

Abortion

- **Sherwin and Warren, the feminist approach**

there are 3 texts on abortion

first part: text by sherwin and warren; they're both feminists and on the same page. have texts that appear linked; they support each other.

why abortion?

- there's strong political and social dimension to abortion, but this isn't the main purpose

it deals, as part of the topic, with the status and rights of 'border-line' entities such as fetuses

- entities as in weird types of things
- what is the status and rights (in society, in ethic, etc) about some entities
- they're called border-line entities because they're between being non-existent and existent
- abortion is considered a beginning of life issue
- with euthanasia → end of life issues
 - kind of like in between if people are in vegetative states
- cloning is considered an entities
- fetuses are called border line because they're not exactly human beings, but they're not NOT human beings

in the discussion of embryonic stem-cell research, cloning and genetic engineering, we encounter the same issue -- the status and rights of entities such as cells, embryos, human vegetables, etc

- it's useful to start thinking about the entities are
- abortion debate is well known and well developed, there's lots of literature on it
- looking at different aspects of what fetuses are, we can understand positions on embryos and stem cells

why sherin and warren together?

they present the 'feminist' perspective which we will juxtapose to the non-feminist one

- prof chose classical texts
- new text incorporate new technology
- she doesn't explain sherwin in great detail, deals with warren and the second part of her text more
- should know warren's text

Susan Sherwin, Abortion Through a Feminist Ethics Lens; Mary Ann Warren, On the Moral and Legal Status of Abortion

- sherwin is a canadian feminist
- warren is an american feminist
- sherwin assumes everyone has read warren's text

Sherin's text was written after Warren's and is complementary to it

- her text can stand on it's own, but she writes in support of warren's text kind of

Sherwin focuses more on the social conditions and outcomes of abortion while Warren deals with the ethical side of the issue

- Warren doesn't really include the social dimension
- feminism is based on social constructivism; warren is a feminist even though she doesn't really include the social dimension
- sherwin deals more with the social implication

Sherwin espouses a *relational* ontology, that is, she thinks that the question of autonomy cannot be handled without considering the relationship between different social groups first (eg, pregnant women and fetuses)

- yes you are an autonomous being making your own decisions, but what's more important is that you're in a relationship
- the relationship is foundational and primary, everything else is secondary

Abortion law in Canada

- 1989 abortion was decriminalized
- don't go to jail or have penalty for having an abortion but technically speaking there's no abortion law
- it's decriminalized thanks to dr. morgentaller
- first trimester when abortion is "legal" → should have free access to abortion if it's in the first trimester
- after you need a physician's permission or something to get an abortion

different positions:

life starts at the moment of conception -- this is the most rigid reading of life and it originates from the Roman Catholic Church

- the moment there is a fertilized egg, life has begun
- Roman Catholic Church still stands behind it
- other religions also follow this, some don't

other more moderate readings -- we have a live human form after the first week of pregnancy or later.

- some religions say after 40 days
- different religions and different sects have different time periods
- some have special conditions that allow you to get an abortion
- by the time pregnancy is detected, it's too late to have an abortion following this thinking

a fetus is a potential human being with the right to life, safety, freedom and happiness

- these things are considered basic human rights
- this is used by pro-life people
- sherwin and warren think this is very vague
- no one knows where this statement came from (religion or platform?? who knows)
- argument: aborting this human form would be considered murder

in any of these cases, the fetus is considered a human being and therefore, abortion is considered morally wrong, and on the basis of morality, it is considered also illegal

- if this is what you believe, then abortion is considered morally wrong, so it should be considered illegal

Arguments from a pro-choice standpoint. Women have to have choice of abortion (in virtue of the basic human right of freedom of choice). therefore, we have to allow any type of abortion, not only the therapeutic ones.

