



ABORTION LAWS: PRO CHOICE ARGUMENTS FROM THE LENS OF MORALITY

By *Sudhanshu Jatav*
Teaching cum Research Associate at School of Law, Humanities and Social Sciences, Rashtriya Raksha University

Abstract

“It seems to me as clear as daylight that abortion would be a crime”, through these words, Mahatma Gandhi, tried to encapsulate the essence of pro-life argument to the subject matter of abortion. In all of our history, the rights of people with a voice have naturally held more importance over the ones who can’t speak for themselves. The question of child abortion is as much about ‘morality’ as it is about ‘free choice’. Radical liberalists have turned the discussion into woman versus ‘fetuses’ claiming the latter to not qualify as a human form. Using euphemisms or underplaying the issue of life itself seems to be an easier way to satiate their moral compasses, instead of taking the real accountability of unplanned parenthood. To put it into a better perspective, as per Abortion Worldwide Report (AWR) between the year 2015 to 2018, liberal laws on abortion in India has led to the killing of 30,23,436 human lives (a statement without softening the terminologies highlights why, it is a question of morality). The aim of this

paper is to analyze various pro-choice arguments regarding abortion and to look at them through the lens of ‘morality’ while keeping in mind the Gandhian principles of social justice and welfare. Brief comparison of India and Bangladesh abortion laws has also been made

Keywords: *abortion, morality, crime*

Introduction

To understand something to its very essence we need to start looking at how it has been defined. As per Merriam-Webster’s dictionary ‘Abortion’ is defined as *‘the termination of a pregnancy after, accompanied by resulting in, or closely followed by the death of the embryo or fetus.’*¹ If we look at Britannica the definition follows, *“the expulsion of a fetus from the uterus before it has reached the stage of viability”*.²

When we look at these modern day definitions and the language being used it comes forward as a meek attempt at diluting a cruel act by using technical terminologies. To put things into better perspective let us look at some history. In the year 1823, abortion was called ‘Foeticide’, a deliberate premature fatal expulsion of the fetus³ often compared to ‘Prolicide⁴’ which literally translates to ‘killing of one’s child or children’ introduced by Dr. John Gordon Smith in the 2nd edition of his book

¹ Merria-Webster. Retrieved January 19, 2020, from <https://www.merriam-webster.com/dictionary/abortion>

² The Editors of Encyclopaedia Britannica, (2019, December 27). Retrieved January 19, 2020, from <https://www.britannica.com/science/abortion-pregnancy>

³ Online Etymology Dictionary. Retrieved January 19, 2020, from <https://www.etymonline.com/word/abortion>

⁴ Dr. John Gordon Smith, on the Principles of Forensic Medicine. (1821). *The Medico-Chirurgical Review and Journal of Medical Science. Analytical Series.*, 2(6), 387–395.



‘Principles of Forensic Medicine’. Another medical term for it was ‘*embryoctony*’ also known as to ‘destroy’.

Over a period of time, the definition of abortion has been toned down to sound like a medical procedure. By using euphemisms, people often try to get away with things which in its original sense are horrifying to face. Terms like ‘expulsion’ and ‘termination’ are euphemism. Abortion in itself is a euphemism. A diluted, toned down, neutralized way of explaining feoticide or killing of a human life.

If we would have talked about abortion not as a medical procedure but as matter of forcible killing of human life, everyone would have a better picture of what ‘abortion’ means. Abortion is a violent procedure by which a human life is ended; an incipient human life is torn apart. In later term abortion, we are talking about fully formed child who could survive outside the womb and can feel pain. Yet we have various democrats who come out endorsing such views.

