

# **WHY PRO-LIFE ARGUMENTS STILL ARE NOT CONVINCING: A REPLY TO MY CRITICS**

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## **Abstract:**

*I argued in 'Pro-life arguments against infanticide and why they are not convincing' that arguments presented by pro-life philosophers are mistaken and cannot show infanticide to be immoral. Several scholars have offered responses to my arguments. In this paper, I reply to my critics: Daniel Rodger, Bruce P. Blackshaw and Clinton Wilcox. I also reply to Christopher Kaczor. I argue that pro-life arguments still are not convincing.*

Keywords: abortion, infanticide, persons, harm, killing, substance view

## 1 Introduction

In the article ‘Pro-life arguments against infanticide and why they are not convincing’<sup>1</sup>, I defended Alberto Giubilini and Francesca Minerva’s now famous article ‘After-birth abortion: Why should the baby live?’<sup>2</sup> against criticism from the pro-life philosophers such as Christopher Kaczor.<sup>3</sup> I argued that arguments from pro-life position are mistaken and cannot show infanticide to be immoral.

Daniel Rodger, Bruce P. Blackshaw and Clinton Wilcox recently argued against my arguments.<sup>4</sup> Christopher Kaczor also did so.<sup>5</sup> In this article, I respond to these critiques. I argue that their critiques fail.

Before examining the arguments my critics presented, I want to clarify my position.

Although I defended Giubilini and Minerva’s article from certain misinterpretations and counter-arguments, I did not argue, and will not argue here, that there is nothing wrong in killing healthy newborn infants. My main claim was (and is) more modest one: pro-

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<sup>1</sup> Räsänen, J. (2016). Pro-life arguments against infanticide and why they are not convincing. *Bioethics*, 30, 656–662.

<sup>2</sup> Giubilini, A., & Minerva, F. (2013). After-birth abortion: Why should the baby live? *Journal of Medical Ethics*, 39, 261–263.

<sup>3</sup> Kaczor, C. (2015). *The Ethics of Abortion* (2nd ed.). New York, NY: Routledge.

<sup>4</sup> Rodger, D., Blackshaw, B.P. & Wilcox, C. (2018). Why arguments against infanticide remain convincing: A reply to Räsänen. *Bioethics*, 32, 215–219.

<sup>5</sup> Kaczor, C. (2018). A dubious defense of ‘after-birth abortion’: A reply to Räsänen. *Bioethics*, 32, 132–137. See also: Kaczor, C. (2017). Philosophy and Theology. *The National Catholic Bioethics Quarterly*, 17, 157–166.

life arguments are mistaken and therefore cannot show infanticide (or abortion for that matter) to be morally impermissible.

## **2 Killing and a right to life**

My first argument in defence of Giubilini and Minerva's position was that their argument does not presuppose that controversial practices such as abortion, destructive embryo research and capital punishment are morally permissible and that Giubilini and Minerva do not therefore argue 'from the deeply controversial to support the even more controversial', as Kaczor puts it.<sup>6</sup> They simply assumed that because many people believe at least some of those practices are morally permissible, merely belonging to a human species seems not to be a sufficient reason for having a right to life. Thus, killing a newborn infant cannot be condemned just because infanticide is an act where a member of a human species is killed since in many cases it is permissible to kill a human being.

Rodger *et al.* argued that I have confused the right to life and killing. Abortion, capital punishment and destructive embryo research could all be morally permissible without denying the right to life of the one being killed – but infanticide could not. Likewise, killing in self-defence could be justified without denying the right to life of the attacker.

Professor Kaczor also raised similar remarks against my defence. He claimed that abortion could be justified even if the human being in utero has a right to life. That is because pregnant women (reportedly) have no obligation to keep the human fetus alive.<sup>7</sup> Similarly, destructive embryo research could be permissible even if human beings have

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<sup>6</sup> Kaczor, *op cit.* note 3, p. 18.

