

Dangerous Liaisons:

The Morality of Abortion and its Implication with Infanticide

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1. Introduction

Two are the fundamental moral issues in the question of abortion: a woman's right to control her body and whether a fetus has a right to life. In public policy, advocates of access to legal and safe abortion services usually employ women's right over their body, while opponents of abortion insist on a fetus's "right to life". Those two moral issues are also central in the philosophical debate over abortion.

One of the most controversial conclusions on the debate was given by Michael Tooley, who argued that neither fetuses nor newborn infants have a serious right to life, for they are not persons, thus both abortion and infanticide are not seriously wrong and should be permissible.¹ With the term persons, Tooley refers to the sort of beings that actually possess some morally relevant psychological properties.

In this study, I will try to defend the thesis that while it is true that, as Tooley explains, "a satisfactory account of the morality of abortion is unlikely to be forthcoming if one attempts to approach the question of abortion in isolation from that of the morality of infanticide",² the commonsense intuition that the two practices are nevertheless morally different is right.

If this position holds, then abortion is not, or is less, wrong than infanticide from a moral perspective, and thus the former can be permissible to a greater extent than the latter. I shall examine four types of interconnection between the two practices, in order to consider which symmetrical or asymmetrical moral relation is the most appropriate:

¹ Michael Tooley, "Abortion and Infanticide," *Philosophy & Public Affairs* 2:1 (1972): 37-65.

² Michael Tooley, *Abortion and Infanticide*, (New York: Oxford University Press, 1983), 422.

1. Abortion and Infanticide are morally seriously wrong.
2. Abortion and Infanticide are not morally seriously wrong.
3. Abortion is morally seriously wrong but infanticide is not.
4. Infanticide is morally seriously wrong but abortion is not.

2. The Social and Philosophical Context of the Debate on Abortion

In the preface of his book *The Ethics of Killing, Problems at the margins of life*, Jeff McMahan writes that in view of the legalization of the so-called “abortion pill” in the United States in the beginning of the 21st century, the practice of abortion would become so common and socially invisible, that it would lose the controversy and visibility it had had in the public debate during the second half of the 20th century. In his words, “it might therefore seem that to publish a book on abortion at this point is rather like writing on the morality of slavery, an issue that is now primarily of academic interest”.³

A decade after McMahan’s statement, abortion remains a controversial issue, maintaining heated debates over its permissibility, which in some cases result in a further liberalization of a country’s abortion law, and in other cases in restricting it. Guttmacher Institute reports that between 2011 and 2013, thirty American states enacted 205 abortion restrictions, more than the total number enacted in the entire

³ Jeff McMahan, preface to *The ethics of killing: Problems at the Margins of Life* (New York: Oxford University Press, 2002), viii.

previous decade.⁴ In fall 2013 the Spanish government introduced a bill that would reform the country's generally liberal abortion law, in order to make abortion allowed only in cases of reported rape and grave danger to the health of the woman. Public outcry in Spain and all over Europe blocked the bill that if voted, it would bring Spain among the most restrictive countries in the European Union regarding access to safe and legal abortion.⁵

Among those restrictive countries is Malta, with a total ban in all cases, and until recently Ireland, where abortion was partially legalized in 2013, only to cover cases of serious threat to woman's health, in response to the international outrage that followed the death of a pregnant woman, who was refused a life-saving abortion a year earlier.⁶

In El Salvador abortion is not only banned, but criminalized, resulting in tens of women being jailed even for cases of miscarriages that are wrongly judged in courts as deliberate backdoor abortions.⁷ The most recent outrageous case is one revealed in May 2015 concerning a 10 year-old raped girl in Paraguay who was denied an abortion.⁸ Overall, the World Health Organization estimates that 47000 women die of

⁴ Heather D. Boonstra and Elizabeth Nash, "A Surge of State Abortion Restrictions Puts Providers—and the Women They Serve—in the Crosshairs," *Guttmacher Policy Review* 17:1 (2014). Accessed June 4, 2015, <http://www.guttmacher.org/pubs/gpr/17/1/gpr170109.html>

⁵ Ashifa Kassam, "Spanish Abortion Bill Expected to Spark Massive Protest," *The Guardian*, January 31, 2014, accessed June 3, 2015, <http://www.theguardian.com/world/2014/jan/31/spanish-abortion-bill-massive-protest>

⁶ Sorcha Pollak, "Ireland's Historic Abortion Shift and the Tragedy That Shadowed It," *Time*, December 19, 2012, accessed June 3, 2015, <http://world.time.com/2012/12/19/irelands-historic-abortion-shift-and-the-tragedy-that-shadowed-it/?iid=gs-main-lead>

⁷ "El Salvador's Pardon for Woman Jailed for Miscarriage Should Pave Way for Review of Similar Sentences – UN Experts," United Nations News Centre, accessed June 3, 2015, <http://www.un.org/apps/news/story.asp?NewsID=49933#.VXB1BKiggU>

⁸ Irma Oviedo and Jonathan Watts, "Pregnant 10-Year-Old Rape Victim Denied Abortion by Paraguayan Authorities," *The Guardian*, May 4, 2015, accessed June 3, 2015, <http://www.theguardian.com/world/2015/may/04/paraguay-pregnant-10-year-old-abortion>

complications after unsafe abortions, virtually all taking place in countries where abortion is either illegal or very restrictively allowed, accounting to around 13% of the global maternal mortality rate.⁹

Women's right to control what happens in their body seems to be at first glance an unproblematic assumption. Both sides, conservatives and liberals, agree that women, as every person, do have a prima facie right to body autonomy. Conservatives however claim that such a right cannot outweigh the right to life of a human being, when there is a conflict between those two rights. Following this line of argumentation for example, Baruch Brody rejects the view that a woman has a right to abort the fetus when the latter is a human being, including "hard" cases such as pregnancy after rape, and when carrying on the pregnancy threatens the pregnant woman's health.¹⁰

On the other hand, philosophers like Joel Feinberg and Jeff Mc Mahan, do grant women such a right over their body, based on Judith Jarvis Thomson's ingenious and groundbreaking defense of abortion.¹¹

In brief, Thomson argued that even if, for the sake of argument, we grant the fetus with a right to life, this does not mean that a woman has not a right to abort it, as many anti-abortionists claim. To explain why, she invites you to imagine yourselves waking up tied in a hospital room, and plugged in with a very famous violinist who suffers from a fatal kidney ailment. His only hope to survive is to be plugged into someone with the same blood type for nine months, which is the period he needs for

⁹ "Preventing Unsafe Abortion," World Health Organization, accessed June 3, 2015 http://www.who.int/reproductivehealth/topics/unsafe_abortion/magnitude/en/

¹⁰ Baruch Brody, "Against an Absolute Right to Abortion", in *The Problem of Abortion*, ed. Susan Dwyer and Joel Feinberg (Belmont: Wadsworth Publishing Company, 1997), 88-97.

¹¹ Judith Jarvis Thomson, "A Defense of Abortion," *Philosophy & Public Affairs* 1:1 (1971): 47-66.

his own kidneys to recover and start functioning again. The Society of Music Lovers kidnapped you, after having discovered that you have the same blood type and plugged you into the violinist circulatory system. Thomson grants the violinist a right to life, but at the same time she argues that this does not give him a right to use your body, even if unplugging would inevitably bring his death.¹²

Michael Tooley,¹³ Joel Feinberg,¹⁴ and Mary Anne Warren¹⁵ find this a strong argument to justify abortion in cases of rape, but they think that for the rest of the cases, and particularly for pregnancy after voluntary intercourse, the violinist example fails to offer a general justification of abortion. The reason is that the woman is, at least partially, responsible for the fetus being there in need of her body. Hence, they conclude that apart from rare cases such as rape, where abortion can be justified based on Thomson's analogy with the violinist, in general, the question of the moral status of the fetus is the crucial issue in the problem of the morality of abortion, and cannot be overridden by one's right to control her body. It seems that an argument justifying a wider permissibility of abortion needs to consider the moral status of the fetus.

The most liberal approach on the issue of the moral status of the fetus was first suggested by Michael Tooley. In his influential article "Abortion and Infanticide",¹⁶

¹² Ibid: 49.

¹³ Tooley, *Abortion and Infanticide*, 1983, 49.

¹⁴ Joel Feinberg, "Abortion," in *Freedom and Fulfillment: Philosophical Essays*, ed. Joel Feinberg (New Jersey: Princeton University Press, 1992), 67.

¹⁵ Mary Anne Warren, "On the Moral and Legal Status of Abortion," in *The Problem of Abortion*, ed. Susan Dwyer and Joel Feinberg (Belmont: Wadsworth Publishing Company, 1997), 65.

¹⁶ Tooley, "Abortion and Infanticide," 37-65.

Tooley discussed “what properties a thing must possess in order to have a serious right to life”.¹⁷ He identified as such the self-consciousness requirement:

Having a right to life presupposes that one is capable of desiring to continue existing as a subject of experiences and other mental states. This in turns presupposes both that one has the concept of such a continuing entity and that one believes that oneself is such an entity.¹⁸

Lacking the above properties, neither fetuses nor newborn infants have a serious right to life, Tooley concludes.

Peter Singer followed the same rationale, insisting on the distinction between a human being in the biological sense (member of the species *Homo sapiens*), and a being that is a “person”, and reserving any significant moral status only for the latter.¹⁹ More recently, Giubilini and Minerva, based on the argument that fetuses and newborn infants are not persons, claimed that killing a newborn infant can be permissible, not only in cases of severe impairments, but also for socioeconomic reasons similar to those that often drive women to choose abortion. When those reasons arise unexpectedly shortly before or after birth, destroying the newborn might be justifiable, the two authors argue in their highly controversial article where they replace the term “infanticide” with “after-birth abortion”.²⁰

I think that, despite the robust argumentation of the above mentioned extreme- liberal standpoint on abortion and infanticide, the conclusion that both acts are not seriously wrong and, thus, can be generally morally permissible stands at odds with the

¹⁷ Ibid: 37.

