

Introduction to Philosophy

Philosophy 110W

Fall 2014

Russell Marcus

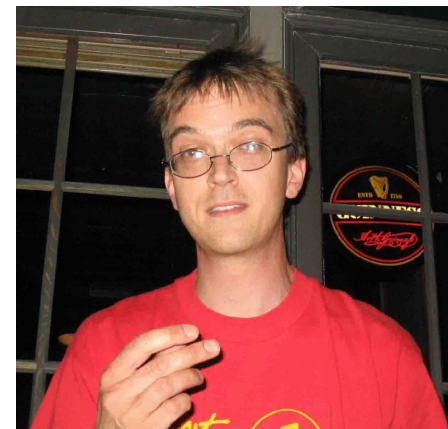
Class #11 - Abortion and Personhood

Business

- ☛ Papers due on Tuesday
- ☛ Movie Night poll
 - 12/16 so far
- ☛ Today, I'll do just a little review of A-theory and B-theory and then get to the abortion discussion.

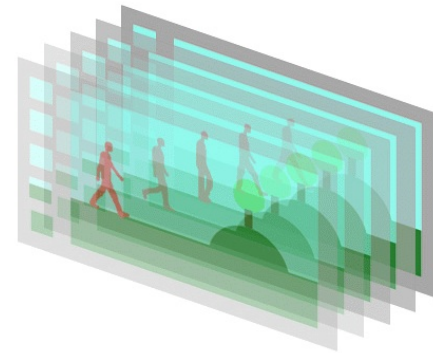
Summary: The A-Theory and Presentism

- ☛ Three A-Theories
 - Zimmerman's Presentism
 - Growing Block
 - Moving Spotlight
- ☛ All A-theories privilege the present.
- ☛ Zimmerman relies on his intuitions about the importance of the present.
 - "Thank goodness that's over."
- ☛ When some thing or event passes from the present into the past, we ordinarily believe that it disappears.
 - It becomes unreal.
 - We lose it.
 - Yesterday's breakfast
 - Next Thursday's dinner
 - These words
- ☛ Appeals to intuition are controversial.



The Block Theory

- ☛ Smart prefers scientific evidence to intuitive evidence.
 - More strongly: the only evidence is scientific evidence.
- ☛ The most fundamental scientific theories are best understood tenselessly.
 - Mathematics contains no references to time.
 - The physical laws are indifferent to the direction of time.
 - They make no reference to the present or the past or the future.
- ☛ Smart thus urges a four-dimensional view.
- ☛ There is a static block, the entire temporal history of the world, past through future.
- ☛ We can imagine ourselves peering from apart at that block, describing all that happens within it.
- ☛ The block theory underlies time-travel fiction.
 - Moving among different portions of the block



Change and the A-Theory

- ☛ For the A-theory, objects undergo changes as they become real by moving into the present.
 - They become unreal by moving into the past.
 - Object thus do not endure through time.
- ☛ Smart believes that this aspect of the presentist view is implausible.
 - “A man or stone or star is commonly regarded as a three-dimensional object which nevertheless *endures* through time. This enduring through time clearly brings a fourth dimension into the matter...” (94).
- ☛ Are objects three-dimensional or four-dimensional?

Change and the B-Theory

- ☛ The B-theorist's view of change may not be any more plausible.
- ☛ Change is ordinarily thought of as an active process.
- ☛ But, the B-theorist's view of change is static.
 - "Our notion of time as flowing, the transitory aspect of time...is an illusion which prevents us seeing the world as it really is" (94).
- ☛ The B-theorist must understand what we ordinarily take to be change as the comparison of different temporal slices of four-dimensional objects.
 - "When we think four-dimensionally...we replace the notions of change and staying the same by the notions of the similarity or dissimilarity of time slices of four-dimensional solids" (95).
- ☛ This static notion of change does not appear to be the ordinary notion, but Smart believes that it is better.
 - "The inability to translate talk of events changing in respect of pastness, presentness, and futurity into our tenseless language can be taken simply as a proof of the concealed token reflexivity of tenses and of words such as 'past', 'present', and 'future'."