- pro choice is a political position
 - in the public, political, social space
 - they want a social change
 - this isn't the same as the feminist position on abortion
 - most feminist organizations have a political element so they don't think you should just change the mentality. also should make political changes
 - pro choice and feminist position isn't exactly the same
- pro choice: you have the right to choose what's right for you and your body
- therapeutic abortion: abortions that are allowed at any point because they are someone considered threatening to the health of the fetus or the women (even if it's the day before birth)

the most mitigated pro-choice position: even if we agree that abortion is morally wrong, we should make it legal: illegal abortion leads to death or serious injuries of many women which is equally wrong

- can have long term health consequences --. equally wrong
- keeping abortion illegal doesn't solve the issue of unwanted pregnancies and children
- even if you can't justify the morality of abortion, it's a social issue

support: stats on illegal abortion are always hard to come by, but we do know that between 1926 and 1947, 4000 to 6000 Canadian women died as a result of bungled, illegal abortions

- these are only the ones we know of
- consider that the population was much lower before → this is a high death toll

if we want to lower the number of abortions, here is what we can do:

- **offer free consultations**
 - educate men and women
- **make sure that women fully understand the consequences of their actions**
 - consequences of going through with an abortion or with a pregnancy
 - will have health risk
 - have future baby, if born
 - for anyone involved
- **make sure that women are fully aware of their options they have if they decide to become mothers or at least give birth to the child (child-support financing, options for adoption, etc)**
 - there are options that can be considered
 - feminists discovered many women aren't aware of their options
 - child support → canada has bad track record. very expensive to raise a child in ontario
- **(particularly sherwin, who had universal health care in Canada) ensure a better government child support system**
- it's a big social issue, everyone is involved, not just the pregnant women
- includes the government
- government needs to take better care of their people, provide better support

Full-fledged pro-choice position. To deny access to abortion is to deny a woman her right to control her own body

- past example, there was an emphasis on choice
- with this, it is a right

warren: this position is problematic because if we treat female body as her property, then we have to treat the body as something distinct from her (her self), since we treat every type of property as distinct from the people who own it

- treats the body as something separate from her
- may own property, but you are not property you own
- since pro-choice is a political position, it treats the body as a separate entity from the person
- since there are two entities in one body, there is issue surrounding abortion
- no pro choicer will say "her body is separate from her" but there are those implications

which is not the case with our body. our bodies are an intrinsic part of us

- even if it's an object, it's a special object.
- there is special relationship with your body
- explains why the full fledged position needs work, even though shes a feminist

to think that pregnant women will be irresponsible if they had a choice in the matters of abortion is to stretch things beyond reality

- warren thinks this is unrealistic

abortion: a TRAUMATIC EXPERIENCE both physically and emotionally

- is has lasting effects
- it's not purely physical
- looking at it physically: it is a procedure. why would you do it if you didn't have to

women don't enjoy having abortions

- so exercising full control over your body, it doesn't mean that you enjoy having abortions

even if there are cases of irresponsible behavior towards one's pregnancy, they will be exceptions which are not worth prohibition of abortion as a basic right for women

- shouldn't ban something due to an exception
- the body is part of who you are. i don't enjoy procedures even though i agree to them. there are emotional consequences for me. someone might be irresponsible, but no law and no principle is airtight → shouldn't ban it because some people are irresponsible.

the case scenarios discussed by anti-abortionists are far-fetched and have no grounds in reality.

- argued by sherwin and warren
- this is why abortion is worth talking about
- even if you narrow the perspective from social and political issue to something more personal, there is a lot of content to be considered

another part of this objection to the legal banning of abortion (talked about more by sherwin than warren): even if women are fully responsible and extra careful, they cannot avoid unwanted pregnancies because the contraceptive devices do not guarantee full (100%) protection against pregnancy

- temporary contraceptives can't fully guarantee prevention of pregnancies, there's always a chance

many of the contraceptive devices are health hazardous for some women, therefore they cannot be used all the time

- to guarantee prevention of pregnancies over 90%, there are hormonal changes made to the women's bodies

this makes abortion one of the legitimate options for preventing unwanted pregnancies

