

# Strengthening harm-theoretic pro-life views

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## ABSTRACT

A pro-life view can be called harm-theoretic if it claims abortion is impermissible because of the harm caused to the fetus. These positions are important in the abortion discussion because they allow pro-lifers to argue abortion is impermissible without claiming the fetus is a moral person. A major problem with harm-theoretic abortion views is that they fall victim to the contraception reductio. The contraception reductio was originally posed towards the Future like Ours argument for the impermissibility of abortion, but I show it is a problem for harm-theoretic positions in general. I argue that the currently proposed solutions aimed at solving the contraception reductio are unsatisfactory because they commit you to unnecessary controversial metaphysical positions, such as animalism and denying mereological universalism. Then, I give a new solution to the contraception reductio that avoids those metaphysical commitments. The main conclusion is that harm-theoretic views can avoid the contraception reductio by accepting a biological account of the harm of death.

## INTRODUCTION

There are two types of pro-life views: harm-theoretic views and substance-theoretic views. Harm-theoretic views claim that abortion is impermissible because it causes great harm to the fetus. Substance-theoretic views claim that abortion is impermissible because the fetus has substantial moral value via the type of being it is. It will help to give examples of each of these views. I will start with substance-theoretic views. John writes ‘One thing common to all who, in common thought and speech, are regarded as persons is that they are living human individuals’.<sup>1</sup> Eberl argues someone is a person if they have an active potentiality to engage in rational activities,<sup>2</sup> and fetuses have the active potentiality to engage in rational activities, so fetuses are persons. Some Christians argue abortion is impermissible because the fetus has a soul at conception. Common to all of the aforementioned views is that the fetus has some property (being human, having the potential to engage in rational activities, having a soul) that gives it robust moral worth. And, abortion is impermissible because of the fetus’ moral status or personhood. Although substance-theoretic views are not the focus of this paper, they provide the necessary context for understanding harm-theoretic views.

The history of harm-theoretic views started with Marquis’ 1989 argument ‘Future Like Ours’ (FLO).<sup>3</sup> FLO first considers why it is prima facie wrong to kill adult humans, and then claims it is prima facie wrong to kill the fetus for the same reasons. Here is the argument. It is prima facie wrong to kill adult humans because it deprives them of a future of

value, which is a future of hopes, desires, dreams, friendship and other things we all intuitively value. The fetus has a future of value. So, it is prima facie wrong to kill the fetus. It is important to highlight the difference between this view and substance-theoretic views. You do not have to believe the fetus has substantial moral value or is a person, to hold FLO. You can still believe it is wrong to deprive a being, who is not a person, of a future of value. Thus, FLO rightly has a place as an argument that emphasises abortion is wrong because of the harm done to the fetus rather than the personhood of the fetus.

Another example of a harm-theoretic view is Perry Hendricks’ impairment argument.<sup>4</sup> This argument reasons from the impermissibility of drinking alcohol while pregnant to the impermissibility of abortion. Here is the idea. It is immoral to impair the fetus by giving the fetus fetal alcohol syndrome. Suppose, this impairs the fetus to the  $n$  degree. If it is wrong to impair the fetus to the  $n$  degree, then it is to impair the fetus to a greater degree, say the  $n+1$  degree, ceteris paribus. Killing the fetus impairs the fetus even more than drinking alcohol while pregnant. So, ceteris paribus, abortion, which kills the fetus, is immoral. This argument again provides no direct reference to the fetus being a person or having substantial moral value. Thus, impairment is rightfully characterised as a harm-theoretic argument.

## A PROBLEM FOR HARM-THEORETIC VIEWS

I will introduce a problem for harm-theoretic views in general called the contraception reductio.<sup>5</sup> The contraception reductio was originally introduced as a problem for FLO, but I will show it generalises to all the mentioned harm-theoretic views. Furthermore, I will go over proposed solutions and show their shortcomings. And, then I will propose my own solution and show how my solution does not fall victim to the aforementioned shortcomings.

Here is what the contraception reductio against FLO says.<sup>5</sup> If it is prima facie morally wrong to deprive the zygote of a future of value then it is prima facie wrong to deprive either (1) the sperm of a future of value, (2) the ovum of a future of value, (3) the sperm and the ovum mereological composite of a future of value and (4) or both the sperm and the ovum of a future of value. In any case, it would be wrong to use contraceptives, which is a reductio ad absurdum. A defender of FLO must show all options are implausible, or else they are forced to accept that the use of contraceptives is immoral, which is absurd.

