



THE SUBSTANCE VIEW: A CRITIQUE (PART 3)

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Keywords

substance view, intrinsic value, moral standing, Henrik Friberg-Fernros, human fetus, intratheoretical moral proposition, extratheoretical moral proposition

ABSTRACT

In my articles 'The Substance View: A Critique' and 'The Substance View: A Critique (Part 2),' I raise objections to the substance view (naturally), a theory of intrinsic value and moral standing defended by a number of contemporary moral philosophers, including Robert P. George, Patrick Lee, Christopher Tollefsen, and Francis Beckwith. In part one of my critique of the substance view, I raise reductio-style objections to the substance view's conclusion that the standard human fetus has the same intrinsic value and moral standing as the standard adult human being, among other human beings. In part two, I raise objections to some of the premises invoked in support of that conclusion. Here, in part three, I raise objections to Henrik Friberg-Fernros's attempt to rebut some of the aforementioned objections.

INTRODUCTION

In my articles 'The Substance View: A Critique' and 'The Substance View: A Critique (Part 2),' I raise objections to the substance view (naturally), a theory of intrinsic value and moral standing defended by a number of contemporary moral philosophers, including Robert P. George, Patrick Lee, Christopher Tollefsen, and Francis Beckwith.¹ In part one of my critique of the substance view, I raise reductio-style objections to the substance view's conclusion that the standard human fetus has the same intrinsic value and moral standing as the standard adult human being, among others.² In part two, I raise objections to some of the premises invoked in support of that conclusion. Here, in part three, I raise objections to Henrik Friberg-Fernros's attempt to rebut some of the aforementioned

objections.³ But before I do so, a description of the substance view is in order.

ON THE SUBSTANCE VIEW

Since I included descriptions of the substance view – hereafter, SV – in both of the previously mentioned articles, my description here will be brief. For present purposes, SV will be understood in terms of its constitutive moral propositions. The first proposition pertains to the property the possession of which is sufficient for having full moral standing and, with it, a right to life – the moral standing SV defenders believe standard adult human beings (among others) possess.⁴ The second proposition pertains to the degree to which it is prima facie wrong to kill or let die individuals who have full moral standing.⁵ The propositions are as follows:

¹ See R. Lovering. The Substance View: A Critique. *Bioethics* 2013; 27(5): 263–270 and R. Lovering. The Substance View: A Critique (Part 2). *Bioethics* 2014; 28(7): 378–386. By 'intrinsic value' I mean value it's logically possible for something to have even if it were the only thing that existed. By 'moral standing' I mean the property of being morally considerable, a property in virtue of which moral agents have moral obligations toward those things that possess it.

² By 'human fetus', I mean a developing human organism from conception until birth.

³ H. Friberg-Fernros. A Critique of Rob Lovering's Criticism of the Substance View. *Bioethics* 2015; 29(3): 211–216.

⁴ Full moral standing is generally understood to be the greatest amount of moral standing an entity can possess, at least with regard to earthly entities. For more on full moral standing, see R. Lovering. Mary Anne Warren on 'Full' Moral Status. *South J Philoso* 2004; 42(4): 509–530.

⁵ For present purposes, to say that an act is prima facie wrong is to say that it is wrong *all else being equal*; it is not to say that it is ultima facie wrong, wrong *all things considered*.

- (1) All individuals possessing the essential property of the basic capacity for rational moral agency have full moral standing.⁶
- (2) It is prima facie seriously wrong to kill or let die any individual who has full moral standing.

To ensure understanding of these propositions, a couple of clarifying comments about them are required.

First, regarding (1), a 'basic capacity' for something (X) – also referred to as a 'basic potentiality' (SV defenders use 'capacity' and 'potentiality' interchangeably) – is a capacity for X that is not remotely, let alone immediately, exercisable.⁷ A basic capacity for X is to be distinguished from what I call elsewhere a 'proximate capacity' for X (a capacity for X that is exercisable but, for whatever reason, not immediately so) and an 'ultimate capacity' for X (a capacity for X that is immediately exercisable).⁸

Second, regarding (2), the wrongness – the degree thereof, in particular – of killing or letting die an individual who has full moral standing is a function of the latter. More specifically, the degree of wrongness supervenes on the degree of the individual's moral standing. Accordingly, for any two individuals possessing full moral standing, it is just as prima facie seriously wrong to kill the one as it is to kill the other, and it is just as prima facie seriously wrong to let the one die as it is to let the other die.⁹

With the preceding clarifications out of the way, two questions naturally arise. First, which individuals do SV defenders believe possess the essential property of the basic capacity for rational moral agency? Their list includes, but is not limited to, the following individuals:

- (a) the standard adult human being,
- (b) the reversibly comatose adult human being,
- (c) the suicidal adult human being,
- (d) the standard human infant, and
- (e) the standard human fetus.

