

Philosophy 104, Ethics, Queens College, Spring 2005  
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Lecture Notes, April 13

### I. Marquis' criteria for personhood

Marquis argues that the proper criteria for personhood includes the fetus.  
Killing persons is clearly wrong, but if we understand why, we can apply it to the fetus.  
Killing persons is wrong, says Marquis, because it deprives the victim of his/her FLO (future of value like ours).

### II. FLO Theory of why killing is wrong

1. Killing causes premature death.
  2. Premature death deprives an individual of future value.
  3. Depriving an individual of future value is wrong.
- Therefore, killing is wrong.  
See , p 208.

Marquis is presenting a different set of criteria for personhood.  
Anything with a FLO is a person.  
This is not a biological criterion, so not narrowly chauvinistic.  
Aliens and sentient machines can have FLOs too.

### III. Applications of FLO

Marquis presents a series of applications intended to convince us that the FLO criterion is correct.

AIDS or cancer patients are sad because of the loss of their FLO.  
If we ask why they are sad, they say agree.  
Marquis calls this the Considered Judgment Argument for the FLO theory.

The Worst of Crimes Argument for the FLO theory.  
Compare murder to assault, rape, cutting off a limb.  
The loss of a FLO is what makes murder the worst of crimes.

Appeal to Cases Argument for the FLO theory:  
Suicides : We stop them because we know they have a FLO, even though they may not know this.  
“[I]t is not the mere desire to enjoy a FLO which is crucial to our understanding of the wrongness of killing. Having a FLO is what is crucial to the account...” (p 209)  
Comatose people: Even if they aren't conscious, they have a FLO.  
Euthanasia: We permit it if the future looks awful, if they don't have a high probability of a FLO.

#### IV. Objections to Marquis' FLO theory of personhood

Potentiality Objection:

Fetuses only have potential FLOs.

But potential presidents are not presidents, and do not have presidential rights.

So, the fetus doesn't really have a FLO.

Marquis' response:

FLOs include potential in them.

It is the loss of potential for adults, that makes killing wrong, p 210.

That is, a fetus, if left alone, has a FLO, already.

Argument from Interests Objection:

You have to be sentient to have interests.

Fetuses are not sentient, so do not have interests.

Since they don't have welfares of their own, they have no moral standing.

Marquis' response:

Consider the temporarily unconscious patient counter-example, p 211.

One can in fact have interests without sentience.

Contraception Objection:

Contraception prevents the sperm and egg from having their FLO.

The FLO theory seems to make contraception wrong.

One may even extend Marquis' contraception objection.

Male masturbation, destroys sperm.

So it is immoral as well.

Similarly, if a woman fails to get pregnant, her egg is lost.

The unfertilized egg loses its FLO.

The FLO theory seems to entail that every woman has a responsibility to fertilize as many of her eggs as she can.

Marquis response:

In the cases of sperm and eggs, no individual loses its FLO.

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

This response is wrong.

The sperm is a determinate individual, and so is the egg.

Marquis can bite the bullet, and just accept that contraception and masturbation are wrong, and that women are required to fertilize their eggs.

This seems counterintuitive.

#### V. Application of the FLO Theory to abortion

Abortion deprives the individual fetus of a future like ours.

Depriving an individual of a future like ours is wrong.

So, abortion is wrong.

#### VI. 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 does not 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.

This looks like an argument in favor of Warren's criteria over Marquis' criteria.

## VII. 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, p 359.

A metaphoric version of the principle: the limit to my freedom to swing my arm is the tip of your nose.

Paternalism is when the government acts to protect the individual from him/herself.

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

Clearly, most drug prohibitions are paternalistic.

The Harm Principle thus opposes them.

We generally avoid paternalism, with Mill.