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**The Ethics of Abortion, Infanticide, and the Problem of the Internal
Inconsistency of the Moral System**

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Introduction

Debates about questions of life and death most likely will never stop. All such subjects as killing at war, voluntary and non-voluntary euthanasia, assisted suicide, and abortion have not received until now a final resolution. When it comes to the issue of abortion, debates become even more principled and strict. First of all, this is connected with our attitude forward not simply people that are like us, but also and in the bigger degree with our attitude forward the most vulnerable part among others - fetuses, those who can do nothing to prevent this action. Secondly, we should mention the big influence of religion and its big authority, especially in the middle east. Thirdly, the special difficulty is that these debates connected with other very “hot” discussions in our society e. g. is a fetus a person or not and more broadly what characteristics make us human?

Abortion: A Problem Without An Univocal Solution

As I have already said abortion until now is a very controversial topic both in academic and everyday discussion. We don't have a final agreement about the morality of this action. That is why in different countries or societies there are different policies about abortion. But despite it, there is a big necessity to have as much as possible a precise answer about the morality of abortion. This necessity is determined by the huge amount of abortions that we already have. According to the statistics, approximately 20% of pregnancies are ended in induced abortion. Moreover, in eastern Europe, virtually half of the pregnancies are ended in induced abortion (Sedgh, Henshaw, Singh, Åhman, and Shah 2007). That

is a big amount of possible murders if we decide that this action is the same as murdering. Having an understanding of this process is very important not only because of its argumentative or theoretical interest but also because of its applied consequences. How should we treat fetuses, what laws should we make, should we punish those who have an abortion, and if yes, what punishment should we use?

But a simple answer about the permissibility or prohibition of abortion is not enough. Between full ban and full permission, there are lots of other positions that are not so radical. These positions vary gradually and depend on arguments that opponents and proponents are giving. Statistical data give us very telling results about this. For example, nowadays virtually every European country allows abortion during the entire gestation period if there is a risk for a woman's life. Moreover, even if there is no risk for life but only a risk for the physical health generally there are no restrictions in abortion policies and you also can have an abortion at any gestation stage. Also, we should emphasize that in some countries such as, for example, Germany there is no restrictions on abortion procedure even for some non-medical reasons: for instance, for economic reasons, when a woman or the state is sure that they cannot provide a decent standard of living for a newborn, or this burden will be too heavy for those who will be obliged to care for the child. But Germany is rather an exception among other European countries because most European countries have upper gestation limitations until which abortion is permitted if we are talking about abortion for non-medical reasons. The only common tendency in abortion policy is that every country has limitations if we are talking about abortion on request. In some countries, for example in Ireland or in Italy you even cannot do it without a reason (Levels, Sluiter,

Need 2014, 99). That is interesting because these examples of different policy on abortion set different questions. Why is it important to have a reason for making an abortion? Why is the woman's life more important than the life of the fetus? Why can we have an abortion on request only before some period (in most cases it is the first 12 weeks)? What is happening after this period? In my view, all of these decisions that are implemented in countries' laws are the consequences of different arguments and common-sense intuitions that we can give on this issue. But also, differences that we see in the legislation give us a reason to state that the arguments are not so evident and intelligible even for the legislators.

Methodology

Before I move further there is a necessity to give clarification about the methodology of moral argument that I will use in my thesis. This method is a version of J. Rawls's "reflective equilibrium", which became very influential in contemporary moral and political philosophy. Very roughly this method, at least as I understand it, helps us to derive moral theory from our intuitions. For example, we start with accepting our different intuitions. Then we should try to understand what kind of basic moral principle we can use and this moral principle will be true for our set of intuitions. After we have such a principle, we can start to assess our moral intuitions. But also, with our intuitions, we can modify our theory: in other words, we will start to move toward the reflective equilibrium. For example, I may derive some consequentialist principle to maximize overall happiness. Then I understand that my salary will make much more people happy if I donate all my salary (or almost all) to the people in Africa. But my intuitions said that there is something wrong in this moral code. In this

situation I have two possible options: (1) I can change my opinion about this conclusion or (2) make my theory more appropriate for my intuitions. The first way is problematic because the more changing I should make the more counterintuitive this theory will be. The second way is problematic because the more modifications we will have in our theory the more complex and less consistent it will be. This will make our theory not so strong in comparison with other moral theories.

There are also some criteria for the adequacy of a moral theory that were initially offered by B. Hooker that, I think, are also very important. The criteria are as follows:

1. Moral theories must start from attractive general beliefs about morality.
2. Moral theories must be internally consistent
3. Moral theories should identify a fundamental principle that justifies convictions from an impartial point of view.
4. Moral theories should help us deal with moral questions about which we are not confident, or do not agree (Hooker 2000, 4).

In other words, when we have rival theories, these four criteria should help us to identify which of these theories we should use in the future. Moreover, we can say that these criteria are divided in two groups. The first group consists of criteria 2, 3, and 4, and the second group consists of criterion 1. The first group helps us to find out, whether we can at least use this theory at all. Should we or should we not add this theory to our list of different possible theories which we later compare with each other with the help of the criterion of the second group? The second group with only one criterion helps us decide which theory among others that have already satisfied the criteria from the first group we should adopt. In other words,

among different moral theories that are equally well in terms of giving answers to moral dilemmas and providing a good internally consistent view, we should choose the less counterintuitive moral theory.

Two Argumentative Strategies

Basically, there are two main types of possible argumentative strategy arguing for the permissibility of having an abortion. First of all, we can appeal to the right to use your own body and that you don't have an obligation to harm yourself even if this entails someone's death. For example, suppose that you are dying because your heart is not working properly and the only way to survive is heart transplant. I have a healthy heart, but I am not required to donate my heart to you, even if my unwillingness may result in your death. In other words, a mother does not have any obligation to use her body as a source for a fetus to grow up. We will call this type of argument the Thomson argument because this argument was proposed in J. J. Thomson's article "A defense of abortion". Generally, she said that every action can be acceptable if "you do not act unjustly" (Thomson 1971, 57). This way of argumentation became very popular and successful because it does not argue about the moral status of the fetus. For example, Thomson herself said that she is "inclined to think also that we shall probably have to agree that the fetus has already become a human person well before birth" (Thomson 1971, 47). On the other hand, an assumption about the moral status of the fetus and the person is the way how the second argumentative strategy is working. According to this argumentative strategy fetuses and adults have different moral statuses. In this essay, the term "moral status" will be tightly connected with the number of rights that a subject may have. For example, when I will say that

the moral status of an animal and a person differs, I will assume that an animal has a lesser set of possible rights, e.g. a person has a right not to be killed but an animal does not. The same we can see in the second argumentative strategy. The very basic argument that we can hear from the proponents of this way of argumentation is the following: human fetuses lack the properties that make us persons. That is why we can state that the moral status of the fetus is lower than the moral status of the human. That is why we can say that the fetus does not have as many rights as a normal adult human does. In particular, the fetus does not have a serious right to life compared to a normal adult human.

