

## **Abortion, Philosophy and The Real World**

As Anne Furedi, a recent Director of the British Pregnancy Advisory Service has suggested, abortion is in some ways a ‘fact of life’. There are, at a conservative estimate, nearly 100 million legal abortions each year, of which the UK contributes about 250,000. Such a fact of life seems to bear out her view of the facts of life. In addition, around 90% of the UK population seem to think some form of abortion is morally permissible. Of course, that something is prevalent and widely supported may not in itself make it morally permissible. But one might wonder how there can still be any issue about the permissibility of abortion when it is widely legalised, widely supported and so prevalent. Certainly, as a philosopher, one might wonder whether there remains any useful ground still to be staked out here. For whether one is, philosophically, for or against abortion, does it not look as if the real argument, in the real world, has long been won and lost?

Of course, real, largely non-philosophical discussions about abortion continue. Perhaps the most prominent of these is whether it should be completely decriminalised, becoming just another element of health care, like kidney dialysis or dental work, becoming just another part of the tools of family planning, like contraception. This is what those like Furedi want. It is also what most feminist philosophers in this area want. For wide

sections of the feminist campaign for what is known as reproductive justice it is a central aim. But a large part of the philosophical debate about abortion, however, is not concerned with issues like this. Primarily, it has focused on what are essentially metaphysical issues about the status of the foetus, and on the precise ethical reasons why abortion, given the metaphysical status of the foetus, might be permissible or not. People like Furedi, and most feminists, pay lip-service to these debates, but there is a noticeable impatience in their attitude to them, as if what is really at issue must be something else, something much more urgent, something that does not really have time for the metaphysics of the foetus, or detailed ethical reasoning based around it.

Then again, while abortion is prevalent, and widely supported, there remains opposition to it, so perhaps there remains some sort of issue here into which philosophy can continue to sink its teeth. There are many countries in the world, particularly in South America, as well as Malta and Poland in Europe, where it is not permitted at all. And, most notably perhaps, the recent overturning by the US Supreme Court of its 1973 *Roe v Wade* judgement, which had made abortion widely legal in the US, could be seen to be delivering new energy to the issue. On the anti-abortion side, conservatives in the US have been quick to

introduce state legislation that either restricts or makes abortion very difficult. And this has provoked fury in the most vocal pro-abortion voices, those broadly (or narrowly) associated with the promotion of what are seen as women's rights and those campaigning for a more general liberty from governmental interference in health (or any) matters. The Supreme Court's judgement, in so far as it is argued to most negatively affect non-whites and the poor, is also seen as an example of more general forms of oppression of the least advantaged by the wholly unelected. In response there is occasionally talk of revolution.

So, what can philosophy contribute here? For, after all, hasn't philosophy already many times made it clear what it thinks the central issues are, and hasn't it already said all that can be said about these issues? Who, after all, has thought as long and as deeply about these issues as the philosophers? If you want sustained and precise exploration of the arguments in favour of abortion there is the work of Michael Tooley (*Abortion and Infanticide*) and, more recently, David Boonin (*In Defence of Abortion*). The well-known moral philosopher, Peter Singer, in a book widely read beyond the reaches of academic philosophy, *Practical Ethics*, laid out clearly a set of arguments in favour of abortion. A similarly popular and older work, *Causing Death and Saving Lives*, was written to the same effect by Jonathan Glover.

And if you want sustained and precise exploration of the arguments against abortion, there is the work of Francis Beckwith (*Defending Life*), or Steven Schwarz (*The Moral Question of Abortion*) and Patrick Lee (*Abortion and Unborn Human Life*). And if you need a book to help you decide between all the philosophical arguments for and against, there is Rosalind Hursthouse's excellent *Beginning Lives*, as well as various outlines of the general debate.