<sup>7</sup> Thomson, J. (1971). Defense of abortion. *Philosophy and Public Affairs*, 1, 47–66.

a right to life since prior to implantation the human embryo is not sufficiently unified to be an organism.<sup>8</sup> And finally, capital punishment could be permissible as an act of retributive justice that does not deny basic human rights of the condemned person.<sup>9</sup> However, none of these justifies killing a newborn infant. Kaczor and Rodger *et al.* believe that infanticide could only be justified by denying the right to life of the infant. Thus, infanticide is immoral because the infant has a right to life, they say.

But there might be an argument that gives, for example, the genetic parents a right to kill (or left to die) their newborn infant even if the infant has a right to life. For example, it might be argued that people have a right to their genetic privacy and having the newborn infant in the world that carries the genetic material of the genetic parents violates their right to genetic privacy. Put another way: the fetus does not have a right to the genetic material of her parents.<sup>10</sup> Whether such argument ultimately succeeds is beyond the scope of this paper.<sup>11</sup> My aim here is simply to show that there is an

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<sup>8</sup> McMahan, J. (2007). Killing embryos for stem cell research. *Metaphilosophy*, 38, 170–189.

<sup>9</sup> Finnis, J. (1991). *Moral absolutes: Tradition, revision, and truth*. Washington, DC: The Catholic University of American Press.

<sup>10</sup> For the genetic privacy argument in the context of abortion and artificial wombs see: Räsänen, J. (2017). Ectogenesis, abortion and a right to the death of the fetus. *Bioethics*, 31, 697–702.

<sup>11</sup> Still, I should probably refute an obvious counter-argument to make the genetic privacy argument at all plausible. One might claim that if genetic parents have a right to kill their infant because the mere existence of it violates their right to genetic privacy, they would, by parity of reasoning, have a similar right to kill, for example, their 10-

argument for the moral permissibility of infanticide that does not deny the right to life of the infant (although that is not the argument Giubilini and Minerva made). Therefore, the premise that infants have a right to life does not by itself solve the question whether infanticide is immoral.

On the other hand, if the infant *lacks* a right to life does that mean that infanticide is permissible? Previously, I briefly explored the distinction between killing and a right to life. I stated that:

Of course the claim that infants do not have a right to life, does not necessarily mean we have right to end their life. At least not without a good reason or justification. It might be said that dogs, for example, do not have a right to life but it does not mean that one can kill dogs without a good reason.<sup>12</sup>

In similar lines, Lindsey Porter argues against the moral permissibility of infanticide from the pro-choice position without assigning infants the right to life. Consider Porter's *Tree Lobster*:

Tree lobsters [very endangered species known for their enormous size and crustacean-like exoskeleton], being nothing more than impressively sized

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year old child. But I believe there is another consideration, a disabler as it can be called, that is preventing the genetic privacy argument from being a pro tanto reason for killing 10-year old children. The disabler here is that older children, but not infants, have a strong time-relative interest to continue living. More about time-relative interest see: McMahan, J. (2002). *The Ethics of Killing*, Oxford University Press.

<sup>12</sup> Räsänen, *op cit.* note 1, p. 657.

primitive insects, do not have a right to life; but you ought not to kill them. Tree lobsters are near to extinction even now. Killing even one tree lobster could have serious consequences for the population as a whole, and thus for global biodiversity. It is not the case that this makes tree lobsters morally considerable: we are not saving them for their sake. Still, whatever their moral status, since we care about biodiversity, we have strong reasons not to kill them, and acting in accordance with those reasons is morally non-optional. Killing tree lobsters is impermissible.<sup>13</sup>

Obviously, babies are not endangered species, so the analogy does not show, as such, that infanticide is impermissible. Nevertheless, it expresses the idea that fetuses and newborns are not in identical moral contexts, therefore infanticide could be immoral even though the infant does not have a right to life. This view, that does not assign infant a right to life, I believe is more plausible than the pro-life position which leads to certain *reductios* that I raised in my previous article. Next, I will consider my critics responses to such *reductios*.