- maybe should be kept as a last resort, but it doesn't mean it shouldn't be an option, especially since there's no contraceptive that provides 100% guarantee
- feminists look from a woman's point of view
 - can't punish women for pregnancy

if women are to enjoy freedom of sexual encounters as men do, they should have options to avoid unwanted pregnancy and safe abortion is one of them

- yes maybe should be a last resort, but should be an option
- abstinence has been suggested, but if you want to have sex, doesn't work

warren tackles the moral side of abortion and leaves out the social and legal sides

- too complicated to look at it from all sides

arguments against abortion. abortion is killing an innocent human being, therefore we have to legally ban abortion unless it's therapeutic (threatens the life of the mother and/or the fetus)

- always assumed to be an innocent human being -- fetus hasn't had the chance to be guilty of doing anything bad
- warren thinks all anti abortion arguments have similar structure: abortion is killing a person

argument 1: women are responsible for getting pregnant and therefore they have to be held responsible for bringing the human babies to life and safety.

- fetus didn't want to be created but it did get created so woman is responsible

argument 2: if we allow abortion, then we encourage irresponsible behavior in pregnant women

- warren goes over many examples, don't need to deal with it. don't need to know first part of text, only second part

both arguments are based upon the underlying premise that human fetus is a human being with a right to live.

- argument 2: why is it irresponsible? women is carrying live human being that deserves to live.

warren's strongest objection against the argument against abortion: the concept of 'human being' (in the argument that is morally wrong to kill innocent human beings)

- she argues against the idea of being "innocent" and the idea of being a human being
- this isn't legal, social standpoint, she looks at the moral argument alone
- she thinks there's a problem with the idea of a human being

the status of a fetus as a human being is problematic

- when something is called problematic, means it needs to be talked about

there are two different meanings of 'human being' implicitly present in the definition of "human being"

first: human beings are all creatures that have the genetic and physical characteristics of the human species

- human being is an organism that belongs to homo sapiens
- ex. we walk on two legs, we have a thumb, etc
- no one disputes this

second: it has to do with what we understand by a 'moral agent'

- it's not about the anatomy
- it's not about belonging to an animal species

human beings are 'full-fledged members of the moral community'

- this is the second understanding of a human being
- says there's something special about the human beings → they have morality

a human being is considered every being which can make moral decisions and participate in the moral community

- warren thinks this is the important definition
- it's the reason we have legal and political systems for protecting certain rights

the first premise of the anti-abortionist argument that it is wrong to kill innocent human beings is acceptable only if we accept the second meaning of 'human being'. why?

- killing an innocent human being is only problematic if you think in terms of morality
- we are dealing with a life form that hasn't developed yet, but abortion is only considered wrong because they are considered moral beings

first, saying that human beings have certain genetic and physical structure doesn't imply anything moral: it doesn't imply that human beings' life is a precious thing

- religious interpretations about the beginning of life indicates humans are precious and special
- preciousness and special status has to do with morality

second, we have to explain why we justify the killing of human beings in certain cases (capital punishment, war, etc)

- so we need to know what is meant by innocent
- there is "just war" theory, like self defense → allows us to wage war and justify collateral damage
- the idea of killing an innocent human being needs to be discussed

this shows that the community of human beings operates with the concepts of morally right and morally wrong when it defends or convicts its members

- when people say capital punishment is unjustified they mean it's morally unjustified
- when they say war is evil they mean it's morally evil
 - primary concern is morality

therefore, we have to concede that 'moral agent' best describes what we mean by 'a human'

- she doesn't define moral agent, but it is someone who belongs to a moral community
- abortion is a moral issues

a full-fledged member of the moral community is a *person*

- "persons" is a member of a moral community

who is a person?