¹⁸ Ibid: 48

¹⁹ Peter Singer, *Practical Ethics*, 2nd Edition, (Cambridge: Cambridge University Press, 2011), 151.

²⁰ Alberto Giubilini and Francesca Minerva, "After-Birth Abortion: Why Should The Baby Live?" *Journal of Medical Ethics* 39 (2013): 261-263.

intuition of a great many number of people, including those who do not find abortion, particularly during the early stages of pregnancy, as seriously wrong. Philosophers like Jeff McMahan, Joel Feinberg and Mary Anne Warren, who generally adopt a liberal position on abortion, have nevertheless raised serious concerns on the permissibility of infanticide on the same grounds.

To sum up with this brief outline of the philosophical context of the debate on abortion, despite the obvious attractiveness of the idea that a woman should be the master of her body and have the autonomy to choose what happens on and in it, I tend to believe that on the question of abortion, no decisive conclusion can be reached if the central challenge of the opponents, that is the moral status of the fetus, is not addressed. Said that, I will proceed with considering the four possible options of moral interconnection between abortion and infanticide, all of which deal with the question on the moral status of the fetus.

I will start by examining firstly the third and first claim, before continuing to the second and fourth.

3. Claim (3): Abortion is morally seriously wrong but infanticide is not.

The implausible option

It seems to me that there cannot be an argument supporting the third claim; this is that abortion is seriously morally wrong but infanticide is not. Giving a brief historical background of infanticide, Tooley²¹ and McMahan²² cite birth control and the birth of seriously deformed infants as cases where previous civilizations, including Ancient

²¹ Ibid, 315-6.

²² McMahan, *The Ethics of Killing*, 342.

Greeks and Romans, practiced infanticide. But both the above reasons and any other one can imagine as justifying infanticide can be satisfied also by abortion.

Indeed, Aristotle, who lived in times when infanticide through exposure was performed, captured a reasonable preference for abortion than for infanticide, based on sensation:

As to exposing or rearing the children born, let there be a law that no deformed child shall be reared; but on the ground of number of children, if the regular customs hinder any of those born being exposed, there must be a limit fixed to the procreation of offspring, and if any people have a child as a result of intercourse in contravention of these regulations, abortion must be practised on it before it has developed sensation and life; for the line between lawful and unlawful abortion will be marked by the fact of having sensation and being alive.²³

In the above passage, it is clear that Aristotle considered early abortions of healthy fetuses not seriously wrong, since he called them “lawful”. Furthermore, he suggested a specific morally relevant criterion to distinguish, on one hand, early from later abortion and infanticide, and on the other hand an “alive” from a non-alive thing; the capacity to feel. I will return later to the capacity of sensation.

The strongest conservative argument against abortion and infanticide is that a fetus and an infant are “human beings”. In a rights-based approach this is translated as an equal to our right to life. If this is so, then a moderate variant of the conservative argument suggesting the third claim that we discuss now would imply that a fetus has a stronger right to life than a newborn infant. Since “normal” adult human beings have the strongest right to life, the above claim should mean that the biological,

²³ H. Rackham, trans., *Aristotle in 23 Volumes*, London: Harvard University Press, 1944. Accessed on June 6, 2015
<http://www.perseus.tufts.edu/hopper/text?doc=Perseus%3Atext%3A1999.01.0058%3Abook%3D7%3Asection%3D1335b>

psychological and any other characteristic we, adult human beings, share with newborn infants are less than those we share with fetuses. But this is clearly wrong. Hence, I cannot think how someone who would like to moderate the extreme conservative view on abortion and infanticide could proceed with arguing that abortion remains seriously wrong but infanticide is not, for he should then support the claim that a fetus is more valuable, from a moral perspective, as a human being than as a newborn infant.

On the other hand, I cannot also think how a more restrictive variant of the extreme liberal view, which argues that both acts are not wrong, could be reframed in order to attribute greater moral value to abortion than to infanticide, making the former more wrong than the latter. For if we would need to depart from the extreme liberal view that neither act is wrong in order to arrive in a more restrictive one, apart from finding a plausible answer to the same question described above on justifying that a fetus is more valuable than a newborn infant, we would need to find a good answer in a more practical question as well; Why a woman shall finish a biological procedure that is physically demanding, like pregnancy, and proceed after with the destruction of the final product of that procedure, when it would be easier, simpler, and less resource-consuming, to do it earlier?²⁴

²⁴ Of course both the questions of the moral status of the fetus and newborn infant and of going through pregnancy only to destroy the fetus after its birth are the fundamental ones someone would need to answer if he wanted to support that infanticide is not seriously wrong while abortion is. I chose to present them this way however, as I tend to think that someone who lies more on the conservative side would be primarily interested in inquiring the implications such a claim would have on the moral status of the fetus and the newborn infant, while someone closer to more liberal positions would be more open to address the practical implication such a claim might have on the pregnant woman's well-being. Nevertheless, a sound argumentation in favor of this third claim would need to give answers to both questions.

Thus, I think that we can safely reject the third claim that abortion is morally seriously wrong while infanticide is not as implausible, both from a philosophical and a common intuitions' perspective.

It seems to follow that if one would like to depart from the symmetrical position from the one or the other end of the spectrum, that is either that infanticide and abortion are both seriously wrong or that neither are, to reach a more moderate position, there can only be one direction towards an asymmetry where abortion would be less serious than infanticide, if she chooses the departure from the original position not to be an equivalent one for both acts. This means that infanticide can be only equally or more seriously wrong than abortion (abortion \leq infanticide).

I shall now continue with examining the first claim, that abortion and infanticide are both seriously wrong.

4. Claim (1): Abortion and Infanticide as “murder”. The extreme-conservative standpoint

a. The Catholic Church

Arguably the most conservative edge of the spectrum on abortion and infanticide is dominated by the Catholic Church. The official position is that abortion and infanticide constitute an “unspeakable crime”.²⁵ Pope John Paul II considered “hard” cases, such as the threat to the mother’s health due to pregnancy, but concluded that “these reasons and others like them, however serious and tragic, can never justify the

²⁵ Pope John Paul II, "The Unspeakable Crime of Abortion," in *The Problem of Abortion*, ed. Susan Dwyer and Joel Feinberg (Belmont: Wadsworth Publishing Company, 1997), 21.

deliberate killing of an innocent human being”.²⁶ Furthermore, “the human being is to be respected and treated as a person from the moment of conception”.²⁷

Given that the doctrine of the Catholic Church on abortion and infanticide is a religious one based on faith, it falls out of the scope of the present study which tries to treat the issue on philosophical grounds. Nevertheless, I thought useful to include a brief summary of the Catholic Church, whose position defines the one extreme edge on the issue; that is that both abortion and infanticide are always and equally seriously wrong, comparable to the murder of a normal adult human being.

I find two comments appropriate here. Though all religious and faith doctrines lie on the conservative side on moral issues, most of the others, including Christian doctrines like Protestant and Eastern Orthodox, as well as Islam and Judaism, adopt a more tolerant position towards abortion in one or more of the difficult cases, such as pregnancy that poses a threat to the woman’s health, and pregnancy due to rape. Furthermore, even in the Catholic Church, the contemporary dominant view that a human being is a person from conception has not been always the case. McMahan cites Thomas Aquinas’s view of “delayed hominization”, which entailed that “the soul begins to exist well after conception”, a view that “remained orthodox until well into the nineteenth century”.²⁸ Regarding infanticide, there is no evidence of a similar more tolerant stance.

²⁶ Ibid, 22.

²⁷ Ibid, 23.

²⁸ McMahan, *The Ethics of Killing*, 16.

b. Philosophical arguments on the wrongness of abortion and infanticide

Philosophers who reached a conservative position over abortion and infanticide, do recognize the right of a woman to control what happens in her body, but believe that this right when opposed to the right to life of a human being is weaker and thus the latter prevails. Here I will present the two most important approaches supporting the conservative view that I came along in the literature of abortion, written by Baruch Brody and Don Marquis.

Baruch Brody rejects all the reasons that could justify abortion, on the ground that abortion equates to the deliberate killing of a human being. In that regard he is very close to the argument of the Catholic Church. But Brody relies on the brain-death theory to define a “human being”, according to which “there is one property essential to humanity, and that is the possession of a brain that has not suffered an irreparable cessation of function”.²⁹ Brody, based on the scientific evidence in the early 1970’s, suggests that a fetus becomes a human being at the end of the sixth week of gestation when it acquires a functioning brain.³⁰ His conclusion will be refuted later when I will discuss more in depth the morally relevant properties that make it wrong to destroy a person. Nevertheless, I find important to underline the fact that a philosopher who concludes in one of the most conservative positions I am aware of, rejects the extreme conservative position that a fetus is a human being from conception, and moves the moral onset of human life to the sixth week after conception.

Don Marquis is a second prominent philosopher who argued that fetuses possess the same property which makes killing adult human beings seriously wrong. Don Marquis

²⁹ Baruch Brody, "Against an Absolute Right to Abortion," in *The Problem of Abortion*, ed. Susan Dwyer and Joel Feinberg (Belmont: Wadsworth Publishing Company, 1997), 94-95.

