



LETTER TO THE EDITORS

THE SIGNIFICANCE OF PERSONAL IDENTITY TO ABORTION

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In ‘The Insignificance of Personal Identity to Bioethics,’ David Shoemaker argues that, contrary to common opinion, considerations of personal identity have no relevance to certain important debates in bioethics, such as abortion, the definition of death, and advanced directives.¹ My aim is to show that Shoemaker is mistaken concerning the relevance of personal identity to the abortion debate – in particular, to Don Marquis’ well-known anti-abortion argument.² After highlighting two ways in which considerations of personal identity seem relevant to Marquis’ argument, I will explain Shoemaker’s reasons for thinking personal identity irrelevant to it. Then I will explain why I believe Shoemaker’s argument to be unsound.

According to Marquis, most abortions are seriously *prima facie* immoral because most abortions deprive the fetus of the valuable future it would have had had the abortion not been performed. The sort of future we take away from a fetus by aborting it is, typically, the same sort of future you and I have in store: a future as a person, with valuable experiences and worthwhile projects – a ‘future like ours.’ Just as it would be wrong to take this future away from you by killing you, so it is with human fetuses.

It would certainly seem that whether Marquis’ argument can succeed depends upon issues of personal identity. For in order for the killing of a fetus to deprive it of a future like ours, it must be the case that, were the fetus not killed, there would later be some future person who is identical to the fetus – the person the fetus would grow up to become.³ To put it another way, killing a fetus can deprive it of a future like ours only if each of us was once a fetus. But whether each of us was once a fetus turns on the nature of personal identity. Different theories of personal identity will give different answers.

Indeed, the two leading theories of personal identity – the psychological theory and the biological, or animalist,

theory – give different answers. The psychological theory of personal identity has the consequence that you were never a fetus – or at least never an early-term fetus – since you lack the requisite psychological connections to the early-term fetus that was in your mother’s womb several months before your birth. The psychological theory thus implies that killing an early-term fetus does not deprive it of a future like ours.

The biological theory of personal identity, by contrast, implies that each of us was indeed once an early-term fetus, and even an embryo. The human organism that is in your chair right now surely used to be an embryo, and according to the biological theory, you just are this organism. The biological theory of personal identity is therefore friendly to Marquis’ argument, while the psychological theory is unfriendly to it. Indeed, it would seem that the psychological theory would positively undermine Marquis’ argument,⁴ while the biological theory leaves the argument standing.⁵ This is the first way in which the question of personal identity is relevant to Marquis’ argument.

The second way, which is the focus of Shoemaker’s discussion, has to do with whether Marquis’ argument commits its advocates to the view that contraception, or any failure to conceive, is as immoral as abortion.

¹ David Shoemaker. The Insignificance of Personal Identity to Bioethics. *Bioethics* forthcoming.

² Don Marquis. Why Abortion is Immoral. *J Philos* 1989; 86: 183–202.

³ Note that this does not imply that fetuses are persons, i.e. beings with psychological profiles as complex as yours and mine. But it does imply that personhood is not an essential feature of the beings that have it.

⁴ If some version of the psychological theory is true, then the very earliest we come into being is when fetuses first become conscious, which is very likely no earlier than 24 weeks after conception. See, e.g. Malcolm I. Levene and Frank A. Chervenak. 2009. *Fetal and Neonatal Neurology and Neurosurgery*. 4th edn. Oxford: Churchill Livingstone: 28. Burgess and Tawia put it between 30–35 weeks, see: J.A. Burgess and S.A. Tawia. When Did You First Begin to Feel It? – Locating the Beginning of Human Consciousness. *Bioethics* 1996; 10: 1–26. This undermines Marquis’ goal of showing that most actual abortions are wrong (88% of actual abortions occur before week 13 and 99% occur before week 20, as reported by the Centers for Disease Control and Prevention and the Alan Guttmacher Institute). In some versions of the psychological theory of personal identity, we start existing well after the fetus from which we descend becomes conscious; we come into being only after the psychology of the fetus or the child becomes sufficiently rich.

⁵ More exactly, the biological theory leaves standing Marquis’ premise that abortion deprives the fetus of a future like ours. Of course, the argument might have other defects.

