

Greasley, Kate. *Arguments about Abortion: Personhood, Morality, and Law*.

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In *Arguments about Abortion: Personhood, Morality, and Law*, an ambitious, wide-ranging book, Kate Greasley takes on a prominent strain of thinking about the abortion debate: against Thomson, Marquis, and others, Greasley holds that we cannot resolve questions about abortion without resolving questions about the personhood of fetuses. In many ways, this book represents an important contribution to discussions of abortion ethics. Greasley's account of what makes someone a person has significant advantages, not least that it is built on careful consideration of the biological circumstances of abortion, pregnancy, and birth. Those who think personhood is irrelevant to the permissibility of abortion may not be convinced otherwise, and I don't think that the three parts of the book cohere as well as they might have. Still, many of the arguments are quite good, and Greasley addresses others' arguments with admirable evenhandedness and detail.

Greasley's argument proceeds in three parts. In Part I, Greasley takes on those who think that the question of the permissibility of abortion can be answered without first answering questions about fetal personhood. If Greasley is successful, we're back to needing to know whether fetuses are persons in order to know whether abortion is permissible. So in Part II, Greasley argues for her favored view of personhood: that it is a "range property" incorporating psychological and

emotional capabilities and that human embodiment contributes to moral status. Finally, as the subtitle of the book suggests, Greasley is concerned with the legal as well as the moral status of abortion. Part III is where this most clearly comes out: Greasley offers some suggestions for the general legal status of abortion as well as what to do about some particularly thorny cases (sex-selective abortion, abortion in the case of fetal abnormality, and medical workers' conscientious objection to being involved in abortions). I will discuss each part in turn.

Part I, as I have said, makes up Greasley's argument that personhood is relevant to the permissibility of abortion. Chapter One is devoted to a convincing (I think) rebuttal of Ronald Dworkin's claim that those for and against legalized abortion aren't really arguing about personhood, and Chapter Four has interesting discussions of sex equality and abortion and of the use of analogies in the abortion debate. But for the main purposes of the book, Greasley's arguments in Chapters Two and Three are the most critical.

One way to interpret Judith Jarvis Thomson's famous violinist case is to say that this is a case not of murder, of unjustified killing, but rather a mere letting die, a failure of optional Good Samaritanism. In Chapter Two, Greasley, who wants to argue that abortion is a case of killing, must show that Thomson's view goes wrong somehow. She takes a number of paths to this conclusion. For one, it might be that some cases of unplugging the violinist really do count as killings—if we had to poison him, hack him up with an axe, or use a powerful suction machine to detach him, we might be less sure that we were simply cutting the violinist off from aid

(47). Here, one of the strengths of this book becomes apparent: Greasley has chosen these ways to end the violinist's life because they're analogous to common methods of abortion. This is just one of the ways in which Greasley's specificity about the actual circumstances of pregnancy, birth, and abortion sharpens her analysis.

Having used this and other arguments to demonstrate that abortion is usually a matter of killing rather than letting die, Greasley moves on to Chapter Three, in which she considers whether this kind of killing could be justifiable. Abortion is not (at least not usually) justified killing in self-defense, because it rarely meets the necessity and proportionality conditions needed to justify self-defense (59-66). Unless killing the fetus is the only way to prevent both parties from dying, abortion is not justified in order to avoid even greater harms (66-73). And in most cases, the doctrine of double effect will not distinguish abortion from morally problematic cases of killing (74-86). Since abortion is not simply a failure to render aid, and since it is not a morally justifiable case of killing, then it must be morally impermissible, *if* fetuses are persons.

The central chapters in Part I share some noticeable strengths. Greasley is remarkably evenhanded; if you were to read this section of the book on its own, I think it would be difficult to guess her stance on the morality of abortion. As I've already mentioned, her attention to empirical facts sharpens her analysis. And Greasley catalogues and analyzes a remarkable number of positions; these chapters are rich with different arguments for and against her ultimate conclusion.

At the same time, this approach comes with costs. The sheer number of arguments and positions Greasley engages sometimes had me feeling a little lost. To some extent, Greasley can't be faulted for this. The abortion debate is such well-trod territory, requiring so many different kinds of analysis (ethical, metaphysical, scientific, political), that it would be hard to give these debates their due without moving quickly from one to another. Still, I wonder whether Greasley could have reached some of her conclusions without quite as much back-and-forth.