### **3 Problems of the substance view**

My second claim was that the arguments from the pro-life position seem to lead as absurd and counter-intuitive conclusions as to the body-self dualism, a theory, that according to Kaczor, is behind Giubilini and Minerva's argument. I raised *reductio*-type counter-arguments against the substance view, a theory that claims we are essentially

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<sup>13</sup> Porter, L. Abortion, infanticide and moral context. (2013). *Journal of Medical Ethics*, 39, 350–352.

bodily beings, human organisms, which comes to exist at conception or very soon after it.

For example, I raised a well-known embryo rescue case in order to show that human embryos are not as morally valuable as human children are. S. Matthew, Liao presents the case in the following way:

Imagine that an IVF clinic is burning. There are  $n$  number of embryos (where  $n$  is equal to or greater than 1) and there is a five-year-old child. You can save either the embryos or the child, but not both. If embryos are rightholders like you and me, it seems that one should either be permitted to save the embryo if  $n=1$ , or be required to save the embryos if  $n > 1$ . However, intuitively, it seems that one should save the child regardless of the number of embryos present. If so, it seems that embryos cannot be rightholders like you and me.<sup>14</sup>

Kaczor and Rodger *et al.* pointed out that in the embryo rescue case we are interested in *whom to save* but when debating the moral permissibility of infanticide, we are interested in *whom to kill*. ‘The rescue case is irrelevant in terms of the right to life, which is properly understood as the right not to be intentionally killed, not the right to be rescued’, Kaczor claims as well.<sup>15</sup>

It seems that Kaczor and Rodger *et al.* are appealing to the difference between killing and letting die. As Rodger *et al.* frames it: ‘Choosing either option in the embryo rescue

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<sup>14</sup> Liao, S.M (2016). The Embryo Rescue Case. *Theoretical Medicine and Bioethics*. 27: 141–147.

<sup>15</sup> Kaczor, *op cit.* note 5, p. 133.

case [saving the embryos or saving the child] therefore does not entail that one would be justified in killing whomever one chose not to save.<sup>16</sup> Or as Kaczor states: ‘It is not permissible to murder 10 regular people to save a president or prime minister. However, if we cannot save them all, it is permissible to rescue a prime minister or president from death and to allow 10 regular people to die in virtue of the special role of a world leader in the community.’<sup>17</sup>

According to my critics, the relevant difference is this: in the embryo rescue case we cannot save both the embryos and the child (we simply have to choose the least worst option) while in the case of infanticide we can save all by simply abstaining from killing. Although the distinction between cases of whom to save and cases of whom to kill seems relevant, this response is not fully satisfying. That is because the embryo rescue case still shows that it would be *bad* for the embryos to die. They are, allegedly, morally equal to you or me, and when they die, it is as bad for them as the death of yours or mine is to us. This is hard to believe.

Of course, one might claim that although it is difficult to believe that the death of an embryo is bad for the embryo, it is not an entirely implausible idea. And even if it is difficult to believe (for me at least) that death of an embryo is as bad for the embryo as the death of a standard human adult is for him, it surely is as difficult to believe that infanticide is not seriously morally wrong. In light of this, Kaczor states that even if I am right in my criticism against the substance view (which he believes I am not), that does not provide an adequate defence of Giubilini and Minerva’s position. He states: ‘Räsänen’s response exemplifies the *tu quoque* fallacy. If you are accused of theft, it

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<sup>16</sup> Rodger *et al*, *op cit*. note 4, p. 212.

<sup>17</sup> Kaczor, *op cit*. note 5, p. 135.



does nothing to clear your name to claim that your accuser has also stolen.’<sup>18</sup> Perhaps that is so (although if I have stolen, the fact that I have stolen does not make my accuser less blameworthy if he has in fact stolen as well), but my aim was not to give a full defence for the moral permissibility of infanticide in the first place. My aim was simply to argue against the pro-life position for the immorality of infanticide.

