



Introduction to Moral and Political Philosophy

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Abstract. This paper explores the controversy over women's rights to abortion in the United States, particularly following the Roe versus Wade Supreme Court Case of 1973. This work explores the ethics and consequences of several arguments for and against the right to abortion. This article analyzes ethical theories, including consequentialism and utilitarianism, and delves into the different perspectives within the debate over abortion in the United States.

Keywords: Women's Rights, Bodily Autonomy, United States Politics, Philosophy, and Ethics

1 Introduction

Women's right to abortion has always been a controversial problem in the United States. Should the government regulate it? Or should the government give this right to women? Is the right to abortion a human right that every female human posse? When discussing abortion, one of the most recent and most famous cases related to this problem is the Roe V. Wade case. We think that the government should not regulate abortion because it is a woman's right to have control over their own body; it is an inalienable right, and from a consequentialist point of view, banning abortion might lead to many unwanted consequences which will decrease utility.

2 Background

January 22, 1973, was a big day for women in the U.S. when the supreme court announced that a women's right to abortion is a part of the "right to privacy" found in the fourteenth amendment. Abortions have been illegal in the US since the late 19th century. Around 1820 to 1830, abortion was legal, but only before the phase when women could feel the movement of the fetus, which is usually around the fourth month of pregnancy. In 1869, the Catholic Church banned all abortions at any phase of pregnancy. Furthermore, congress passed a Comstock law, which claimed that it is illegal to distribute contraceptives and abortion-inducing drugs through the U.S. mail.

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By the 1880s, abortions were almost completely outlawed across the U. S. During the 1960s women's rights movement, court cases involving contraceptives laid the groundwork for *Roe v. Wade*. After a few years, in 1970, Hawaii became the first state to legalize abortion, and New York also legalized abortion in the same year. By the time of *Roe v. Wade* in 1973, abortion was also legally available in Alaska and Washington.

In 1969, Norma McCorvey, a Texas woman in her early 20s, sought to terminate an unwanted pregnancy. McCorvey, who had grown up in complex, impoverished circumstances, had given birth twice and given up both children for adoption. At the time of McCorvey's pregnancy in 1969, abortion was legal in Texas—but only to save a woman's life.

Even though some American women with the financial means can travel to countries where abortions are safe and legal or simply pay a hefty fee to a doctor who will secretly perform an abortion, these options were out of reach to McCorvey and many other women. As a result, many women seek help from illegal, dangerous, "back-alley" abortion (self-induced abortions) or taking pills that are physically painful and psychologically intense to experience. Between the 1950s and 1960s, the estimated number of illegal abortions in the United States ranged from 200,000 to 1.2 million per year, according to the Guttmacher Institute. After the unsuccessful attempt to get an illegal abortion, McCorvey was referred to Texas attorneys Linda Coffee and Sarah Weddington, who were interested in challenging anti-abortion laws. In 1970, the attorneys filed a lawsuit on behalf of McCorvey and all the other women "who were or might become pregnant and want to consider all options" against Henry Wade, the district attorney of Dallas County, where McCorvey lived. In court documents, McCorvey became known as "Jane Roe."

The case was eventually appealed to the U.S. Supreme Court. Meanwhile, McCovey gave birth and put the child up for adoption. On Jan 22, 1973, the Supreme Court, in a 7-2 decision, struck down the Texas law banning abortion, effectively legalizing the procedure nationwide. In a majority opinion written by Justice Harry Blackmun, the court declared that a woman's right to an abortion was implicit in the right to privacy protected by the 14th Amendment. The court divided pregnancy into three trimesters and declared that ending a pregnancy in the first trimester was solely up to the woman. In the second trimester, the government could regulate abortion, although not ban it, to protect the mother's health.

This case was overturned on June 22, 2022, banning most abortions after 15 weeks. The Supreme Court also claimed that the previous decision was on a "collision course with the Constitution" since the Constitution did not state women's right to abortion is a part of their right to privacy. "The Constitution does not refer to abortion, and no such right is implicitly protected by any constitutional provision, including the one on which the defenders of *Roe* and *Casey* now chiefly rely—the Due Process Clause of the Fourteenth Amendment [1]." The court's decision to overturn *Roe* allows the states to set abortion policies. These laws vary widely, and in several cases, state laws that prohibit or place tight restrictions on access to abortion are currently facing legal challenges.