³⁰ *Ibid*, 97.

considers the wrongness of killing as the “essence” in the abortion debate. In his view, the morally relevant property in the wrongness of killing is what he calls “a future like ours”. It is described as “one of the greatest losses one can suffer” for it “deprives one of all experiences, projects, activities, and enjoyments that would otherwise have constituted one’s future”.³¹ Don Marquis intentionally refrains from discussing the actual or potential personhood of the fetus.³² The consequence of his account on the morality of abortion and infanticide is straightforward:

The future of a standard fetus includes a set of experiences, projects, activities and such which are identical with the futures of adult human beings and are identical with the futures of young children. Since the reason that is sufficient to explain why it is wrong to kill human beings after the time of birth is a reason that also applies to fetuses, it follows that abortion is *prima facie* seriously wrong.³³

McMahan praises Marquis’s attention in developing his argument against abortion, for not basing it on an exhaustive inquire of the morality of killing, making it a plausible sufficient but not necessary condition. “What Marquis does claim is that the fundamental reason why killing is seriously wrong applies at least equally in the cases of the fetus”.³⁴

David Boonin, who also intentionally refrains from discussing the moral status of the fetus in terms of “personhood”, acknowledges Marquis’s argument as one of the strongest against abortion.³⁵

³¹ Don Marquis, "Why Abortion Is Immoral," in *The Problem of Abortion*, ed. Susan Dwyer and Joel Feinberg (Belmont: Wadsworth Publishing Company, 1997), 29.

³² *Ibid.*, 34.

³³ *Ibid.*, 31.

³⁴ McMahan, *The Ethics of Killing*, 270.

I will not present McMahan's and Boonin's objections to Marquis for they both use their own very long theories. But I will try to show two disadvantages of the "future like ours" argument arising from Marquis's intentional avoiding of dealing with the moral status of the fetus. Before that, let me note that Marquis's sole explicit objection to the personhood theories on the status of the fetus comes from the implication they have for infants.³⁶

In my view, the main inadequacy in Marquis's theory lies on the fact that by trying to find an alternative to personhood theories he deliberately leaves very inclusive the answer of whose future is at stake. One absurd example can involve animals. Imagine a childless rich old woman whose entire fortune will, according to her will, go to her dog when she dies. Accordingly, she authorizes a trustee to manage her fortune, ensuring that the dog will have luxury activities and holidays like a very rich adult human being, until the end of its life. That dog would indeed have a better future than most of us. Does that mean that killing it would be much more seriously wrong than killing a very poor person in a developing country who presumably has a future "worse" than ours? I believe not. Marquis is aware of similar implications that his theory might have:

Whether some animals do have the same right to life as human beings depends on adding to the account of the wrongness of killing some additional account of just what it is about my future or the futures of other adult human beings which makes it wrong to kill us.³⁷

But this acknowledgement does not help his argument. The explicit purpose of his theory is to offer an argument that would move the whole discussion on the

³⁵ David Boonin, *A Defense of Abortion* (New York: Cambridge University Press, 2003), 56.

³⁶ Marquis, "Why Abortion Is Immoral," 31.

³⁷ *Ibid*, 30.

permissibility of abortion away of the question on the moral status of the fetus, for apparently such a discussion can uncomfortably extend to include the status of newborn infants, as indeed a number of philosophers have done. And at least for the most prominent among them, like Michael Tooley, Peter Singer, Jeff McMahan, and Mary Anne Warren, defining precisely “what is wrong in the futures of adult human beings which makes it wrong to kill them” lies at the heart of their theories that Marquis labels as “personhood theories”. By not addressing the question of the moral status of fetuses, Marquis avoids possible unhappy consequences on the moral status of newborn infants and the morality of infanticide, which would clash with commonsense intuitions.

But his argument is vulnerable in a clash with another intuition; namely that according to his argument, one might conclude that the life and future of an adult human being can matter equally or less than the life and future of a non-human animal. It seems to me that until he defines what is about adult human beings’ future that makes it wrong to kill them, his account on the morality of abortion will be open to controversial implications with the status of animals, in a way that “personhood theories”, which do define the wrongness of frustrating an adult human being’s future on the ground of a person’s moral status, do not.

My second objection to the “future like ours” argument comes from the following passage:

Presumably abortion could be justified in some circumstances, only if the loss consequent on failing to abort would be at least as great. Accordingly, morally permissible abortions will be rare indeed unless, perhaps, they occur so early in pregnancy that a fetus is not yet definitely an individual.³⁸

³⁸ Ibid, 33.

Don Marquis does not discuss which those rare cases would be. I believe that if we accepted that abortion is morally seriously wrong because it deprives a human being from a “future like ours”, then there are good reasons to accept abortion in cases of serious threat to mother’s health, where continuing with her pregnancy would deprive her also from a future like ours, and in cases where the fetus is seriously deformed, since continued existence of such a human being certainly is not comparable with a future like ours. But most importantly, Don Marquis does not explain until how early in pregnancy those rare cases would justify an abortion. And if this “early”, as a time border, is relevant to whether the fetus is “definitely an individual”, then it seems to me that, in the end, he will not avoid the discussion of when does the fetus acquire the moral status of a person.

To sum up with Don Marquis, it seems to me that while he praises his approach as superior for it shifts the focus from the moral status of the fetus to the ethics of killing, the disadvantage of his argument is that he abandons entirely all considerations on the moral status of the fetus. Hence, his account is overall vulnerable for its vagueness, which occasionally can lead to unacceptable conclusions on the value of animals vis-à-vis people.

But maybe I am wrong in my objections to Don Marquis’s and Brody’s accounts. If I am, still, what is the support generated for the first claim? Are abortion and infanticide seriously wrong, and if so, are they equally wrong, and in all cases?

Until now I have discussed some prominent different approaches that all come to a conservative conclusion on the question of abortion and infanticide. All consider the two practices as morally seriously wrong, however, apart from the Catholic Church, the other two accept that there can be some cases where, at least abortion, can be

morally permissible. But if it can be permissible, then it cannot be *seriously* wrong or at least at the same extent as infanticide.

Hence, with the exception of the religious approach, and more precisely the Catholic Church's, it would be very difficult, if possible at all, to defend a strict and absolute position against abortion from the moment of conception.

While there is unanimity among the two prominent philosophers who take a conservative stance that abortion is *prima facie* seriously wrong, they nevertheless accept some exceptions. Baruch Brody suggests a restrictive personhood theory, as he considers that we become "human beings" after the acquisition of a functioning brain, which he puts early in pregnancy, after the sixth week of gestation. Don Marquis leaves space for two kind of exceptions, one early in pregnancy, before the fetus is definitely an "individual", though he does not specify when exactly that happens, and one later, in cases where failing to abort the fetus would result in an equally serious consequence. I understand, at least, the threat on the woman's health and life, as such a serious consequence. Thus abortion could be justified even late during pregnancy if continuing with carrying the fetus endangers the pregnant.

On the other hand, regarding infanticide, Don Marquis indeed consider the practice as *seriously* wrong, and equal to the murder of an adult human being, while Brody, though he does not explicitly refer to it, we can safely assume that he has the same view, given that after the sixth week of gestation he takes the fetus as morally equal to its mother.

I conclude that the first claim that abortion and infanticide are both seriously wrong, comparable to the murder of an adult human being, cannot be sustained as such but on religious grounds. While conservative philosophers accept the symmetry between

infanticide and the murder of an adult human being, they do not do so for abortion in all cases and during the whole period of gestation. Nevertheless, the permissibility of abortion, according to their conclusions, is quite limited.

I will now turn to the second claim that abortion and infanticide are not morally seriously wrong. This position, though highly controversial for many people, has been very strongly defended by Michael Tooley and Peter Singer.

5. Claim (2): Abortion and Infanticide are not morally seriously wrong.

The extreme-liberal position

Michael Tooley and Peter Singer conclude that abortion and infanticide of newborn infants are not seriously wrong, since both fetuses and newborn infants fall short of the moral status that would make them “persons”, such that it would be seriously wrong to be destroyed. In this chapter I will explore the claim that abortion and infanticide are not morally seriously wrong, as presented by Tooley and Singer. I will then try to demonstrate an important difference in their accounts, which I believe differentiates substantially their approaches, though they both arrive at the same conclusion. I will try not only to show that Tooley’s approach is significantly less flexible in accommodating commonsense intuitions on such a delicate question than Singer’s, but in being inflexible his conclusion is true but incomplete. Before doing so, I need to briefly discuss what we understand to be personhood in moral terms.

a. Defining moral personhood

To begin with, philosophers who have examined the question of abortion by focusing on the moral status of the fetus, particularly those who come up with a liberal stance,

like Michael Tooley, Peter Singer, Joel Feinberg, and Jeff McMahan, agree that being a human being in the biological sense does not entail any serious moral status *per se*.

I believe that though it sounds counterintuitive at first glance, if we think more carefully about it, merely being part of the biological species *Homo sapiens* is not what we value in being “human”. I rather believe that the commonsense intuitions on what makes us, people, valuable agree with what a number of philosophers have detected as the core characteristics of our moral personhood; those are properties such as self-consciousness, rationality, autonomy, capacity to desire, communicate, and have feelings. There is no consensus on whether a single property or a conjunction of the above mentioned is the most essential, necessary and sufficient to make someone a person.

We do not need to inquire this further for the purpose of the present study. What is important, and that is unanimous among philosophers as far as I know, is that moral personhood is attributed to a being with a high degree of cognitive and psychological capacities rather than in virtue of mere compliance with a specific chemical composition that makes the human DNA. It is the psychological, rather than the biological, aspect of a being that makes her subject to special interests and rights, among which the most important is the right to life (or the interest in continuing living).

