

Abortion and Infanticide

1. What Has Rights: Clearly, things like **newspapers** do not have rights. For instance, if I claimed that it is morally permissible to destroy a newspaper, no one would question this. On the other hand, clearly normal, adult human beings DO have rights. It seems clear that, if I claimed that it is morally permissible to destroy adult human beings, I would be mistaken. What this means is that:

There is some property, P, that adult human beings have, and newspapers lack, and it is this property, P, which is the basis of rights.

P = has "interests": Tooley claims that the primary difference between adult humans and newspapers is the presence of INTERESTS. An "**interest**" is something that one has a desire, or preference for. Tooley's claim is that the presence of interests gives rise to moral rights. But, then, "it follows that things devoid of desires, such as newspapers, can have neither interests nor rights." (356).

Different Interests Give Rise to Different Rights: Tooley asks us to imagine (a) torturing an adult human being, and (b) killing an adult human being. Surely, both of these acts are wrong. He then asks us to imagine, (c) torturing a kitten, and (d) killing a kitten. Surely (c) is wrong, but the wrongness of (d) is controversial. But, then, what is the difference between an adult human being and a kitten?

Tooley concludes that different capacities for having interests give rise to different rights. For instance, having the capacity to experience pain is enough to give rise to the right not to be tortured. In other words, BECAUSE kittens (and adult humans) can feel pain (and therefore have an interest in avoiding it), it is wrong to torture them. However, what makes killing an adult human being wrong, Tooley says, is that adult human beings have the capacity to desire or prefer their own CONTINUED EXISTENCE. Thus, they have an "interest" in continuing to exist, and therefore a right to life. Kittens, on the other hand, lack this desire, or preference, and so lack the right to life (or, if you prefer, some less controversial animal: Rats? Chickens?) As Tooley writes,

"Though kittens have some interests, including, in particular, an interest in not being tortured, which derives from their capacity to feel pain, they do not have an interest in their own continued existence, and, hence, do not have a right not to be destroyed." (357)

(This too explains why kittens do not have other sorts of rights—e.g., the right to a good education at a university, the right to vote, the right to bear arms, and so on. Simply put, those things are not among their desires, or preferences—and so they do not have an INTEREST in these things.)

Conclusion: Clearly, fetuses do not have an interest in their own continued existence. Therefore, abortion is morally permissible. Similarly, INFANTS (at least newborns) do not have this interest either. Therefore, infanticide is also permissible.

A Note on Vagueness: Some have argued that, because there is no clear cut-off point at which a developing fetus goes from not having rights to having them (where do we draw the line?), that, since adults have rights, so do fetuses.

The idea is that, if we cannot pinpoint the location at which something transitions from A to B, then there IS no distinction between A and B. But, this sort of logic is mistaken. Consider: Imagine that I have someone in front of me with a full head of hair. I remove one hair. "Are they bald now?" I ask. "No," you say. I pull another hair. "Are they bald NOW?" No. I pull another hair, and another, and another, until no hairs remain. Now ask: At what point did the person go from being not-bald to bald? Where do we draw the line? There may be no answer to this question. But, it would be a mistake to infer from this fact that there is no difference between being bald and having a full head of hair!

2. Objection: Potentiality Matters: But, here is a major difference between a newborn baby and a kitten: The baby WILL grow up to have interests in continued existence, while the kitten never will. The present objection is that this POTENTIAL to have interests is morally relevant, and that organisms which have it also have a right to life.

Consider: If Mary is an adult who grew from a particular baby, it is clearly true to say that it is in Mary's interest that that particular baby was not destroyed several years earlier. But, Mary once WAS that baby. So, the baby too has an interest (albeit a future one) in not being destroyed. We might state this argument as follows:

1. Mary has an interest in not destroying a particular baby.
2. But, Mary IS that baby (i.e., Mary = that baby).
3. Therefore, that baby has an interest in not being destroyed.

