

Abortion

History of Abortion in the West (1/3)

Such a history might begin with the Hebrew Bible, where we find the following passage:

If, when men come to blows, they hurt a woman who is pregnant and she suffers a miscarriage, though she does not die of it, the man responsible must pay the compensation demanded of him by the woman's master; he shall hand it over, after arbitration. But should she die, you shall give life for life, eye for eye, tooth for tooth, hand for hand, foot for foot, burn for burn, wound for wound, stroke for stroke.

[Exodus 21: 22-25]

History of Abortion in the West (2/3)

Here's a discussion from English common law, as recorded by William Blackstone:

“Life is the immediate gift of God, a right inherent by nature in every individual; and it begins in contemplation of law as soon as an infant is able to stir in the mother's womb.” [Blackstone, *Commentaries on the Laws of England*, 394-395 (1769).]

“Quickening” of the fetus (when a woman can feel the fetus first move in the uterus) occurs from 18 to 20 weeks.

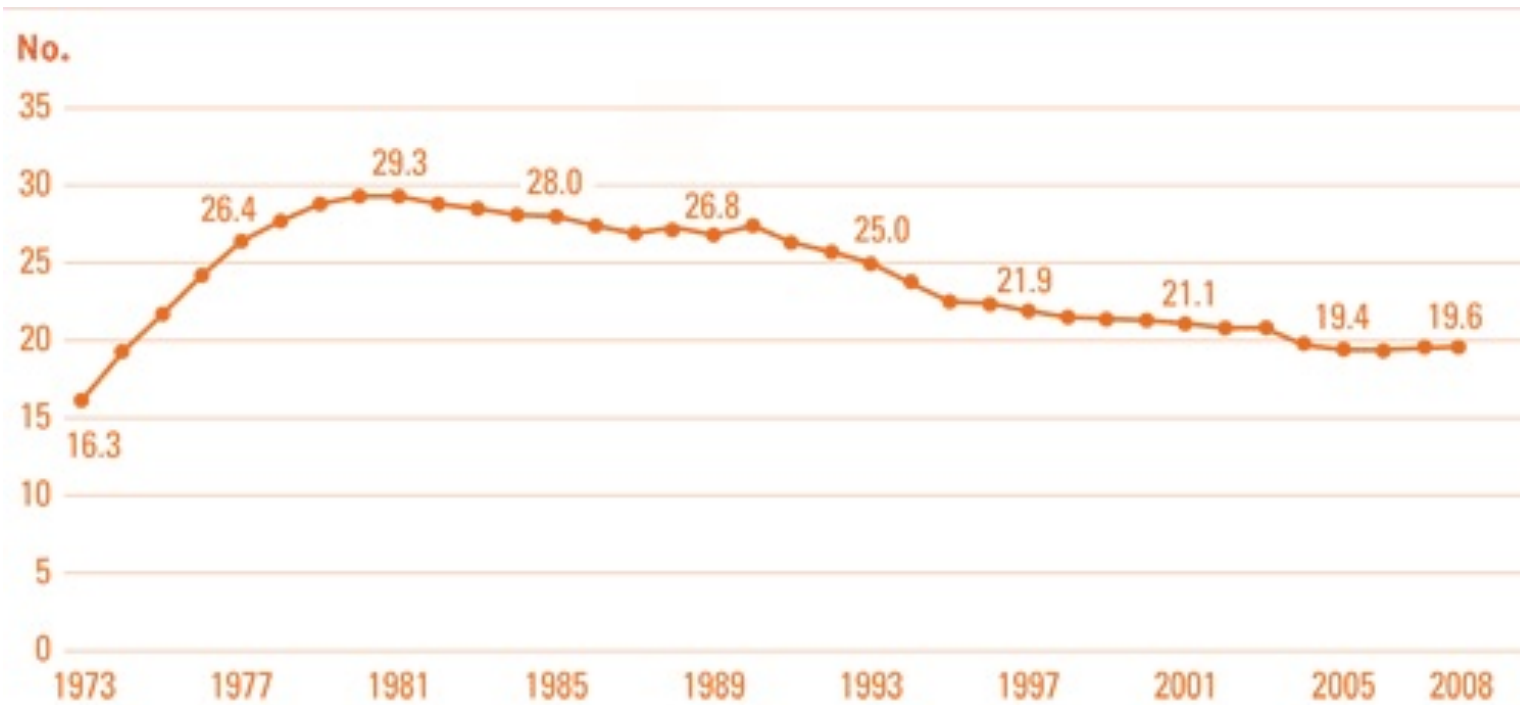
History of Abortion in the West (3/3)