I still do not believe the pro-life position and the substance view is plausible. Here is yet one reason why. If the death of an embryo is as bad for the embryo as the death of a standard human adult is for her, it seems that spontaneous abortions are one of the most serious illnesses of our time, and if we do nothing to stop them we are acting immoral.<sup>19</sup> So if pro-life scholars really believe that human fetuses have significant moral status, they have strong moral obligations to oppose spontaneous abortion. Yet, few of them, devote any effort to doing so.<sup>20</sup>

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<sup>18</sup> Kaczor, *op cit.* note 5, p. 133.

<sup>19</sup> This objection was first raised in McMahan, J. (2002). *The Ethics of Killing*, Oxford University Press p. 165–166, but more recent and detailed arguments for it has been given in Ord, T. (2008). The scourge: moral implications of natural embryo loss. *American Journal of Bioethics*, 8: 12–19; Berg A. (2017). Abortion and miscarriage. *Philosophical Studies* 174: 1217–1226; Simkulet, W. (2017). Cursed lamp: the problem of spontaneous abortion. *Journal of Medical Ethics* 43: 784–791.

<sup>20</sup> One might respond to this challenge by pointing to the inadequacies or impossibilities of embryo-saving interventions as a reason for why we would not want to devote more resources to prevent spontaneous abortions. But as others have put it: ‘This [...] does not address the palpable absurdity that *should* such interventions be effective and easy to deploy, they ought to take primacy over the prevention of disease, famine, road

Nevertheless, even if I believe that the pro-life position is untenable view, I agree with Kaczor when he states that: ‘After all, body-self dualism and the SV [substance view] are not the only two options in debates about personal identity, so some third view (compatible with condemning infanticide) may be correct.’<sup>21</sup>

#### **4 Equal moral worth and degreed characteristics of a person**

The third argument against the pro-life criticism that I raised was that Giubilini and Minerva’s position is compatible with the widely held belief that humans are morally equal – despite Kaczor’s criticism. I stated that personhood should be understood as a threshold concept. Once a certain bar is reached then all beings that have reached that bar, have full and equal moral status. I emphasized this with an analogy, similar to one that Don Marquis had presented before me. As Marquis questioned:

Furthermore, one wonders why the right to life cannot be an equal right that one obtains by meeting some performance threshold, just as all students who pass their junior year in high school have the equal right to enroll for their senior year, whether they passed their junior year with flying colors or barely eked out passing grades.<sup>22</sup>

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accidents, and the like.’ Greasley, K. (2017). *Arguments about Abortion*, Oxford University Press p. 107, emphasis original.

<sup>21</sup> Kaczor, *op cit.* note 5, p. 135.

<sup>22</sup> Marquis, D. (2010). “Review of Christopher Kaczor, *The Ethics of Abortion: Women’s Rights, Human Life, and the Question of Justice.*” *Notre Dame Philosophical Reviews*. <https://ndpr.nd.edu/news/the-ethics-of-abortion-women-s-rights-human-life-and-the-question-of-justice/>. Similar threshold type of strategy for moral status (or

As Rodger *et. al* noted Kaczor responded to the threshold view in *The Ethics of Abortion*. He claimed that important differences exist between meeting the performance threshold for academic advancement and various performance accounts of personhood. He stated, for example, that there is no rational basis for determining which performance characteristic grants personhood (for example self-awareness, reasoning ability, or sentience) and what degree of that characteristic gives moral worth.

But similarly, it is difficult to determine which performance characteristic grants one a right to study at the university and what degree they are needed, yet we do not claim that there is no rational basis to do this determination. For example, it is commonly believed that there are at least two characteristics that have a real impact on the ability to flourish in the discipline of philosophy: originality of one's ideas and analytical rigour. Even though we do not know how exactly to measure these two qualities against each other we can and we do make decisions who to hire for research positions and who we give a right to study at the university.

In response to my article Kaczor wrote that:

... [M]eeting the performance threshold for academic admission is unlike meeting the performance threshold for having a right to live. [...] Test scores, letters, and GPAs are admittedly imperfect measures of such preparation, but they characteristically have a real relationship to the ability to flourish academically.<sup>23</sup>

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ranged property as the author called it) can be found in Rawls, J. (1971). *A Theory of Justice*. Harvard University Press. p. 504–512.