Indeed, I think one can agree that if in the future we come along some aliens that are “like us”, in the sense of possessing similar psychological properties, it would be seriously wrong if we killed them because they would not belong to our species, that

is they would have a different DNA. So “like us” does not mean biologically the same.

Let me now turn to the two philosophers who claim that abortion and infanticide are not seriously wrong.

b. Michael Tooley

In the extended version of *Abortion and Infanticide*, Tooley updates the property that, he believes, makes it intrinsically wrong to destroy something: that is “the property of being an enduring subject of non-momentary interests”.³⁹ Giving an outline of how he arrives in this modification from the property he had concluded ten years earlier would require considerable space and go out of the scope of the present study. It is important to note that Tooley finds this property sufficient, but he expresses ambiguity on whether it is also necessary.⁴⁰

As already said, there is no consensus among philosophers on the necessary and sufficient property that entails moral personhood. Tooley knows that and despite his very detailed examination on the second part of his book in order to conclude to the above property, in the third part where he needs to counter the objections on the permissibility of infanticide, he chooses to consider a whole set of morally relevant characteristics as a point of reference for a person, rather than relying on the single property he had identified.⁴¹

In view of the above, I tend to think that other philosophers’ preference to a set of psychological properties, rather than the definition of a single one like Tooley

³⁹Tooley, *Abortion and Infanticide*, 303.

⁴⁰ Ibid, 146.

⁴¹ Ibid, 349.

attempted, reflects better our understanding on the moral value of persons. But I do not find a serious disadvantage in Tooley's attempt to arrive to one property, for he admits that being a subject of non-momentary interests is sufficient but not necessary. It is important to note that he (re-) affirms that the property is a psychological and not a biological one, and that the being who possesses this property is a "person", and as such it is intrinsically wrong to kill him.

Since fetuses possess neither the above property, nor barely any psychological property, Tooley concludes that destroying a fetus cannot be seriously wrong. To strengthen his view, he examines whether it is wrong to destroy potential and possible persons, given that this is the second-best objection to abortion related to the status of the fetus, when the first one, that of species membership, collapses under closer scrutiny. Tooley introduces his "Basic Moral Symmetry Principle" (BMSP), with which he tries to refute the potentiality argument that it is seriously wrong to destroy a potential person:

Let C be any type of causal process where there is some type of occurrence, E, such that processes of type C would possess no intrinsic moral significance were it not for the fact that they result in occurrence of type E.

Then,

The characteristic of being an act A of intervening in a process of type C that prevents the occurrence of an outcome of type E makes an action intrinsically wrong to precisely the same degree as does the characteristic of being an act B of ensuring that a causal process of type C, which it was one's power to initiate, does not get initiated.⁴²

In brief, Tooley's BMSP suggests that abortion is an action morally similar to contraception, abstention or any other that prevents the production of additional persons.

⁴² Ibid, 186.

Someone could say that the BMSP comes at odds with a fundamental commonsense intuition: If the act of stopping a process, which when finished would have a morally significant outcome, is morally equivalent with the non-act of not starting at all the same process that would lead to the same outcome, then this might entail that killing- an act- is morally equivalent with letting die- a non-act- for both have the same morally significant outcome; somebody's death. But such a conclusion is strongly counterintuitive, for most of the people think that there is an important difference between killing and letting die.

Judith Thomson writes about this strong commonsense intuition:

I suspect that they do not have in mind anything which is disconfirmed by the fact that there are pairs of acts containing a killing and letting die in which the first is no worse than the second.⁴³

The pair of Alfred and Bert that Thomson refers to goes as follows:

- (1) Alfred hates his wife and wants her dead. He puts cleaning fluid in her coffee, thereby killing her.
- (2) Bert hates his wife and wants her dead. She puts cleaning fluid in her coffee (being muddled, thinking it's cream). Bert happens to have the antidote to cleaning fluid, but he does not give it to her; he lets her die.⁴⁴

Thomson, and I believe most people myself included, think that Bert's behavior is morally equivalent with Alfred's. But this blurs the moral distinctions between killing and letting die.

If Bert loved his wife instead of hating her, but unfortunately did not have the antidote (and he did not have the time or a way to help her otherwise), then he "really" would let her die in a morally very different way than in the original example, for now his

⁴³ Judith Jarvis Thomson, "Killing, Letting Die and the Trolley Problem," *The Monist* 59:2 (1976): 217.

⁴⁴ *Ibid*: 204.

motivation would be profoundly different from Alfred's who hates his wife and kills her. Thus, in view of a morally relevant difference, killing is more seriously wrong than letting die in an alternative example, where Bert does not hate his wife. But in the original example, killing and letting die seem to be similarly seriously wrong.

To return to the BMSP, Tooley clarifies that the pairs of acts should be similar in other morally important aspects.⁴⁵ But "normal" cases of killing and failing to save differ in other morally relevant aspects, like motivation, costs and risks that someone is willing to undergo. If in the above example, Bert loved his wife, as in a "normal" couple, then the BMSP could not apply, for Bert's motivation would differ from Alfred's; the latter would still want his wife dead but the former would not. But in the original example they both hate and want their wives dead, thus satisfying Tooley's clarification on other morally relevant considerations being equal.

I tend to believe that with this clarification, Tooley successfully demonstrates with the BMSP that abortion is not seriously wrong, and is similar to contraception, or abstention. If this conclusion is true, then the debate should focus at which point a human being becomes a person, so that his destruction would be seriously wrong.

In order to answer this question in the third part of his book, Tooley goes on a detailed study of the scientific evidence, which existed at the time, on the psychological status and developments in neonates.⁴⁶ As it is mentioned, he had already concluded on the property that makes something a person, that is being an enduring subject of non-momentary interests. Nevertheless, he acknowledges that this conclusion would not meet universal agreement, so he (re-) examines the capacity for self-consciousness,

⁴⁵ Tooley, *Abortion and Infanticide*, 187.

⁴⁶ *Ibid*, 307.

the capacity for rational thought, the capacity for deliberate decisions, the capacity to envisage future for oneself and remembering the past, the capacity to use language, the capacity to have non-momentary interests.⁴⁷

Tooley arrives to the conclusion that it is highly unlikely that a fetus and a newborn infant possess any of the above capacities that would enable us to consider them as a person. In terms of cognitive and psychological capacities the fetus and neonate are definitely inferior to a normal human adult or small child, and it seems that at best they are comparable to some mammals.⁴⁸ Hence, Tooley concludes that both abortion and infanticide are not seriously wrong, because both fetuses and neonates lack the morally significant psychological properties that are necessary for something to be a person and, thus, seriously wrong to be destroyed.

c. Peter Singer

Peter Singer arrives at a similar conclusion on the morality of abortion and infanticide after going through a more “practical” examination. Overall, Singer also follows the principle that it is seriously wrong to kill only those beings that have certain properties such that they make them “persons”. The properties he considers are being rational, self-conscious, and aware of oneself as a distinct entity in time (with past, and future), while he rejects the argument of species membership as morally insignificant. What is more, he rejects the potentiality objection to abortion with a simpler and less sophisticated argument than Tooley’s BMSP; he argues that there cannot be a rule suggesting that any potential X can have the rights or the same value

⁴⁷ Ibid, 349.

⁴⁸ Ibid, 371.

of an actual X, such as Prince Charles, though crown prince, has not the rights of the King of England.⁴⁹

Hence, Singer endorses Tooley's approach and conclusion on the moral status of fetuses and neonates, and the claim that abortion and infanticide are not morally seriously wrong. Nevertheless, I think that he differs from Tooley in an important aspect that sheds light in a somewhat unclear view of Tooley. The aspect is this: what is the moral status of non-human animals?

Singer's analysis pays considerable attention to the moral status of non-human animals, discussing in depth what is wrong, if it is, with killing non self-conscious/rational animals. A declared utilitarian, Singer advances the view that all sentient beings have an interest in experiencing pleasure and avoiding pain.⁵⁰

Singer underlines a crucial clarification; the fact that it is not seriously wrong to kill an animal that does not have the necessary psychological properties and an interest to continue living so that it can be considered a "person", does not mean that this animal has no interest(s) at all. Saying this, Singer heavily criticizes the industrialized way in which animals are raised in modern societies only to be, often painfully, slaughtered and consumed by humans.

What is relevant to the abortion debate in Singer's views is that though he agrees that only persons, with the respective morally relevant properties, can be seriously wronged if they are killed, he examines also how beings that are not persons can also be wronged, though in a morally weaker sense. One case of that sort is to inflict pain in sentient and conscious beings. Singer applies this principle to fetuses, discussing

⁴⁹ Singer, *Practical Ethics*, 153.

⁵⁰ *Ibid*, 131.

the medical use of the fetus, like the use of fetal tissues.⁵¹ He suggests that we should compare and accordingly consider the moral status of fetuses and neonates with that of non-human animals at the same level of rationality and consciousness.⁵² Medical evidence can help us in this comparison.

Based on medical evidence, the cerebral cortex which is associated with the sensation of pain, and more generally consciousness, is adequately developed to support a very weak kind of sentience at approximately the eighteenth week of gestation.⁵³ Consequently, from around that time, Singer argues, we should regard fetuses as eligible for the same protection as non-human, sentient animals.⁵⁴ Speaking about the gestational age that marks the onset of the fetus's sentience, I shall add that McMahan, presumably based on more recent scientific evidence than Singer, sets "the onset of consciousness" no earlier than the twentieth week of gestation⁵⁵. I tend to trust this suggestion more than Singer's, but that is not so important for the difference is small.