Another way in which Greasley does almost too much is her reference to both the legal and the moral. Sometimes I found this quite helpful, in particular when real-life legal cases can tell us something new and important about abortion. One good example is the case of the conjoined twins Jodie and Mary, which Greasley uses to show when necessity defenses can be used (66-67). But Greasley swings from morality to law, and from British to American law, quite frequently, often within a single paragraph. The result is that it can sometimes be difficult to track whether morality or law, and if so which kind of law, is under analysis at a given time.

Finally, the number of arguments means that some are inevitably given short shrift. At one point in Chapter Two, Greasley considers whether pregnant women have a moral obligation to gestate the fetus. According to Greasley, Thomson thinks they don't—analogously, while it may be morally indecent for Henry Fonda to refuse to place his cool hand on Thomson's fevered brow to save her life, he is under no moral *obligation* to extend this aid. I don't think Greasley's

construal of Thomson's view is quite right. It's true that Thomson cannot demand of Fonda that he save her life, but she nevertheless holds that Fonda "ought to do it" (61). (Judith Jarvis Thomson, "A Defense of Abortion," *Philosophy and Public Affairs* 1 [1971]: 47-66) Rather, it is not *unjust* for Fonda to refuse (Thomson 61). At any rate, Greasley is right to note that Thomson recognizes a moral space, between indecency and injustice, where we might not have thought one existed. Greasley is understandably suspicious of this idea, but she then merely insists that there cannot be such a space: "Surely Henry Fonda *is* morally obligated [or, we might substitute, "has committed an injustice"]...if we are sure that his refusing to do so is quite monstrous" (42). Greasley's denial of Thomson's claim means that now questions about the onerousness of pregnancy, questions Thomson thinks she can set aside, are back in play. I'm sympathetic to Greasley's view here, but Thomson's point about the structure of morality deserves more than this sudden dismissal. Still, Greasley's broader points have significant merit. While the many arguments in these chapters will give critics lots to work with, on the whole Greasley presents a convincing case that we must once again engage with the question of fetal personhood.

Having done this, Greasley then moves on to present her own account of what personhood is and whether fetuses have it. To my mind, Part II is the strongest section of Greasley's book. In Chapter Five, Greasley develops two contrasting views of when persons come into existence— "punctualism," the view that there is one moment at which someone becomes "essentially and completely"

a person, and “gradualism,” the view that personhood emerges “gradually and incrementally” (117). Greasley once again uses the scientific facts of conception to present a compelling case against the punctualist view. Where we might have thought that conception was a discrete event which could bring a person into existence, Greasley neatly points out that there are at least ten distinct subparts (from the sperm’s approaching the egg to the initial formation of the zygote) comprising conception (115). Which of these is *the single* moment at which a person comes into existence? Chapter Six continues the case against punctualism, as Greasley provides compelling reasons to doubt Robert A. George and Christopher Tollefsen’s view that personhood is an essential property we all possess from the moment of conception (129). This chapter benefits from sustained engagement with a single argument, as Greasley shows many ways in which this view has gone wrong (to name one: if a zombie bites me, and I become a zombie, it seems that *I* am a zombie. George and Tollefsen’s view would seem to imply, unintuitively, that zombie-me is still a person, with the full moral status that that implies) (140).

These two chapters are a compelling case against punctualism. But as Greasley herself notes, this of course does not show that fetuses are not persons, since we don’t yet know when in their development they acquire (enough) personhood to have full moral status. Chapters Seven and Eight are devoted to this job. In Chapter Seven, Greasley considers what kinds of things gradually develop to cause the emergence of a new person. Greasley smartly begins from the archetype

of a person: who, can we all agree, clearly counts as a person (164)? She concludes that archetypal persons possess particular psychological and emotional capacities.

Readers may wonder whether this is an advance on Mary Anne Warren's account of personhood (which is, as Greasley herself notes, quite similar) (Mary Anne Warren, "On the Moral and Legal Status of Abortion," *The Monist* 57 [1973]: 43-61). I think it is. Warren and Greasley provide slightly different lists of the traits that are central to personhood—to the five traits Warren listed in 1973 (consciousness, reasoning, self-motivated activity, the capacity to communicate, and self-awareness), Greasley sensibly adds the capacity to feel complex emotions (Warren 55; Greasley 165). Warren asks how a space traveler might determine which unfamiliar beings are persons (54); Greasley's archetype strategy, while congenial to this line of thinking, may be more helpful in focusing our attention on what matters most for personhood (164). And where their lists of traits are similar, Greasley spends more time on why these traits are important and how they are present, or absent, in archetypal and nonparadigmatic cases of personhood. Defenders of a Warren-style view can thus find new resources in what Greasley has to say.