<sup>23</sup> Kaczor, *op cit.* note 5, p. 136.

Problem with Kaczor's reply is that meeting the performance threshold for academic admission *is* like meeting the performance threshold for having a right to live.

Psychological capacities (such as self-awareness, reasoning ability, communication skills etc), are although imperfect measures, they characteristically have a real relationship to ability to flourish in life. This view is not endorsed only by supporters of the *neo-Lockean personhood*, but pro-life philosophers as well. Kaczor himself states that: 'Some human beings, like severely mentally handicapped adults, do not enjoy flourishing like ours, [...] When a human adult cannot read, write or speak due to handicap, such an adult is tragically disabled.'<sup>24</sup>

Kaczor claims that 'this lack [to flourish] is explained precisely in virtue of their having a flourishing like ours.'<sup>25</sup> But this is not a persuasive response because we can reasonably believe that a human adult who cannot read, write or speak due to handicap is missing something intrinsically valuable and that she is, because of that, tragically disabled and yet same time believe that killing a fetus or an infant is not wrong.

The problem is that Kaczor's flourishing account takes the standard of perfection to be the mature, healthy member of its kind.<sup>26</sup> But if that is the case, then the flourishing account seems to imply that a human fetus or an infant who cannot read, speak or write is unfortunate, because her abilities to flourish are compared to a matured human being (commonly referred to as a standard human adult). This is clearly incorrect. But revising the flourishing account to take into account the age of the human being and comparing his abilities to other humans at the same age seem to imply that abortion or infanticide

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<sup>24</sup> Kaczor, *op cit.* note 3, p. 125.

<sup>25</sup> *Ibid.*

<sup>26</sup> Kaczor, *op cit.* note 3, p. 125–126.

is not wrong. A standard human fetus (or an infant) cannot value continuing of his life (or almost anything else for that matter), therefore killing it does not violate its flourishing it only violates its future *possible* flourishing. The mere possibility for future flourishing as a reason for the moral status seems to be an untenable view unless one is willing to accept that cats which could miraculously be turned into persons with a magical serum would have same rights as human persons do before the cats have been injected the serum. That is because they would still have a potential for flourishing like ours.<sup>27</sup>

Kaczor has argued against Tooley's thought-experiment of human like cats and their moral status. Kaczor makes a distinction between active and passive potential and claims that only active potential is morally relevant.<sup>28</sup> He states that the active potential is a mere growth or maturation, a self-propelled self-development. The passive potential, on the other hand, requires outside intervention to develop the actual status. Kaczor states that 'If functioning rationality is the benchmark of respect, a being actively self-developing towards functional rationality (the human fetus) deserves a greater respect than a being with the passive potential to become a being actively self-developing towards functional rationality (the kitten or colt).'<sup>29</sup>

Problem with this view (in addition that Kaczor simply *assumes* rather than *argues* that beings with the active potential deserve greater respect than beings with the passive potential) is that it is not clear whether newborn infants actually have the active potential for developing the moral status (or developing much anything in fact). Even

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<sup>27</sup> M. Tooley. (1972). Abortion and Infanticide. *Philosophy & Public Affairs* 2, 37–95.

<sup>28</sup> Kaczor, *op cit.* note 3, p. 28.

<sup>29</sup> Kaczor, *op cit.* note 3, p. 28.

though infants have the biological organism that is needed for the development, they very much need outside help, (for example parents nurturing and feeding them) for the development to occur. Therefore, it seems that there is not much of a difference between active and passive potential after all, at least in the case of human infants.