But I would like to remind now the suggestion Brody made. Brody, as I mentioned previously, suggests that the fetus becomes a human being with full moral value already at the sixth week of gestation when it acquires a functioning brain. What Singer, McMahan, and Tooley really look into when they use the medical evidence on the developmental process of the fetus is the actual moral significance in the different

⁵¹ Ibid, 164.

⁵² Ibid, 151.

⁵³ Ibid, 165.

⁵⁴ Ibid, 151.

⁵⁵ Different philosophers use different terms, such as "sentience", "consciousness", and "awareness" to refer to the same condition, that of feeling pain and pleasure. Singer prefers "sentience" while McMahan uses the term "consciousness". McMahan, *The Ethics of Killing*, 267.

stages of that process. Since the morally relevant property is agreed to be psychological in nature, the most relevant human physical part is indeed the brain.

However, I find more accurate to look into when exactly the weaker or most primitive psychological capacity appears, as philosophers like Singer and McMahan did, than to look into when the brain starts to function in a primitive manner, as Brody did. The reason is that the brain has a number of other functions, which are not morally relevant. If it is so, then I think that whether it starts having a primitive function at around the sixth week of gestation is morally irrelevant, since the onset of the first morally relevant function takes place more than twelve weeks later. Thus I find that a functioning brain that has not yet the capacity to generate even the weakest sentience is a problematic point for the onset of moral value.

So far I have discussed how Tooley and Singer arrive at their conclusion that abortion and infanticide are both not morally seriously wrong. Their main argument is that fetuses and newborn infants do not possess the morally relevant psychological properties that would make it seriously wrong to destroy them. In other words they are not persons. However, I detected a difference in the approaches of the two philosophers. The difference is that Singer reflects on the wrongness of killing non-persons, like non-human animals, while Tooley does not. This, I believe, makes Singer more flexible to accommodate a range of views that would explicitly suggest that if something is not *seriously* wrong, it can be, nevertheless, *somewhat* wrong. And somewhat wrong is obviously a different thing than non-wrong. I shall now try to demonstrate how this thought relates to the second claim we examine, that abortion and infanticide are not seriously wrong.

d. A challenge on Tooley: a kitten, a fish, a fetus and a zygote

I will now present the challenge on Tooley's approach which results from Singer's extensive account on animals' moral status.

Tooley does accept the principle that sentient beings have an interest not to feel pain, but he does not attribute them a serious right to life. A kitten recurs in his article and book as an example of a being that is not seriously wrong to destroy, but it is so to torture.⁵⁶ But contrary to Singer, Tooley refrains from examining the specific interests that animals like his kitten have. My understanding on what Tooley regards as wrong acts upon animals comes only from his own examples that he sporadically gives, like with the kitten. I believe that if he did get more into the details of what is about wronging sentient non-persons, like nonhuman animals, he would face a serious challenge in his theory.

The challenge would be this: Even if, for the sake of argument, we accept that only persons, defined as enduring subjects with non-momentary interests, are seriously wronged when killed, in what other, maybe weaker, ways can we morally wrong beings that are not persons?

I believe that almost everyone would agree that inflicting pain on a sentient being is an example of a morally wrong act. If this is so, then there must be a comparative evaluation of different morally wrong acts, such that, to use Tooley's examples, killing a kitten is less serious than torturing a kitten, and torturing a person is less serious than killing a person.⁵⁷

⁵⁶ Tooley, *Abortion and Infanticide*, 100.

⁵⁷ *Ibid.*

Tooley accepts the above moral ordering of those two sorts of acts, based on Feinberg's interest principle: "The sorts of beings who can have rights are precisely those who have or can have interests."⁵⁸

The interest principle is the starting point for Tooley's study of the moral characteristics of a "person" that ended with his definition of "enduring subjects with non-momentary interests". Beings who are persons are seriously wronged if they are killed because they are the sort of beings that have the greatest interest in continuing living. In brief, Tooley compares a person and a non-person as follows:

- A. Killing a kitten is less serious than torturing a kitten for 5 minutes, for a kitten has an interest in not experiencing pain, but not an interest in continuing living since it lacks the relevant moral capacities.
- B. Torturing a person for 5 minutes is less serious than killing him, for the interest of a person in continuing living exists and is more important than the momentary pain.

I shall mention a view regarding the wrongness of inflicting pain that I agree with. Jeff McMahan has considered the infliction of pain in a comparative way and concluded that pain is slightly worse for persons than for animals, because persons can also suffer from anticipatory anxiety and anxiety about the meaning of pain.⁵⁹

Hence we can assume that:

- C. Torturing a person for 5 minutes is (slightly) more serious than torturing a cat for 5 minutes.

⁵⁸ Ibid, 96.

⁵⁹ McMahan, *The Ethics of Killing*, 230.

The question is what moral ordering is reserved for beings which are not persons, but have also interests and thus can be morally wronged. And what is the moral hierarchy of those sorts of acts done upon beings whose moral standing is lower than that of a person?

Is it more serious to kill/torture/wrong a cat than a kitten? How about a kitten and a fish? It is out of the scope of the present study to discuss what such a hierarchical moral ordering of the value of life and other interests for different sort of beings would be. What I want to say is simply that such a moral ordering probably exists.⁶⁰ Singer explicitly accepts it when he suggests that we “compare the value of different lives”.⁶¹ Tooley implicitly does, when he uses the example of a kitten and a person.

If we accept the argument that fetuses and neonates are not persons because they lack the required psychological capacities that ordinary people and most philosophers attribute to persons, then the moral standing of beings that are not persons becomes a crucial issue to understand the morality of abortion and infanticide. I think that the following example can show why defining such a moral ordering is important.

There is a gas leak in a resident building of 3 apartments. There is a kitten in the first apartment, a fish in a fishbowl in the second, a neonate infant of one week in the third, and the unconscious baby sitter in the escalator. If we have the time to save only two of them before the building explodes which two it would be? I think everyone would agree about the unconscious baby sitter, for she is the only person. Who should be the second to be saved before the building explodes? I believe that most of the people would say that the newborn should be saved. Singer does consider “fair comparisons

⁶⁰ Jeff McMahan offers a spectrum of the badness of death where on the one end we find non-conception, and on the other end the death of a person. In between he places the badness of death in animals, seriously retarded infants and fetuses. McMahan, *The Ethics of Killing*, 199.

⁶¹ Singer, *Practical Ethics*, 105.

of morally relevant characteristics”,⁶² and on those grounds, he would exclude the fish, and he would probably pick up the newborn infant only if the kitten was also newborn. For if the kitten was 4-months old, thus a small cat with higher capacities, he would prefer it to the newborn. The reason is this:

If the fetus does not have the same claim to life as a person, it appears that the newborn baby does not either, and the life of a newborn is of less value to it than the life of a pig, a dog, or a chimpanzee is to the nonhuman animal.⁶³

And what would Tooley prefer to save after the baby-sitter? I believe that the answer is not clear. The reason is that Tooley has a sound, and probably accurate, concept of a person, and why it is seriously wrong to kill a person, but provides no framework to evaluate wrong acts committed upon non-persons. One could argue that Tooley’s theory implies that nothing done to non-persons can be *seriously* wrong. Even so, Tooley accepts that the kitten can, to some extent be wronged, if tortured. How much *more* wrong is it to kill a person than to torture a kitten? And how much *more* wrong is it to torture or kill a kitten than to torture or kill a goldfish? It seems that Tooley would have trouble to choose not only between the kitten and the infant, but among the fish, the kitten and the newborn infant, for all of the three are sentient beings, but none is a person.

What if in the first apartment, instead of a fish in a bowl, there was a zygote on a dish in the fridge?⁶⁴ After the explosion due to the gas leak, the zygote will also be destroyed. Would such a replacement make it easier for Tooley to exclude the zygote,

⁶² Ibid, 151.

⁶³ Ibid, 169.

⁶⁴ The apartment is occupied by a strange professional working in an assisted-reproduction laboratory.

so that he can continue getting puzzled on who to save only between the kitten and the newborn infant? I am not sure.

In any case, there is an action –inflicting pain- that can somewhat wrong a kitten, and presumably every sentient being, but cannot wrong non- sentient beings like trees, zygotes and early fetuses (embryos). If this is so, then there is a moral ordering according to which non- sentient/ non- conscious beings stand at the bottom of the moral hierarchy, persons stand at the top, while sentient/conscious beings, that nevertheless are not persons, stand somewhere in between.

Tooley considers something close to the above view in the final chapter of the first part in his book, where he discusses the moderate positions on abortion. I find inadequate his attempt to refute the view that the wrongness of destroying something depends upon the level of consciousness that the individual has become capable of enjoying.⁶⁵

His first argument against this view is that if we agree with a moderate view of abortion based on the level of consciousness, this would entail a “very radical revision of common moral views about the treatment of animals”.⁶⁶ In the context that I read this argument, it seems to me that Tooley, in a slightly provocative way, invites the reader to reflect on what would such a radical revision mean for our everyday life, given that the majority of people are meat eaters. Tooley, who I shall repeat does not provide with any account on wronging non-human animals, seems confident that people would reject such a radical revision on the treatment of animals, and would agree with his conclusion that the level of consciousness is irrelevant and, thus,

⁶⁵ Tooley, *Abortion and Infanticide*, 297.

⁶⁶ He also adds: “therefore level of consciousness, so construed, makes abortion wrong only if it makes the killing of many animals even more wrong”, *Ibid*.

abortion and infanticide are not morally wrong. But what if people wouldn't be so reluctant to revise their treatment of animals? Furthermore, what if, as Singer and McMahan who do offer an account on the moral status of the animals strongly recommend, people *should* revise their treatment of animals?