- warren keeps definition vague on purpose

five characteristics:

- **consciousness**
- **reasoning**
- **self-motivated activity**
- **capacity to communicate (not necessarily verbal communication)**
- **the presence of self-concepts and self-awareness of one's own being**

the minimum 2 criteria for being a moral agent is to have consciousness and reasoning (number 1 and 2)

- must have both at the same time
- the concepts of morally good and morally bad or morally right and wrong are part of our cognitive apparatus and our reasoning

the moral concepts of good or bad are an intrinsic part of our cognitive apparatus (reasoning)

the two criteria have to be taken together, not separately

the fetus has none of these characteristics, hence, not a person, hence, not a member of the moral community

human vegetables, mentally incapacitated individuals, future generations, etc., are also not persons

- warren doesn't consider these people persons
- so if they're in a coma (human vegetable) they aren't considered persons, but temporary comas don't really count (medically induced comas, if you faint)
- lots of people are being excluded from the moral community

- she says mentally incapacitated people are only considered human out of politeness, they are not persons. they don't make their own decisions.
- sociopaths and psychopaths aren't considered persons, legally
 - like they are expelled from the moral community
 - they don't interact with people, they are locked up

sherwin adds: to be a moral agent is a relational concept and must be defined in terms of interactions and relationships with others

- we should start with relationships and interactions with others as opposed to rights
- we, as moral agents, are in a relationship
- we are born into relationships
- after considering relationships, we can talk about rights and privileges

a moral agent should be able to make moral decisions and respond to the needs of other members of the moral community

the relationship between full-fledged moral agents are presumably symmetrical

- i meet your needs, you meet my needs
- that's why we have laws and regulations

moral agents express their needs, desires, etc. and expect a response from other moral agents

- if someone violates an essential rights, there are social mechanisms through which you can complain and seek justice

but the relationship between the fetus and the mother is clearly an asymmetrical one because the fetus is fully dependent on the mother for its survival

- gestation occurs in utero

also, the fetus cannot respond to the needs of the mother, it's the other way around

- her body adjusts to the needs of the fetus
- some women say pregnancy has benefitted them but the fetus doesn't respond to the mothers needs

thus, the fetus cannot be considered in any morally significant way a full-fledged moral agent or a person

- maybe in a metaphorical way or polite way you can consider them a person
- but in a rational, objective, defensible way, you can't
- woman is a full fledged member of the moral community, her relationship with her body and the fetus is more important to consider

an important consequence: only persons, that is, full-fledged members of the moral community, are entitled to full moral rights. (moral rights come with moral obligations and responsibilities)

- moral agents have privileges but that is because they fulfill moral obligations
- so if you kill, you are punished

2 questions

- 1) **resemblance to personhood**
- 2) **potentiality**

resemblance to personhood: a 7 month old fetus resembles a person more than an embryo

- fetus at 7 months has forms human features, has movement and consciousness, capable of experiencing pain, can respond to in utero treatment
- fetus are forms in development, they aren't formed yet

warren: yes, a 7 month old fetus is *somewhat* like a person (ex. it can feel pain) but this only means that it has *somewhat* of a moral status

- more than an embryo, but less than a fully developed human being
- has consciousness, but no reasoning
- resemblance says the longer it stays in gestation, the more privileges it will have, but it isn't a full moral member

full fledged members of the moral community have full moral status, not somewhat of a moral status

- so we have some rights that are unconditional, basic rights
- amnesty international watches for the violation of human rights
- but to have these rights, you need full moral status
- so need to be able to express needs and defend them, express desires, show respect to other members, etc

in virtue of this, it is not immoral to abort a fetus in the later stages of development (it may be indecent but is not immoral)

- indecent is a weaker position than immoral, they aren't the same
- indecent is how you appear, it is an image
- immoral is stronger, it would be worse to be called immoral, a more serious accusation

potentiality: what about the fetus being a potential human being/ person?