Barak Obama being one of those who are beating the drums around such laws stated on the 41st Anniversary of *Roe v. Wade*⁵ that, “*we resolve to reduce the number of unintended pregnancies, support maternal and child health, and continue to build safe and healthy communities for all our children. Because this is a country where everyone*

deserves the same freedom and opportunities to fulfill their dreams”⁶ Well not everyone, there are people killed in this process. If they are unborn they don’t get the freedom and opportunity to fulfill their dreams since the opportunity to fulfill dreams only extend to those who are viable enough to survive outside a womb. The statement by Obama came as a response to the euphemistically titled “The Reproductive Health Act (RHA)”⁷ which proposed to keep abortion legal up to the point of birth⁸. State of Virginia went a step ahead and proposed a bill title “Repeal Act” which would legalize abortion up-to the point of dilation, removing all existing restrictions on abortion.⁹ Similarly the State of Vermont is also working on a bill proposing abortion up-to the point of birth. Disappointingly, abortion has moved from being something safe, legal and rare to something celebrated, cheered and applauded.

The disheartening side of this story is that since the judgment of *Roe v Wade*, we are standing on the wrong side of a great moral divide. These abortion laws rob the yet born babies of their lives, and rob them of their future because dreams are only limited to those who can speak.

Abortion Laws and the Timeline of Pregnancy

⁵ (1972) U.S. Reports: **Roe v. Wade**, 410 U.S. 113 . [Periodical] Retrieved from the Library of Congress, <https://www.loc.gov/item/usrep410113/>.

⁶The White House Office of the Press Secretary. (2014, January, 22) Statement by the President on *Roe v. Wade* Anniversary. Retrieved from <https://obamawhitehouse.archives.gov/the-press-office/2014/01/22/statement-president-roe-v-wade-anniversary>

⁷New York State Assembly. A21. Retrieved from https://nyassembly.gov/leg/?default_fld=&leg_video

=&bn=A00021&term=2019&Summary=Y&Memo=Y&Text=Y

⁸ *Pro-abortion movement in a panic over possible end of Roe v. Wade.* (2019, January 29). Retrieved January 18, 2020, from

<https://www.pop.org/new-york-state-to-allow-abortion-up-to-birth/>

⁹ *Virginia Bill Would Legalize Abortion Up to Birth.* (2019, January 29). Retrieved January 18, 2020, from <https://www.nationalreview.com/corner/virginia-bill-would-legalize-abortion-up-to-birth/>



In 1971, The Indian parliament passed a law named Medical Termination of Pregnancy Act hereinafter referred as MTP act. The act regulated abortion. Purpose of the bill was to ensure that everyone has access to safe abortion. The act certified safe abortion by providing facilities in order to eliminate post pregnancy complexities. Abortion to save women's life or to preserve her mental and physical health was permitted. The act also legalized abortion in the cases of economic and social necessity, incest, rape, fetal impairment or failure of contraceptive method used by a married woman or her husband.

In other words, risk to life and grave physical and mental injury to the mother is a ground for termination of pregnancy. Also, if the child in womb suffers from physical or mental abnormalities abortion is permitted. A 20 weeks gestation period is provided up-to which pregnancy can be terminated. However, in cases of immediate necessity to save a woman's life there is no limit and abortion can happen till the point of birth.

Section 3 of MTP Act, 1971 provides for conditions required to be eligible for abortion:

1. If the length of pregnancy is under 12 weeks only one medical practitioner is required
2. If the length of pregnancy goes beyond 12 weeks but does not exceed 20 weeks, two

medical practitioners are required to terminate pregnancy.

Section 312 to 316 of the Indian Penal Code provides that any person performing an illegal abortion was subjected to imprisonment for three years and/ or payment of a fine; of the woman was "quick with child", the punishment was imprisonment for up to seven years and payment of a fine.¹⁰

The act is highly appreciated for making abortion facilities easily accessible. Prior to the MTP act, abortion was governed by the Indian Penal Code which criminalized all kinds of abortion except in the situation of saving a woman's life.¹¹ Since, abortion centers were not available prior to MTP act women were forced to go for unsafe abortions. Illegality forces the poorest women to use the most desperate practices.¹² Desperate times, desperate measures. As per India-today, 13 women die due to unsafe abortion every day. The MTP Act has done a great deal to provide some relief.