It is important to show how the contraception reductio works not just against FLO but also against impairment. We must note that one may think the



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success of the impairment argument rests on the success of FLO or a similar argument. In fact, Hendricks employed FLO to defend his argument.<sup>4</sup> Here is why. One needs a reason why killing the fetus is a greater impairment than giving the fetus fetal alcohol syndrome. An easy way to achieve this is to appeal to the deprivational harm of death. While getting fetal alcohol syndrome is certainly very bad because it lessens the quality of our future experiences, it is not as bad as losing our future experiences altogether. So, if we think the most plausible way of defending the impairment argument is by appealing to FLO or a similar argument then if the contraception reductio threatens FLO, the contraception reductio also threatens impairment.<sup>1</sup>

### Proposed solutions to the contraception reductio

The author of the FLO argument, Marquis, did give an argument against the contraception reductio.<sup>4</sup> He said the choice between (1) the sperm and (2) the egg is arbitrary. In other words, there is no reason to suppose the sperm is more deserving of a future of value than the ovum is and vice versa. And, we should also reject (3) the sperm and the egg composite having an FLO because there is no sperm and ovum mereological sum until conception happens. Marquis thinks this because there is no actual combination of the sperm and the ovum until conception, as there are millions of possible combinations. Marquis rejects that (4) both the sperm and the ovum have a future of value because Marquis thinks that (4) gives one too many beings a future of value. However, Marquis' responses have issues. Unlike Marquis claims, there may be reasons to pick between the sperm and the ovum. Tomer Jordi Chaffer gave a compelling case for picking the ovum as the subject of deprivation over the sperm:<sup>4</sup>

First, the ovum can exclusively pass down mtDNA, a feature that strongly contributes to the offspring's identity. Second, the ovum turns on paternal gene expression through histone restructuring. Third, the ovum is a self-directing entity, as evidenced by a unique ability to initiate parthenogenesis.

If we are convinced by the reasoning above, then we can say that the ovum is the one deprived of a future of value and not the sperm. In addition, Marquis also may not be right when he claims that there is no sperm and ovum composite. Mereological universalism, which is a view that says composition always occurs, has been attractive to metaphysicians recently. If you hold to mereological universalism, then there is a sperm and ovum composite, as composition always happens. And, thus one can say that you are depriving the sperm and the ovum composite of a future of value. In these disputes, it is best not

<sup>1</sup>The last harm-theoretic argument worth mentioning is the 'Counterfactual Argument Against Abortion' (CAAA).<sup>10</sup> It is very similar to FLO. However, instead of saying killing deprives someone of a future of value, CAAA says killing deprives someone of being a person. Thus, under CAAA, killing someone is *prima facie* wrong because they are deprived of being a person. At first glance, you may classify this view as a substance-theoretic view because of the use of 'person'. But one must be careful, the use of 'person' here is being used descriptively rather than prescriptively (used in a moral sense). For example, someone can take an animalist view of personal identity (descriptive personhood) that says we are organisms. But, they may not believe that being an organism gives us moral value. Perhaps, our moral personhood is a phase sortal of the organism, and we gain moral personhood when we first are conscious, and lose moral personhood when we are brain dead. Thus, this view does not depend on accepting the fetus as a moral person. In fact, many accounts of moral personhood are consistent with CAAA. And, thus CAAA is rightfully characterised as a harm-theoretic view rather than a substance-theoretic view. In addition, it is obvious that the contraception issue extends to CAAA due to its similarity to FLO.

to hold controversial positions in metaphysics if possible, *ceteris paribus* and thus we may want to not deny there is a sperm and ovum composite as Marquis claims.

If we are to avoid the issues faced with Marquis' response, we are to avoid saying that someone cannot reasonably pick whether the sperm or the ovum is more deserving of a future of value, and we are to avoid saying mereological universalism is false. One way to do this is by saying to have a future of value the being in question must be numerically identical to the being in the future with the valuable experiences. If we associate a personal identity with the organism, then the zygote is the same organism as the being in the future with the valuable experiences, while the sperm, the ovum, and the sperm and ovum mereological sum are all not identical with the being with the valuable experiences. Thus, the zygote will have a future of value, while the sperm, the ovum, and the sperm and the ovum mereological sum will not. However, there are two significant challenges with this response. This view commits you to animalism, the view of personal identity that claims the person is an organism. Animalism is widely rejected among philosophers because most people think personal identity is not a matter of your biological organism, but certain psychological properties you have.<sup>6</sup> If we are convinced that we should not hold to very controversial metaphysical commitments, all else being equal, then we can not accept this response. The second issue with this response is it conflicts with the reasons for accepting harm-theoretic arguments in the first place. Harm-theoretic arguments are strong because they do not rely on arguing the fetus has personhood (or substantial moral value). If one has to argue that there is a huge substantial change at conception; in this case, one has to argue the zygote has a sense of self beginning at conception. One might as well just argue that those are reasons for accepting the zygote as a person. And, thus there is no need for a harm-theoretic argument in the first place.