In my view, the first type of argumentative strategy does not succeed in giving a satisfactory proof of why we should allow abortion and is liable to counterarguments. It should be mentioned that there are lots of different approaches that, like the Thomson argument, are based on the right to use your own body or that obligations appear only with our free consent to these obligations. For example, such pro-choice arguments we can find in the D. Boonin's "A Defense of Abortion" or in the more recent B. Manninen's "Pro-life, Pro-Choice: Shared Values in the Abortion Debate". In my thesis, I will be focusing mostly on Thomson's work. First of all, this paper is until now one of the most influential paper in this field. And secondly, more recent arguments are often based their logic on the Thomson argument, so the counterarguments against the Thomson argument are often suitable for other arguments as well.

There are several problems with this argument. As I have already mentioned, Thomson concedes that the fetus and the person have the same moral status. Her aim is to defend abortion on the grounds of self-defense, and this approach leads to the first problem. Even if Thomson is right, her

argument will be strong only if the intention of a woman will be to defend herself. Secondly, what Thomson argument really shows to us is that we can kill the fetus only if it is necessary to terminate the trespass that is caused by the fetus. That is why this argument does not give us sufficient reason to make an abortion when it is not necessary to kill the fetus. For example, in a lot of different cases, we can have a caesarian instead of having an abortion. Moreover, as I am going to prove, this argumentation is much more counterintuitive than the second approach, if we will look more precisely at possible consequences that can be derived from the logic of this argument.

As I have said earlier there is another argumentative strategy that is used to defend a pro-abortion position. This strategy connected with the distinction between different moral statuses that are possessed by fetuses and persons. I assert that this second way of possible argumentation is quite strong and promising. Moreover, I think that this argumentation establishes the moral theory that satisfies virtually all the criteria that were given earlier. The only problem that we may have is as follows. When we say that a fetus has a different moral status than a human, we also pose a question that sounds like: at what stage in the development of a human being does it cease to be morally permissible to destroy it? I should emphasize that if we want to be precise in our investigation, we should agree that the development of a human is not ending at the moment of birth. I can say that definitely, we are developing throughout the whole life. This clarification may be a problem because if we think more we will understand that quite the same arguments, based on moral status, we can apply to the problem of infanticide. In other words, if we want to save our theory from internal inconsistency, we should at least agree that after-birth

abortion or infanticide is one of the possible outcomes of the second argumentative strategy. The second problem is connected with our intuitions that may also cause big damage to our theory. Won't our theory be too counterintuitive, if it leads us to accept infanticide? Will our theory then be worse than theories against abortion? That is a very important question that can be crucial in the debates about abortion and we will try to give answers to them. In addition, the answer to these questions is connected with another important issue about humanity: what makes something a person?

The State of the Literature

The complexity of this topic and its applied significance provoked big philosophical debates and the appearance of the vast amount of literature that is connected with the abortion issue. That is why there is a large number of arguments for each position in these debates. As I have already mentioned, the two main approaches connect either with the right to use your own body or with moral status. Of course, there are some «uncommon arguments», as we might call them, that are connected with the golden rule or with feminist philosophy. One of the best examples that try to cover the largest amount of different pro-abortion and anti-abortion arguments is D. Boonin's book "A Defense of Abortion" (Boonin 2003). In this thesis, I focus only on the most common arguments, firstly, in virtue of the difficulty of covering all of the possible arguments, and secondly, in virtue of focusing not only on the problem of abortion but also because I will try to make important suggestions about infanticide or the after-birth abortion problem.

The first argumentative way (the unjust body using) will be considered on the basis of Thomson's article (Thomson 1971) and a more recent attempts that was suggested by D. Boonin.

For the second way of argumentation (the theory of the moral status), I will consider Bonnie Steinbock's work, in which she tries to give a complete analysis of what we call moral status and what are the possible distinctions different subjects may have in their moral status (Steinbock 2011). To make my analysis more precise I will consider, from my point of view, the strongest counterargument to the abortion procedure that was proposed by Don Marquis, where he tries to defend his position with the so-called «future-like-ours argument» (Marquis, 1989).

Moreover, there is a set of works that are connected to the problem of infanticide and moral consistency. A great analysis was done by M. Tooley (Tooley 1972) and J. McMahan (McMahan 2007). Both of these papers try to show that if we want to be internally consistent, we should agree, that at least in some cases, infanticide can be morally justified.

Several new arguments were introduced in a more recent paper that tries to explain why we can commit infanticide not only in the case of handicapped children but also in all other circumstances when we have an abortion, e. g. socio-economic reasons (Giubilini and Minerva 2013). Furthermore, it should be mentioned that the whole journal issue was dedicated to the discussion of this article¹. These papers will be useful for the analysis of the possible counterintuitivity of infanticide.

¹ You can find all these articles in the Journal of Medical Ethics Vol. 39, No. 5, May 2013.
<https://www.jstor.org/stable/i40129946>

Important Definitions

We also need to make a clarification about several terms that I will use in this thesis: fetus, abortion, and after-birth abortion.

I would like to start with the definition of a “fetus”. In this thesis, I will be using the term “fetus” for something that is carried within a pregnant woman at every stage of pregnancy from the moment of conception to the moment of birth and not carried within a woman at any other time. Even though I understand that this definition is not very precise from the biological point of view, I will use exactly this definition, firstly, because if I will try to use correct technical terms for every stage of human development it will too time-consuming, and secondly, this definition is commonly accepted in these debates.

The term “abortion” will be used to refer to the action to terminate a pregnancy with the intention to make the fetus not to come to term. The second part of the definition is very important because it shows our intentions. According to this definition, for example, moving the fetus to an artificial womb would not be an abortion, despite the pregnancy is terminated in this case, and moreover, this definition is much more independent from technological development because in the future there is a possibility to save the fetus even if the pregnancy was terminated. My definition shows that the intention of abortion is to make fetus not to come to term.

Synopsis

The first chapter of this thesis examines the Thomson argument. In this chapter, I will introduce her main cases: the violinist case and the

people-seed case. I will argue that these cases are not analogous to the abortion procedure, and try to modify her examples, to make them more appropriate. I will give my own analogies to the abortion procedures and show why according to Thomson's argument we cannot agree with abortion.

The second chapter will cover another possible pro-abortion argument – the one that focuses on the moral status of the fetus. The main question to which I will answer in this chapter is what qualities a subject must have in order for us to recognize his right to certain rights. In this case, we will consider possible arguments about why the fetus may have or does not have the right to life. Another important part of this chapter will be an attempt to show that this argumentation strategy entails an agreement with the possibility of after-birth abortion. For this purpose, I will consider the works of J. McMahan, P. Singer, D. Marquis and others.

In the third chapter, I will show why the acceptance of after-birth abortion does not make our theory too counterintuitive. For this purpose, I will consider different cases of possible reason for making after-birth abortion. These considerations will show us that there are cases when killing a neonate does not go against our intuitions. This is important because, according to what I have defined earlier, moral theories must start from attractive general beliefs about morality. If not, this theory becomes vulnerable to criticism.

1. The Thomson Argument

As I have already mentioned, in the first chapter our aim will be to examine the argumentative strategy that is based on the assumption that we have a right to use our body as we want and no one can force us to use our body in a way we do not want. In terms of the abortion problem, that means that a woman who carries a pregnancy to term is like a person who gives shelter to someone only by virtue of his good will. That means simply that a woman can, but is not obligated to carry a pregnancy to term.