Frankly, I believe that there are a lot of people who do believe in the need of a radical revision of the treatment of animals, particularly in the food industry, and I am confident that there would be many more if the issue was more visible.⁶⁷

Hence, to reverse Tooley's first argument, if people who do not have a definitive view on infanticide and abortion after the onset of fetus's sentience, were said that the two practices are not wrong and are morally permissible to the same extent as our actual treatment of animals is, then I believe that a lot of those people would think that a radical revision should be considered, for it is not sure at all that our current treatment of animals is not morally objectionable.

Interestingly Tooley's second argument against the moral relevance of the level of consciousness is utilitarian. He argues that if A has enjoyed and is capable of enjoying consciousness of level n, and B is an organism qualitatively indistinguishable from A that has just been constructed and hence which has never enjoyed consciousness of level n, but is capable of going into a physical state that will give rise to that consciousness, then it would be no more wrong to destroy either A or B, since in either case the world will contain something with level of consciousness n.⁶⁸

⁶⁷ Would commonsense intuitions on animals' treatment remain the same if every food industry was required to have a disturbing photo on their meat products, picturing the facilities where animals are massively bred and slaughtered, in a similar way that disturbing photos of cancer incidents is required on the cigarette packs in many countries?

⁶⁸ Tooley, *Abortion and Infanticide*, 298.

Precisely:

It is no more seriously wrong in itself to destroy an organism that has previously enjoyed consciousness of level n than it is to destroy an organism of the same type that has not yet enjoyed consciousness of level n , provided the organisms are not of a type whose states of consciousness are psychologically unified over time.

The moral symmetry principle, however, entails that:

It is no more seriously wrong in itself to destroy an organism that is capable of enjoying consciousness of level n , but has not yet done so, than it is to refrain from creating such an organism.

And from these, it follows that:

It is no more seriously wrong in itself to destroy an organism that has previously enjoyed consciousness of level n (but whose conscious states are not unified over time), than it is to refrain from creating an organism capable of enjoying consciousness of level n .⁶⁹

I believe that the objection to Tooley's second argument is that he trivializes the destruction of nonhuman animals (with consciousness of level n) in a way that is unacceptable. Clearly refraining from creating an organism with consciousness of level n is not wrong at all. But what does it mean that destroying an existing organism with consciousness n is "no more seriously wrong"? Is it equally non-wrong? Or is it just wrong, but not seriously? Tooley does not explain any further.

Remember that Tooley was trying to refute the view that the level of consciousness is morally relevant. Supporters of this view by definition reject the view that an early abortion is morally wrong, for the early fetus does not possess even a primitive capacity for consciousness. So the difference of this view with Tooley's on the morality of abortion applies only for late abortion and infanticide, since the weaker capacity for consciousness appears around the middle of the pregnancy. What is the difference between a wrong and a *seriously* wrong act?

⁶⁹ Ibid.

e. The fine line between a “wrong” and a “seriously wrong” act

I think that by now it has started being clear wherein lies the tension between the view that abortion and infanticide are not morally seriously wrong, as elaborated primarily in Tooley’s sophisticated analysis, and the commonsense intuitive view that abortion becomes increasingly wrong as the fetus grows and infanticide is probably seriously problematic.

The tension I believe is vividly outlined in the following important difference between Singer and Tooley, though they both agree *prima facie* that abortion and infanticide are not *seriously* wrong. Singer addresses the killing of animals and considers what is morally wrong with it, while Tooley refrains from examining whatever is less than seriously wrong. What is more, Tooley seems to intent in the vagueness of his view, namely whether being not seriously wrong to destroy something with psychological properties lower than those of a person, is moderately, weakly, or not wrong at all.

Where does all this discussion lead with regards to the validity of the second claim that abortion and infanticide are not morally seriously wrong?

I think Tooley and Singer are right and admirably courageous to defend their view that abortion and infanticide are not morally seriously wrong, when by not being “seriously wrong”, we shall take it to mean equally wrong with the killing of a normal adult human being who enjoys full moral personhood. Thus, if killing a person is our point of reference, then the second claim is true, for a fetus or a neonate infant do not possess those morally relevant properties that a normal adult human being, who is a person, does.

But I feel that ending the discussion on the second claim like that would be highly problematic. Imagine we examine the claim that killing and stealing is seriously wrong and we conclude that killing is indeed seriously wrong but stealing is not. Is it reasonable to end the discussion like that? I believe that we need a clarification that would ascertain the general wrongness of stealing, because we do not want to raise the objection that we might imply that stealing is not wrong at all. What is more, we should mention that there are cases of stealing that can be significantly more wrong than others. If, for example, a hacker steals money from the corporate internet bank account of Coca Cola, it is obviously wrong. But I believe that, though judicially it might be the same, for a lot of people it would be more wrong if the same hacker stole money from the account of Amnesty International.

I feel that a similar clarification is particularly important once we examine the wrongness of abortion and infanticide. For if destroying a fetus or a newborn infant is not seriously wrong, as it would be destroying their mother for instance, it does not follow that it is not wrong at all, or that destroying a fetus (abortion) and a newborn (infanticide) is equally (not) wrong. This is, I believe, the principal tension between Tooley's view and a commonsense intuition.

As I discussed, Singer is more sensible than Tooley in that respect, because he has paid significant consideration to the moral status of non-human animals, with which he explicitly suggests to compare the psychological capacities of fetuses and neonates in order to make conclusions on their moral status. Hence, he claims that after the fetus becomes sentient and conscious (at around the eighteenth week of gestation), it starts having some sort of weak interests.

If I understand correctly Singer's approach, a fetus begins with acquiring a moral value comparable to the non-person being with the weaker morally relevant properties. As the weaker morally relevant property I take to be the mere capacity to feel pain or pleasure. If a goldfish is an example of such a being, then the fetus at around the middle of a pregnancy becomes equally valuable as a goldfish. Granted, it is not seriously wrong to kill a goldfish, but, on the other hand, it is not not-wrong at all. In other words, I tend to believe that killing a goldfish for no reason is not a morally neutral act, like throwing a stone in the ocean; there is *something* more wrong in the case of the goldfish. Singer's awareness for non-human animals' moral status capture this view, without jeopardizing the claim that abortion is not seriously wrong, since a fetus with a moral status of a goldfish has not the same claim to life as a person.

Tooley is significantly less flexible in according any sort of moral status to beings that are not persons. The only option he explicitly accepts is that of a "quasi-person", defined as the being that possesses all the necessary psychological properties to a lesser extent than a person.⁷⁰ But defining quasi-persons in such a restrictive way, Tooley excludes all fetus and infants until well after birth.⁷¹ At the same time, he treats as virtually of same moral value all beings falling short of his quasi-person definition. But that is absurd and contradicts his acknowledgement that a kitten has an interest not to experience pain, while, on the other hand, clearly a human, or a feline zygote does not have such an interest. Thus, there must be a morally relevant difference between a kitten and the feline zygote from which it came, despite the fact that destroying either of them is not *seriously* wrong.

⁷⁰ Tooley, *Abortion and Infanticide*, 410.

⁷¹ Tooley sets the borderline to become a quasi-person at around three months after birth.

How come Tooley did not discuss the morally relevant differences among beings that are not persons, nor quasi-persons? I think that the reason is that if he did so, one of his most important and ingenious argumentation to support abortion, through his Basic Moral Symmetry Principle (BMSP), would be seriously challenged.

The central conclusion of the BMSP when applied to the abortion question is that it is no more seriously wrong to destroy a potential person than it is to refrain from realizing a possible one. The BMSP successfully captures the absence of any moral value among the following: unfertilized eggs and spermatozoa, zygotes, and clusters of cells resulted from the continuing into existence of a zygote. Consequently, destroying a zygote, or clusters of cells that constitute an embryo, is not wrong at all, provided that refraining from reproduction is also not wrong at all. But when the fetus acquires sentience and consciousness it acquires also its first weak interest; that is not to experience pain. Clearly, still aborting the fetus, respecting its weak interest, is not *seriously* wrong. However it has to be, even slightly, more wrong than in the previous cases, for now the fetus *actually* possesses a morally relevant property. I feel that if this is correct, then it would be absurd to still apply the BMSP because between an unfertilized egg and a zygote, other morally relevant things are equal, but between a sentient fetus and an unfertilized egg other morally relevant things are not equal anymore.

To sum up, in examining the second claim that abortion and infanticide are not seriously wrong, I looked into the two most prominent defenders of this view; Michael Tooley and Peter Singer. I believe that the claim is not false, following their approach which suggests that only persons are *seriously* wronged when killed and, since fetuses and newborn infants do not possess the required psychological

properties to be considered persons, then abortion and infanticide cannot be seriously wrong.

However, it seems to me that the claim is also not right in the absence of an important clarification. The clarification should be on the meaning of “seriously wrong”, which is the killing of persons. Furthermore, it is important to clarify that infanticide is *more wrong* than late abortion, and both late abortion and infanticide *even more wrong* than early abortion, which is the only not wrong at all. Indeed, it is unlike that we will not find good reasons to support the commonsense view that the destruction of a newborn full-term baby, even if it is not *seriously* wrong in itself,⁷² nevertheless it is more wrong than the destruction of a six-month fetus that has surpassed the consciousness borderline a couple of weeks earlier, and even more wrong than the destruction of a zygote, if it is at all wrong to destroy the latter.

The crucial thing here is that the reasons we can find are based on the argumentation advanced to show that abortion and infanticide are not seriously wrong, where “seriously wrong” means, to put it in simply, equally outrageous to the destruction of a person. In other words, I tend to believe that the gradual acquisition of the morally relevant psychological properties is likely to demonstrate that there is a parallel gradual moving in a moral ordering scale of the beings that are in question. What is more, this view does not contradict with the general claim that only persons are *seriously* wronged if destroyed, thus abortion and infanticide are not *equal* to murders.