### The solution to the contraception reductio

These shortcomings are why I see the need for a new solution to contraception reductio. I will argue that deprivation is a function of the goods one will receive in the future if they are not killed, and a function of biological connectedness to the future. And, since the zygote is more biologically connected to the future than the sperm, the egg and their composite before conception, we are justified in saying death harms the zygote significantly more than the sperm, the egg and their composite before conception, and thus we can say aborting a zygote is wrong without entailing the use of contraception is wrong.

I present a deprivationist view that is in the spirit of Jeff McMahan's time relative interest account (TRIA).<sup>7</sup> Deprivationism is the view that death is bad because it deprives a person of a good life they would have otherwise had. McMahan considers the 'Life Comparative Account', which says that the deprivation is in proportion to the number of goods a person would have had at the time of death. McMahan claims that this view is implausible because it claims that we are the most harmed by death at the time we come into existence. Instead, McMahan argues that the harm of death is not just a function of the goods lost, but also the prudential unity relations between the individual at the time of death, and the same individual in the future if the death had not occurred. In other words, death gradually becomes increasingly more harmful as the individual develops, and matures psychologically, even though the individual's total goods are decreasing. However, this view would entail that a fetus is not harmed very much by death because there are no prudential unity relations between the fetus now, and in the future because the fetus does

not have a cognitive profile. The pro-lifer cannot accept this proposal. I will modify McMahan's account. Instead of viewing deprivation as a function of the goods in one's future, and prudential relations, I will view deprivation as a function of the goods in one's future, and the individual's biological connectedness to the future; call this biological account of death (BAD).

BAD claims that you are deprived of a future of value to the extent you are biologically connected to your future, and the number and quality of goods you have in the future. Biological connectedness at time  $t_1$  to time  $t_2$  is a measure of how related, and continuous, the structure and function of the organism is at  $t_1$  and  $t_2$ . The more related the character of the organism at the two times, the stronger the biological connection. The consequences of this view have the same benefits as McMahan's view. We do not have to accept the implausible consequence that we are harmed most by death the moment we come into existence because a zygote is not as biologically connected to the future organism with the valuable experiences, as say a 20-year-old person. In addition, like McMahan's view, we still explain why death is more harmful to a 20-year-old person than a 90-year-old person, as death is still a function of the goods lost. However, we get a benefit that TRIA does not have. Consider a case where we have a comatose infant, who has never been conscious before and will be conscious in a day. I imagine most people would want to say that death severely harms this comatose infant. Because McCahn's view emphasises prudential unity relations, we cannot say that death severely harms the infant, as it does not have a cognitive profile. However, under BAD, we can say that death severely harms the infant because there is a clear biological connection between the infant, and its future in the world where it is not killed.

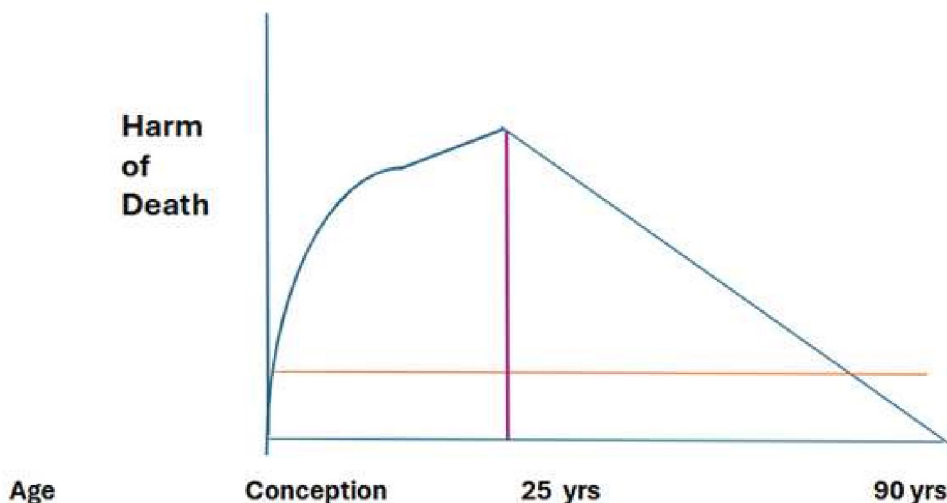
#### A model of biological connectedness and the harm of death