In the philosophical literature, this argument is also known as the good samaritan argument. This argument was first proposed by Judith Jarvis Thomson in her article “A Defense of Abortion”. This article is an attempt to give a good argument in defense of abortion even if we will consider a fetus as a person, because as Thomson claims: “most opposition to abortion relies on the premise that the fetus is a human being, a person, from the moment of conception”. That is why if we accept even this premise then most of the counterarguments will fail at the very beginning.

Basically, the good samaritan argument is a response to this argumentative scheme:

1. A fetus is a person
2. Each person has a right to life
3. The fetus has a right to life
4. Each person has a right to control his body
5. The right to life outweighs the right to control your body
6. Abortion is the same as killing
7. Abortion is morally impermissible

What the good samaritan argument tries to do is to argue mostly against the fifth statement. In other words, the fifth statement accepts that the right to life is the absolute right.

Thomson says that there is something wrong in this fifth statement. To make this wrongness more evident and examine our intuitions, she introduces two famous cases: the violinist case and the people-seed case, both cases are aimed at one specific goal - to show the fallacy of the fifth statement. Firstly, I will consider the violinist case, because it is much more problematic and opened for criticism, and secondly, I will consider the people-seed case.

1.1 The Violinist Case

1.1.1 Outline of the Argument

I will start my consideration with the short outline of the violinist case. This argument sounds like this: let us imagine that one day you wake up in the hospital and you find yourself laying down near a famous violinist who is very ill now, and he will die unless he receives help. Then you realize that you were kidnapped because you have the same blood type, and your kidneys are healthy. Doctors plugged the violinist's circulatory system into yours. That will help him survive, you should only stay there plugged. Fortunately, this will last only for nine months. If you unplugged yourself, the violinist will die.

If we will look at the pro-life argumentative scheme, we will see that all of the premises are observed. The violinist is an analogy to the fetus, we also should sacrifice only our right to use our body temporarily, and if we accept the fifth statement, then we should not see any barriers to not stay

plugged. But, as Thomson says, “you would regard this as outrageous” (Thomson 1971, 49). In this situation, I cannot disagree with this inference.

1.1.2 Not Analogous to the Abortion Procedure

First, some philosophers said that the Thomson example simply is not analogous to the abortion process in terms of actions that we should make to bring about this action. In the violinist case, you should simply unplug yourself, in other words, it seems that you are not killing but only letting die someone. In this example, it seems that you do not have any intention to kill violinist, and that makes this example so attractive and intuitively acceptable.

To make this analogy more precise we should modify the process of unplugging. The problem is that, when you make an abortion, you cut a fetus into a lot of small pieces. So, as it was mentioned by the G. J. Coulter, “instead of merely detaching tubes from your arm, suppose the only methods of escape required you to hack the violinist into bits or chemically dissolve his body while he lay there” (Coulter 2017, 241). In this case, your intention will be to kill the violinist. The question is: will the violinist case now be so counterintuitive?

That can be a problem for Thomson’s violinist case, but I do not think that this is the biggest problem that the Thomson argument has. First of all, because even in this situation some people can say that this is not so counterintuitive as it seems, but also, and this is the most important, because we can imagine that in the nearest future there can be a technology that will not be so bloody, and an abortion process will be analogous to the procedure of unplugging. That is why this is not a very strong argument.

But the more problematic question that we should ask is: Does the violinist case adequately show us a process of conception and a process of abortion? What this situation really shows us is that we can have an abortion only if a woman was raped, namely if her sexual interaction was not voluntary. That is why the situation is not analogous to the majority of cases of conception, besides the very small amount of cases connected with rape cases. So according to Thomson's Violinist case, even if we agree that the analogy is adequate, it covers only a handful of cases. That is why we need to consider the second case: the people-seed case.

1.2 The People-seed Case

1.2.1 Outline of the Argument

What the people-seed case tries to justify is that even if the sexual interaction was voluntary, that does not put on the woman any obligation. The basic line of the argument is as follows:

Imagine that you are standing in a stuffy room, and you want to open a window to air it. And suppose that there are people-seeds which "drift about in the air like pollen, and if you open your windows, one may drift in and take root in your carpets or upholstery. You don't want children, so you fix up your windows with fine mesh screens, the very best you can buy. As can happen, however, and on very, very rare occasions does happen, one of the screens is defective; and a seed drifts in and takes root. Does the person-plant who now develops have a right to the use of your house?" (Thomson 1971, 59)

We see that the main question is: Is there any obligation that appears after the woman's voluntary action? Thomson says: "Surely not" (Thomson 1971, 59). But is it so? I will consider three objections to the

people-seed case below: the necessity objection, the tacit consent objection, and the responsibility objection.

1.2.2 The Necessity Objection

What the Thomson argument purports to show us is that no one has a right to use our body for survival, and we can even kill the stranger if that is necessary to end its imposition on us. But let us consider the case of Selfish abortion:

A woman who became pregnant through voluntary sex discovers, in the middle of the sixth month of gestation, that remaining pregnant will cause her to suffer moderate chronic pain for the rest of her life. At this point her fetus has the capacity for consciousness and is healthy and potentially viable; but to extract it alive would require a caesarian, which would be disfiguring and riskier to her than an abortion. In part for these reasons she decides to have an abortion (McMahan 2007, 6).

According to Thomson's argumentation, we can justify abortion when it is necessary to terminate the trespass. In the case of selfish abortion, it should be noticed that the fetus is viable, and we can remove this fetus without being killed by making a caesarian section. In other words, in this situation, we could not say that killing is necessary. Some critics of this objection may say that making a caesarian section may require some costs to a woman by comparison with an abortion procedure. But I think that in these circumstances the woman is required to accept some costs. There are

two reasons for that. Firstly, we accept the high moral status of the fetus which is comparable with the moral status of an adult. Secondly, the woman, “and not the fetus, is morally responsible for the situation in which its continued presence in her body threatens her with chronic pain” (McMahan 2007, 26).

So, the Thomson argument justifies only the removal of the fetus but not the killing of the fetus. Analogously, in the people-seed case, if you have the opportunity not only to throw the seed into the garbage, but to transplant it in the park, so that it can live, then you should do it.

On the other hand, admittedly, this objection is useful only in the cases of the late-term abortion, when there is a possibility to make a caesarian section. That is not enough at least because the majority of abortions are being made in the first trimester. That is why we should consider a more general objection to the good samaritan argument.

1.2.3 The Tacit Consent Objection

As it was said earlier the violinist case is not analogous to the abortion procedure because it was not a voluntary process. It is obvious that the violinist circulatory system was plugged into yours by force. Contrariwise, getting pregnant is a voluntary action. The common logic of the opponents of the abortion is next: if our action is voluntary that means we should have an obligation to the fetus to give him the right to use our body. This obligation may appear for two reasons. Firstly, because the voluntariness may constitute an agreement to the possible outcomes. Secondly, the voluntariness of action may constitute the responsibility for the possible outcomes. Based on this distinction, opponents of the abortion offer two objections: the tacit consent objection and the responsibility objection.