3 Objections and answers to the position

In the premise that the fetus is human, a mother's rights to bodily autonomy and self-preservation are still more robust and more stringent than a fetus's right to life. *A Defense of Abortion* is a piece written by Judith Jarvis Thomson that details the objections and comprehensive rebuttals towards the extreme view of an abortion in a case in which the mother's life is at risk because of the fetus and a point in which the mother's life is not at stake. By conceding to her opponents that the unborn is indeed a human being who shares all the rights of a human being, she further argues why abortion is still justified. Thomson utilizes the violinist analogy, which suggests that the Society of Music Lovers kidnaps one, and they connect your circulatory system to the circulatory system of a famous violinist. You are then told that the violinist has a fatal kidney failure, so you must stay plugged into him for nine months and that unplugging yourself right now would mean the violinist's death [2]. She proposes whether it is ethical to open yourself or receive an abortion. Through examining the different approaches and lenses of abortion, Thomson contends that abortion is justified and should be permissible in many cases.

By renouncing the extreme view, Thomson asserts that mothers obtain the full right to self-defense and further proves the ethicalities of third-party interference. Objections argue that because the innocent unborn has a right to life, one should always refrain from killing the fetus and then let the mother die; hence, an abortion may not be performed. Thomson rebuts this conception through the first approach of self-defense; she asks one to imagine that you are in a tiny house with an exponentially growing child. Soon, you will be crushed to death, but the child can bust open the house and walk out. Given this scenario, she contends that "you do not have to wait passively while it crushes you to death" [3]. This means that a mother has the full right to carry out any means to preserve her own life, even at the expense of the fetus. It is then argued that a third party cannot perform an abortion, as they do not have the right to choose who lives. However, as Thomson points out, the third party must still recognize that the mother's body is housing the unborn. That is to say that although a third-party actor is not required to perform an abortion, it is justified for him to do so or allow others to do so [4]. By giving nuanced responses as to why mothers are always morally justified in self-defense and why third-party actors are justified to help preserve a mother's life, Thomson contends that receiving or performing an abortion in the extreme case is warranted.

Through analyzing the right to life an individual has, Thomson weighs the rights a mother has to bodily autonomy over the rights an unborn has to self-preservation. In the case in which a mother's life is not at stake even if the abortion is not performed, opponents argue that because every individual has a right to life, the unborn's right to life should be prioritized even more, as their life is at stake while the mothers are not. Thomson argues that no one has the right to use another or the mother's body in this case unless it is given to them. She clarifies that "the right to life consists not in the right to be killed, but rather in the right not to be killed unjustly" [4,5]. In this context, abortion is not an unjust killing as the mother simply performed her rights and did not grant the unborn the right to use her body. Anti-abortion individuals then argue that

abortion still cannot be given if it results from a voluntary act because the mother essentially calls the unborn into existence, meaning that the unborn would have acquired the right to use the mother's body. For example, a woman voluntarily engaging in sexual intercourse, even if she is aware of the risk of getting pregnant, grants the unborn the right to use her body to sustain life. To this objection, it is critical to note that there are countless cases and exceptions in which the voluntary act is not necessarily an affirmed agreement to what plays out. Thomson suggests the scenario in which one was in a room and wanted to open a window—this could be for a multitude of reasons, ranging from the temperature being too hot or simply enjoying the fresh air—resulting in a burglar coming in from that opened window [1]. In this scenario, the burglar does not have the right to stay and steal one's house, nor is one voluntarily inviting the burglar to their house. Likewise, women cannot always be expected to have adequate protection or always be taking birth control pills that work. This means that voluntary pregnancies cannot be determined as a whole myriad of exceptions can happen with every action.

Using the example of a good Samaritan compared to a minimally decent Samaritan, Thomson affirms that pregnant women should only be held to a minimally decent Samaritan standard. The proposed objection argues that it is morally indecent to kill someone through abortion, as the mother only has to live inconveniently for several months. Towards this idea, Thomson emphasizes the importance of distinguishing between a good Samaritan and a minimally decent one; a good Samaritan performs above and beyond his moral obligations and is always open to helping another, even at the expense of his interests, whereas a minimally decent Samaritan is rarely available to offering assistance to others, and prioritizes his wellbeing and concerns first. Thomson contends that all women should not be required to be good Samaritans, as the law does not force every individual to be a good Samaritan that is constantly at the service of another.

