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Lecture Notes, December 13

I. Extending the contraception objection to Marquis' FLO theory

The FLO theory seems to make contraception wrong, since it prevents the sperm and egg from having their FLO.

This objection also holds for male masturbation, since sperm are destroyed.

It can be extended to an argument that every woman has a responsibility to fertilize as many of her eggs as she can, since an unfertilized egg loses its FLO.

Marquis replies that in the cases of sperm and eggs, there's no individual which loses its FLO.

The sperm and egg are two individuals, and no determinate person.

This argument is lame: the sperm is a determinate individual, and so is the egg.

Marquis can bite the bullet, though, and just accept this counter-intuitive result, that contraception and masturbation are wrong and that women are required to fertilize their eggs.

II. How do we determine whether Warren or Marquis has the correct criterion?

The key is not to make the distinction on the basis of the conclusions they yield.

One should not argue that abortion is permissible, so Warren's criterion is right.

Or, conversely, that abortion is impermissible and so Marquis' criterion is correct.

These choices would beg the question.

Here's a non-question-begging point:

Marquis owes us an explanation of the notion of a 'future like ours'.

He says that it is a future of value.

He has to explain what makes our futures valuable, whereas the future of a rock has no value in itself.

In order to do that, he has to distinguish between persons and non-persons.

He will have to appeal to some criteria like Warren's.

So, his account presumes an account like Warren's, which means that her criteria are primary.

This doesn't mean that Warren's criteria are correct.

One may argue about the details, there.

But some account like it must hold, and be conceptually prior to the FLO theory.

III. Review of abortion positions

The abortion handout.

IV. Mill's Harm Principle

Mill wrote both *Utilitarianism*, which defended utility as the sole justification in moral matters, and *On Liberty*, an extended defense of rights. These two works have a natural tension, since utilitarianism has a natural problem with rights.

Mill bases *On Liberty* on a single, anti-paternalist principle, we now call Mill's Harm Principle: ...the sole end for which mankind are warranted, individually or collectively, in interfering with the liberty of action of any of their number, is self-protection. That the only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others. His own good, either physical or moral, is not sufficient warrant. He cannot rightfully be compelled to do or forbear because it will be better for him to do so, because it will make him happier, because, in the opinion of others, to do so would be wise, or even right...The only part of the conduct of anyone, for which he is amenable to society, is that which concerns others. In the part which merely concerns himself, his independence is, of right, absolute. Over himself, over his own body and mind, the individual is sovereign. (Mill, p 369)

Clearly, most drug prohibitions are paternalistic.

The Harm Principle thus opposes them.

We generally avoid paternalism, with Mill.

There are some paternalistic laws, enforcing seat belts and bike helmets, and prohibiting suicide and euthanasia.

Note also that the anti-smoking ban in New York City is not a paternalistic law.

It is a workplace protection, to serve those who would be exposed to second-hand smoke in order to perform their jobs.