According to the tacit consent objection, in sexual intercourse, we have a situation where a woman makes this action voluntarily, and she was also foreseeing all possible outcomes of this action. They say that these two criteria are necessary to form a tacit consent. But another question is: are these criteria sufficient to form a tacit consent? At first glance, this seems like a plausible assumption. If a woman knows that this sexual intercourse very possibly can make her pregnant and her action is voluntary, we can conclude that consequently she gave her consent to the fetus. I don't think that this reasoning is correct. David Boonin gives a possible explanation of why that may not be so. "A woman whose pregnancy arises from voluntary sexual intercourse has not voluntarily brought about the state of affairs in which the fetus is making demands on her body. Rather, she has voluntarily brought about the state of affairs in which a man is having sexual intercourse with her" (Boonin 2003, 159). To make this position even clearer, we can imagine a woman who walks alone in the night in a very dangerous zone. She makes it voluntarily and foreseeing possible bad outcomes. But this action does not form a tacit consent, for example, for killing her by the criminal in this zone. In other words, the intention of a woman is to take the shortest way but not to be killed. The same we see in the sexual intercourse where the intention of the woman is to have sex, but not to have a baby.

1.2.4 The Responsibility Objection

The second objection is the responsibility objection. This objection is working slightly differently. In this objection, we agree that a woman may not give her consent, but nevertheless she is responsible for her decision because she made it voluntarily and foreseeing outcomes. Because she is

responsible for the situation in which you now exist, for this reason, she is obliged to give you the right to use her body

There are plenty of analogies that will not seem inadequate, and in which you definitely should say that this person is responsible and that is why he is obliged to you. For example, we can imagine this situation. If I will make a contract with the worker of the climbing center that he will guarantee my safety, he will be responsible for the situation when I will be hoping for his help while I will be climbing. He is obliged to sacrifice his right to use his body temporarily, even if this work will be difficult and painful for him.

But I could not say that this analogy is a full analogy to the conception process. There is one important difference. If we compare the climbing center analogy with the conception process, we should notice that in our previous example the contract between me and the instructor was not only a voluntary contract with foreseeable outcomes, but also this contract was made intentionally. In the case of the conception, the woman had not any intention to put a fetus in the position of neediness. That is why our analogy is not full, and that is why it does not work as we suggest.

But I do not think that this problem is very critical for our objection. I think that even if our action was made unintentionally, this action constitutes an obligation toward the person who now stays in the position where we can help him if our action put him into this position. For example, we can imagine a hunter, who is trying to shoot a deer. At one moment he thought that he saw a deer. We can also imagine that before he took a shot, he was aiming very long just to be sure that this is a deer and not a stranger who is walking now in a forest. After that, he was completely sure that the figure he was watching was a deer. He made a shot

and hit the mark. Unfortunately, that was not a deer, but a stranger. But the shot was not very accurate, and the stranger is alive now. Should the hunter help this stranger? Or should he ignore him? I think that almost everyone will say “yes”. The reason why we think so is that only our action put this person in such a bad situation. And that is a full analogy to the conception procedure. The shot was voluntary, the hunter knew that the shot may kill someone or hurt. And also, a hunter had not any intention to shoot a stranger. Even more, he made everything to prevent this bad outcome.

This logic and analogies seem reasonable enough to say that we should ban abortion except for rape cases. But we should also consider more precisely what we mean when we say that someone now needs your help because you made something that put him into this bad position.

According to D. Boonin, there are two distinct ways about how we can understand this:

- (1) If you had not done the act, then he would not now exist (and so would not now need your assistance in order to survive).
- (2) If you had not done the act, then he would now exist, and would not need your assistance in order to survive (Boonin 2003, 169).

These two propositions give us two ways how we can understand responsibility. Firstly, it can be said that you are responsible for the existence of someone (responsibility in the (1) sense). Secondly, it can be said that you are not responsible for the existence of this person, but you are responsible for the neediness of this person (responsibility in the (2) sense).

What the opponents of the responsibility objection try to prove is that a conception procedure makes a woman responsible in the first sense,

rather in the second. And the responsibility of the first sense is not enough to derive any obligation to the fetus.

Now, let us put several examples that show more clearly the distinction between the first and the second sense of responsibility. Our previous example with the hunter, who accidentally shot a stranger, presents the case of responsibility in the second sense. This hunter is not responsible for the existence of the needy person, but he is responsible for the fact that this person is now in need. And that is why he is obligated to help this stranger after he shot him.

An analogy to creating someone's life is the act of extending it. It is not a full analogy, but the act of extending is suitable for the purpose of illustrating the first sense of responsibility, where your action makes possible this person to exist, but does not make him needy. The best examples where we can talk about extending the life of a person are connected with medical issues. To see this, consider the case that was given by H. S. Silverstein that is often called The Imperfect Drug example:

Imperfect Drug: You are the violinist's physician. You have discovered that he is suffering from a rare disease. The only treatment for this disease is a new drug, D-Super, which has an unfortunate side effect; anywhere from five to ten years after beginning the use of D-Super, the patient will suddenly be afflicted by the kidney ailment Thomson describes. You know that you alone will have the right blood type to help. Without D-Super the violinist will die within three weeks. Hence, you prescribe D-Super. After six more years of happy life, he is stricken with the kidney ailment; if you do not allow him to be

plugged into your kidneys for nine months, he will die (Silverstein 1987, 107).

In this case, you are definitely responsible for the existence of this person, but you are not responsible for the needs of this person now, because you did not have any alternatives. Some critics may say that you can give him a right to choose before you will prescribe this drug. I agree with that but imagine another situation that is very common in a doctor's life.

Urgent operation: You are a surgeon to whom a person who urgently needs to remove pancreatitis gets to the operating table. He is unconscious. If you do not operate him, then he will die. After the removal, a person will have complications in 100% of cases.

In this situation, you cannot ask your patient. That is why in this situation a doctor is responsible only for the existence of the needy person but not for his neediness. As D. Boonin said: "it is not the case that you did a voluntary action such that, had you not done it, the violinist would now exist and not need your assistance" (Boonin 2003, 173).

The inference that the opponents of the responsibility objection want to make is that in case of a pregnancy which was a result of a voluntary intercourse a woman is responsible for the existence of the fetus, but she is not responsible for the neediness of the fetus. So, the pregnancy is analogous to the imperfect drug case, rather than to the accidental shot of the hunter case.

I cannot agree with this argument. I think that the case of pregnancy is a very special case which makes the woman responsible not in the first sense or in the second sense, but in both senses.

As for the responsibility in the first sense, it is quite evident that a woman is responsible for the existence of the fetus. Her voluntary actions created it. If we look closer at the second sense of responsibility, we should recognize that the act of conception not only makes the fetus, simultaneously this and only this act put the fetus in need of care and support. Analogously with the hunter's accidental shot, a woman performs an action the straight consequence of which is that now this fetus is in need of something. The hunter makes a voluntary shot, unintentionally injuring a stranger. In the case of the pregnancy, a conception process constitutes the neediness of the fetus.

The difference with the imperfect drug is as follows. The intention of the doctor was to save this patient, to make him better off. So, we should agree that the main difference is that in the Imperfect Drug case a doctor chooses between a very bad and a not so bad scenario. And even the opponents of the responsibility objection agree with the emendation that, talking about a responsibility in the first sense, "an individual has not acquired the right to your assistance unless your assistance is needed to make him at least as well off as he would have been had you not done the voluntary action in the first place" (Boonin 2003, 176). But this emendation will work for the responsibility argument only if we believe in the next sentence: that a fetus is made worse off by being conceived and then aborted than it would have been if there had not been any conception at all. I will argue that this sentence is true.