The Rate of Time

- ☛ Once we introduce change over time, we can start asking uncomfortable questions about the rate at which time passes.
- ☛ Can time speed up or slow down?
- ☛ Such questions, Smart believes, lead to an unintelligible infinite regress.
 - “We should need to postulate a hyper-time with reference to which our advance in time could be measured (seconds per hyper-seconds)... Moreover, anyone who thought that time-flow was necessary for time would presumably want to say that hyper-time-flow was necessary for hyper-time. He would therefore be driven to postulate a hyper-hyper-time, and so on without end” (97).

Taking Stock

A-theory vs. B-theory

- ☛ On the side of Zimmerman and the A-theorist
 - Intuitions about the asymmetry of our access to the present moment and to past and future moments.
 - The ‘thank-goodness-that’s-over’ feeling
- ☛ On the side of Smart and the B-theorist
 - The laws of physics express the ultimate nature of reality.
 - “The concepts of past, present, and future have significance relative only to human thought and utterance and do not apply to the universe as such. They contain a hidden anthropocentricity. So also do tenses. On the other hand, the concepts of ‘earlier’, ‘simultaneous’, and ‘later’ are impeccably non-anthropocentric” (94).
- ☛ “Every event is ‘now’ at some time or another, and so the notion of ‘now’ cannot be that of an objective property in nature which singles out some events from others” (96).

Abortion and Our Course

- ☛ We have been working with some abstract questions about the nature of reality.
 - Is the world material or ideal?
 - Is there even an external world at all?
 - How would we prove it?
 - What are the natures of space and time?
- ☛ We are engaging questions about the permissibility of abortion, briefly, for three reasons.
 - First, it raises questions about the nature of persons, the topic of our third unit.
 - Second, it raises questions about the nature of consciousness, the topic of our fourth unit.
 - Third, it raises questions about morality, the topic of our fifth and final unit.

Abortion and Paternalism

- ☛ Anti-abortion laws, as an historical matter, were paternalistic laws.
 - Protection of women
- ☛ We generally oppose paternalism.
- ☛ But:
 - drug laws
 - suicide prohibitions
 - motorcycle helmet and seat belt laws

Middle Ground?

- There are about a million and a half abortions each year in the United States.
- What is the optimal number of annual abortions?
- The original title of Warren's paper is "On the Moral and Legal Status of Abortion."

Roe v Wade, 1973

- ☛ The Supreme Court: states may not ban abortions.
 - States may impose certain limits on abortions.
- ☛ The Court considered three classic anti-abortion arguments
 - A1: To discourage illicit sex
 - not appropriate for the Court to regulate
 - A2: To protect the mother
 - carrying to term can be dangerous, too
 - A3: To protect pre-natal life
 - Fourteenth amendment: “All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.”

Viability

- ☛ The State's interest in both A2 and A3 grow as pregnancy progresses.
- ☛ Eventually there is a “compelling point” at which states may prohibit abortions.
- ☛ States enacting laws may focus on two questions.
 - Q1. When is the fetus viable?
 - Q2. Is a given procedure dangerous enough to prohibit?
- ☛ Viability grows earlier as medicine progresses, though it is still extremely rare for a fetus younger than 24 weeks to survive.

Post-Roe Rulings and Legislation

- ☛ Webster v Reproductive Health Services (1989)
 - ↳ Mississippi may restrict state aid for abortions.
 - ↳ No constitutional right to an abortion
- ☛ Planned Parenthood v Casey (1992)
 - ↳ 1. An informed consent rule required doctors to provide women with information about the health risks and possible complications of having an abortion before one could be performed.
 - ↳ 2. A spousal notification rule required women to give prior notice to their husbands.
 - Rejected
 - ↳ 3. A parental consent rule required minors to receive consent from a parent or guardian prior to an abortion.
 - ↳ 4. A fourth provision imposed a 24-hour waiting period before obtaining an abortion.
- ☛ Stenberg, Attorney General of Nebraska, et al. v. Carhart (2000)
 - ↳ States can not proscribe dilation and excision procedures.
 - ↳ The state should not try to dictate to doctors which procedures are the safest.
- ☛ Gonzales v. Carhart (2007)
 - ↳ The Court upheld the Partial-Birth Abortion Ban Act, enacted by the United States Congress in 2003, and signed into law by President Bush.
- ☛ Fetal pain laws aiming at a post-20-week ban (Nebraska 2011, 11 others)
 - ↳ Contentious science
 - ↳ Lower courts struck down; Supreme Court has passed on review
- ☛ More state laws
 - ↳ 2013: 22 states enacted 70 restrictive measures
 - doctor and clinic regulations
 - insurance coverage