This perspective, I think captures better what is known from scientific research on the psychological and cognitive development of human and non-human beings, while reaffirming the major contribution of philosophers like Tooley and Singer who

⁷² Leaving aside the frustration such a killing would bring to its parents.

challenged the widely shared belief that it is *seriously* wrong to destroy a human life *from conception*; a belief that, as I discussed in the first part of this study, is held only by a certain religious doctrine, Catholicism, but nevertheless has a deep political impact in countries where the influence of the Catholic Church is dominant, like those I mentioned in the introduction.

Until now I have examined three opposing claims on the moral value of abortion and infanticide. The third claim, that abortion is seriously wrong while infanticide is not, was rejected as not defensible.

The first, that abortion and infanticide are both morally seriously wrong and therefore cannot be permissible, is advanced by a number of authors and the Catholic Church, but with the exception of the latter, the others fail to hold the view that abortion is morally similar to the killing of an adult person from conception on, and/or for all cases, including those where the continuation of pregnancy can cause serious problem or even death to the woman. Hence, the first claim also fails on philosophical grounds.

One could think that it is not contradictory for the conservative side to encompass exceptions for those “hard” cases, and still hold that abortion and infanticide are nevertheless seriously wrong acts for the rest of ordinary cases. But we saw that if we do not want to base our argument on speciesism, we need to examine the nature of properties whose possession gives to a living being morally relevant interests, including the interest to continuing living. Only beings that have such properties can have interests whose infringement would be seriously wrong. Though not everyone agrees what those properties exactly are, there is a broad consensus, at least among philosophers, that those morally relevant properties are cognitive/ psychological in

their nature. A “normal” adult human being is usually taken as the point of reference for a being that possesses those properties and, thus, is considered a “person”. Consequently, only persons can be seriously wronged if destroyed. Zygotes, embryos, fetuses and newborn infants are not persons, thus abortion and infanticide are not seriously wrong acts and should both be permitted, conclude Michael Tooley and Peter Singer, who are the most important advocates of the second claim I discussed.

Though their conclusion seems *prima facie* sound, we saw that, nevertheless, there are morally relevant differences among the above beings- zygotes, embryos, fetuses, and newborn infants- which make it *somewhat more wrong* to destroy some than others. This line implies that there is a certain moral ordering where the being which possesses the least or none of the morally relevant properties- say the zygote- stands at the bottom, while the being that possesses all of those properties- the person- stands at the top. Hence, I concluded that the second claim that abortion and infanticide are not seriously wrong requires a clarification that should entail that infanticide is *more wrong* than late abortion, and both late abortion and infanticide *even more wrong* than early abortion, which is the only among them not wrong at all.

This seems to lead towards the view that though abortion and infanticide are not seriously wrong and should not be prohibited, nevertheless there is a moral difference between the two acts. For, by definition, abortion concerns beings closer to the bottom side, while infanticide concerns beings closer to the top side. Is this so? Are the two acts significantly different between them?

6. Claim (4): Infanticide is morally seriously wrong, but abortion is not

The above considerations bring me to the fourth and final claim that abortion is not seriously wrong while infanticide is. I will present different cases of killing newborn infants, and I will focus particularly on that particular case that most strongly clashes with our commonsense intuitions: namely can the killing of “normal” newborn infants be permissible?

a. Cases of Infanticide

Joel Feinberg in his examination of different criteria for moral personhood concludes that it is “the actual possession (of C) criterion”, where C is a set of morally relevant characteristics that constitutes a person.⁷³ Feinberg rejected two criteria based on species membership as arbitrary, and two criteria based on the potentiality of the fetus with the same argument that Singer employed; that potentially having a right is not equivalent to actually possessing that right.⁷⁴ But Feinberg immediately acknowledges the upshot of such a conclusion; “namely that it implies that small infants (neonates) are not moral persons”.⁷⁵

To address this difficulty, Feinberg distinguishes between two cases of infanticide:

- (1) the case of killing a normal healthy infant or an infant whose handicaps are not so serious as to make a worthwhile future life impossible, and
- (2) the case of killing severely deformed or incurably diseased infants.⁷⁶

⁷³ Feinberg, “Abortion,” 52.

⁷⁴ Ibid, 49.

⁷⁵ Ibid, 52.

⁷⁶ Ibid, 52.

He then argues that, for the second case, infanticide is not only not wrong, but failure to destroy such a being means that “we have wronged these persons before they even exist (as persons), and when they become persons, they can claim (or it can be claimed in their behalf) that they have been wronged”.⁷⁷ I find that Feinberg smoothly integrates a commonsense view into a philosophical argument. I suspect that Don Marquis, who, as we have seen, takes a conservative stance towards abortion advancing his “future like ours” argument, would agree with Feinberg’s justification of infanticide in those cases. Furthermore, I think it is important to add that Tooley and Singer have those cases in mind when they offer practical examples of infanticide.

However, if the justification of infanticide for severely deformed or retarded infants relies on the fact that they are not yet moral persons, how is it opposed to the case of “normal infants”, since they also are not yet moral persons? Alberto Giubilini and Francesca Minerva argued in their controversial article “After-birth abortion: why should the baby live?” that infanticide could be justified also in cases of “normal”, not disable newborn infants, for the same reasons that justify abortion, including socio-economical reasons.⁷⁸

Feinberg’s reply to the prospect of killing healthy infants is that there are morally wrong actions that are not always against a person. He then brings the example of hacking up a grandfather’s body, to argue that “somehow acts of this kind if not forbidden would strike at our respect for living human persons (without which organized society would be impossible) in the most keenly threatening way”.⁷⁹

⁷⁷ Ibid, 54.

⁷⁸ Giubilini and Minerva, "After-Birth Abortion: Why Should The Baby Live?": 263.

I think that this argument is rather a historical than a philosophical one, reflecting social norms of our society. I feel that there is nothing *prima facie* wrong in taking into account the social norms when considering moral issues, but if those are the basic reason we arrive in a certain conclusion, then we have to bear in mind that this conclusion is relative to the specific society. In the case of infanticide, someone, Tooley for instance, could argue that in other societies and in different times, infanticide was permissible for trivial reasons, including population control. Hence, I think that to counter an argument in favor of infanticide like the one advanced by Giubilini and Minerva, we need to find a stronger argument.

b. Killing a “normal” newborn infant

Jeff McMahan makes an admirable attempt to answer this question; “Can it ever be morally justifiable to kill a newborn human infant whose future life promises to be worth living?”⁸⁰ McMahan has offered three differences between abortion and infanticide. The first is that infanticide violates a stronger “time-relative interest” of a newborn than of a fetus.⁸¹ Time-relative interest is McMahan’s concept for having an actual interest in continuing living. The time-relative interest of the newborn infant is weak because a newborn infant is a being before the onset of self-consciousness; that is before being aware that it is an enduring subject with non-momentary interests, as Tooley would put it. McMahan acknowledges this, and clarifies this first argument as follows. Again, I shall note that McMahan admits that this is only a weak argument:

Because at birth it begins to be bombarded with stimuli, its mind is impelled to a higher level of activity and its psychological development thereby accelerates accordingly. As its psychological capacities develop

⁷⁹ Ibid.

⁸⁰ McMahan, *The Ethics of Killing*, 345.

⁸¹ Ibid, 343.

and its mental life becomes richer, the degree to which it would be psychologically continuous with itself in the future sharply increases.⁸²

The second argument is that the newborn begins to form bonds with those around it, and particularly with its parents. Contrary to the bonds already formed with the mother during pregnancy, once born, the infant is a participant, not a passive recipient, argues McMahan.⁸³

The third argument McMahan offers is that the reasons for abortion are significantly stronger than those that may favor infanticide, for the fetus is inside the woman's body; If an infant is a burden it can be given up for adoption,⁸⁴ but if a fetus is a burden, it is a more onerous one, for it is dependent on the woman's body.⁸⁵ McMahan extends this last argument to the argumentation of Judith Thomson, reminding that her argument is a defense of abortion, on the grounds of women's control over their body. Thomson does not discuss at all the moral status of the fetus; in fact she grants it the status of a person. Hence, her line of defense does not include infanticide. What McMahan says, and I agree with him, is that the fetus is in a biological union with the mother, whose interests are also at stake during pregnancy, which is not the case in infanticide.

But still, finding one or a hundred more reasons that are applicable to pregnancy and thus justify abortion but cannot be used to justify infanticide, will not help us avoid the crucial question; the one that clashes strongly with most people's intuitions: Is it

⁸² Ibid

⁸³ Ibid

⁸⁴ The possibility of adoption is considered also by Singer, who supposes that there could be interest even for moderately disabled children to be adopted by childless people. Singer, *Practical Ethics*, 190.

⁸⁵ Jeff McMahan, *The Ethics of Killing*, 344.

ever morally justifiable to kill newborn infants whose future life promises to be worth living?

McMahan invites us to imagine the following case:

Suppose that a woman who wants to be a single parent becomes impregnated via artificial insemination, but dies during childbirth. She has no close friends and no family- no one to claim the child. The newborn is healthy and so an ideal candidate for adoption. But suppose that, in the same hospital in which the infant is born, there are three other children, all five years old, who will soon die if they do not receive organ transplants. The newly orphaned infant turns out to have exactly the right tissue type: if it were killed, its organs could be used to save the three ailing children.⁸⁶

It seems extremely difficult to reach a decisive conclusion on the issue of infanticide when considering cases like the above. McMahan uncomfortably admits that it would be difficult to justify the non-killing of such an infant, and the only concern he raises against its killing is that “this would constitute the first lunge down a very slippery slope”⁸⁷. I will try to give an answer to this example in the following section.

