

140: Matters of Life and Death – 16 – The violinist & the demands of Charity

**** Background assumption of this week – the fetus has full moral standing ****

1 Extending the famous violinist argument

Thomson's example: Jane is kidnapped to have the violinist's blood filtered through her kidneys for 9 months. If she disconnects he will die. The dependence didn't come about through a choice of hers. The violinist has no right to use her body. It would be too much to demand that she remain.

⇒ Abortion is morally permissible where pregnancy results from rape.

What about a normal unwanted pregnancy?

Does the fact that the dependence comes about through the woman's intentional action create a duty to support the life of the fetus?

Thomson suggests not – throwing open the windows of the house because it is hot, in the knowledge that there are many burglars, does not give a burglar who enters the *right* to be on my property.

But an irrelevant feature: the burglar enters *intentionally* and with *evil intent*. Not so the fetus.

Better e.g. – underground apartments in a city with skylights opening in the sidewalk above. Many blind people in the city. Often skylights are left open for breeze, blind people fall through, sometimes with immobilizing injury. I know this, but leave my skylight open. The result is a blind person on my property with a broken back who cannot be moved for 9 months. He has no *right* to be there, but I *owe* him something in *compensation*. I have a duty to allow him to remain?

⇒ In cases of normal unwanted pregnancy abortion is *not* morally permissible (for a Contractualist, & assuming the moral standing of fetus).

But – what if I had placed a grille over the skylight to prevent blind people falling through, which proved defective? Now I owe nothing in compensation? Even if I know that a small percentage of such grilles do prove defective, and the manufacturers announce this in advance?

I cannot be expected to stifle in the heat, provided I take all reasonable precautions?

⇒ So abortion is permissible where pregnancy results from contraceptive failure?

Or society (or contraceptive manufacturers) should arrange compensation for the mother's inconvenience if she is obliged to carry to term?

2 Second extension: changed circumstances

Return to the original voluntary-violinist case, where Jane's *life* is threatened if she continues to allow the man to depend on her body. Here it is the unforeseen change in the circumstances which makes it permissible for Jane to disconnect.

Are there other sorts of changes in circumstances that might warrant the same judgment?

E.g. Jane volunteers to save the violinist, leaving her children in the care of her husband. But then her husband is struck by immobilizing long-term illness, requiring her to return to care for them.

She can disconnect in this case too, even though the damage to her family if she doesn't is less significant than a death?

It is important that the change shouldn't be of a type which one might reasonably be expected to foresee?

3 Charity – how much is too much?

This is the general theoretical issue raised – how much can Charity demand?

In the violinist example it is obvious that 9 *years* is too much. Equally obvious that 9 *minutes* is not (he still has no *right* against Jane, but it would be very wrong of her not to help, like the child in the puddle). Most share the intuition that 9 *months* is also too much. But what is the theoretical grounding?

Recall the Contractualist argument for a duty of attachment to the welfare of others – contracting rational agents should agree, not just to respect autonomy, but to develop a willingness to help when help is needed.

⇒ There is a **duty to be a generous person**.

Particular acts of generosity aren't required by justice, and no individual can *claim* my help *as a right*. But that I

be a generous person is required by justice (it is *only fair* that I do my bit), and *all* can claim *this* of me. Generosity doesn't require that I always help where help is needed. But where I am the only one who *can* help, where my act is a *necessary condition* of help being received (as in the violinist and abortion cases), then I *ought always* to help where the *cost is not too great*.

What is "too great"? Nine years does not *look* much against 40 (violinist) or 80 (abortion) !

But from a Contractualist perspective we want any agreement to be *sustainable*.

(Recall the role of the sustainability-argument in the discussion of the Survival Lottery.)

How many of us have desires that reach beyond 9 years? To insist on aid here is to insist on a preparedness to give up *almost everything currently wanted*. (Ditto for 9 months, to a significant degree.) A contract of this severity wouldn't be *sustainable*.

But – it *would* be sustainable if the attachment to others' welfare were *strong enough*!

How to set the appropriate level of attachment in the contract?

- (1) One *upper limit* is set by what is psychologically possible *without brain-washing*. (But what *is* brain-washing anyway?) Rational contractors won't agree to require levels of attachment beyond those that can be caused via an up-bringing that fosters the development of rational autonomous agency.
 - (2) Another *upper limit* is set by the need to remain an *autonomous individual* with projects of one's own. Too great an attachment to others' welfare will prevent one from having any life of one's own. (Contrast what is often said about Utilitarianism, that it will require one to be always chasing the utility of others.)
 - (3) One *lower limit* is set by the need for a society in which people *generally are helped when they need it*. We should agree to become generous enough to provide our fair share of the help needed.
- ⇒ There can be no algorithm here? Only a *broad band* of acceptable levels of attachment, with encouragement and praise for those who fall towards the upper end?

4 Utilitarian demands revisited

An Act-Utilitarian will say that Jane is obliged to remain in the kidnap-case; for it is a mere 9 months of her utility against 40 years for the violinist. (What is said about the case where her *life* is at risk will depend on details – numbers of other people effected, expected life-years, etc.)

There *is no limit* to what Utilitarianism may demand of you – you are required to act for the best, and sometimes this will require you to sacrifice everything.

But – you can't be blamed for failure to do what it isn't psychologically possible for you to do! Maybe Jane *can't make herself* remain. Maybe. But a Utilitarian will say that Jane can be *forced* to remain in the service of greater utility. Contrast Contractualism: we *have no right* to make Jane remain, given that Justice doesn't require her to.

Can a **Quality-of-Character-Utilitarian** come closer to common-sense intuitions here?

What degree of attachment to others' welfare *should* people develop on Utilitarian grounds?

(Assume here that only 'local' – society-specific – utility is relevant. Bracket what Utilitarianism demands *re* members of other societies, to be discussed in later weeks on the famine issue.)

Maybe the answer to this is essentially the same as for a Contractualist? For more utility is generally produced by attending to oneself and those close to oneself.

But (1) the upper-limits imposed by the need to avoid brain-washing and the need to maintain a life as an autonomous individual are not directly relevant, for a Utilitarian.

But (2) even if Jane is doing what a good Utilitarian character would do (by disconnecting) it can still be true, on Utilitarian grounds, that in this particular instance she *ought* to remain. And maybe she can still be *forced* to remain, even if *not* remaining wouldn't be blameworthy.

But (3) wherever there are identifiable types of circumstance in which a much higher level of attachment would produce more Utility, this will then be required.

One such circumstance is pregnancy, given that 80 years of worthwhile life is normally at stake.

→ So even a Q-of-C Utilitarian may have to say that, whatever might be true of Jane in the Violinist example, a pregnant woman in a similar situation can be *blamed* for not carrying the baby to term.