The Court and the Beginning of Life

“We need not resolve the difficult question of when life begins. When those trained in the respective disciplines of medicine, philosophy, and theology are unable to arrive at any consensus, the judiciary, at this point in the development of man’s knowledge, is not in a position to speculate as to the answer” (Justice Blackmun, *Roe v Wade* 410 U.S. 113, 1973).

- Still, maybe we can make some progress, philosophically.

The Classic Anti-Abortion Argument

- ☛ AA1. Every person has a right to life.
AA2. The fetus is a person.
AA3. So the fetus has a right to life.
AA4. The right to life, for the fetus, is stronger than the right to choose what happens in and to one's body, for the mother.
AAC. So, abortion is impermissible.
- ☛ Depends on rights and personhood.
- ☛ Put aside interesting questions about AA4.
- ☛ AA is not applicable to cases in which a pregnant woman will die if she carries to term.
- ☛ Noonan argues in favor of AA2.
- ☛ Warren argues against AA2.

Noonan and Conception

- ☛ The fetus is a human being from the moment of conception.
 - ↳ a non-arbitrary moment
 - ↳ “Moral judgments often rest on distinctions, but if the distinctions are not to appear arbitrary fiat, they should relate to some real difference in probabilities. There is a kind of continuity in all life, but the earlier stages of the elements of human life possess tiny probabilities of development” (Noonan 355b).
- ☛ All other moments are arbitrary.
 - ↳ In any ejaculation, any sperm has only a 1/200,000,000 chance of developing into a zygote.
 - ↳ A woman starts with 100,000 to 1,000,000 oocytes, only a few hundred of which become eggs.
 - ↳ After conception, there is an eighty percent likelihood of survival.

Genetic Code

- “The positive argument for conception as the decisive moment of humanization is that at conception the new being receives the genetic code. It is this genetic information which determines his characteristics, which is the biological carrier of the possibility of human wisdom, which makes him a self-evolving human being. A being with a human genetic code is a man” (Noonan 356b).

Noonan Against Other Criteria

- ☛ Viability depends on the concept of dependence.
“The most important objection to this approach is that dependence is not ended by viability. The fetus is still absolutely dependent on someone’s care in order to continue existence; indeed a child of one or three or even five years of age is absolutely dependent on another’s care for existence; uncared for, the older fetus or the younger child will die as surely as the early fetus detached from the mother” (Noonan 354a).
- ☛ Fetuses start gaining experience before birth, and no particular experience seems necessary to be human.
- ☛ We can not trust the feelings of adults or social viability to ground a non-arbitrary distinction between human beings and non-humans because our perceptions themselves vary widely and need not reflect any important difference.

Juliet on Warren's Article

Vagueness and Distinctions

- ☛ The problem of finding points of distinction is a general problem, not merely in the case of personhood.
- ☛ Let's take a moment to consider the sorites paradox and the related phenomenon of vagueness.
 - 'Sorites' is Ancient Greek for 'heap', and the paradox is often constructed in terms of heaps.
- ☛ Many predicates admit of borderline, or vague, cases.
- ☛ Vagueness exercise (bald, tall, short)

Vagueness



- *An average person has 100,000 -150,000 hairs on his/her head.
- *Is the line at 10,000 hairs? 5000 hairs? 1000 hairs?
- *You don't turn a bald person into a non-bald person by adding one, tiny hair to her head.
- *There are bald people.
- *There are non-bald people.
- *Any point of distinction will be arbitrary.
- *But, that doesn't mean that there is no distinction.

Is 'Human Being' Vague?

