

Analysis of Ethical Theories of “In defense of abortion and infanticide”

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Intro

There are a few social and ethical issues that are as heated and controversial, in the western world, as the topic of abortion. Abortion is hitting the idea and ethical values surrounding a human's life, personhood, and the boundaries of certain moral rights. Already with two heavy opposing sides and arguments adding to the idea of infanticide, and how it relates with the practice of abortion, complicates, and further muddies the water surrounding such ethical issues. In Michael Tooley's paper *Abortion and Infanticide* he proposes an interesting take on the moral acceptability of abortion and wraps the issue of infanticide into the argument as well. Tooley suggests that abortion and infanticide should both be judged on the same moral ground. Based off these grounds he argues that certain ideals must be applied for abortion and infanticide. He also presents the idea of personhood and how it differs from a biological stand point and how his thesis works around this central idea of personhood and some ones "right to life." Tooley defines and outlines his definitions of these terms and ideas and how he justifies that being a member of the homo sapiens species is not enough a right to life. This paper examines the central arguments of Tooley, by analyzing his definitions of personhood, his potentiality argument, and his arguments to stay morally consistent. By looking from a differing point of view, from a various number of ethical views such as egoism, Kant's categorical imperatives, divine command theory, utilitarianism, etc. to ultimately find how each ethical view deals with Tooley's arguments. If Tooley was correct in his arguments how have they held up 50 years later.

I: Abortion and Infanticide

Tooley first starts off and introduces his thesis that abortion and infanticide should both be held to the same standards and moral ground. Highlighting that the characteristics that apply to the opposition of infanticide should apply in the same way to abortion. Tooley is aiming this argument at the liberal take as he says it difficult to derive a satisfactory liberal position with running into the issue of infanticide. He is hitting the issue head on instead of avoiding the argument. This begins his argument on what “what makes something a person, what gives something a right to life” (Tooley, 1972, 38). He says there is no room for a moderate position on the issue of abortion regarding personhood and whether a fetus is considered a person or not. Does a fetus differ from a newborn, to a five-year-old, or a thirty-six-year-old? If from the liberals position a fetus is not a person when, would it become a person and if so how would infanticide be any different. Tooley is emphasizing the importance of defining what can qualify someone or something for moral protection.

Egoism:

Now analyzing this specific point in his thesis under the view of an egoist might similarly align with his arguments. An egoist might agree because if it is in one’s self interest it would permit it to be morally acceptable. But the argument can also be swapped and if one’s self-interest is to prevent abortion and infanticide it would also be morally permissible because no matter what if their self-interest is being accepted it cannot be wrong or bad. Egoism has a degree of “lack of concern” for those that are not in their self-interest. It would contradict Tooley’s argument of moral consistency. Tooley’s argument specifically is asking for liberals to

follow the same consistency on the topic of abortion, but egoism says that all people are acting in their own self-interest. All people would be contradicting the idea of certain altruistic actions. An egoist might argue that abortion is in their self-interest, but infanticide is against their self-interest arguing that abortion is killing of a nonperson while infanticide is. On the other extreme one could argue that anyone no matter the stage of development is permissible to kill because no one is a person since it is in their self-interest. One side can argue the one stage of development should allow for moral protection until a certain time. It is not consistent and cannot follow Tooley's consistency argument and will pose problems for what an egoist would determine for moral protection.

Cultural Relativism:

Another moral theory that could be argued is from a cultural relativist. By definition, cultural relativism is the theory that morals are determined by cultural norms. In more informal terms it would be defined as what someone would determine as yucky or yummy based on cultural background and norms. Overall, this theory does not hold much weight in terms of agreeing or disagreeing with Tooley's argument. In America, the culture surrounding abortion will either say it is okay, or the other side will say it is not okay. While both sides can say that infanticide is wrong and is "yucky." It is also determined based on cultures outside of the US. Other cultures have and will say that abortion and infanticide is yucky while others might say the opposite. Which presents a moral problem because there would be no way to judge one's other culture because it is yucky in another culture. It would be hard to justify a true absolute that Tooley says should be that abortion and infanticide should be judged on the same moral

views. It proves difficult to create such a universal idea to many cultures around the world and different cultures within the United States.