Providing relief to women is one side of the story, killing a yet born that has developed its own circulatory system, heart and spinal cord is whole another story. To give you a better perspective, let us look at the timeline of the pregnancy:

¹⁰ *Abortion Laws in India: Laws, Punishments And Cases.* (2017, June 1). Retrieved January 19, 2020, from <https://www.lawnn.com/abortion-laws-india-laws-punishments-cases/>

¹¹ Tank, J. Dr., Mahershwari, B. Dr. (2019). Everything you need to know about providing abortion India: The Federation of Obstetric & Gynaecological Societies of India. Retrieved from

<https://www.fogsi.org/wp-content/uploads/newsletter/fogsi-jan-feb-2019.pdf>

¹² *When Abortion Is Illegal, Women Rarely Die. But They Still Suffer.* (2018, October 11). Retrieved January 19, 2020, from <https://www.theatlantic.com/health/archive/2018/10/how-many-women-die-illegal-abortions/572638/>



*Pregnancy Timeline*¹³

Time-period	Development of the baby
18 days	Heartbeat is discovered
21 days	Closed circulatory system is developed
3 rd week	Brain, spinal cord, heart and other organs began to form
4 th week	Earliest facial features
7 th week	Body limbs are developed
9 th week	Began the development of external genital
10 th week	Fingernail are developed
12 th week	Kidney's become functional

All this development is just a part of the first trimester. By week 12th kidney's become functional; the baby starts to pass urine after consuming amniotic fluid. Yet we are left with 9 weeks more growth period, up till the point abortion is permitted under the MTP Act. The MTP act makes no **statement** on accountability. There is no discussion from the moral standpoint of abortion.

In comparison to the Medical Termination of Pregnancy Act, abortion laws in Bangladesh are stringent in nature and to some extent authoritarian. Bangladesh only allows abortion to save the life of the woman. As per Section 312¹⁴ of Bangladesh Penal Code, “if

someone causes a woman to abort not in good faith or to save the life of the mother, imprisonment for a term of 3 years or fine, may extent to 7 years¹⁵. This section applies to instances where abortion was caused with consent of the mother. In cases where consent of the mother is not taken, punishment prescribed extends to 10 years and fine.

For most pro-choice activists out there, MTP act was a welcome legislation but the impact of this act has been quite underwhelming. In Mumbai, a minor rape victim was refused to be aborted. Medical practitioner did not perform abortion even though the pregnancy was under the 19 weeks period. By the time such injustice could have been fixed, pregnancy caused the limit of 20 weeks period which is prohibited under the MTP act. Between the period of April 2016 to July 2019, court refused to allow minor rape victims an abortion, data stands at 17% of the total 82 cases.¹⁶ 56% of abortions performed in India are unsafe, with 10 women dying of unsafe abortions each day.¹⁷

Unintended or unwanted pregnancies can arise out of unmet need for contraception, contraceptive failure or rape. When a woman is legally not allowed to abort or lacks access to trained providers, she is forced to go to illegal providers, who may be untrained or may perform the procedure under unhygienic conditions.¹⁸

¹³ *When Abortion Is Illegal, Women Rarely Die. But They Still Suffer.* (2018, October 11). Retrieved January 19, 2020, from <https://www.theatlantic.com/health/archive/2018/10/how-many-women-die-illegal-abortions/572638/>

¹⁴ *The Penal Code 1860* s. 312 (Bangl.)

¹⁵ *The Penal Code 1860* s. 312 (Bangl.)