But a funny thing happened with the advent of microscopy:

In the seventeenth century, a curious view of fetal development began to be accepted, and this had unexpected consequences for the Catholic view of abortion. Peering through primitive microscopes at fertilized ova, some scientists imagined that they saw tiny, perfectly formed people. They called the little person a “homunculus,” and the idea took hold that from the very beginning the human embryo is a fully formed creature that needs only to get bigger and bigger until it is ready to be born.

[James Rachels, *The Elements of Moral Philosophy*]

Abortions per 1000 women, aged 15-54



[U.S. Statistics, Alan Guttmacher Institute, 2011]

What's it Called?

Zygote: the single-cell fertilized egg.

Conceptus: (the Latin name for the zygote).

Blastomere: the multi-celled pre-embryo; what you get after the zygote starts dividing.

Embryo: after implantation in the wall of the uterus (about 14 days after conception) until the end of the eighth week, at which point the major organ systems are formed.

Fetus: from second month until birth.

Neonate: a newborn baby.

What's it Called?

Viability: viability is the gestational age at which a fetus is developed enough to be able to live outside the uterus. This differs from case to case, but on average has become shorter with the advancement of the Neonatal Intensive Care Unit (NICU) technology. The current survival rate of babies born at 23 weeks is 20-35%, at 24-25 weeks 50-70%, and at 26-27 weeks greater than 90%.

Legality and Morality

- (1) Is abortion *legally* permissible?
- (2) Is abortion *morally* permissible?
- (3) *Should* abortion be legally permissible?
- (4) *Should* abortion be morally permissible?

Roe v Wade (1972)

The U.S. Supreme Court ruled 7-2 in favor of the woman seeking to change the restrictive laws on abortion. Justice Blackmun wrote the majority opinion, making these main points:

1st Trimester: states cannot interfere with a woman seeking an abortion (abortion is safer for the woman than bringing the child to term).

2nd Trimester: states may restrict abortions for the safety of the woman.

3rd Trimester: with viability of the fetus, the state has an interest in its life and health, and may restrict abortions to those needed to preserve the woman's health.

The Traditional Argument (1/3)

**Abortion is impermissible ...
if the woman's life is not threatened by the pregnancy**

(1) Every person has a right to life.

(2) A fetus is a person.

Therefore: (3) A fetus has a right to life.

(4) Abortion violates the fetus's right to life.

(5) The right to life is overriding.