Emotivism:

Similarly, emotivism is along the same lines yucky and yummy. Now yucky and yummy are determined by the five senses. The theory of emotivism is based off emotional attitudes rather than objective truths. An emotivist could not properly say that seeing a dead body is objectively wrong compared to a dead fetus. It is only determined to be wrong based on how that certain person perceives it. Tooley highlights this idea when trying to include infanticide into the abortion argument. "The response, rather than appealing to carefully formulated moral principles, is primarily visceral" (Tooley, 1972, 39). The idea of infanticide is generally against and forms visceral opinions on the topic often arousing heavy emotions. It is often met with no arguments and being dismissed and is considered yucky to most. It still falls into the trap that cultural relativism fell into because some might believe that infanticide or abortion is morally yummy. Someone opinions might change on the issue depending on who is being killed. Through the lens of a war or conflict one would probably agree it is yucky if it happened to them or their people but would be okay if their enemy or oppressor was doing the same. It is still hard to create universalized arguments and apply a moral theory that does not work with objectivity and only decides what is good and bad by how someone responds.

These three moral theory examples have a hard to time to agree or disagree that infanticide should be wrapped into abortion. Neither can actually define moral rightness or

objective good. So, dealing with the idea of when someone becomes a person and therefore moral reprehensible to destroy, differs by every individual.

II. Terminology: "Person" Versus "Human Being"

In Tooley's second argument he distinguishes the difference between the biological category of a "human being" and the moral category of a "person." Many arguments addressing abortion rely on the idea that a fetus or every living organism of the homo sapiens species is counted as human life from the moment of conception. Tooley underlines the idea that a "human life" and "person," being used interchangeably, is unfortunate as it puts a blocker on the liberal's pro-abortion argument. Arguing that those that believe that by this usage of human life and person is leading pro abortionist astray. He says that the term person, when applied as a purely moral term, in reference to if something has rights it would have a decided right to life. One liberal argument is that a fetus is not a human until a certain point whether that be twenty weeks or after birth. The term "human life" is more in reference to the homo sapiens species and does not bring the same moral rights as the term person according to Tooley. He claims that fetuses and newborns should not and are not "persons" while being a "human life." He then shifts his thoughts to determining what traits and properties that a thing must have to be considered a person and therefore the right to life.

This argument Tooley presents issues from the one of the most popular ethical theories. Divine command theory is the theory that God or a Gods determine morality. There are many different religions that would present varying responses to this argument.

Divine Command Theory: Judeo-Christian

The side of a Judeo Christian would oppose the argument Tooley presented. Many would argue that a “human life” and “person” are synonymous and one in the same. There would be no difference or distinction of what characteristics and categories one must fit to be considered a person. A Christian would argue that life would start at conception and any human life/ homo sapiens would have rights at the start of conception. Personhood is determined by being a human not by physical characteristics or cognitive abilities. Christians would also argue that the act of abortion is wrong because under the guise of a fetus being a human life and God's creations would be violating commands God has set. God has outlined moral ideals regarding murder and treatment of human life. It contradicts Tooley's idea presented that a person would need to fulfill certain set of traits or that human life and person differ. His argument is reliant on secular reasonings and would make divine command theory from a Christian view inapplicable to his reasons.

Divine Command Theory: Levinas

From another similar view of divine command theory, is Levinas. Levinas is the theory that ethics should be at the central foreground of philosophy. One of the main ideas of Levinas is the idea of the “face” or imago Dei (image of God). The idea of the “face” is that one human cannot look at the face of another human and do any kind of ethical harm. Importance of imago Dei is that every human is made in the image of God and should be treated ethically. This idea still would be in opposition to Tooley because of his

dismissiveness for human life. Believing that an abortion or infanticide would both be destroying a human and do harm to another human.

Divine Command Theory: Buddhism

A Buddhist might agree with Tooley on some points but also might be completely rejected. One central idea of a Buddhist's views is Atman. Atman is the idea that everything in the world is not real, and any suffering is not real. To reach enlightenment, one must realize the idea that the world is not real and any suffering that occurs does not matter. By acknowledging the suffering that is infanticide and abortion it is reinforcing the idea of suffering leading to more suffering from an individual. Based off this claim from Buddhism what Tooley has argued would not matter because either way it is not real and so therefore the act of abortion can not be morally wrong. It is not necessarily agreeing with Tooley but more being indifferent to other issues.