Of course, the plethora of these texts, and their general excellence, may be part of the problem. You may read them, and if you understand them, you may be left partly convinced by both sides and then, like Buridan's famous ass, poised between two equally tempting snacks, be unable to choose and therefore starve to death. Perhaps the capacity of philosophers to argue so convincingly for each side of any practical moral question renders them, overall, unhelpful for the resolution of decisions that have to be taken in the real world, particularly decisions that have to be taken quickly. It is telling here to recall how in 1981, a Presidential Commission in the US, set up to decide on how best to treat the growing number of hospital patients with irrecoverable brain damage, had recognised that there was a group of philosophers – and some clinical professionals of a philosophical bent – who were arguing philosophically that patients in this

condition were no longer persons, so it might be permissible to end their lives. The Commission considered this view briefly but concluded that any philosophical agreement about the concept of a person was hard to find, and that the philosophical discussions of this in any case possessed an ‘abstract technicality’ that was, as they put it, unsuited to the resolution of clinical matters. So, while these philosophers continued to debate what a person was, the lawyers and the doctors essentially went on without them.

The debate about persons, of course, persists in the debate about abortion. For many philosophers it is even considered to be the absolutely central issue. Those in favour of abortion, like Tooley and Singer, are convinced that no unborn child is a person, so, as only a person has moral status, they can in principle be killed. Those against abortion, like Beckwith, Lee and Schwarz, are convinced that every unborn child is a person, with moral status, so can’t in principle be killed. There is arguably a complete stalemate here. There is, of course, a third view, held by philosophers like David Boonin, which is that even if an unborn child is a person, it is still morally permissible to kill it. The idea here is that an unborn child may be a person and killing it may be bad. However, we must balance this against the alleged rights of the woman – who is certainly a person – not to have the baby if

she does not want to. Ignoring her rights is seen as a greater evil than killing the foetus. In response, those against abortion argue that there is no way that a woman, whatever rights she claims to have, ever has a right to kill a *person*. So, there is probably a stalemate here as well.

But whatever the sophistication of these debates, what is clear is that they do not really contribute to the practical discussions of abortion going on in the so-called real world. The lawyers, and the doctors, and particularly the women having abortions (in their tens of millions), have again gone on alone. The UK law on abortion, for example, which permits termination up to 24 weeks of pregnancy, has absolutely no view at all on the philosophical question of whether a foetus is a person. Even in the USA, those states now preventing abortion are not doing so because it is argued, philosophically or otherwise, that the foetus is a person. In neither of these jurisdictions is a foetus a legal person, but this is not the reason why abortion is permitted when it is. In the UK, where it is, the idea is simply that after 24 weeks a foetus becomes viable (i.e. it is assumed it could live outside the uterus), although it is not a legal person until it is born. And it is not the reason why it is not permitted when it isn't. In one of the most hard-line US states, Texas, abortion is forbidden after 6 weeks of pregnancy if the foetus has a heartbeat, not because it is a

person, but because its chances of becoming viable are considered to have improved. So, whether or not a foetus is a person is the central issue in the philosophical debate, it is largely a side-issue or a non-issue in the real world. Here the notion of viability seems to carry greater weight even though philosophers have constantly pointed out that viability is an entirely arbitrary moral boundary. After all, if technology existed – as it actually does, but it is not practical in a clinical context – for detecting a primitive foetal heart beat at 4 weeks, would the state of Texas then forbid abortion after 4 weeks? And we know that a foetus can be viable at 21 weeks, which makes the UK's cut-off at 24 weeks arbitrary. But in the real-world arbitrary distinctions of this kind are the stuff of daily legal life. Policy concerning abortion is largely influenced by what is seen as clinically practical. And law in these areas tends to codify around clinical practice.

One will of course reply to all this that it is quite common for advanced academic thought to have no immediate bearing on issues in the real world. Most advanced mathematics, for instance, has little practical significance. Whose life is affected if a proof of Fermat's Last Theorem can be found? Even work in advanced science can seem remote to daily concerns. Who benefits or suffers because of the Higgs Boson? More practically, perhaps, politicians responsible for economic decisions are often

not abreast of the latest work in the economic theory relevant to their policies. We know that the copy of Hayek's *The Road to Serfdom* that Margaret Thatcher allegedly carried in her handbag was left mostly unread. But philosophers considering the moral problem of abortion – and other life and death issues - always describe what they are doing as practical or applied philosophy. Peter Singer's book, we remember, was called *Practical Ethics*. In this there always seems to be an assumption in that something *useful* is being done. Jonathan Glover in *Causing Death and Saving Lives* made it very clear in his Preface that he wanted to change people's opinions and that he did not think philosophical discussion was remote from practical ethical matters. Couldn't practical ethics, *applied* ethics, be where the philosophical wheels really hit the road?