Marquis accepts that such a commitment would constitute a *reductio* of his position, but he denies that his argument has this commitment.⁶ Whereas each of us, Marquis believes, was once a fetus, none of us was ever an unfertilized egg, or a sperm, or some entity somehow made up of a pre-fertilization egg and sperm (such as the pair or the fusion of them).⁷ It follows that, in preventing the fertilization of an egg, we are not depriving it, or anything else, of a future like ours. In using contraception, we might *prevent the coming into being* of an individual who would have gone on to enjoy a valuable future. But Marquis' principle doesn't prohibit doing this – it doesn't obligate us to create beings that will have good lives. It instead prohibits *destroying an already existing being* who would have gone on to enjoy a valuable future. If we used to be embryos but never used to be eggs, or sperm, or some entity made up of them, then abortion destroys an already existing being who would have gone on to enjoy a valuable future but contraception does not. And, of course, whether we were once embryos, eggs, sperm, or some entities made up of them depends upon the correct theory of personal identity. This is the second way in which the question of personal identity is relevant to Marquis' argument. In order for Marquis' argument to succeed, he needs our existence to begin not too late, as the psychological theory of personal identity would have it, and not too early, as it would if we were once eggs, sperm, or some entity composed of them.⁸

Shoemaker agrees that whether the contraception objection against Marquis succeeds initially appears to depend on considerations of personal identity, but he maintains that the appearances are deceiving.⁹ 'To see why,' he writes,

note that what makes killing the fetus wrong is that doing so deprives it of *its own* valuable future. Marquis then takes a fetus's ownership of a valuable future to entail the numerical identity of the fetus with the individual who would otherwise have lived through that future. But there is no such entailment between ownership and numerical identity.¹⁰

⁶ Marquis, *op. cit.* note 2, p. 201.

⁷ Marquis endorses the biological theory of personal identity, and doesn't think an organism is identical to the egg or sperm from which it came, or to some entity somehow made up of them. See Don Marquis, *Does Metaphysics Have Implications for the Morality of Abortion?* *Southwest Philosophy Review* 2002; 18: 73–78.

⁸ It might seem obvious that if the biological theory of personal identity is true, then none of us was ever an unfertilized egg. But this is not obvious. It is natural to think that a zygote (or what we might call a 'newly fertilized egg') used to be an unfertilized egg, and that an embryo used to be a zygote. But if I used to be something that used to be something that used to be an unfertilized egg, then I used to be an unfertilized egg.

⁹ Shoemaker, *op. cit.* note 1, p. 5.

¹⁰ *Ibid.*: 5.

When Shoemaker says that there is no entailment between ownership and identity, he is not talking about the obvious claim that if *x* owns *y*, it does not follow that *x* is identical to *y*. As he makes clear in the following passage, he is claiming that from the fact that some future experience is mine, it does not follow that I am identical to the future experiencer of it:

What Marquis wants is an account of what makes some valuable future mine, but that simply consists in a relation between me-now and some set of future experiences, say, not a relation between me-now and some future *experiencer*. This difference leaves room for the possibility of some valuable future being mine, where my relation to the future *experiencer* is non-unique. To take a Parfitian science-fiction case, suppose I were to be fused with you tomorrow. Depending on the details of the case (including the psychological make-up of the resultant fused person), the future of the two-days-from-now person might truly be said to be mine, or at least partially mine, pre-fusion, despite the fact that either I am not numerically identical with the fused person or the identity of that person is indeterminate.

But it is very hard to see how it could be that some future experience is mine, yet I am not identical to the future experiencer of it (or at least to *a* future experience of it – more on this in the next paragraph). If I am not identical to the future experiencer of some experience, then I am not the one who will experience it. And if I will not experience some experience, how can it be *my* experience?

Shoemaker rightly notes that there is nothing in the concept of my owning something, or of something being mine, that rules out that someone else might also own it: 'To say that some *X* is mine . . . doesn't mean that *X* is mine *exclusively*.'¹¹ I am not disputing this. Rather, I am disputing that some future experience could be mine without my being at least *one of* those who will experience it. Even if a single experience could somehow belong to two people, in the way that a single house can, for me to be one of the people to whom some experience belongs, surely I must be identical to one of the people who will experience it.

This is all to say that the following entailment seems undeniable:

that some future experience belongs to X

entails

that that experience is one that X will experience.

¹¹ *Ibid.*: 5–6.

And that this entailment holds is not undermined by the possibility that the ownership relation between X and the experience is non-unique. Others can own, too.

If this is right, then personal identity remains relevant. To know whether killing a fetus would deprive it of a valuable future experience that would have been *its* valuable experience, we have to know whether the future individual who would have undergone the experience would have been *identical* to the fetus. Similarly, to know whether preventing the fertilization of an egg would deprive it (or the sperm, or the pair comprising them) of a valuable future experience that would have been *its*

valuable experience, we have to know whether the future individual who would have undergone the experience would have been *identical* to it. Shoemaker is right that Marquis' argument depends upon whether abortion takes away valuable experiences that would have belonged to the fetus. But he is mistaken in claiming that whether some experience would have belonged to the fetus does not require that the fetus be identical to at least one of the experiencers of that experience.

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