- more serious than resemblance

warren: potential human beings/ persons have *some* moral status and value (they are not mere objects) in the sense that we shouldn't wantonly destroy them

- just because we have technology to perform painless, risk free abortions doesn't mean we should perform abortions just because

ontologically speaking, actuality outweighs potentiality

- ontologically speaking means in terms of existence and being in the world
- when you're an actual person, it's more than being a potential person

- it's a metaphysical principle
- potential is great, but unless it's an actual life, it's not as important
- potential person is anyone who isn't born yet
- there may be value to potential person, but decisions aren't made because of a potential person
- the actual human being that a potential one doesn't

potential human beings don't enjoy the full moral rights (including the right to life) that a full fledged member of the moral community enjoys

- they have SOME, but not 100% moral rights
- just because they don't have 0% rights doesn't mean they have 100% rights

so, if there is a conflict of rights, the full-fledged member's moral value outweighs the moral value of a potential member

- ALWAYS
- feminist approach: women are not vessels for fetuses, they are humans
- if the woman wants the baby, it's fine
- if pregnancy is undesired, you follow the desires of the woman

a thought experiment (p 226, maybe not exactly this page): shows that the right to life to a full fledged moral agent outweighs the right to life of a potential one

- the moment there is a conflict, the rights of the full fledged moral agent outweighs the rights of a potential one
- doesn't matter if it's for the greater good, rights of the moral agent always has priority

what is more, any of the basic human rights of a full fledged moral agent outweigh the right to life of any potential moral agent

- ex. my right to happiness outweighs the life of a potential human being
- basic rights: safety, happiness, life, freedom
- if you feel threatened in a significant way, can get rid of the fetus

infanticide: why, following the logic of personhood, isn't infanticide automatically permitted on moral ground

- why are you not endorsing the killing of infants on moral grounds
- infants aren't much different from fully developed fetus in terms of cognitive development
- people were concerned
- infant may be considered a potential human being
- explanation: we call an infant a "he/she" not "it" -- the relationship has changed

warren: 2 main points

1) the crucial difference between a baby in utero and one ex utero is that the ex utero baby (infant) is not fully dependent upon the mother for its survival

- may be only a potential member, but now survival is not solely a mother's responsibility

- once the baby is capable of living on its own outside the womb, there are other mechanisms that can play a role
- **the newborn is an ontologically independent entity while the same cannot be said about a fetus**
- many feminists argue that the fetus is an extension of the body
- location of the fetus matters
- **so the mother cannot decide its fate because it is not an extension of her body**
- there have been feminists that have allowed abortion to extend after the birth, but this isn't warren's argument

2) under reasonably humane conditions, it would be morally wrong to destroy an infant (on the grounds of compassion, potentiality, and the fact that there might be other individuals willing to care for the infant)

- she calls "normal conditions" reasonably humane conditions
- if the normal conditions change, then you may be morally justified to kill an infant
- **the point is, we can't extend the argument concerning abortion to infanticide; we need to make a new argument on infanticide, taking into consideration the fact that infants are separate ontological entities from their mothers**
 - infanticide and abortion are separate issues, there's a significant change in the status of the fetus when it is not in the womb → then it stops being a fetus

sherwin adds: the moral issues concerning abortion should be discussed in a perspective which doesn't operate with absolute categories

- can't be absolutely wrong and right
- feminists will argue that traditional ethics isn't well equipped to deal with abortion
- need additional arguments

also adds that personhood is a social category and as such it appears in a complex web of concrete capacities, concrete desires and duties, performed by concrete individuals and not by abstract moral agents

- we are all in complex webs, we are concrete individuals
- if you want absolute rights, infants, fetus and human vegetables are at 0 → don't use absolutes

when discussing abortion, the rights of the mother are often forgotten

- many people are more concerned with the rights of the fetus
- women are treated as wombs, baby producing machines → this is justified by many

potential points of criticism of warren's standpoint:

1) the five characteristics of personhood

- may be called insufficient

2) the universal rights: are they all on a par? (Mill's definition of happiness: it is possible only if it doesn't harm other)

**don't need to know about john stewart mill

3) can question Warren's notion of morality understood as a moral community

- she doesn't define morality, she says it is what the members of the moral community agree on