### **5 What harms an infant?**

My fourth argument in defence of Giubilini and Minerva was that their account of harm can and does explain the harm in painless killings – contrary to Kaczor’s claims. Kaczor misunderstood Giubilini and Minerva’s statement that: ‘...in order for a harm to occur, it is necessary that someone is in the condition of experiencing that harm.’ Kaczor claimed that such account of harm cannot explain the harm in painless murder since the murder victim (a dead person) is not in the condition to experience anything. I proposed that correct interpretation of Giubilini and Minerva account of harm is what Kaczor called the *before-harm principle*. As Giubilini and Minerva state: ‘[if] an individual is capable of making any aims (like actual human and non-human persons), she is harmed if she is prevented from accomplishing her aims by being killed.’<sup>30</sup> Therefore, according to the before-harm principle in order for one to be harmed she should be in the condition to value the different situations she would have found herself in if she had not been harmed *before* the harm has occurred. Thus, before harm principle explains the harm of death in painless killings because persons going to be killed are in condition to value not being killed over being killed before the death occurs.

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<sup>30</sup> Giubilini and Minerva *op. cit.* note 2, p 262.

In his response to my critique Kaczor argued that the before-harm principle leads to very counter-intuitive results, thus it cannot be correct. To illustrate this he raised the *Baby Lobotomy Case*.

Let's say a lobotomy is given to a healthy newborn baby girl to more easily force her later into child prostitution and sex slavery. The lobotomy renders her seriously mentally handicapped for the rest of her life, and she always remains just shy of the threshold needed to count as a 'person' in Giubilini and Minerva's sense. So, her being forced into child prostitution does not violate the rights of a person. Even as a 20-year-old adult, because of the severity of her mental handicap, she is never able to appreciate the state that she would have been in if she had not been lobotomized. Although the woman was never in a condition to value not being lobotomized over being lobotomized, it is very hard to believe that deliberately making her severely mentally handicapped did not harm her.<sup>31</sup>

Does the above thought-experiment show that the before-harm principle is untenable?

The problem here is that thought-experiments should always be presented in such a way that we can focus on the relevant aspects of the scenario.<sup>32</sup> That is because we do not want our intuitive answers to depend on the features of the scenario that are not relevant regarding the topic at hand. Kaczor's thought-experiment violates this criterion. It is not clear whether our intuitions regarding the wrongness of the case are explained by the alleged wrongness of lobotomy or the wrongness of sex slavery.

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<sup>31</sup> Kaczor, *op cit.* note 5, p. 136.

<sup>32</sup> Brownlee, K. & Stemplowska, Z. (2017). Thought Experiments. In: Blau Adrian, Ed. *Methods in Analytical Political Theory*. p. 21–45.

Consider a modified version of the baby lobotomy case where ‘polluted factors’ are removed.

Let’s say a lobotomy is given to a healthy newborn baby girl because her parents want to have a severely mentally disabled child. The lobotomy renders her seriously mentally handicapped for the rest of her life, and she always remains just shy of the threshold needed to count as a ‘person’ in Giubilini and Minerva’s sense. Even as a 20-year-old adult, because of the severity of her mental handicap, she is never able to appreciate the state that she would have been in if she had not been lobotomized. The woman was never in a condition to value not being lobotomized over being lobotomized, therefore, according to the before-harm principle, the lobotomy did not harm her.

What are the usual intuitions in this case? Do the parents wrong her child by lobotomizing her? Whatever the answer is, the wrongness of forcing her into prostitution does not affect our intuitions regarding the case.<sup>33</sup> I am not sure what the

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<sup>33</sup> One might object that I have misunderstood Kaczor’s argument. It could be claimed that because an infant forced into lobotomy is, allegedly, not a person, we cannot harm her by forcing her into prostitution. That is because only persons can be harmed by such acts. Rodger, Blackshaw and Calum Miller have given such an argument in Rodger, D, B.P. Blackshaw and C. Miller. (2018/forthcoming). *Beyond Infanticide: How Psychological Accounts of Persons Can Justify Harming Infants. The New Bioethics*. 1–16. But their argument is not persuasive because the wrongness of using infants for sexual gratification (or the wrongness of forcing non-persons into sex slavery) can be explained by appealing to the moral character of the person who is using non-persons



usual intuitions here would be. But assuming the revised Baby Lobotomy Case shows that giving a lobotomy to a healthy newborn harms her, it does not show that killing healthy newborn harms her. That is because lethal and non-lethal harm should be explained by using different principles.

