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Lecture Notes, December 1

I. Roe v Wade, continued

We saw that the Court considered three anti-abortion arguments:

- 1) To discourage illicit sex.
- 2) To protect the mother.
- 3) To protect pre-natal life.

They ruled that none of these provided justification for laws proscribing abortion, absolutely. But the State's interest in both 2) and 3) grow as pregnancy progresses. Eventually there's a 'compelling point' at which the states may prohibit abortions.

Note that the Court ignores the question of when life begins, p 192-3.

The questions become:

- 1) When is the fetus viable?

For then the third reason kicks in, p 194.

Viability grows earlier as medicine progresses.

- 2) Is the procedure dangerous enough to prohibit?

This is a paternalistic consideration, like prohibition of dangerous drugs, or seat belt laws, p 193.

Technically:

1st trimester: no restrictions may be made.

2nd trimester: states may restrict abortion for maternal health reasons, though the available evidence shows that prior to the end of the second trimester, the mortality rate from abortions is lower than that from carrying to term.

Post-viability: states may limit abortions.

II. Thomson, and the classic anti-abortion argument

What makes the abortion issue so interesting is that there are competing rights.

There is a general right to decide what happens in and to one's body.

There is also a right to life for all persons.

The classic anti-abortion argument:

- 1) Every person has a right to life.
- 2) The fetus is a person.
- 3) So the fetus has a right to life.
- 4) 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.
So, abortion is impermissible.

The goal of Thomson's argument is to show that the right to life isn't really that strong.
She concedes the premise that the fetus is a person.
(She doesn't really believe it, though.)
She rejects the conclusion.
If you reject the conclusion of a (valid deductive) argument, you must also reject at least one premise.
She rejects premise 4.

III. The violinist

Consider the violinist story, p 196-7.
Replace 'the violinist' for 'the fetus' and 'disconnect' for 'abortion', in the classic argument.
So:

- 1) Every person has a right to life.
 - 2) The violinist is a person.
 - 3) So the violinist has a right to life.
 - 4) The right to life, for the violinist, is stronger than the right to choose what happens in and to one's body.
- So, disconnecting the violinist is impermissible.

The same argument now gives you the wrong answer.

IV. The extreme view

It is possible to continue to hold that abortion is impermissible, if you accept that disconnection from the violinist is also impermissible.
Thomson calls this the 'extreme view'.
This holds the line about rights to life being stronger than rights to choose what happens to your body.

The extreme view has difficulty with cases in which the mother will die if she carries to term.
We generally let people kill in self defense.
In this case, there are competing rights to life, not a balance of a right to life with a right to choose what happens to your body.

To hold the extreme view, you could rely on the doctrine of acts and omissions: it's better to let die than to kill.
This option, as we saw before, is not open to a consequentialist.

The extreme view seems implausible.

V. The 'weak extreme view'

The weak extreme view is more plausible.
On this view, abortion is permissible only given equal, competing rights to life.
That is, if the mother's life is at stake, an abortion is allowable.

Even on the weak extreme view, you have to stay connected to the violinist, unless doing so would kill you.

This too is implausible.

It seems that we do have the right to disconnect ourselves.

VI. The difference between the fetus and the violinist

Let's proceed on the assumption that you are morally permitted to disconnect from the violinist.

Either:

- 1) The classic argument is defective; or
- 2) The difference between the violinist case and the abortion case is relevant.

If 2), the difference can not be that the fetus is voluntarily assumed.

If you have a right to life, it shouldn't matter how you were created, e.g. by voluntary pregnancy or rape.

This would be a dangerous distinction to make.

It would create different classes of people depending on their parents.

You might want to say that the difference is that you were kidnapped in the violinist story, but the mother can become pregnant voluntarily.

This would mean that if a pregnancy was involuntary, then one would be allowed to have an abortion.

This would entail that the difference in whether the right to life outweighs the right to choose depends on how the fetus was created.

Different people would have different rights, depending on their origins.

This is really indefensible, inconsistent with what we think about human rights.

If there's no other support for 2), both the original argument and the version with the violinist must be defective.

Thomson argues that the problem is in premise four, that the right to life isn't strong enough.

VII. What is a right to life?

It's not a right to bare minimum we need to survive.

Consider Thomson's Henry Fonda example.

Also, consider the debates over welfare in our country.

We might provide a basic right to food and shelter.

But we don't even do that, let alone ensure survival.

The right to life is also not a right not to be killed.

For, consider the violinist again.

He has a right to life, but disconnecting him is killing him.

Whatever a right to life is, it doesn't give you the right to use some one else's body.

So Premise 4 in the classic anti-abortion argument is wrong.

If you aren't responsible for the pregnancy, then you may justly take steps to remove the fetus from your body.

Thomson argues that if you use contraception (responsibly), then you aren't responsible for the pregnancy.