3. Right To Life Is Not Necessarily Bodily: Before considering Tooley's reply, note the following: Tooley points out that the right to life is NOT identical to the right to continuation of biological organism. For instance, imagine that, after you fell asleep, some scientists erased everything in your brain (your memories, opinions, abilities, and so on), and replaced them with the complete set of the memories, opinions, abilities and so on (i.e., the "personality") of Abraham Lincoln. The next morning, your organism wakes up, claims to be Abraham Lincoln, has all of the memories of Abe, and insists that they are the president of the United States, but has somehow woken up in the wrong body. Also imagine that what the scientists do is irreversible. Your personality is gone forever.

Question: Is it reasonable to say that the scientists have KILLED you? Tooley thinks so. He concludes that killing, and the right to continued life have more to do with the continuation of PSYCHOLOGY than they do with the continuation of one's biological organism.

4. First Reply: Premise 2 is False: Tooley is now prepared to give a response to the objection. Quite simply, premise 2 of the argument above is false.

If Mary has no memories of the baby's experiences, and no shared psychology with it, then Mary is not that baby. Therefore, it is false to say that the baby will SOMEDAY have an interest in its own continued existence. (On the other hand, it WOULD be true, according to Tooley, to say that, someday, a person will inhabit the same biological organism that the baby presently inhabits, and THAT person will have an interest in the baby's continued existence—but this fact alone is not enough to establish that the baby has a right to life)

[Objection: Many have argued that mere psychological CONTINUITY is enough to ensure the continued existence of someone over time. I need not have any of the actual memories or psychology of an earlier individual in order to be identical with them. I only need CONTINUITY with them. Consider a 300 year old example: (a) A 10 year old gets flogged for stealing apples. (b) A 20 year old is a key soldier. in the victory in a major battle. (c) A 70 year old is an old, decorated war veteran. It might be that (c) remembers being (b), and (b) remembers being (a), but (c) does NOT remember being (a). If we insist that, in order for X and Y to be identical, Y must have some memories of being X, or share some psychology with X, we get a violation of transitivity. What is important is that there is continuity. But, then, a 2 day old infant might have some continuity with a 1 day old infant. A 3 day old infant may have some continuity with a 2 day old infant. And so on, such that YOU have psychological continuity with a newborn infant.]

5. Second Reply: Cat Serum: Tooley also brings up the famous "Cat Serum" case that we raised against Don Marquis. Again, imagine a serum that would begin a transformation process if injected in a kitten, which would cause the kitten to develop into a cat that possessed the same level of consciousness as an adult human being. It follows from the potentiality argument (that the fact that fetuses have the POTENTIAL to become persons, or to desire continued existence, gives them a right to life) that injecting the kitten with a "neutralizing" antidote which reverses the transformation process would be seriously morally wrong.

[Note that Tooley also says that FAILING to give kittens the serum in order to make them transform would be morally wrong on the potentiality view. This is why Marquis's view is not, strictly speaking, a potentiality view. Marquis does not say that something has a right to life if it will POTENTIALLY develop higher consciousness. Rather, something has a right to life only if it is presently true that it WILL develop higher consciousness. Marquis escapes this part of Tooley's objection since it is not presently true of kittens that have not been given the serum that they WILL develop in this way, so they do not have a right to life.]

6. Conclusion: The argument has run as follows:

1. An individual has a right to life if and only if it is presently in its interest to continue to exist.
2. It is presently in an individual's interest to continue existing if and only if:
 - (a) It is presently a subject of consciousness that has a desire to continue to exist.
 - (b) That individual is presently a subject of consciousness that is psychologically continuous with some future subject of consciousness that has a desire that it continued to exist.
3. But, babies do not fulfill (a). They do not presently desire continued existence.
4. Also, babies do not fulfill (b). They are not psychologically continuous with future persons who desire that the baby continue to exist.
5. Therefore, babies do not have a right to life.

Clearly, premises 2 and 4 are quite controversial. Furthermore, the conclusion (5) is so repugnant to most that we might take its implausibility to itself be a refutation of the argument (i.e., at least one of its premises). So, the question is, where does Tooley go wrong?