Through reviewing and rebutting the objections proposed in each scenario, Thomson justifies receiving and performing an abortion. She also notes that abortions are not always permissible; when giving birth asks for the mother to be a minimally decent Samaritan, abortion should not be allowed. For example, an abortion should not be permitted several months into the pregnancy just so the woman does not have to go through the complications of postponing her vacation travels. In extension, the mother also has no right to guarantee the death of the fetus. In the example of the violinist, if by disconnecting with the violinist, he still miraculously lives, one is not justified to slit his throat then, as that is not within the rights of the individual [2]. Given this, it is concluded that abortion is permissible in most cases, as the mother's right to bodily autonomy and self-preservation exceeds the right an unborn has to use another body without permission to sustain life.

4 Main argument

Ever since the question of whether abortion is ethical came to the forefront, society has been engaged in an endless debate about it. This debate revolves around one's

fundamental human rights. It is divided into two camps - one that emphasizes the right to fetal life (pro-life) and the other that highlights a woman's autonomy and right to choose (pro-choice). The day after *Roe v. Wade* was handed down in 1973, the two camps claiming to defend human rights went head-to-head. Senator James B. Allen, who emphasized the value of fetal life, told his colleagues: this decision is highly unethical in the sense that the sanctity of life has been tarnished; in contrast, feminist Bella Abzug, who emphasized women's autonomy, spoke from the steps of the Capitol, saying: I feel incredibly safe and happy now that women's rights have been defended.

It has been adamant from the beginning that abortion is a perfectly reasonable and just act from a woman's human rights perspective. Defending the right to abortion is not only protecting the rights and interests of all women but also the rights and interests of all human beings.

As for pregnant women, we cannot deny that they have the right to autonomy and life as soon as they are born. However, banning abortion is indeed an infringement of women's freedom, which is precisely why this paper advocates for defending abortion rights and, thus, human rights. Why is anti-abortion an infringement of autonomy? There are several main reasons.

4.1 The woman is not voluntarily pregnant and needs an abortion.

In the following cases, we cannot deny the woman's entirely legitimate right to abortion because pregnancy is a long-term, costly act - the woman's body is altered (gestation, uterine structure, etc.) and appropriated (the uterus is occupied, the right to regular sexual intercourse is denied, organs are used) in the process of pregnancy. Regarding fundamental human autonomy, a woman has every right to have an abortion based on the points mentioned above in the following cases.

4.2 A woman has non-consensual sexual intercourse.

When a woman has been subjected to sexual violence/assault/incestuous relationships that result in pregnancy, there is no reason for society to require her to conceive and raise the embryo because it is immoral to do so (i.e., disregarding the woman's feelings). The child is not the result the woman wanted. This is far crueler and more immoral than the violinist example given by Judith Jarvis Thomson: it's as if you don't wake up to find your kidney attached to a violinist but instead helplessly find things inevitably happen after enduring kidnapping and inhumane torture. The pregnant woman was non-consensual, so we have no reason to say she should be responsible for the outcome of this sexual act. She has already endured physical and psychological harm during the nonconsensual sex act, and we have no right to let this fetus torment her forever.

4.3 The woman used contraception, but the measure did not take effect.

When a woman uses contraception, we can say that the woman is subjectively unwilling to get pregnant. Therefore, the failure of the contraceptive to work and the resulting pregnancy is a purely accidental event, and we cannot say that the woman is responsible for the accident that resulted from her sexual activity. It takes time, money, and too much responsibility to raise a child, and we need to respect this woman's right to plan her life and control her own body if she does not want to have children. Just as a child refuses to share his toy with another child while playing, even if we can say that this woman is selfish for opposing the use of her uterus by this unwanted fetus, we cannot say that she is immoral. Because, in the end, the body is the woman's own, and she can control her organs according to her innate right to life, autonomy, and liberty rights.

4.4 Teenage pregnancy

Minors are not yet mentally developed and are protected. We cannot hold children responsible for their actions. If a minor becomes pregnant involuntarily, she has every reason to have an abortion. Even if she conceives voluntarily, it is unreasonable to ask a person who is not yet of sound mind to assume a new life.

5 A woman conceives voluntarily, but midway through the pregnancy, she needs to terminate the pregnancy for several reasons.