But now we face new problems. If psychological and emotional capacities make a person, what of the fact that not all persons have these capacities in the same amounts? And how can the gradualist view make sense of a supposed moral difference between fetuses and babies? Greasley takes these issues on in Chapter Eight. First, she argues that personhood is a "range property"—once the minimum

threshold of personhood is crossed, a person has equal moral status to all others, regardless of how much that person exceeds the threshold by (183-186).

In support of this analysis of personhood, Greasley accepts Ian Carter's conclusion that human dignity requires "opacity respect": "To be a person is to be the sort of being whose specific cognitive or emotional capacities are irrelevant for the basic appraisal of her standing as a creature worthy of the strongest moral protection" (187). But I worry that this isn't strong enough. While morality may require us to *appraise* all beings within the personhood range as having equal moral status, this seems to me to be a separate issue from whether all persons actually *have* equal moral status. (Consider: morality may require me to *act as if* I love all my children equally, even if in my heart of hearts I prefer one over the others.) It would be nice if the equal moral status of persons had a firmer foundation than this.

More successful is Greasley's argument in the second half of the chapter, that birth, and the physical separation from the mother, represent a distinct point at which it is appropriate for us to make moral and legal distinctions. Here, once again, Greasley's command of the biological changes that occur at birth (such as changes to the lungs) strengthens this argument (191). Yet while Greasley clearly thinks that human embodiment matters morally, its precise relationship to the emotional and psychological capacities constituting personhood is rather unclear (at one point it "plays some part" in our concept of a person [196]; in another it is "embedded in our concept of personhood" [197]; in a third place it is significant

“for cultivating the core constitutive properties of personhood” [199]; elsewhere it merely has “some moral meaning” [203]). Greasley’s view of human embodiment is provocative and interesting, and I’d have liked to see more exploration of the relationship between embodiment and psychological and emotional capacity. By the end of Chapter Eight, then, we have arrived at Greasley’s position: personhood is a range property comprising psychological and emotional capacities, with birth marking the lower threshold of the range, and with human embodiment having, at least, “some moral meaning” (203). Whether or not this position is ultimately the correct one, Greasley’s arguments for it have been careful and well-reasoned.

Part III deals with three distinct issues in abortion law. In Chapter Nine, Greasley considers the general status of abortion regulation. One would think that, given that she has just developed a new account of personhood, her arguments in this chapter would be tightly related to what’s come before. And there are echoes of her account in her treatment of some areas of abortion regulation—for example, Greasley argues that the “back-alley abortions” argument against the criminalization of abortion crucially hinges on the non-personhood of fetuses, since “there is no efficacy condition” on our laws against murder (209). Similarly, Greasley defends the use of viability in abortion law because of her own view of the importance of embodiment (213). Yet this first argument depends on the conclusion that fetuses are not persons, but it does not depend on Greasley’s arguments as to *why*. And the second does not distinguish between the viability of fetuses and the viability of infants, thus detracting from Greasley’s nice

presentation of the differences birth makes. Moreover, when it comes to whether the law should set an upper limit on how late an abortion may be performed, Greasley admits, her view “does not provide a definitive answer to this question” (214). While I appreciate Greasley’s honest accounting of the limits of her view, I would have expected the detailed presentation in the first two parts of the book to make more of a difference in the third. This is even more true in the final two chapters of the book, which, while clearly and convincingly discussing two crucial topics to abortion law—whether abortion ought to be legal in case of fetal abnormality, and whether that’s different from sex-selective abortion; and in what cases medical staff ought to be allowed to opt out of providing abortions—have even less to do with Greasley’s main view. Perhaps this is not a problem—the discussions are often quite good, as in Greasley’s tightly argued comparison of ableism and sexism in abortion—but Greasley’s view has such potential that I wish she had demonstrated its power here. Still, I look forward to seeing more about how it applies to these kinds of cases in the future.

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