First of all, we should notice that the proponents of the Thomson argument agree that the moral status of the fetus that is equal to the moral status of an adult. If we say that the moral status of the fetus equals the moral status of an adult, then we should say that the analogies with the adults are the legitimate analogies. Let us consider the next example:

Cryochamber: Imagine that you are on a spaceship. This spaceship has a ventilation system that helps reproduce the oxygen necessary for life. Imagine that on this spaceship there is also one room where you can find a cryochamber with a man inside. He is staying in the very deep sleep where he will be forever unless someone will disconnect the cryochamber. Imagine that you disconnected the cryochamber. But the room where this person is staying is blocked. And unfortunately, this man has the neediness of the oxygen too. Luckily you have a control panel for the ventilation system, and you can turn it on in his room, but then you will get less oxygen and you will feel worse than now. Are you responsible for the life of this person or you can let him die?

In this example, we explicitly see that existing is the better option for this man. That is because when we are not existing, we do not have any need, without the satisfaction of which we will suffer. In the cryochamber case, if we compare the overall happiness and sufferings, we will see that there are too many sufferings that in this case outweigh the happiness. But even if the amount of happiness and sufferings will be equal, the state of affairs without sufferings is better. There is one explicit criterion: if our action entails zero utility increase or, in other words, a result of our action is staying on the same utility level then our action is useless, and we should

not produce it because for the zero impact action we produce at least some sufferings. Therefore, we can say that the fetus is made worse off by being conceived and then aborted, that is why the responsibility objection remains true.

1.3 Moving further: Neonates and Children

In the previous part, we have argued that the responsibility objection remains a big problem for the Thomson argument. Attempts to show that this objection does not constitute an obligation to the fetus misfires.

But let assume for the sake of argument that the responsibility objection fails, and that the fact of voluntary sexual intercourse does not impose any obligation on the woman to give the right to use her body to the fetus. The aim of this part of the chapter is an attempt to show that the Thomson argument has the problem that its counterintuitive consequences are even bigger than those of the second argumentative strategy (the one based on the moral status of the fetus).

If we follow the proposed logic, there is a big question about our responsibility to the neonates. We should remember that the Thomson argument tries to challenge the fifth statement of the typical pro-life argumentative scheme: “The right to life outweighs the right to control your body”.

If we fully agree with the argument, we should recognize that the right to control our body outweighs the right to someone’s life. The problem appears when we consider not only fetuses but also neonates or small children. If the opponents of the responsibility objection assert that we do not have any obligation to give a right to use our body even for saving someone’s life, then they should also accept this logic for children and

neonates. It can be said that after birth a neonate does not impose any restrictions on our body, but that is not true. We say that you should provide care and support to the neonate, but what is that if not a restriction to our right to use our body? When we do something with our body that we do not want to do, that means only that someone uses our body for his aims. Of course, this does not entail that we can kill them, but that means that we can let this neonates and children die, because we do not have any obligation to the fetuses and the neonates, according to the opponents of the responsibility objection.

What I want to show here, is that if we agree with the statement that everyone has the same moral status and agree with the Thomson argument, we inevitably will have too many counterintuitive consequences that are even worse than with the second argumentative strategy.

1.4 Conclusion

Thomson's original argument gives us very good ground for the discussion, but her original analogies do not achieve the goal. The best thing they can do is showing that we can allow abortion procedure only in the cases when the sexual intercourse was not voluntary. The responsibility objection shows us that we have a reason to limit the right of a woman to use her body, but moreover, even if we agree with the critics of the responsibility objection, we face counterintuitive consequences even more serious than we may have if we followed the second argumentative way.

2. The Argument from Moral Status

2.1 Introduction

As was already mentioned in the Introduction, along with the Thomson argument there is another strategy that may help us in the justification of abortion. Generally, this type of argumentation can be named as the argumentation based on the moral status of the subject.

First, we should give a brief explanation of what we will understand by the term “moral status of the subject”. The moral status is the concept based on which we can affirm how many rights and to what extent a given subject has. In other words, when we say that this subject has a moral status that is different from that of another subject, that means that these subjects have a different set of rights.

For example, it can be said that a chicken and a human have different moral status. This means that in the sets of rights these two subjects have, there are some that are different. In this case, a chicken does not possess a right to life, and a human has this right.

So, what the argument from the moral status shows us? The basic logic of the argument, according to the discussion of abortion, sounds like this:

1. We agree that we cannot kill a human (at least without a reason).
2. That means that we have a right to life.
3. That means that the moral status we possess has some property that gives us this right.
4. That means that we have some property in virtue of which we have this moral status.

5. If the fetus has the same property it has the same moral status, and then we also cannot kill a fetus.

That means that we should find an answer to several questions:

Does the fetus have the same property that a human has that gives the fetus right to life? If yes, then when and why does the fetus receive this property?

This argument can be used both by the defenders of abortion and also by those who think that this practice is absolutely immoral. The only difference is where do we draw the line.

There are three possibilities where we can put this line: immediately after conception, after conception or, which is the same, during pregnancy, and after birth. In this chapter I will consider main approaches to the each of these possibilities.

2.2 The Human Being Criterion

The first possible criterion why a human adult and a fetus are related to each other is that they are members of the same species, homo sapiens. So, if we return to the third item of the basic logic of the argument it can be suggested that the property that gives us the right to life is simply our affiliation to the genus of homo sapiens. But is that really enough? Can this biological fact affect our moral status? I see here several problems.

The first problem is the following: based on the same logic we can make various analogous suggestions that seem definitely wrong. For example, if we assert that the mere presence of some random biological fact is enough, then we should agree with the statements of racists or sexists. As Peter Singer formulates this: “Racists violate the principle of equality by giving greater weight to the interests of members of their own

race when there is a clash between their interests and the interests of those of another race. Sexists violate the principle of equality by favoring the interests of their own sex. Similarly, speciesists allow the interests of their own species to override the greater interests of members of other species. The pattern is identical in each case” (Singer 1999, 58). So, in Singer’s example we see that the membership of some species is just another random property as gender or skin color that has no well-grounded justification.

To make it clearer, let us give another example that will show not only the logical problem with this argumentation, but also some problems with the intuitive acceptance of the argument. To see that let us imagine an individual who is standing in front of us. This individual has all the same properties that we expect to see in a person: she looks like us, has developed consciousness, has the very same emotions, and so on. But let us also imagine that this individual is not a human being but an alien. In other words, despite the fact that all of his properties are equal to that of a human being, he has a different DNA structure. From my point of view, it is extremely difficult and counterintuitive to make an inference from this fact that the mere difference in the DNA structure can be a reason for us to make a killing of this individual more permissible. Thus the human being criterion cannot give an answer to why we should consider this particular biological criterion as the crucial one for determining someone’s moral status, and because of its extreme counterintuitiveness, we should reject this it.

2.3 The Potentiality Criterion

Some of the opponents of the abortion procedure may even agree that the fetus or even a zygote do not possess some properties now that may be crucial for establishing the right to life. But at the same time even a zygote has the potential to develop into an individual who will be just like us. That is an important difference with animals that do not possess this potential: and that would be why we cannot make an abortion, but can kill and eat, for example, chicken. To make it clearer we formulate the principle like this: potential possession of a right entails actual possession of a right. From my point of view, this argument entails a significant logical error.