The before-harm principle, or what others have called the *priorism*, explains the harm of death and is needed if we are not willing to accept the Epicurean view that death is not harmful to the one who dies.<sup>34</sup> Non-lethal harm, on the other hand, is better explained with different principles such as the child's right to an open future.<sup>35</sup>

As Robert Darby explains Feinberg's open future principle:

The principle holds that children possess a unique class of rights called rights in trust—rights that they cannot yet exercise, but which they will be able to exercise when they reach maturity. Parents should not, therefore, take actions that permanently foreclose on or pre-empt the future options

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for sexual pleasure. One might, for example, perform a certain act to the newborn infant and touch her genitals; if it is done because the newborn infants need to be cleaned and washed for health reasons, it would be permissible but if the act is done in order to get sexual gratification it would be wrong.

<sup>34</sup> Luper, S. Mortal Harm. (2007). *The Philosophical Quarterly*. 57, 239–251.

<sup>35</sup> Feinberg J. (1980). The child's right to an open future. In: Aiken W, LaFollette H, eds. *Whose Child? Children's Rights, Parental Authority, and State Power*. Totowa, NJ: Rowman & Littlefield, p. 124–153.

of their children, but leave them the greatest possible scope for exercising personal life choices in adulthood.<sup>36</sup>

Striking example of this sort of rights comes from Dena Davis.

A young child cannot physically exercise that right [right to reproduce], and a teenager might lack the legal and moral grounds on which to assert such a right. But clearly the child, when he or she attains adulthood, will have that right, and therefore the child now has the right not to be sterilized, so that the child may exercise that right in the future.

Similarly, lobotomizing healthy baby girl violates her right to an open future and that is the reason lobotomizing her is immoral. The right to an open future principle also explains the wrongness of situation where the fetus is harmed by actions such as maternal consumption of alcohol during pregnancy. Rodger *et al.* claimed that the before-harm principle cannot explain the prenatal harm because fetuses are not in a condition to value different situation over another at the time (or prior) to the harm. But, in-utero harm, such as maternal alcohol consumption during pregnancy, can be explained by child's right to an open future argument.<sup>37</sup>

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<sup>36</sup> Darby R. (2013). The child's right to an open future: is the principle applicable to non-therapeutic circumcision? *Journal of Medical Ethics* 39, 463–468.

<sup>37</sup> There is yet another argument that explains in-utero harm but does not presuppose the moral status of the fetus. In-utero harm can be explained by harming the person which fetus will develop into. See Wilkinson, D, L. Skene, L. De crespigny and J. Savulescu. (2016). Protecting Future Children from In-Utero Harm. *Bioethics* 30: 425–432.

## 6 Conclusion

I am grateful to my critics who have engaged this important topic with respectful and civilized manner. However, mostly, I do not agree with them. I have not offered a full defense for the moral permissibility of infanticide, but I have criticised pro-life arguments against it.

I argued that whether a fetus has a right to life does not solve the debate whether infanticide is morally permissible. That is because there is an argument, genetic privacy argument, which might give the genetic parents a right to kill their infant even though it has a right to life, because according to the argument, infant does not have a right to the genetic material of her parents. Also, if a fetus lacks a right to life, it does not necessarily follow that it is permissible to kill it.

I also argued that the substance view is still unpersuasive and that the reductios against it are compelling: if the death of the fetus is as bad for the fetus as the substance view implies, we should focus on preventing spontaneous rather than induced abortions.

I defended the view that personhood can be understood as a threshold concept. Even though different psychological capacities (self-awareness, reasoning ability, communication skills etc.), are imperfect measures for having the moral status, it makes sense to assign a right to life regarding these capacities because they have a real relationship to ability to flourish in life. Pro-life scholars have not argued why the active potential for development (rather than passive potential) would be the key to moral status and it does seem that fetus' potential is active in kind.

I defended the before-harm principle, against Kaczor's reductios by arguing that the before-harm principle explains only the harm of death. Non-lethal harm, on the other

hand should, be explained with using different principles such as a right to an open future principle. I conclude that pro-life arguments, still, are not convincing.