Giubilini and Minerva argued that infanticide should be acceptable for those socioeconomic reasons that generally justify a decision to abort, in cases when such reasons appear unexpectedly immediately after the birth of an infant. In the obvious objection of adoption, they reply that “we also need to consider the interests of the mother who might suffer psychological distress from giving her child up for adoption”⁸⁸.

It turns out that while in the case of abortion the central issue is the moral status of the fetus, and secondly, the right of a woman to control her body, in the case of

⁸⁶ Ibid, 359.

⁸⁷ Ibid, 361.

⁸⁸ Giubilini and Minerva, "After-Birth Abortion: Why Should The Baby Live?": 263.

infanticide the conflicting interests multiply. It is of course, again, the question of the moral status of the infant, the interests and respective rights of the parents upon the infant, and the countless interests that third parties can have, including potential adopting parents or seriously ill persons in need of the infant's biological organs. The only interest that now is absent is that of the pregnant woman's over her body.

Though infanticide cannot be generally considered as seriously wrong, for the newborn infant itself, since until it possesses the morally relevant properties it is not a person, it seems to me that it is a significantly more problematic issue than abortion, particularly early abortion.

c. Early abortion, late abortion and infanticide

From what has been discussed until now, I think it is acceptable to assert that early abortion, that is until roughly the half of the pregnancy at eighteen to twenty weeks, does not wrong anyone, for the onset of the weakest morally relevant capacity, sentience, has not yet taken place in the fetus. An early abortion can be justified for virtually any trivial reason. To put it another way, there cannot be any moral objection to a woman's decision to terminate her pregnancy before the eighteenth week. A woman who conceives in early January would not do anything wrong if she decided to abort the fetus until around early/ mid May because she wanted to go on a safari holiday in August, and she would not be able to do it as an eight-month pregnant.

If around the eighteenth to twentieth week, the fetus acquires the first actual morally relevant psychological capacities, it seems that abortion, though still permissible, requires some sort of justification. The detection during prenatal screening of an, even moderate, impairment on the fetus, or a threat that could result in a harm on the woman's health if the pregnancy continues, may certainly justify an abortion after the

twentieth week, that is a late abortion. For such cases seem to me serious enough to outweigh the wrong done on the aborted fetus.

I do not intend to present an exhaustive list of cases where late abortion should be permissible though they are somewhat morally wrong. Maybe even a serious personal or family financial disaster could justify a late abortion. What is important is that after the twentieth week of gestation, and as the fetus comes closer to become full-term, its moral status gradually increases, so that the corresponding reasons to obtain a later-term abortion should also be increasingly more important. If the above is right, then a 7-month pregnant woman cannot anymore morally justify her request for abortion on the grounds that the pregnancy conflicts with her holiday plans.

I think it is critical here to underline that if she does undergo an abortion while being seven-month pregnant for the above trivial reason her act is not *seriously* wrong because she does not kill any person. Nevertheless, I think it is morally wrong in the same way that it is morally wrong for the owner of a dog to kill his dog, because he wants to leave for three weeks on holiday and doesn't know what to do with the dog.

Furthermore, if it is reasonable to discuss whether a woman would do something wrong if she requested an abortion on the seventh month of gestation of a healthy fetus in order for her to go on holiday, then there is something more that needs a clarification; In late term abortions the fetus is usually viable, and the most frequent and less dangerous for the woman's health methods of abortion result in the killing of the fetus during the procedure. A seven-month pregnant woman's desire to terminate her pregnancy in order to go on holidays does not justify the use of a method that will

kill the fetus, even if destroying the latter is only a weakly or moderately wrong act.⁸⁹ If there was indeed the case of such a woman, then one could suggest that she should better undergo a premature labor induction and put up the infant for adoption. A premature infant of seven months, at least in the developed world, most likely will survive without any serious impairment. Thus the case of this woman seems to me closer to a consideration between infanticide and adoption, rather than on the wrongness of abortion, at least in the sense we normally and medically understand abortion.

Let me now reflect on the morality in the different cases of infanticide that I discussed earlier. I tend to agree with Feinberg's view on the "duty" to kill severely retarded or deformed infants. But this "duty" doesn't entail permissibility of infanticide, particularly in cases of healthy infants. Rather the opposite; Intuitively, I tend to reject infanticide of healthy infants for unexpected socioeconomic misfortune of the parents and unwillingness to put up the infant for adoption, as Giubilini and Minerva suggested.

But I am more reluctant to reject infanticide in the extreme example that McMahan presented, with the isolated orphan infant and the three other children waiting for transplantation. How can we proceed here?

Judith Thomson considered a case where a doctor has the choice to kill one patient in order to save five others, and rejected it for the following reason: it would be fair to distribute a threat by doing something to the threat, that is turning the trolley right so it kills one person instead of five if it continued left in the famous trolley problem, but

⁸⁹ On the other hand, it seems to me that a late abortion with a procedure that kills the fetus is justifiable, if the reason of the termination of the pregnancy is to prevent harm on the woman's health, or to prevent a disabled child to be born. What level of disability would be justified, provided that as Singer said, there could be an interest from childless people in adopting moderately disabled infants, is a very controversial issue that cannot be treated in the present study.

it would not be fair to distribute a threat by doing something to a person, that is kill a person to save five others.⁹⁰ A doctor cannot kill a patient or a healthy man, in order to take his organs and save five others.

But the infant is not a person in McMahan's example, while the three children waiting for transplantation are. In that example it seems that what would make wrong the killing of the infant is its moral status and the frustration of the potential adopting parents. But since we rejected the potentiality argument against abortion, it seems to me that we shall reject it also now for the adopting parents. On the other hand, the three children are persons whose lives depend on the organs of the infant, and furthermore, their parents would be deeply sad if their offsprings fail to find a donor for transplantation. In view of those aspects, I tend to think that infanticide in McMahan's example might be permitted.

This conclusion should not be considered as providing a decisive answer in the general question of whether killing a healthy infant can be permissible, but only an uncertain one in the particular case. For despite the very vivid way it was presented by McMahan, cases where a completely isolated healthy newborn infant finds itself in a hospital where there are three other 5-year old children in need of organs' transplantation, having the same tissue type with the infant, must be extremely rare. What would be the conclusion if the newborn infant had a caring distant aunt?

I will not proceed with the above example further. What I hope has been demonstrated, is that considerations on the moral permissibility and the level of wrongness of infanticide entail colossal difficulties. The fact that abortion, particularly the early one, is a much more manageable situation from a moral

⁹⁰ Thomson, "Killing, Letting Die and the Trolley Problem," 216.

perspective, in the sense that it only involves the moral status of the fetus and the interests of the pregnant woman, is what I meant earlier as a morally relevant difference between the two acts.

d. Towards a fifth claim?

I think that the above discussion results in the following practical conclusions. It is granted that neither abortion nor infanticide is *seriously* wrong, equal to the killing of a person. We can in fact claim with a certain confidence that early abortion is not wrong at all and can be permitted in all cases for whatever reason. Later abortion, after around the 18-20th week of gestation requires a justification that most likely will have to do either with the mother's or the fetus's health.

However, after birth, considerations on the morally relevant aspects in the prospect of the infant's destruction become very perplexed. Infanticide is still not seriously wrong for the infant itself, for no person is killed. Nevertheless, the infant possesses psychological capacities higher than mere sentience, which are rapidly developing, and there are other persons related to the neonate who can be seriously wronged if the infant is unjustly killed. It seems to me that the less problematic cases of infanticide involve severely disabled, retarded and deformed infants. In all other cases, I feel that no definite conclusion can be reached.

Let me try to sum up with the fourth claim that abortion is not seriously wrong but infanticide is. In the most controversial question posed by McMahan, on whether the killing of a healthy newborn infant can ever be morally justifiable, and considering his example with the isolated orphan infant, I tend to think, not with little uncertainty, that the answer is that it can be justifiable.

If that is so, then the fourth claim cannot be valid. But as with the second claim (both abortion and infanticide are not seriously wrong), such a conclusion would not be enlightening without the following clarification: The substance of the fourth claim is that there is an asymmetry in the two acts of abortion and infanticide. This asymmetry, if my thoughts above are correct, is valid and entails that infanticide is more wrong than abortion. The wrongness of the two acts increases as the morally relevant properties of the fetus and then the infant develop. But after birth, it is not only the psychological properties of the infant that have to be taken into account, but a number of other morally relevant factors, such as parents and relatives of the infant, which make the whole consideration significantly more complex.

Hence it seems to me that if we want to conclude to a claim that describes the moral interconnection between abortion and infanticide we should combine the substances of the second and fourth claim:

(2) Abortion and infanticide are not morally seriously wrong.

The claim can be accepted with the clarification that “seriously wrong” means equivalent to the killing of a person. If this is so, then the claim asserts that both acts are less serious than the destruction of a person. A second clarification should demonstrate that the wrongness of the two acts when compared with each other is not equivalent.

(4) Infanticide is morally seriously wrong but abortion is not.

The first half of the fourth claim cannot be accepted because it contradicts with the second claim that was accepted and asserted that infanticide is not morally seriously

wrong. Nevertheless, the moral asymmetry suggested in the fourth claim, that infanticide is more seriously wrong than abortion, should be accepted.

So the most accurate claim on the morally relevant interconnection between abortion and infanticide, I think is something very close to the following:

(5) Abortion and Infanticide are not morally seriously wrong acts, comparable to the killing of a person. Nevertheless, infanticide can be a significantly more wrong act than abortion.

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