First, if this principle is accepted, then we should make the following inference: if I have some rights now, e. g. a right to my brand new car, that was bought just three days ago, then with this principle it follows that I had the right to this particular car through the whole of my life, because it turns out that even in my childhood I have some potentiality to have this right. There can be several objections to this analogy. Firstly, it can be said that when we are talking about a zygote or a fetus, an adult human is something that the fetus or a zygote is developing into. In other words, with necessity a zygote or a fetus in the future will possess this kind of right, and that is why the analogy with the right to the car is not working properly. To answer this objection, we can give another example, which will not have this weakness.

We can imagine a person who today signed a contract that in two days she will become a member of some company. In this example, we see that after signing a contract she should become a member of the company with some additional rights, but it does not mean that already today she has this

additional set of rights, e. g. she could not read a corporate mail, she could not freely walk in the office, and so on. In other words, even if I will receive some rights for sure in the future (even in the nearest future), that does not mean that I have already got them.

Another possible variation of the argument from the potential is this. When we say that a zygote is a potential adult with a certain set of rights, we mean that this zygote has a potential to become an adult. It can be said that being a zygote and an actual adult “are simply different phases in the life of one and the same living being. Since the zygote eventually becomes a human adult, this human adult is the very same individual living being that the zygote was” (Boonin 2003, 50). In a more structured way, this argument looks like this:

1. I am the same individual living being as the zygote from which I developed.
2. I am a person.
3. A zygote was a person.

But in this formulation, there is a problem with the logical structure, because between the first two premises there is another implicit premise without which this argument will not be valid. This third preliminary statement should sound like this:

1*. If someone possesses some property in one time, then he will possess this property of every time of his existence.

But this sentence is very questionable, because, for example, I can now possess lots of different properties like being bold, greedy, married and so on, but it definitely will not be true to say that all of this properties I had or will have throughout all of my life.

It can be said also that being bold or greedy are not essential properties. But if we use term *essential property* instead of *property* in the 1*, then this statement will definitely be true. But then to make the whole argument true, we should also add another premise:

2*. Being a person is an essential property.

Then now the whole argument is sound like this:

1. I am the same individual living being as the zygote from which I developed.

1*. If someone possesses some property in the one period of time, then he will possess this property in every period of the existence.

1. I am a person.

2*. Being a person is an essential property

1. A zygote was a person.

But even in this variation the argument will not work. The problem now is with the term “person”. The question is in which way we can say that being a person is an essential property? There are two possible ways of interpretation: biological and moral.

According to the biological interpretation, when we say that being a person is an essential property, we mean that it is a member of the homo sapiens species. But as we saw previously in the *human being criterion* part, it is not enough to say that someone is biologically human or biologically woman. With this interpretation the argument fails.

According to the moral interpretation, when we are talking about being human, we mean that a person has a right to life, which is essential: I have had this right, and I will have it in the future. In this interpretation the argument can work, but the problem here is that opponents of the abortion

do not grant us that this is true. Moreover, I want to say that this argumentation bumps into a kind of logical circle. The whole discussion started from the question when and why the fetus receives a right to life, and it is weird to end the discussion with the statement: We have a right to life throughout our life. For there is still no answer to the question “Why?”.

We should also mention another counterargument to the potentiality criterion. This argument is based on the counterintuitiveness that arises if we attribute some potential to those who we know now does not have it.

This kind of example was given by Jeff McMahan:

Suppose we were to discover that dogs have always had the potential to develop cognitive capacities comparable to those of a normal five-year-old child, but that this potential has never actually been realized because that would require subjecting the dog from earliest puppyhood to an intensive daily regimen of ‘cognitive therapy’ for the first five years of its life (McMahan 2007, 15).

If we accept the potentiality criterion it seems that we are obliged to treat dogs as possessing some set of rights that coincides with the set of rights of an actual five-year-old children. But I doubt that most of people will accept this logic: the inference seems counterintuitive. Rather, people “would conclude that only those dogs, if any, in which this potential had been realized would have that higher status” (McMahan 2007, 15).

Given this counterintuitiveness and the objections to the argument that were mentioned earlier, we should reject the potentiality criterion.

2.4 The Viability and Birth Criteria

In this section we will consider other two criteria that can become a possible boundary line between the absence and presence of the right to life.

When we are talking about viability, we mean the fetus's ability to live outside the womb. The viability is usually placed at about 7 months or even earlier because of the progress of medical technology. The most important thing is that being viable can be important in a way that makes you more or less independent. The opponents of abortion suggest that the fact that you are independent is morally significant for you to be a person. There are also other differences that take place, for example, "the pre-viability fetus is too intimately involved in the body of his mother to be a real person on his own" (Schwarz 2012, 110). But even if we accept this argument, this difference may be important only for the discussion of the Thomson argument, especially for the Necessity objection that was discussed earlier in the first chapter.

But there are lots of difficulties with this criterion. First, it should be mentioned that the viability criterion, even if there were no objection to it, can only justify the prohibition of late-term abortions, which are the minority of the cases, "only 1.3% of abortions occur after 21 weeks" (Steinbock 2011, 101).

Second, the viability criterion definitely cannot appeal to this scheme:

1. A person has a right to life.
2. Being viable makes you a person.
3. The viable fetus is a person.
4. The viable fetus has a right to life.

The problem here is with the second item. Animals are viable but we do not count them as persons. So, the second premise is false, and the argument does not work in a way that it should be.

Third, the problem in the criterion itself. The moral status is a rather intrinsic value, it is not dependent on some external things but on some internal properties that subjects possess. When I say that I have a right to life that means, first, that everyone who shares the same characteristics that I have, should have this right, and secondly, I have this right in any place and in any time, given that my internal characteristics are not changing.

And exactly at this point there is a problem. Being viable is an external characteristic and does not depend on the subject. Different subjects are viable in the proper environment, and when we say that viability is the criterion for having rights, that seems confusing. For example, I am not viable on the moon or underwater. Should I conclude that there everyone can kill me, because underwater I am not viable, and, therefore, I do not have a right to life? I definitely think that an answer in this situation is “No”.

Another question that some authors address is “can personhood be a concept relative to and dependent on technology?” (Cooney 1991, 161). So from this perspective the “viability is a function of medical technology. It measures our ability to sustain human life, not the status of that life” (Schwarz 2012, 112). Moreover, if we accept this criterion, we will discover that two people with the same internal properties may have different moral status, for example, if poor persons cannot pay for new medical technologies to sustain the life of theirs infants, that means that two identical infants lying near each other in the same hospital may have

different moral status because of the different income of their parents, but that is extremely counterintuitive and absurd.

So maybe the point we are searching for is the moment of the birth? This criterion does not have the weaknesses of the viability criterion: being born is the internal property that is essential and cannot differ in different circumstances. You can be born only once and then you will always have this property. The question that we should ask is: what are the differences between a viable fetus and a neonate?

