value in itself?
In order to answer that question, Warren must distinguish between persons and non-persons.
To do that, he will have to appeal to some criteria like Warren's.
So, his account presumes an account like Warren's, which means that her criteria are primary.
This does not mean that Warren's criteria are correct.
One may argue about the details.
But some account like it must hold, and be conceptually prior to the FLO theory.
This is an argument in favor of Warren's criteria over Marquis's criteria.

III. To sum up

There are something like a million and a half abortions each year in the United States.
About a quarter of all pregnancies in North America end in abortion.
Abortion is a surgical procedure, which can be dangerous at times.
While many women chose abortions as their best option, few if any think of it as a welcome experience.
Every one can agree that there are too many abortions.
The left has lost sight of the fact that abortion is a bad thing.
The right has alienated many of the women who seek abortions by vilifying them.
There is a reasonable middle ground to be found.

IV. Mill's Harm Principle

Mill wrote both *Utilitarianism*, which defended utility as the sole justification in moral matters, and *On Liberty*, an extended defense of rights. These two works have a natural tension, since utilitarianism has a natural problem with rights.

Mill bases *On Liberty* on a single, anti-paternalist principle, we now call Mill's Harm Principle:

...the sole end for which mankind are warranted, individually or collectively, in interfering with the liberty of action of any of their number, is self-protection. That the only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others. His own good, either physical or moral, is not sufficient warrant. He cannot rightfully be compelled to do or forbear because it will be better for him to do so, because it will make him happier, because, in the opinion of others, to do so would be wise, or even right...The only part of the conduct of anyone, for which he is amenable to society, is that which concerns others. In the part which merely concerns himself, his independence is, of right, absolute. Over himself, over his own body and mind, the individual is sovereign, p 359.

A metaphoric version of the principle: the limit to my freedom to swing my arm is the tip of your nose.

Paternalism is when the government acts to protect the individual from him/herself.

There are some paternalistic laws, enforcing seat belts and bike helmets, and prohibiting suicide and euthanasia. Mill's Harm Principle states that the only acceptable restrictions on individual liberty are those that prevent harm to others.

It rejects any paternalistic laws.

Clearly, most drug prohibitions are paternalistic.

The Harm Principle thus opposes them.

The harm principle does not apply to children, or uncivilized peoples, pp 359-60.

We have to educate them, but after that, they are on their own.

If they behave in poor ways (are lazy, irresponsible, drunk, etc.) they will suffer.

Only if they harm others are they punishable, p 364.

We generally avoid paternalism, with Mill.

Given the harm principle, what may we do with someone who is a bad influence?

We may encourage others to avoid them.

We may smear their reputations, to a limited extent.

We may use some social pressures against such people, but we can not ostracize them completely.

We may not, as a society, prevent them from being who they choose to be.

V. The Harm Principle and censorship

Mill argues that censorship is immoral.

He bases his argument on the harm principle.

In specific, he uses a proof by cases:

First case: If the opinion censored is right.

Second case: If the opinion censored is wrong.

If the opinion censored is right:

The censors wrongly assume their own infallibility, and society is deprived of the benefit of a true opinion.

If the opinion censored is wrong:

By censoring we leave ourselves open to the problem of the dead dogma, p 522.

Our beliefs become held as empty dogma instead of live opinions.