5.1 The fetus endangers the life of the pregnant woman.

In this case, we should respect the pregnant woman's right to life and autonomy and allow her to choose whether or not she wants to have an abortion - there is no reason for society to force her to have the fetus. Even if this pregnant woman shows strong and selfless maternal love and would rather die than have her child born, society has no right to prevent her from doing so. While the state has a duty to protect its citizens from harm, it has no right to interfere with a pregnant woman's autonomy on the grounds of protecting her. The state also has no right to interfere with the pregnant woman's right to life to protect the fetus.

5.2 The fetus is a disabled child.

If a fetus is found to have a congenital disability or a severe disability, the pregnant woman has the right to choose to abort the fetus in such cases. This is because of the time and money required to conceive the fetus and the inconvenience it causes to the pregnant woman's life. This is a socially accepted example of a pregnant woman's right to abortion, and I will not dwell on it here. In summary, from a human rights

perspective, women have a reasonable right to abortion. We cannot deny this innate right to autonomy. On the contrary, we should defend it.

6 Main argument

Deontological thinking cannot be utilized because *Roe v Wade* and *Casey* have been overturned. People feel the unborn fetus has a right to life, so others cannot interfere. A mother has no right to choose an abortion because the child has greater freedom. Some believe fervently that a human person comes into being at conception and that abortion ends an innocent life. Also, we can see that the Constitution makes no mention of abortion in America. In other words, America law or the common law has never recognized such a right. Therefore, it means that we need to rely on consequential thinking.

Consequential thinking revolves around considering the likely outcomes of one's behaviors before acting, allowing individuals to assess their choice, anticipate how people will react, and follow their intentions. When abortion is impressible, women have no choice but to give birth. Based on the theory of consequential thinking, there are some predictable outcomes.

Many mothers that end up involuntarily conceiving a baby generally do not live in favorable conditions—a result of the lack of knowledge and accessibility; this means that these newborn babies become another burden for these tired and distressed women. Therefore, adults must find ways to cope with the added responsibility. This looks like thousands of children being abandoned in the corrupt foster care system, mothers juggling two or three minimum wage shifts, and many more children growing up in draining and unhealthy environments. Long-term outcomes of this mean that many of the children could get hurt psychologically, as they are less likely to be able to develop positive and healthy mindsets. Without proper and consistent guidance, the children's own experience of abandonment and whatnot can also lead to ridicule and discussion from peers. Therefore, they are highly likely to suffer from mental illness, affecting their communication and collaboration skills. In addition, many would be unable to receive proper education, meaning that they are less likely to be able to move up the social ladder later on.

Moreover, the children may not be abandoned in the same situation, but they must learn to cope in a poor environment without many needed resources. For example, many would have to find a job early to support the family. As a result, children do not receive a decent education and bear many family burdens.

Furthermore, another situation would result in the personal struggle of mothers. Some mothers may have gotten pregnant through nonconsensual sex, which means they are likely to suffer from severe mental illnesses while raising a child. This can result in the mother disliking the child, shifting her hatred of her rapist to physical aggression and verbal abuse of her child. Or, the mother would leave the child in the care of someone else who might not have time to discipline him. Both are unideal and will harm both parties severely.

These outcomes show that the maximum utility will not be reached when abortion

is impermissible.

7 Conclusion

To conclude, looking at abortion from a consequentialist perspective, it is between prioritizing the mother's life or that of the fetus. Considering moral and ethical values, even if unborn fetuses have a right to life, when there is a presence of liberal freedom for the mother, her life takes precedence over that of the fetus. In utilitarianism, there is no absolute standard for life, as seen in many examples throughout the study of political and moral philosophy. In the case of abortion, there is no definite answer to the beginning of life. Therefore, we look to act utilitarianism, which means we look to the mother and her choice of what she wants to do with her body. Some extreme situations utilitarianism considers are instances of rape, fetal anomalies, money, and the quality of life a mother can provide their child – although that's not to say any other case is unjustified for having an abortion.

To look back at the recent Supreme Court decision to remove the protection of women to access abortions on the government level, leaving decisions to each state—more than just mental turmoil this has and will cause, the decision also does not follow utilitarianism morals. A woman in Texas in desperate need of an abortion will go to great lengths for an abortion in another state because it is her right to fight for her life. The only thing overturning *Roe v. Wade* is doing is forcing women to have unsafe abortions and possibly even miss work and spend large sums of money to go through the gruesome process of finding an accessible abortion clinic.

To many, the overturning of *Roe v. Wade* feels like a step backward in history, where women lose control of bodily autonomy. And in the relatively progressive society we currently live in, there is no doubt that the choice of women to access abortion trumps that of government control.

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