As it was mentioned earlier, a fetus becomes viable greatly before birth. “The point at which some fetuses have survived premature birth has become a little less than 22 weeks” (McMahan 2013a, 274). It means that nowadays there can be situations when during the period of the 5 months the only difference between fetus and neonate is its location. To illustrate it let us consider an example introduced by Jeff McMahan:

Sudden birth: Imagine that doctors discovered a congenital disease in the late term of pregnancy and suggested to make an abortion. That evening, the woman decided that she would go for an abortion tomorrow morning. At night, unplanned childbirth begins, the child is born. The question that McMahan asks: What has changed in the moral status of the fetus/newborn, what really happened to him? (McMahan 2013b).

The only logical answer in this case that we can give is that the fetus changed its position. But if we accept this, there are lots of questions that seems hard to answer. Should we give the right to life to a fetus that is 50% in the womb and 50% out of it? Or should we treat as human a fetus that is 99% out of the womb? What is happening with the fetus when it comes out

of the womb by another 1%? And moreover, why is this 1% morally significant? The proponents of this criterion do not give us persuasive justification. But also we see that the fetus inside the womb has no rights, and the newborn outside the womb has these rights, but then the criterion of birth does not differ at its base from the viability criterion, which, as we have seen, provides the basis for the right to life to appear or disappear, depending on where the person is located. For lack of sufficient evidence of moral significance of the location property, we should reject the birth criterion as well.

2.5 The Immorality of Killing You and Me

There is another possible approach that may help us understand why and when we start to possess the right to life. To find this boundary we should answer a question that is tightly related to the right to life: why it is immoral to kill a human being like me?

In this part I will consider two possible answers, each of which gives its own argument, proving its own point, starting with which, we can assume that the subject begins to have the right to life. The first approach is related to Don Marquis's account to the set of experiences that constitutes the personal future, and the second approach relates to Michael Tooley's account of the concept of a self as a continuing subject of experiences and desires. We will start with Marquis's approach. There are two reasons for that: first, I think that this argument is invalid, and second, Marquis in his own argumentation criticize Tooley's approach.

What Marquis tries to do first is to give an answer to why is it wrong to kill us. Marquis offers a very simple idea:

When I am killed, I am deprived both of what I now value which would have been part of my future personal life, but also what I would come to value. This being the case, it would seem that what makes killing any adult human being *prima facie* seriously wrong is the loss of his or her future (Marquis 1989, 190).

What makes Marquis's argument different from other potentiality arguments? The point is that when we say that the fetus has a valuable future, this is not a potential property, this is a property which we already actually possess. That is why the counterargumentation that we used previously will not work. To give a successful counterargument to the future-like-ours (FLO) argument, we should make three things: first, find another reason why it is wrong to kill us, second, show why Marquis's reason is more arguable than our new criterion, and third, show that our new property gives us a reason to make a different conclusion about the presence of the right to life of the fetus.

In the first step of our analysis, we should agree with Marquis in a way that what makes killing us definitely wrong is the harm that is caused to us by this action. To make it clearer, we should say more about the connection between rights and harm.

To determine has someone or has not a right, we should understand when this right is received and when it disappears. The necessary criterion for the absence of the right of someone is the appearance of harm when someone loses the right. In other words, in order for us to consider that someone was hurt, he must receive harm or deferred harm. If we cannot say that the subject receives harm or deferred harm, we cannot talk about the violation of his right.

When we talk about the right to life, we must say that, in the same way, a person must suffer from the fact that we deprive him of this right. It is important that the right to life is different from the right to the absence of pain, free movement, the right to the absence of torture, etc. The right to life is determined by the fact that a person has certain desires, intentions, goals, and projects. That is what a person loses when he is deprived of the right to life. This is not just an unknown future. As Tooley formulates this: “An organism possesses a serious right to life only if it possesses the concept of a self as a continuing subject of experiences and other mental states, and believes that it is itself such a continuing entity” (Tooley 1972, 44).

Marquis tries to give a counterargument noting that there are temporarily unconscious people, sleeping people, or those who are suicidal. If we agree with the desire account, we should agree that those who do not have desires at this exact moment do not possess the right to life, but that is implausible. Boonin has a response to this objection. Most of our desires are dispositional, “we are not currently aware of them, or thinking about them, but they are still things we want, and would attest to this if asked and if we could respond” (Steinbock 2011, 67). In other words, a person should be capable of understanding her own *personal* future. And if this person has already formulated to herself this future, then being asleep or being temporarily unconscious, or even having received some mental disorder, changes nothing in considering her plans and desires. Being asleep or in coma cannot cancel the fact that these desires have already been established.

That is why the counterargument that is given by Marquis is not working. Moreover, if we return to the thesis of Marquis himself, we will

see that Marquis's thesis that we value just the future is not true. Rather, we are ready to accept the fact that such an order of things in the future, which we ourselves consider valuable, is valuable for us. The example of suicide shows that it is not enough for us to simply potentially have some kind of future. It is important that this future coincide with what we have established for ourselves. That is why I think that we should reject Marquis's criterion in favor of the "conscious desires" criterion.

2.6 Conclusion

The consequence of acceptance of this criterion is acceptance of abortion. Because the fetus or zygote cannot possess any aims or expectations, it follows that both of them do not have the right to life. The question is: are there any differences between the fetus and the neonate?

It seems to me that there are no any morally important differences, remembering that nowadays within about 5 months a human being can be either a fetus or a child only depending on its location. It should also be said that of course we do not know exactly when an infant is starting to have self-awareness, and that should be a matter for detailed psychological investigation, but it seems clear now that there is at least a small period while a neonate does not have this sense. "It might start having expectations and develop a minimum level of self-awareness at a very early stage, but not in the first days or few weeks after birth" (Giubilini and Minerva 2013, 262).

Because there are no morally significant differences between the fetus and the neonate, we should agree with the possibility to kill a neonate in all the same circumstances where we think abortion is possible. I do not claim that an infanticide is a very good thing to do, but I claim that it is a

procedure analogous to abortion from a moral perspective. In the next chapter, I will try to show why this inference is not as counterintuitive as it might at first appear to be. Moreover, I will try to show that in some cases our intuitions will even tell us that we obligated to kill a neonate.

3. Infanticide and Intuitions

3.1 Introduction

If in everyday discussion we start to talk about infanticide, most of us will definitely say that this is unbelievable to agree with the position that infanticide is somehow possible. Sometimes the same we can hear even from the scientific articles that “advocating infanticide or its moral permissibility is moral madness – killing babies is not something we should consider” (George 2013, 300). To reject this practice seems as the natural reaction for the majority of the population. Even those who considers themselves as strong supporter of abortion (including late-term abortion as well) very often says that the practice of infanticide is immoral. But why?

First, simply the neonates are just like us. Pretty face, smile, two hands and two legs, and so on. Our brain is playing a tricky game with us. We think that if the subject looks like us, then this subject should have the same amount of rights and feelings like us. But, of course, this logic is fallacious, and also in the case of the newborn, that is definitely not true, as we have seen in the second chapter. Secondly, that is why we do not care so much about a fetus even on the second and third trimester – we cannot feel so much empathy toward a fetus. We cannot see him crying, smiling, moving, and so on. Thirdly, most of us do not think that sometimes killing can be either more humane or not so unambiguously wrong.

3.2 Do We Have Practices of Infanticide Now?

Despite the complexity of the infanticide issue, already now there are some cases where infanticide practices are accomplished.