Unfortunately not, it seems. The evidence is that in the question of abortion, the real world, consisting of women who have, or decide not to have, abortions, their partners, the medical professionals they deal with, the legal and political minds that frame the laws constituting the systems in which they must function, all carry on happily – if that is quite the right word – largely oblivious to the elaborate disputes of the philosophers. The marvellous arguments of the philosophers concerning whether the foetus is, or is not, a person wind airily in a thin

atmosphere. Indifferent to them, the real world works away at its 100 million abortions a year, unconcerned whether these deaths are those of persons or not.

One explanation for this, perhaps, is that most people simply cannot swallow – this is perhaps the right term – the idea that a foetus is a person, the view argued for by many anti-abortionists. But it is not that they have been convinced by *argument* that this is so. They are almost certainly not aware of the arguments that are relevant here. The currently most popular anti-abortionist argument, favoured by philosophers like Beckwith and Lee, is an elaborate metaphysical one about the alleged essential personal identity between the adult human being and the foetus from which it has developed. On this argument, a foetus isn't just a *potential* person; it is a full-blown person. However, Anne Furedi, in her *The Moral Case for Abortion*, while citing Beckwith as a leading anti-abortionist, nevertheless does not even engage with this argument and in the very many books written by clinical practitioners in abortion provision (e.g. *A Necessary Kindness* by Juno Carey, or *This Common Secret* by Susan Wicklund) very little space is given in the accounts of women struggling with the choice of abortion to their efforts to resolve the question of whether of whether the foetus is essentially personally identical with an as yet non-existent adult person. Carey, for example,

cites a vivid case of a pregnant woman who woke one morning to find her young husband dead beside her in bed from a heart attack. With two children already, she decided, in her grief and shock no doubt, that she could not continue with her pregnancy. What should she do? What should bear on her decision about what she should do? At this point, we might ask what issues in practical moral philosophy might bear on her decision here? What weight should she give to the question of whether the unborn child is personally identical with an adult person, and consequently a being of moral significance? One must admit here that even if such issues were relevant, in the abstract, to the woman's decision, one can perfectly see why she does not consider them. There is a comprehensible sense in which we can see that she cannot consider them. Quite what this 'cannot' amounts to is rather difficult to articulate, but most of us can feel its force. Partly, she cannot consider them because she is not aware of them and one can scarcely imagine anyone suggesting that now would be an appropriate time to introduce her to them. One is consequently aware of a curious disconnect in the ongoing debate about abortion between the undoubtedly excellent philosophical work being done by those writers we have referred to, and the thinking going on at what might be called ground level in this debate. When one reads philosophical discussions of

abortion one is very aware of a limited engagement with actual cases and the thought processes that direct them. Equally, when one reads the extensive literature produced by those, such as Furedi and Wicklund, that considers the actual cases, one is aware of limited engagement with the philosophical issues that abortion seems to raise. Those having to make decisions about abortion, and concerned to feel that they are doing the right thing, appear therefore to be caught between abstract discussions that do not relate to their personal circumstances, or practical advice that does not address the philosophical concerns they might have in their quieter moments. Quite how this gap could be bridged is unclear. Perhaps it cannot be. Perhaps, as the great David Hume once commented in a very different context, philosophy inevitably leads us in one direction whilst practical necessities compel us elsewhere. Hume had observed that philosophy seems to lead to scepticism about the existence of the world, but practical necessity always makes us jump out of the way of a moving object. He concluded that this was an irresolvable curiosity in the human condition. Perhaps we must draw the same conclusions about the relationship between philosophical reasoning and pressing issues in ethical life. The pregnant woman who woke to find her husband dead beside her concluded that she *must* have an abortion. Perhaps philosophy, given time, would have concluded otherwise.