

ABORTION: A PLEA FOR MORAL SENSITIVITY

J. M. Orenduff
Southwest Texas State University

I

Recent discussions of abortion have given rise to a new parlour game based on an old favorite called "categories." In this new version of the game, the object is correctly to identify the point at which protoplasm passes to personhood. Estimates of when this transition takes place range from conception on the one extreme to bar mitzvah on the other. Defenders of the former position rely primarily on arguments *ex cathedra* while proponents of the latter thesis depend on rarefied metaphysical definitions of "person." One such definition declares that in order for x to be a person " x must possess the concept of self as a continuing subject of experience and x must believe that he is such an entity." Not only does this formulation commit the cardinal sin of explaining the obscure in terms of the more obscure, it also banishes from personhood all of my students and fully half of my fellow faculty members.

The only requirements for participating in this new game are a superficial knowledge of biology (you may qualify by defining either "zygote" or "haploid cell") and a willingness, as in other philosophical endeavors, to suspend common sense. It is supposed that the game's winners will have solved the abortion issue since the permissibility of abortion is seen to depend on whether the abortee has or has not passed life's prelims.

Some people, myself included, decline to participate in the game on the grounds that no non-arbitrary line can be drawn in the continuum of life. We are roundly shouted down with the charge that we are committing the "fallacy of the slippery slope." But is the "slippery slope" really a fallacy?

II

"Slippery slope" arguments are characterized by the presence of a special sort of premiss and conclusion. The premiss, which we may call the "slope" premiss, has a form similar to the following: "the process by which an x becomes a y consists of numerous small steps no one of which is decisive." The conclusion asserts that any distinction between x and y is arbitrary. Numerous examples have been advanced to show that such arguments are invalid. Consider the following:

- A.
1. A piece of ice at 459.67°F (absolute zero) will not melt.
 2. A piece of ice at 458.67°F will not melt.
 3. As this process of warming continues, there will be no distinct point at which ice will melt.
-

Therefore, it is arbitrary to distinguish between ice and water.

Although the argument above, A, is clearly unsound, it is not invalid. What is wrong with the argument is that its third premiss (the "slope" premiss) is false. But not all inclines are equally unctuous. A similar argument with a true "slope" premiss will, I contend, always produce a true conclusion (assuming all other premisses are also true). Thus, "slippery slope" arguments are often unsound but never invalid. The following is, I believe, a sound argument:

- B.
1. A ten-year-old car is not an antique.
 2. An eleven-year-old car is not an antique.
 3. As this process of aging continues, there is no distinct point at which an old car becomes an antique.
-

Therefore, it is arbitrary to distinguish between an antique car and one which is merely old.

B is sound because its "slope" premiss is true. But there is another distinction between A and B which is of greater significance. The melting point of ice is something which is *discovered*; whereas, the point at which an old automobile becomes an antique is something which is *decided*. In short, "slippery slope" arguments tend to work where the distinction at issue is a matter of decision. They tend not to work where the distinction at issue is a matter of discovery. In either case, the arguments are valid, but their "slope" premisses are usually false where matters of discovery are concerned.

"Slippery slope" arguments conclude with the assertion that drawing a line between *x* and *y* is arbitrary. If *x* and *y* are such that any distinction between them is a matter of decision, and if the argument has a true "slope" premiss, then such a conclusion is justified. In fact, reflection on the meaning of "arbitrary" should convince us that something like a "slippery slope" argument must be used to justify any such claim of arbitrariness.

It is easy to see how the "slippery slope" argument applies to the

abortion question. All attempts to distinguish between fetuses and humans or between humans and persons are based on decisions rather than discoveries—hence the conclusion, via the "slippery slope," that such distinctions are arbitrary. I hasten to add that I am not attempting to show that personhood begins at conception, for that is merely another arbitrary point at which to draw the line. What I want to argue is that no line should be drawn at all. Now, it does not always follow, from the fact that a distinction is arbitrary, that it should not be made. It does, I think, so follow in the case of abortion.

III

No matter how far from moral perfection the world is today, it must be admitted that some progress has been made. I submit that this progress has resulted not from the discovery of new principles of ethics, but from the application of old principles to a wider moral community. The principles of ethics embraced in ancient Greece were just as enlightened as those we hold today. The shortcoming of that society was in its rather myopic view of the moral community. The recognition that the moral community cuts across distinctions of race, sex, age, and so on, constitutes the only true moral progress in human history. Since moral progress does consist of a widening of the moral community, all attempts to limit that community by means of arbitrary decisions as to what constitutes a person inhibit moral growth. The "slippery slope" argument as applied to the continuum of human life reminds us that in considering the moral community it is always better to err in the direction of inclusiveness.