¹⁶ *A Pratigya Campaign For Gender Equality and Safe Abortion Report.* (2019, September) Retrieved January 19, 2020, from [https://pratigyacampaign.org/wp-](https://pratigyacampaign.org/wp-content/uploads/2019/09/assessing-the-judiciarys-role-in-access-to-safe-abortion.pdf)

[content/uploads/2019/09/assessing-the-judiciarys-role-in-access-to-safe-abortion.pdf](https://www.theatlantic.com/health/archive/2018/10/how-many-women-die-illegal-abortions/572638/)

¹⁷ *56% Abortions Unsafe Despite Being Legal; Proposed Amendments On Hold.* (2017, November 22). Retrieved January 19, 2020, from <https://www.indiaspend.com/56-abortions-unsafe-despite-legal-proposed-amendments-hold/>

¹⁸ *56% Abortions Unsafe Despite Being Legal; Proposed Amendments On Hold.* (2017, November 22). Retrieved January 19, 2020, from



Pro-Choice Arguments and their Fundamental Problem

1. It's not a human being it's a fetus tissue

One of the most commonly used arguments from the side of pro choice activist is that a fetus tissue is not a human being. That since it's not a human being and does not have a life of its own, it's not murder. This argument can be formulated in two folds a) A fetus is not a human life b) therefore, the liability of murder is wrongly applied

This is one of the most flawed among the pro abortion arguments. Calling a yet born baby consisting its own heart, spinal cord and brain, a non-life form is pure non-scientific nonsense. As per medical expert William Shiel Jr, "*an unborn offspring, from the embryo stage (the end of the eighth week after conception, when the major structures have formed) until birth*"¹⁹ is a fetus. You and I, began our lives when we were born and not when we were conceived.²⁰ Another textbook, "Human Embryology and Teratology, 3rd ed.," from publisher Wiley-Liss, asserts that fertilization is the "critical landmark" when a new, genetically distinct human organism is formed. Yet, the text

<https://www.indiaspend.com/56-abortions-unsafe-despite-legal-proposed-amendments-hold/>

¹⁹ *Medical Definition of Fetus*. (2018, December 12). Retrieved January 19, 2020, from <https://www.medicinenet.com/script/main/art.asp?articlekey=3424>

²⁰ *The Science is conclusive: That fetus is a baby*. (2018, December 12). Retrieved January 19, 2020, from <https://www.desmoinesregister.com/story/opinion/columnists/iowa-view/2018/12/12/science-conclusive-fetus-baby-iowa-fetal-heartbeat-law-abortion/2286938002/>

²¹ Ronan, R., Fabiola M. (2001). *Human Embryology & Teratology (3rd Edn)*. Wiley-Liss

explains, "life is a continuous process" throughout the pregnancy.²¹ As Harvard University Medical School Professor Micheline Matthews-Ross testified before a 1981 U.S. Senate Judiciary Committee, "It is scientifically correct to say that an individual human life begins at conception and that this developing human always is a member of our species in all stages of life"²²

Physicians, biologists and other scientists agree that conception marks the beginning of the life of a human being — a being that is alive and is a member of the human species. There is overwhelming agreement on this point in countless medical, biological and scientific writings.²³

Dr. Bernard Nathanson, who co-founded the abortion advocacy group NARAL and personally presided over 60,000 abortions, later confessed in the film "The Silent Scream" that "Modern technologies have convinced us that beyond question the unborn child is simply another human being, another member of the human community, indistinguishable in every way from any of us."²⁴

²² *The Science is conclusive: That fetus is a baby*. (2018, December 12). Retrieved January 19, 2020, from

<https://www.desmoinesregister.com/story/opinion/columnists/iowa-view/2018/12/12/science-conclusive-fetus-baby-iowa-fetal-heartbeat-law-abortion/2286938002/>

²³ *The Science is conclusive: That fetus is a baby*. (2018, December 12). Retrieved January 19, 2020, from

<https://www.desmoinesregister.com/story/opinion/columnists/iowa-view/2018/12/12/science-conclusive-fetus-baby-iowa-fetal-heartbeat-law-abortion/2286938002/>

²⁴ *The Science is conclusive: That fetus is a baby*. (2018, December 12). Retrieved January 19, 2020,