III. THE BASIC ISSUE: WHEN IS A MEMBER OF THE SPECIES HOMO

SAPIENS A PERSON?

The third argument Tooley shares is how he determines the characteristics that would qualify someone as a "person" with a right to life. He notes that a general cause of pessimism when talking about someone's 'right to life' is that an organism's slow and gradual growth and continuous change. Given this it would be hard to draw an arbitrary line as a cutoff point and deem it permissible to kill a human up to a point. He also addresses the response of critics that his cut off point is also arbitrary. "right to life only if it possesses the concept of a self as a continuing subject of experiences and other mental

states and believes that it is itself such a continuing entity" (Tooley 1972, 44). His claim is what he calls the self-consciousness requirement, personhood is dependent on the presence of certain mental capabilities. The ability to form desires and act on those desires and if they act on those desires' others must refrain from depriving the individual of those desires. Underneath that, the ability to distinguish one's self as a distinct individual or simply someone's ability for self-awareness is what give someone the "right to life." The last stage of his argument is that desires are limited by the foreknowledge of concepts that an individual possesses. The individual could not know and desire certain things about life that they themselves do not understand. The subject cannot desire to continue to exist without those other mental states and experiences about self-continuing experiences. So, an individual that lacks such a consciousness of itself as a continuing self of mental states does not have a right to life. He finally explains that since the "right to life" is dependent on one's ability to desire and conceptualize itself the window for morally permissible infanticide would potentially be longer.

Tooley also rejects the claim that fetuses and infants will eventually grow up and develop into potential persons. He argues that just because an individual might have a self-conscious and be able to develop desires would still not grant them a moral right to life. He highlights the fact that one would not have a serious right to life until that point of self-consciousness. He uses the example of injecting a kitten and allowing it to now possess the cognitive abilities of a human. Claiming that the potentialities only appeared after the kitten was injected, because until it is injected it does not have a serious right to life and therefore is different in the case of a human being. From the moment of a human's

development the potential has been present from the beginning unlike the kitten. He argues that it needs to be based on current or present attributes of that being self-conscious mental state.

Egoist Theory:

Based off the argument of self-consciousness in fetus and newborns and egoists would fall down the same path. Either it is or it is not in their self-interest. Although their reasoning could change. Since one must have prior and current understanding of their desires and of being a continuing entity, an egoist could not argue against that because that individual cannot act in their own self-interest. It of course would not stop others from deciding on when to end another life, but it means they cannot reject the idea unless it is not in their self interest to commit infanticide or abortion. Since fetus and newborns are not capable of these desires and mental states they do not have a serious right to life. Since Egoists do not believe in altruism and have a general lack of concern for others, it would align with the arguments that Tooley presents because there is already a lack of concern for the rights of others. It still presents the two views that an egoist could follow: either in support of or rejecting Tooley's definition of personhood. If the egoist is in support of Tooley's argument because they cannot be bound to any external moral obligations to someone who would lack personhood. Rejecting the argument of potentiality from Tooley from an egoist who might perceive the potential future of a fetus. But still an egoist view would vary depending on how each person would define their own definition of personhood based off their self-interest.

Utilitarianism Theory:

Utilitarianism being another consequentialist theory evaluates moral value centered on their consequences and how they can maximize the greatest amount of happiness. A utilitarian might agree with Tooley because it would favor the people that are morally capable and are able to desire and understand their desires. There being no intrinsic value for non-persons it would be better to support those persons that are already capable of those mental capacities. By the knowledge that fetuses and infants do not have the mental capacities, qualifying them for personhood, by quantifying the greatest happiness for the other affected parties would align closely with what a utilitarian principle. Tooley's rejection of potentially also aligns with the utility side because it focuses on the actual experiences of others rather than the potential hypothetical persons. Other utilitarians might not support Tooley's argument because they would believe that the future happiness of an individual should be calculated into the overall happiness. Terminating a fetus could limit the amount of overall happiness in the future. They could also calculate that allowing abortion could lead to slow population growth and could prevent the rest of society from progressing and would stagnate. The broader implication could further cause harm in how society views human life and decrease net happiness. Utilitarianism is one of the moral theories that would be most likely to fully support Tooley's arguments on criteria for personhood.