As shown in figure 1, generally, those who are under the age of conception, and over the age of 90 are not severely harmed by death. This is reasonable because those who are under the conception are not very biologically connected to the future, and those who are over the age of 90 do not have a long future ahead of them. Furthermore, those who are the age of 25 are harmed the most by death because they have the perfect mix of a long future ahead of them, which they are highly biologically

connected to. Now, there are two concerns with this model. The first one being is that some may want to say the harm of death is equal no matter what the age is. I feel this is a hard view to maintain. Suppose you have the choice to end the life of a 20-year-old person, or a 70-year-old person. It seems like you would clearly choose the 70-year-old person because they have less of a future to live out. If the harm of death was equal, we would have a harder time choosing. The second concern one may have is they may think the quality of the experiences does not matter. Consider during the Holocaust, a Jewish child who starves to death in a concentration camp, and a German child who dies in an air raid. Under my view, you are then committed to saying that the Jewish child is less harmed by death than the German, which is implausible. However, I do not find this to be implausible if one considers that much of the harm the Jewish child faced comes not from death, but being put in the concentration camp for their lives. If we are convinced by the reasoning so far, then we can say that BAD accurately models our intuitions around the harm of death.

However, there is one issue that needs to be cleared up. We find it wrong to kill those over the age of 90. If death does not severely harm them then where does the wrongness of killing come from? FLO gives sufficient conditions for the prima facie wrongness of killing. They do not give the necessary conditions. A being can lack a future of value, and nonetheless, it can be wrong to kill them. Instead of appealing to FLO, we can give other reasons why it is wrong to kill people above the age of 90. For example, we might care about respecting the interest of the elderly person who wants to live or consider the harm done to the family if the elderly person is to die. All these could count as reasons against killing the old person. And, the fact that I have to cite additional reasons to explain the moral wrongness of killing elderly people does not seem to be concerning. My view of the harm of death is meant to explain why killing someone would greatly harm them in most cases. Elderly people are an exception, as death does not take many goods away from them.

Under BAD, we must argue that the zygote is significantly harmed by death, and the sperm, the egg and their composite before conception are not harmed by contraceptives. Conception seems like a natural point to make the cut-off to being severely



**Figure 1** This shows the age on the x-axis graphed against the Harm of Death on the y-axis. The data above the orange line are the individuals who are severely harmed by death, and those below the orange line are those that death does not severely harm. The purple line shows the peak. A 25-year-old is generally the most harmed by death.

harmed by death. One prime marker of biological character is chromosomes. And, the sperm, and the egg are both haploid cells before conception, and they make a diploid cell at conception. Under this light, we can argue that there is a similarity in chromosomes present in zygote, which exists in the future person, who obtains the future of value, which is not present in sperm, the egg, or its composite, and therefore, the zygote is more biologically connected and more harmed by death. There are two concerns to this view. First, there are big biological differences throughout development. Why does the biological change at conception become the point where it is no longer permissible to kill the being? As with any gradualist position on deprivation, it is oftentimes hard to give a cut-off. The best we can look for is a point that is not completely arbitrary. Because DNA is oftentimes thought of as a characteristic of biological identity, it does not seem unreasonable to use the number of chromosomes as the deciding factor. The second concern one might have with this view is that a large number of zygotes do not have a future of value under this view because many zygotes are not structured in a way suitable for life and will die before they even have a future of value.<sup>8</sup> While this is true, this does not take into consideration that at the point when most women get abortions, the fetus will have probably survived,<sup>9</sup> so most abortions would still be impermissible.

### Conclusion

I have discussed what harm-theoretic views on abortion are. I argue the contraception reductio proposed against FLO provides a threat to harm-theoretic views in general. I went over how proposed answers to the contraception reductio fell short. These answers seem to commit you to unnecessary controversial positions in metaphysics, such as rejecting mereological universalism and accepting animalism. I propose that we should accept an account of the harm of death that factors in the number and quality of future experiences a person would have had, and the

biological connectedness to those experiences. Since the sperm, the egg and their composite before conception are not very biologically connected to their future, the use of contraception is permissible. However, since the zygote is biologically connected to its future, death severely harms it, and abortion is impermissible. Hence, the contraception reductio fails.

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