Let us see through few more papers that supports the same assertion,

1. "Human development begins after the union of male and female gametes or germ cells during a process known as *fertilization* (conception). "Fertilization is a sequence of events that begins with the contact of a *sperm* (spermatozoon) with a *secondary oocyte* (ovum) and ends with the fusion of their *pronuclei* (the haploid nuclei of the sperm and ovum) and the mingling of their chromosomes to form a new cell. This fertilized ovum, known as a *zygote*, is a large diploid cell that is the beginning, or *primordium*, of a human being."²⁵
2. "The development of a human being begins with fertilization, a process by which two highly specialized cells, the *spermatozoon* from the male and the oocyte from the female, unite to give rise to a new organism, the *zygote*."²⁶
3. "Almost all higher animals start their lives from a single cell, the fertilized ovum (zygote)... The time of fertilization represents the starting point in the life history, or ontogeny, of the individual."²⁷
4. "Embryo: An organism in the earliest stage of development; in a man, from the time of conception to the end of the second month in the uterus."²⁸

from
<https://www.desmoinesregister.com/story/opinion/columnists/iowa-view/2018/12/12/science-conclusive-fetus-baby-iowa-fetal-heartbeat-law-abortion/2286938002/>

²⁵ Moore K. *Essentials of human embryology*. Philadelphia: B.C Decker.

²⁶ Sadler T.W., Langman J. *Langman's medical embryology*. Philadelphia : Lippincott William & Wilkins.

²⁷ Carlson B. *Patten's Foundations of Embryology 6th edition*. New York: McGraw-Hill.

A ridiculously high amount of medical research suggests that life begin at the time of conceiving. A 20 weeks old fetus with its own blood group, DNA and various functioning organs is not just a tissue. If this fetus is found on mars, we would say life found on mars, human life found on mars. Reducing human life to a mere tissue, comparing it to a vegetable is nothing less than disgraceful.

Simply saying fetus is not a person, then abortion deserves no condemnation. This oversimplifies the issues. Even if the fetus is not a human being, it is clearly regarded by most people and most societies as something special that should not be casually discarded.

2. Argument of viability

The Notion of viability when applied to a state of fetus has gained a different sense. Roughly speaking, it refers to the capability to live outside the mother's womb. When applied to a state of a neonate, viability means, again roughly speaking, the capability to live, with no commitment to the quality of the expected life or development of the neonate.³⁰

Viability means the ability of a fetus to stay alive without the mother's womb. A lot of

²⁸ Dox I.G. *HarperCollins Illustrated Medical Dictionary*. CollinsRef, 1st edition.

²⁹ *When is the foetus 'alive'?*. Retrived January 19, 2020, from http://www.bbc.co.uk/ethics/abortion/child/alive_1.shtml

³⁰ Kasher A. At the Edge of Viability: Moral and Ethical Guideline Proposals. *Ramaban Maimonides Medical Journal*. Retrieved from <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3678804/>



people believe that viability is a morally crucial point in pregnancy. Though there is no universally agreed definition on viability, it can be understood as the lowest gestational age at which all newborn babies could survive.³¹ The probability of keeping an untimely baby alive fluctuates massively relying upon the medicinal services administrations accessible in the area, nation or landmass. An exceptionally untimely baby in a rural area is probably not going to endure. In this way viability in one spot implies something very unique in relation to viability in another.

It is obvious that an embryo cannot survive outside the womb but that does mean that both are a single life. The life of a fetus is distinct from the life of the mother. “Neonatal medicine”, points out Dr Stuart Kolner, “has decreased the risks associated with premature birth. The World Health Organization adopted the standard of twenty weeks being the dividing line between spontaneous abortion and birth, and newborns as young as twenty weeks gestational age have survived. Since abortions are routinely performed as late as twenty four weeks, one can no longer justify such procedures on grounds of fetal non-viability.”³²

Viable or not, human life is the same. What has changed are the technical means for protecting and improving human gestation. Viability is measured by the sophistication of the life-support systems around the baby, not by the humanness or aliveness of the baby

³¹ Kasher A. At the Edge of Viability: Moral and Ethical Guideline Proposals. *Ramaban Maimonides Medical Journal*. Retrieved from <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3678804/>