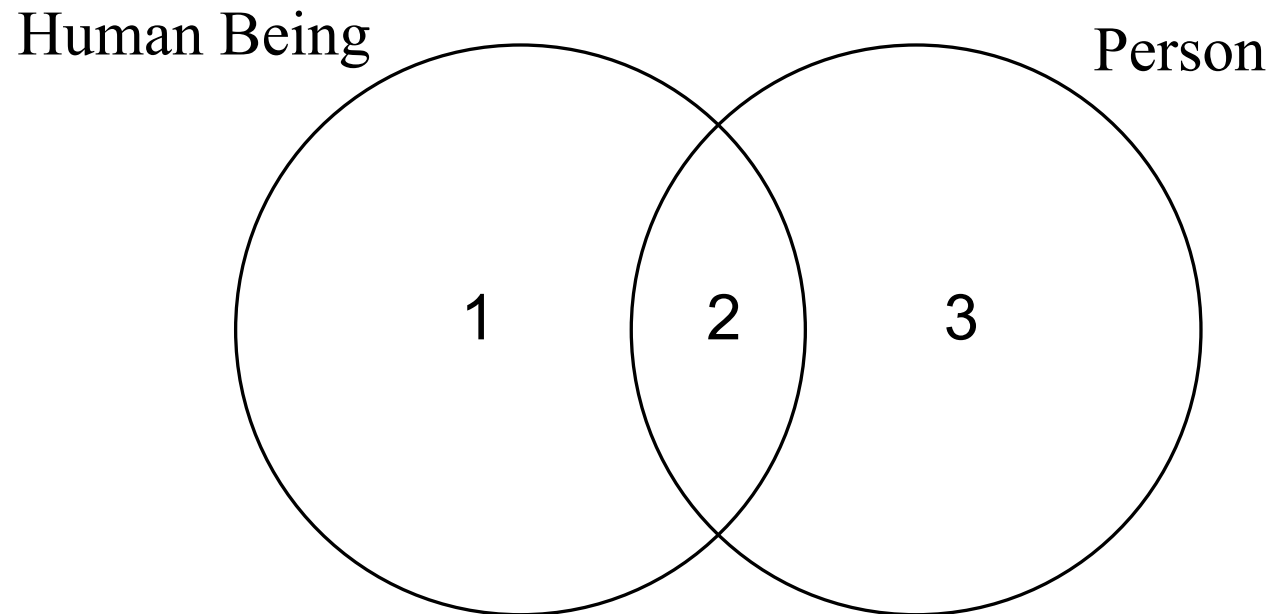
Therefore: (6) Abortion is impermissible.

(questions....)

- (1) What is a person? And: How do we know whether something is a person?
- (2) What is the right to life?
- (3) Does the right to life override all other rights?

Human Beings & Persons

- (1) Are these two concepts identical?
- (2) Do they mean the same thing?
- (3) Do they have the same extension?



Persons and Rights

Assuming that a person is what has moral and legal rights, how do we know when something is a person? Are there certain traits important for personhood?

Ability to think?

Ability to communicate?

Ability to feel emotions?

Inclusion in a social group?

...

Moral Rights

A right is always a right *to something* and *against someone*.

“To what do I have the right?”

positive: an action / *negative*: an omission

“Against whom do I have the right?”

in personam: against an individual or group / *in rem*: against everyone

| Rights | Positive | Negative | |
|-------------|--|-------------------|--------------------|
| | | active | passive |
| in personam | Rights of Contract Rights of Reparation | | |
| in rem | Rights of Beneficence | Rights of Liberty | Rights of Security |

Waiving Rights and Forfeiting Rights

What is the “right to life”?

| Rights | Positive | Negative | |
|-------------|--|-------------------|--------------------|
| | | active | passive |
| in personam | Rights of Contract Rights of Reparation | | |
| in rem | Rights of Beneficence | Rights of Liberty | Rights of Security |

Is the fetal right to life the same as for all persons?

Right of Security?

[Against everyone not to be killed? ... not to be killed unjustly?]

Right of Liberty?

[Against everyone not to be stopped in procuring the means to survive?]

Right of Beneficence?

[Against everyone to be helped in procuring the means to survive?]

Right of Contract?

[Against the woman for the use of her body? Against one's parents...?]

The Traditional Argument (2/3)

**Abortion is impermissible ...
even if the woman will die without the abortion.**

- (7) The fetus and the woman are both innocent persons (and so are equals with respect to their rights).
- (8) It is worse *to kill* an innocent person than *to let one die*.
- Therefore: (9) It is worse to kill the fetus than to let the woman die. (Abortion is impermissible to save the woman's life.)

The Traditional Argument (3/3)

**Abortion is impermissible ...
even if both the woman and fetus will die without it.**

(10) Numbers are irrelevant in rights-violations (e.g., it's worse to **kill** one person than to **let die** any number of people).

(11) The future of the would-be victim is irrelevant (e.g., it's wrong to kill X to save Y even if it is certain that X will die shortly anyway).

Therefore: (12) It is worse to kill the fetus than to let both the fetus and the woman die. (Abortion is *always* impermissible.)