First of all, we should mention the Groningen Protocol in the Netherlands, “which permits doctors to actively euthanise terminally ill infants who are deemed to be in a state of unbearable pain” (Manninen 2006, 643). So if the quality of the future life will be very low because of the severe sufferings that give no prospects for a future to this newborn, the doctor may kill this infant (also there should be consent of the parents and no possibility that this newborn can be cured).

Another example is the lethal separation of conjoined twins. For example, in the case of conjoined twins Jodie and Mary, “who were joined at the lower abdomen. They can be successfully separated. But the operation will kill the weaker twin, Mary” (Savulescu 2013, 257). In this case the court said that the operation is permissible. The High Court was using a very utilitarian logic here, it is better to save one person than lose both. But let us imagine the same situation not with the neonates, but with the adults that already have their own aims and experiences. Will we find now the situation of the compulsory operation in which one of the twins will later die just as possible? I doubt it.

What I want to emphasize in this part is that as a matter of fact we do not count infanticide as an a priori terrible practice. Moreover, sometimes even our common sense tells us that we should kill a newborn because it is inhumane to make him permanently suffer. So, the first conclusion that I want to draw is that actually we do not have a single intuition about this practice – everything depends on the specific situation.

3.3 Is Infanticide Necessary?

But even if we agree that there are some situations when infanticide seems rather intuitively acceptable, an opponent of this practice may say

that we already have lot of tools that can help us to even avoid such situations as a children with anencephaly or other congenital disease – we can make the diagnostics of the fetus and identify the defect at an early stage, which would be an indication for abortion.

That seems reasonable, but there are plenty of cases when this objection does not work. The first problem is connected with diagnostic methods. Not all diseases are accurately diagnosed during pregnancy, for example, data from the European registries shows that from 2005 to 2009, Down syndrome was diagnosed only in 64% of cases (Giubilini and Minerva 2013, 261). Moreover, it should be mentioned that part of diagnostics for quite rare diseases is too expensive and not everyone can afford it. The second problem is that even if we imagine an option in which all possible diagnostics were carried out, we may face the problem of getting disabilities during childbirth, for example, complications caused by perinatal asphyxia.

In other words, we see that there is a wide corridor of opportunities for infanticide procedure. We cannot avoid all the circumstances that will put us in a position similar to those indicated above.

3.4 The Can and Should Distinction

As we saw earlier our intuitions toward infanticide differ. We can agree that sometimes this practice can be justified, but despite this we have a fear toward this practice. I think that one of the reasons of it is that people confuse principles and grounds for decision making. To say that “it is morally justified to kill a newborn” is not analogous to the “you are obliged to kill a newborn”. It is a necessary principle, without which we will not be able to make subsequent decisions. If there is no basis for this action, it

does not matter to us how much good it can bring. We do not cut people into parts, forcibly making them organ donors, just because we can save more people with these organs than will suffer as a result of this operation. We do not do this, because we have no ground to kill a person, despite the fact that it would bring us more benefit in the end. This is because weighing the final benefit is only a decision-making process, but not the ground, *which gives us options* between which we will choose in the future.

The same situation we see in the case of infanticide. As it was mentioned, there is a big history of the debates about the permissibility of killing the severely ill or disabled newborns. What Giubilini and Minerva is making is an extension of “the long-running debate on infanticide asking: if abortion is permissible both for social as well as medical reasons, why is infanticide permissible only for medical reasons (assuming that selective non-treatment is a form of infanticide)” (Savulescu 2013, 258)? What I want to say that if we accept the position that an infanticide is acceptable even for some non-medical reasons, it does not mean that we should do that in every case. For example, if there is a good option connected with adoption, when a good and wealthy family will have an intention to take care for this newborn why should we kill it? I am sure that in most cases we will say that we should not kill it. But this will happen not because we cannot do it in principle, but because between two equally possible options, we must choose the best one.

3.5 Conclusion

I mentioned that the counterintuitiveness of the theory may cause a big problem for this theory. What I want to show in this chapter is that this practice is not so univocal as it seems at first glance. The standard move for

the opponents of the moral status argumentative strategy is to say that the permissibility of infanticide is akin to *reductio ad absurdum*. But we see that this attempt fails. We see that our intuitions do not give us an unequivocal answer that infanticide is terrible in all circumstances, and that the very thought of this is absurd.

So, now we have a situation where, as matter of fact, we have two rival moral theories: one is the theory that bases its decision on moral status (MST), and the second is the theory that bases its decision on the common sense (CST). The question is: why should we adopt the first theory and reject the second?

As I have said, the theory should start from the attractive general beliefs or, in other words, the theory should be at least somehow intuitively acceptable. Moreover, the theory should be internally consistent, and should also help us to deal with the questions about which we do not agree. Both of the theories are based on the intuitively appealing suggestions (I showed it for the MST, and it is quite obvious for the CST), but only the first theory can help us to deal with the equivocal situations. The fact that MST is a consistent theory makes this theory explanatory. And only a coherent theory may help us come to an agreement, because “unless we have a coherent explanation of our moral principles, we don’t have satisfactory ground for believing them to be true” (Kagan 1989, 13).

Conclusion

In this work I set myself three goals: to show the problem of the Thomson argument, to show that the argumentation from the moral status is correct, and to give satisfactory explanation that our intuitions are compatible with the practice of infanticide. The first and the second aims were preliminary steps for the third step that is the most important.

I showed that the most significant responsibility objection really indicates that Thomson argument cannot prove the woman's lack of responsibility if sex was voluntary. And moreover, I showed that even if the responsibility objection to the Thomson argument does not work, the argument becomes counterintuitive, because the same argumentation can be applied not only to the fetuses but to the adult children as well. According to this argumentation, we are not obliged to feed our children, to give them our care, in other words, we can let them die.

In the second chapter, I tried to give a satisfactory counterargumentation to the potentiality and the future-like-ours argument. But the more important conclusion of the second chapter is that from the argument from the moral status with necessity follows the recognition of the permissibility of committing infanticide.

On the first glance it may be said that if a theory accepts such practice as infanticide it automatically means that this theory should be rejected. That is why an attempt to find a convincing explanation of why this practice is not counterintuitive is crucial for the theory. The third chapter gives us two potential explanation why it is so.

First, we see that this practice can be treated differently depending on the circumstances. I tried to prove that, in general, we have no problems

with the principle: we agree that infanticide can potentially be realized. Rather, we are ready to argue with the reasons for the action, which may be permissible or unacceptable for the realization of various options, including infanticide. Secondly, I showed that along with the moral status theory, which coincides with a part of our intuitions, there is a second theory, which also coincides with our intuitions - the commonsense theory. However, we see that this theory is random and inconsistent. The theory of moral status is deprived of this lack, therefore, since it also partially coincides with our intuitions, and it also has explanatory power, we must follow this theory, and not the commonsense theory.

Also, there is another implicit conclusion, which should be pointed out. The moral status theory shows us that abortion and infanticide are actions of the same moral order. This means that we must treat abortion as carefully as it does with infanticide. Just as in the case of infanticide, we should consider abortion only as one of the possible options, which is not always the best and therefore should not always be realized.

The abortion issue is one of the biggest unsettled issue in practical ethics. What I want to say is that if we really want to find a solution to this problem, we should be consistent in our theoretical constructions and, as well, be ready to reject some of our initial intuitions. It is a long and difficult way, but I am sure that even this way must have a satisfactory end.

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