³² Kolner J. S. Maternal vs. Fetal Rights. *American Life League*, 35.

itself.³³ Furthermore, from the philosophical point of view, the argument of viability confuses physical independence with ontological independence. A human individual always has ontological independence, although his or her physical independence varies with the different stages and circumstances of biological life.³⁴

Viability argument if has substance then it should survive and extend to the survival of babies and toddlers way past the point of birth. If a one year old, perfectly healthy baby is left alone, it will not survive. Similarly, the aged section of our society cannot survive without any human assistance. By that logic, it should be perfectly legal and morally correct to plug the cable and let these individuals who cannot survive by themselves, die.

3. Abortion being a responsible choice

Abortion being a responsible choice means, that since the parents are emotionally and financially incapable to take care of the baby therefore abortion justified. This is the most absurd argument in the history of absurd arguments. There is no denial that due to financial constraints, child will not have a good life if allowed to live. But the same does not justify kill it.

Let us assume for a moment that we go ahead with this argument. Let us all agree that its better to kill children rather than forcing them to live in poverty. World Bang Group UNICEF study show that nearly 385 million

³³ *TFP Student Action*. (2015, September 15). Retrieved January 19, 2020, from <https://tfpstudentaction.org/blog/debunking-abortion-and-the-false-argument-of-viability>

³⁴ *TFP Student Action*. (2015, September 15). Retrieved January 19, 2020, from <https://tfpstudentaction.org/blog/debunking-abortion-and-the-false-argument-of-viability>



children are living in extreme poverty. The analysis of UNICEF “Ending Extreme Poverty: A focus on Children” finds that in 2013 19.5 percent of children in developing countries were living in households that survived on an average of US \$1.90 a day or less per person, compared to just 9.2 percent of adults. How are we going to decide which ones to kill from the currently poverty stricken? Murdering a child in cold blood is not an option.

The argument becomes trickier when it comes to kill off children you can see living a life. Its easier to take such a gruesome decision for a womb since we don't have to face our horrible sins.

Pro-choice side of this discussion sells this argument by putting a stamp of morality on it; there is nothing moral about the idea that you think you're going to be a bad parent so you get to kill the child. It's an insane argument.³⁵ Woman has the right to choose whether or not to become pregnant. She makes that choice before engaging in sexual intercourse. To make that choice after a pregnancy is underway, merely as a matter of birth control, is without a shadow of doubt an immoral act.³⁶

Killing an innocent child is never in anyone's best interest not society's, not the family's, not the father's, not the mother's, and certainly not the unborn child's. We must

continue to make the case, and to make the opportunity, for a better way.³⁷

4. Men shouldn't have a say in abortion; they don't have a uterus

By this time these arguments are just getting berserk. Firstly, let's go through elementary biology, a child is conceived by the participation of both Man and Woman. Secondly, abortion is not a women issue it is a human rights issue. Thirdly, suppressing opinion on the basis of sex is plain 'sexist'. To say, you're a man, you're not carrying this child, to dismiss the idea that men can have an opinion on human rights is insulting³⁸

If a woman gets pregnant and doesn't want a child, and the man who impregnated her does, most people would acknowledge the two opinions don't hold equal weight. Simply because women are the ones bearing a child. If men are not considered equal partners in child bearing or assuming they should not have an equal say in child birth then the burden of parenthood should also not unjustly fall on them. You cannot have it both ways.

If we look at this situation from the other side it takes two to make an unwanted pregnancy happen. If men will not be included in this discussion or their side will not be heard it will become for the irresponsible ones to shrug of the responsibility.