- Noonan provides a point of distinction between human beings and non-human beings.
- He defends that point of distinction by claiming that it is non-arbitrary.
- But, 'human being' may be a vague predicate.
- If 'human' is vague, then we can not expect a non-arbitrary distinction between humans and non-humans.
- Noonan's argument, depending on a preference for a non-arbitrary distinction, is thus unmotivated.

Biology and Moral Personhood

- Noonan's stated goal is a definition of 'human being', rather than personhood.
- 'Human being' is a biological category.
- As we have seen, personhood is only implausibly a matter of biology.
- Warren seeks a broader characterization of personhood.
- Space travelers: friend or food?



Moral Theory and Personhood

- ☛ We might want to know if their ends are the kinds of ends that rational persons should consider in formulating maxims for the purposes of the categorical imperative test.
- ☛ We might want to know if their happiness is important to maximize in our utility calculations.
- ☛ We need criteria for personhood that go beyond merely biological factors.
- ☛ Genetic humanity is not sufficient to establish moral personhood.
- ☛ Some humans are not persons.
 - Brain dead humans, and strictly dead ones
 - Human cancer cells have the genetic code of human beings.
- ☛ Some persons are not, or may not be, humans.
 - aliens and sentient machines

Warren's Five Concepts of Personhood

WP1. Consciousness (of objects and events external and/or internal to the being), and in particular the ability to feel pain;

WP2. Reasoning, (the *developed* capacity to solve new and relatively complex problems);

WP3. Self-motivated activity (activity which is relatively independent of either genetic or direct external control);

WP4. The capacity to communicate, by whatever means, messages of an indefinite variety of types, that is, not just with an indefinite number of possible contents, but on indefinitely many possible topics;

WP5. The presence of self-concepts, and self-awareness, either individual or racial or both (Warren 359b)

Applying the Concepts to Abortion

- ☛ We need not possess all of WP1 - WP5 to be a person.
 - The paradigms are us adult humans.
 - A person will have to be like us in some ways, but need not be like us in all ways.
- ☛ “All we need to claim, to demonstrate that a fetus is not a person, is that any being which satisfies *none* of [WP1 - WP5] is certainly not a person. I consider this claim to be so obvious that I think anyone who denied it, and claimed that a being which satisfied none of [WP1 -WP5] was a person all the same, would thereby demonstrate that he had no notion at all of what a person is -perhaps because he had confused the concept of a person with that of genetic humanity” (Warren 360a).
- ☛ “In the *relevant* respects, a fetus, even a fully developed one, is considerably less personlike than is the average mature mammal, indeed the average fish” (Warren 361a).

Potential Personhood

- ☛ WP1 - WP5 obviously and uncontroversially distinguish normal adult humans from animals and human fetuses.
- ☛ Still, some animals and the fetus have rudimentary versions of our abilities.
- ☛ Against Warren, one might argue that the possession of even rudimentary, potential versions of WP1 -WP5 is the correct criteria for personhood.
 - Perhaps: persons are any things that have the potential to have WP1 - WP5
- ☛ The fetus is a potential person, unlike a fish.

Warren Against Potential Personhood as a Criterion

- ☛ Warren denies that potential personhood is sufficient for moral personhood.
- ☛ She considers a case in which aliens turn all my cells into replicas.
- ☛ I am morally permitted to escape.
- ☛ Similarly, the fetus, which is a potential person, has no right to life over the (actual person) mother.
- ☛ If every speck of dust were a potential life, then we would not value potentiality at all.
- ☛ We are misled by the rarity of potential humans into thinking that potentiality constitutes some element of the proper criteria for rationality.

Summary

- ☛ Noonan 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 for Warren's criteria just because you believe that abortion is permissible.
 - One should not argue for Noonan's criteria on the basis of the claim that abortion is impermissible.
- ☛ A theory of personhood based on the possession of a human genetic code would be chauvinist.
- ☛ Still genetic material seems essential to our conception of self.
- ☛ Perhaps we need a particularly human definition of personhood before we can develop more abstract criteria for aliens and sentient machines.
- ☛ The questions of personhood are the central questions of the next portion of the course: what is it that makes me myself?