

Phil 2, April 26, 2011

Thomson's paper, "Abortion," asks...

- *not* whether *abortion* is morally permissible (as her earlier paper did),
- but instead whether it is morally permissible *to make abortion legally impermissible*.

That is, whether or not abortion is wrong, is it wrong to have a law that punishes people for having, or providing, abortions?

She applies something like John Rawls's account of tolerance to the question. (I haven't asked you to read Rawls, since it is quite difficult. I'll just give a synopsis.)

The paradox of tolerance:

- On the one hand, toleration involves *rejection*. We don't tolerate things that we wholeheartedly embrace.
- On the other hand, toleration involves *acceptance*. In tolerating something, we restrain our rejection of it.
- There are some things that we *fully accept*, that we don't need to tolerate, like our friends' love and respect for us.
- There are some things that we *fully reject*, that we cannot tolerate, such as racist violence.
- The things we tolerate lie somewhere in between. But how can there be something in between: something we *both reject and accept*?

The distinction between truth and reasonableness:

What makes toleration possible, Rawls suggests, is the difference between *truth* and *reasonableness*.

- On the one hand, we *fully accept* our own convictions; we believe them to be true.
- On the other hand, we *fully reject* some convictions that are *unreasonable*.
- In between are other convictions that are *reasonable*. We reject these convictions, insofar as we believe that they are *false*. (They contradict our own.) But we accept them, in another sense, insofar as we believe that they are *reasonable*.

When is a conviction reasonable? Part of the answer is that it is:

- Arrived at by one's conscientiously and competently assessing one's own reasons for belief and action.

How is reasonable disagreement possible? The "burdens of judgment"

If contradictory convictions cannot all be *true*, how can they all be *reasonable*? How can reasonable people disagree?

Because of what Rawls calls the "burdens of judgment":

- a. The evidence bearing on the case may be conflicting and complex, and thus hard to assess and evaluate.
- b. Even where we agree fully about the kinds of considerations that are relevant, we may disagree about their weight.
- c. Many concepts are vague and indeterminate.

- d. How we assess evidence and weigh moral and political values is shaped by our total experience, our whole course of life up to now. In a diverse culture, people have had different experiences.

Notice what does *not* explain disagreement: “that people are often irrational and not very bright,” “prejudice and bias, self- and group-interest, blindness and willfulness,” “ignorance and perversity,” “rivalries for power, status, and economic gain”.

Reasonable disagreement and toleration:

Recall our question: When is a conviction reasonable? Part of the answer, which we saw earlier, is that it is:

- Arrived at by one’s conscientiously and competently assessing one’s *own* reasons for belief and action.

The other part of the answer is that a conviction is reasonable when it is:

- Arrived at by respecting the reasons of *others*.
 - In part, this means treating them *fairly*: recognizing that they have their own reasons, and so meeting them halfway.
 - In part, it means *tolerating* them: recognizing that, because of the burdens of judgment, they may, when they conscientiously and competently assess their reasons, arrive at different conclusions.

Thus, *intolerant* convictions are *unreasonable*. We do not have the same reason to tolerate intolerance.

Thomson on abortion:

Here is an argument that *Thomson* believes is sound (=true premises and the conclusion follows from the premises):

1. We can wrong only something that has interests.
2. A fertilized egg lacks interests.
3. Therefore, we cannot wrong a fertilized egg.
4. Something has a protected moral status (=we are not permitted to destroy it in order to make the world better=a “right to life”) only if we can wrong it.
5. Therefore, a fertilized egg does not have a protected moral status.

However, while Thomson believes, and believes that it is reasonable to believe, 4 (and so 5), she also believes that it is *also* reasonable to *reject* 4 (and so 5).

Doesn’t this mean that the debate over whether abortion should be legal ends up at an impasse, or stand-off? No, says Thomson.

1. A law may constrain someone’s liberty only if the person *cannot* reasonably *reject* the justification of the law.
 - “When a deeply valued liberty is constrained on a ground that the constrained are not in the least unreasonable in rejecting outright, then what is done to them cannot be justified *to* them, and imposing the constraint on them is therefore nothing but an exercise of force.”
 - Such a law is unreasonable, because it does not respect the burdens of judgment.
2. A law outlawing abortion constrains the liberty of women who seek abortions.
3. The justification of a law outlawing abortion is that a fertilized egg has a right to life.

4. Women can reasonably reject that a fertilized egg has a right to life (although women can *also* reasonably *accept* it).
5. Therefore, a law may not outlaw abortion.

Objection: “A law that *allows* abortion constrains the liberty of the fertilized egg! And a fertilized egg can reasonably reject the justification that it has no right to life.” Is the situation really parallel?

Review Questions:

1. “Toleration is incoherent. Either you think that something is good, in which case you don’t tolerate it, but *embrace* it. Or you think it something is bad, in which case you don’t tolerate it, but *condemn* it.” Discuss.
2. “Many religious abolitionists before the Civil War opposed slavery on the grounds that God created all men equal. On these religious grounds, they argued that the state ought to constrain the liberty of slaveholders, by legally prohibiting their slaveholding. But those slaveholders could have reasonably rejected the claim that there is a God. So they could have reasonably rejected the justification of the legal prohibition on their slaveholding. So, according to Thomson, legal prohibitions on slavery are just as invalid as legal prohibitions on abortion!” Discuss.