³⁵ *The Post Millennial*. (2019, January 22). Retrieved January 19, 2020, from <https://www.thepostmillennial.com/ben-shapiro-refutes-top-ten-pro-choice-arguments-at-massive-pro-life-rally-in-washington/>

³⁶ *BBC*. (2014, June 10). Retrieved January 19, 2020, from <http://www.bbc.co.uk/ethics/abortion/philosophical/responsibility.shtml>

³⁷ *National Right to Live Protecting Life in America Since 1968*. (2010, August 19). Retrieved January 19, 2020, from <https://www.nrlc.org/archive/news/2005/NRL10/ResponsibleChoice.html>

³⁸ *BBC News*. (2019, May 18). Retrieved January 19, 2020, from <https://www.bbc.com/news/world-us-canada-48262238>



5. All abortions should be allowed because of rape and incest

One of the very few reasonable arguments is the rape and incest argument. Let us put it clear, rape and incest are pure evil, anyone involved in such acts should be castrated or killed. We can all be sympathetic and still realize that it is still a point of discussion that the baby should not pay the price for the crime of the father.

The majority of countries worldwide allow abortion in cases of rape and/or incest, either through laws enumerating these grounds or by permitting abortion on request. Although rape and incest are distinct legal grounds for abortion, they are very commonly paired together in abortion laws and policies. Although a handful of countries only allow abortion in cases of rape, and not incest, whereas there are not any countries that allow abortion in cases of incest that do not also allow abortion in cases of rape.³⁹

The General comment No. 36 (2018) on Article 6 of the International Covenant on Civil and Political Rights, on the right to life provides that state parties explicitly requires that State parties permit abortion in cases of rape and incest.⁴⁰

However, on an average 7000 pregnancy leads to rape in US every year in comparison to roughly one million abortions that happen every year. Argument that all abortions should be allowed due to rape and incest is a long stretch. Trying to get rid of the principle due to the exception is not a valid argument.

³⁹ Human Rights Committee, *General Comment No. 36 (2018) on Article 6 of the International Covenant on Civil and Political Rights, on the Right to Life*, at 2, para. 8, U.N. Doc. CCPR/C/GC/36 (2018).

⁴⁰ Human Rights Committee, *General Comment No. 36 (2018) on Article 6 of the International Covenant*

6. Judith Jarvis Thomson's violinist

Judith Jarvis Thomson, an American philosopher wrote an article titled 'A defense of abortion'. The article aimed to defend abortion, for the purpose of the argument, she agreed that fetuses has a right to life, but claimed that such right does not extend to a right to the mother's body.⁴¹ That even though fetus has a right to life but that right cannot be enjoyed by unfairly burdening the mother.

In this article she gave few hypothetical examples among those she used the example of 'The famous violinist' to prove her point. She states and I quote, "*you wake up in the morning and find yourself back to back in bed with a famous nut unconscious violinist. He has been found to have a fatal kidney ailment, the society of music lovers has canvassed all the available medical records and found that you alone have the right blood type to help. They have therefore kidnapped you, and last night the violinist's circulatory system was plugged into yours, so that your kidneys can be used to extract poisons from his blood as well as your own (if he is unplugged from you now, he will die;) but in nine months he will recover from his ailment and can safely be unplugged from you.*"⁴² In this example, the person being kidnapped is the mother, famous violinist is child and the society of music lovers is the pro-life section of the society. Jarvis Judith claims that since the violinist was forced on you, therefore there is no question of morality. The person should

on Civil and Political Rights, on the Right to Life, at 2, para. 8, U.N. Doc. CCPR/C/GC/36 (2018).

⁴¹ Munson R. (1996). *Judith Jarvis Thompson: A Defense of Abortion. Belmont; Wadsworth, 69-80.*

⁴² Munson R. (1996). *Judith Jarvis Thompson: A Defense of Abortion. Belmont; Wadsworth, 69-80.*



be free to detach the cord since there is no moral duty.

This is a valid argument to an extent, only applicable to the cases of rape or forced pregnancy. The example in the violinist illustration is very tight and does not give much room to include more instances. The analysis employs two powerful technique of argumentation: an example that appeals to moral intuition followed by a logical slippery slope⁴³.