The point made in the preceding paragraph is reinforced when we realize that the question, "Is a fetus a person?" is a very strange one to begin with. The question is never asked by expectant mothers who want children. In the natural course of events, the question simply does not arise. Even our common law encodes this implicit recognition of the personhood of fetuses in its recognition of their right to inherit, bring suit, etc. When the question is asked, it amounts to an elliptical way of asking, "Should this fetus be destroyed?" It is, therefore, specious to assert that the answer to the question, "Is abortion morally justified?" depends on the answer to the question, "Is a fetus a person?" In fact, the latter question is a disguised form of the former. This is not to say that abortion is always wrong, but only that it cannot be justified by excluding fetuses from personhood. Real progress towards a solution of the abortion difficulty can be made only if we abandon the attempt to solve the issue by circumscribing the moral community.

IV

We must recognize that there will always be cases where abortions will be wanted and/or needed, and that these cases will be as diverse as those confronted in other areas of ethics. Although some general guidelines can be developed to aid in the resolution of these cases, each must ultimately be decided on its own merits. It is illusory to seek a legalistic formula which will do the difficult work of ethics for us. In this respect, the abortion issue is no different from other moral issues. Who can claim to provide us with a formula which will tell us in every possible case whether lying is justified? The difficult deliberations which must be made and the decisions which must be reached should not be avoided by simply denying the rights and claims of fetuses. Ethics is necessary only where there is conflict. To attempt to legislate away the conflict is not to enhance ethics—it is to avoid it altogether. If, however, we address the issue instead of side-stepping it, and if we address it with moral sensitivity, we shall not go far wrong.

Perhaps this is an appropriate place to say something about the admittedly lachrymose appeals of “right-to-lifers” who support their case with gory pictures of viable fetuses being treated as hospital waste. As professional philosophers, we feel understandably uncomfortable about the obvious logical fallacies committed by such an approach. But the object of this approach is to goad our moral sensitivity, not to instruct us in logic. In this respect, such activities belong in the same category with *Uncle Tom’s Cabin*—a book full of logical fallacies as well as moral insights. Anything which, to borrow a contemporary phrase, “raises our consciousness” cannot be dismissed as irrelevant on the grounds that it is not deductively valid. I know that I am likely to face the charge of encouraging irrationality, but I can only counter by pointing out that with the exception of a few Unitarians, professional philosophers are the only people who believe ethics is a branch of logic.

V

Many people believe that the abortion issue is somehow a subtopic of women’s rights. Nothing could be sillier. Women have exactly the same rights that men do. Among these, it has been written, are life, liberty, and the pursuit of happiness. It is true that the steps which are necessary to protect and to exercise these rights vary according to biological differences. Thus, in order to protect a woman’s right to life, it is sometimes necessary that an abortion be performed. But a woman’s right in this instance is merely a special case of the more general right to life which she shares with all other humans—including fetuses. That the life of the fetus must be sacrificed is a consequence of the unfortunate fact that rights sometimes

conflict. But what about the cases where the right the woman desires to exercise is not her right to life or liberty, but her right to pursue happiness? Should she be compelled to continue her pregnancy? I think there are cases where she should. And although the legitimate but conflicting rights of both the pregnant woman and the fetus make it difficult to know how to decide each case, there are two proposals which must be rejected.

One proposal is expressed in the shibboleth “A woman has a right to control her own body.” Here, I am reminded of the infamous Dred Scott decision made by the Supreme Court in 1857. In that decision, the Court ruled that a slave could not be made free as a result of being transported to a state where slavery was illegal, since no state can deny any citizen “the benefit of the provisions and guarantees which have been provided for the protection of private property against the encroachment of the government.” The problem with this decision is that it begged the central moral question which was at stake; namely, whether a person can be property. Similarly, the claim that the abortion issue is a matter of a woman’s control over her body begs the question whether a fetus is a human. If it is, then it is certainly misleading to describe it as “part of a woman’s body.”

The second approach which must be rejected goes something like this: since people are divided as to whether abortion is morally justified, let every woman follow her own conscience. One proponent of such an approach says, “The strategy need not be to convince them [anti-abortionists] that abortion is morally “right,” but only that it is like drinking alcohol (and not like stealing).” This again begs the question. To use the slavery example again, it is like Stephen Douglas’s claim that the rights of Negroes are something which each state must decide.⁴ But this is surely absurd. Just as the rights of Blacks cannot be denied under the banner of “states rights,” neither can the rights of fetuses be abrogated under the guise of “freedom of choice.”

In both of the approaches criticized above, we again see the attempt to escape the abortion issue rather than meet it head on. The problem of conflicting human rights is a difficult one. It is made even more difficult when it involves certain special classes of persons; fetuses, the retarded, the insane, the senile, and so on. But these problems do not vanish merely because we deny the possession of rights to such persons. Such a denial is not a solution to the problem; it is a refusal to recognize that a problem exists.

Perhaps some people feel that recognizing the rights of fetuses negates or reduces the rights of women. Judith Jarvis Thompson feels that women’s rights are already compromised by restrictive abortion laws. She writes that “in this country women are compelled by law to be . . . Good Samaritans to unborn persons inside them” while “no one in any country in the world is legally required to do anywhere near as much as this for anyone else.”⁵