Kant's Categorical Imperatives:

Lastly, Kantian ethics emphasizes morality by categorizing the rational and irrational and applying the universal maxims. Kant's categorical imperatives categorize choices either

being rational or irrational and his imperative/maxims. Maxim one universalizes choices and would mean that if someone terminates a fetus the same thing could happen to them to universalize it. Kantians would see everyone regardless of cognitive function as worthy of life and having moral worth. It would not be possible to universalize the choice of abortion under Tooley's argument that the fetus or newborn are not persons. Kant's moral duties do not depend on the self-consciousness of the individual. Now if Kantians did consider Tooley's criteria, they might find limited alignment. If one never becomes autonomous or capable of desires they might question the moral status of that individual. But it would not apply here because of the potential that the fetus or infant would develop those mental capacities. The second maxim says you can never use a person as a means to your own ends. Further showing that Kantians believe that it would never be morally right to use another person and that everyone would fall under the term person. knowing that a potential person could be capable of rationality and self-awareness would put them into both maxims.

What is a Person?

Now after seeing how the other ethical theories might answer each of these arguments that have been presented by Tooley. Attempting to answer the overarching question of what is a person? I will be applying my understanding of ethics and morals to best answer the question. Unlike Tooley who says that an individual must meet a requirement for personhood and have the right to life I would argue that there should not be a checklist or requirements that needed to be met. I believe that the term human being or homo sapiens should have no distinction between a person. Being a human at nature will validate anyone's "right to life" and personhood and by violating those rights would be morally impermissible.

The first point of Tooley where he states that abortion and infanticide should be held to the same standard and be on the same moral consistency would be the only point in which I can agree with. By looping the two acts into one makes it so that liberal positions could not find loopholes in the traditional sense and that are commonly seen as arguments. Tooley provides the argument that fetuses and infants both share the relevant characteristics that would disqualify them from their "right to life." It is important to make that distinction because the only thing that would separate the two would be how far along in growth and development the individual is. I would argue that in terms of abortion it would not matter if a fetus is terminated, an infant is terminated, or a fifteen-year-old was terminated. One would not reign over the other and be deemed to have a serious "right to life" over the other. There should not be a separation, that Tooley highlights, of being a human or being a person. There is no point in an individual's growth of their life that should

mean they now can qualify for the quote “perks” of personhood. The moment from conception should be the determining factor of someone’s life and their personhood. Based on biology and the very thing that every unique person has, is seen in their genes. DNA is formed from the moment of conception distinguishing someone from their mother and father and everyone else is a factor that should determine a person. On the very foundation our genes determine that we are human and since there is no distinction it should be said that it would mean that a human is a person.

On the other side the idea and presence of a soul is another thing that would define an individual’s personhood. The soul is what inherits eternal life with or without God and exists before a physical body. Personhood is not determined by having a body and is what needs atonement and is purified by the Holy Spirit. God predestined us and made us in his image. Our souls are what make a human person to be what we are. God has set a moral value on the human life and the humans soul. As the body would physically die the soul is what would go on to live forever. Personhood is being anchored in the eternal reality of God’s image and the spiritual responsibilities that God has placed before everyone. The soul would direct moral and spiritual actions

Conclusion

Michael Tooley’s arguments of personhood regarding the actions of abortion and infanticide with their moral implications would show that his framework for these distinctions and arguments have challenged moral and ethical ideals. His argument raises important questions about the criteria for personhood and someone’s “right to life.” From a

meta ethical theory perspective, the responses to Tooley's argument highlight the diversity of moral reasoning. The varied responses from differing ethical theories like egoism, Kant's categorical imperatives, divine command theory, emotivism, utilitarianism, etc. reveal the complexity of his views. While Tooley's argument resonates with some of the consequentialist theories there were few that could solely agree on the points he made. His arguments for personhood, potentially, and moral consistency are still very thought provoking and do a respectable job of justifying the importance of "what is a person." In the modern arguments on abortion should consider the ideas that Tooley presented to view and examine how others have tried to defend the arguments of abortion. It creates thought provoking ideas that challenge a very hostile moral issue in the western world of today.

References

Tooley, Michael (1972). Abortion and Infanticide. *Philosophy & Public Affairs*, Vol. 2, No. 1 (Autumn, 1972), pp. 37-65. <http://www.jstor.org/stable/2264919>