The logical slippery slope works like this, when one thing is immoral, and the second is logically similar in morally relevant way, the moral quality of the one “slips over” into another. For instance, murder is immoral, and some think capital punishment is immoral too.⁴⁴

The key question in any slippery slope appeal is whether two situations are truly similar in a morally relevant way. If not, then the illustration is guilty of a logical slippery slope fallacy. The analogy fails and the argument fall apart.⁴⁵ Firstly, the violinist is artificially attached to the woman. An unborn however is not surgically connected. The relation of mother – child is turned into a host predator relationship. This example equates stranger-stranger relationship with the mother-child. It becomes trickier if we say that the violinist is not a stranger but mother’s own child or the parent. Now it is arguable that this decision does not come out of choice still there exist

moral obligations. This is why the court prosecutes negligent parents.

In 1994, Susan Smith strapped her two sons, 3 year old Michael and 14 month old Alex, into their car seats and pushed the vehicle into a lake. She did so because according to her, the kids were a hindrance in her remarriage. If the Thomson’s violinist is workable then by that logic Susan Smith did nothing wrong. Obviously, that is not the case; she is serving her time in prison for two counts of murder.

7. The argument of overpopulation

The last argument to be discussed here is the overpopulation argument. Saying abortion should be legal because it is a way to curb overpopulation is nothing less than Thanos’s utilitarianism. Thanos, a marvel comic book character, in the movie titled ‘Infinity War’ wanted to kill half the universe. His argument was, the world is overpopulated and the resources are limited therefore, by cutting the population to half the rest will flourish. The outcome will be preferable but the means to the end is bananas.

Bernie Sanders, an American politician during his interview to CNN suggested that one way to curb the world population is to give women in United States of America right to control their own bodies and make reproductive decisions.⁴⁶ He was accused by the Republican National Committee for saying ‘abort babies for population control’⁴⁷.

⁴³ *Stand to Reason*. (2016, Jan 11). Retrieved January 19, 2020, from <https://str.org/articles/unstringing-the-violinist#.XiWHjcgzblU>

⁴⁴ *Stand to Reason*. (2016, Jan 11). Retrieved January 19, 2020, from <https://str.org/articles/unstringing-the-violinist#.XiWHjcgzblU>

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Immanuel Kant in his thought experiment 'Kingdom of Ends' stated, "act in such a way as to treat humanity, whether in your own person or in that of anyone else, always as an end and not merely as a means"⁴⁸

Treating others as ends includes allowing them the same freedom of choice and accomplishment, respecting their dignity. It would be a violation of one's own dignity to violate the dignity of another and treat them merely as means.⁴⁹ It is understandable that overpopulation is a global problem with quite limited resources. But there are many better solutions to environmental problems than disposing of 'unwanted humans'.⁵⁰

Conclusion

Abortion is single most contentious topic discussed in medicine and its ethics. Abortion is advocated by the individuals who have themselves been born. Human being has a right to life and without a shadow of doubt it can be said that abortion is a human rights issue. It becomes a moral issue when we start discussing the exact point when human life begins. Abortion is naturally diverse from other procedures because no other process involves the intentional termination of possible life. If the fetus is a person, then it has the rights that belong to persons, including right to life. The concept of personhood, in other words is the connection that links the fetus with the right to life. Thus, in the structure of human rights, there is a dire need to balance rights against each other. The

right to life of the child and the right to life of the mother

If we go back to making abortion legal (except in the cases of rape and incest), the idea is not to prosecute the mother, because it is counter-productive. We need to develop a sense of morality and duty towards the other human being. From the legal point of view, the argument of abortion suffers from the applicability of *mens rea*. For mens rea to exist for murder, the fetus needs to be recognized as a human being, without homicide there is no murder. For instance, if a person punches a woman intentionally in the womb as a result both mother and the baby dies. The law needs to recognize it as double homicide. From sociological point of view, we need family planning services.

Abortion is a grave evil, the reason it is a grave evil is because we believe on the basis of both logic and natural law that human beings have inherent value. If you believe that human beings are special then you have to believe that your specialness began at the time you were conceived. Where else would it begin, that is the point of biological contact. It is necessary to preserve the innate value of human life if we want to become a better country.

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