In turn, they hold that each of these individuals possesses full moral standing and that it is prima facie seriously wrong to kill any one of them or let any one of them die.

⁶ By 'rational moral agency', I mean the ability to make moral and non-moral judgments and act on the basis of them.

⁷ As SV defenders Robert P. George and Christopher Tollefsen write, 'we must distinguish two senses of the capacity (or, as it is sometimes called, the potentiality) for mental functions, psychological states, and so on', see R.P. George and C. Tollefsen. 2008. *Embryo: A Defense of Human Life*. New York, NY: Doubleday: 80.

⁸ Lovering, *op. cit.* note 1, 264ff.

⁹ It should be noted that this is consistent with a view typically embraced by SV defenders: that killing is morally worse than letting die. After all, two distinct acts can both be seriously wrong even if one is morally worse than the other.

Second, on what grounds do SV defenders embrace SV? Their primary argument for it is that of an inference to the best explanation. Briefly, as many other moral philosophers do, SV defenders begin by assuming that (a) – (d) have full moral standing. They then contend that possessing the essential property of the basic capacity for rational moral agency best accounts for their full moral standing and, in turn, the prima facie serious wrongness of killing them or letting them die. To motivate this, consider an alternative theory of intrinsic value and moral standing – hereafter, simply 'theory' – such as one according to which possessing the *accidental* property of the *proximate* capacity for rational moral agency is required for full moral standing, or one according to which possessing the *accidental* property of the *ultimate* capacity for rational moral agency is required for full moral standing. Given either of these theories, one or more of (a) – (d) – such as (d) – lacks full moral standing.¹⁰ These two theories fail, then, to account for the full moral standing of (a) – (d). And so it is, SV defenders maintain, with every other theory save for SV. Only SV, they submit, succeeds in accounting for the full moral standing of (a) – (d), since (a) – (d) possess the essential property of the basic capacity for rational moral agency. Moreover, because SV defenders believe that (e) possesses the essential property of the basic capacity for rational moral agency as well, they hold that (e) also has full moral standing and that it is prima facie seriously wrong to kill (e) or let (e) die.

ON FRIBERG-FERNROS'S DEFENSE OF THE SUBSTANCE VIEW

Much more could be said about SV, but the preceding description will suffice for discussing Friberg-Fernros's attempt to rebut my objections to it. Understanding his attempt at rebuttal, as well as my objections to it, requires knowing the difference between what I call 'intratheoretical moral propositions' and 'extratheoretical moral propositions'. For whether a theory is intrinsically plausible – that is, plausible in and of itself – is partly a function of its intratheoretical moral propositions. (SV defenders are well aware of this, incidentally, as indicated by their arguments for the intrinsic implausibility of competing theories.)¹¹ And what I argue primarily in my first critique of SV – the focus of Friberg-Fernros's attempted rebuttal – is that SV is intrinsically implausible

¹⁰ For an explanation of why this the case, see Lovering, *op. cit.* note 1, 265ff.

¹¹ For example, George and Tollefsen argue for the intrinsic implausibility of what they call the 'developmental view of personhood' on the grounds that one of its intratheoretical moral propositions – namely, that six-week-old infants do not possess full moral standing – is counter-intuitive if not absurd. See George and Tollefsen, *op. cit.* note 7, p. 119.

on the grounds that some of its intratheoretical moral propositions are counterintuitive if not absurd.

By a theory's intratheoretical moral propositions, I mean both the theory's constitutive moral propositions and the moral propositions that are deducible from the theory's constitutive moral propositions, either directly or after the latter are conjoined with one or more nonmoral proposition. (From here on, talk of 'deducing' moral propositions from a theory's constitutive moral propositions is to be understood in terms of the preceding unless otherwise noted.) A theory's intratheoretical moral propositions are distinct from extratheoretical moral propositions, moral propositions that are not among the theory's constitutive moral propositions or deducible from the theory's constitutive moral propositions.

To flesh out this distinction a bit more, take, for example, a theory whose constitutive moral propositions are as follows:

- (i) All and only brown-eyed individuals have full moral standing.
- (ii) It is prima facie seriously wrong to kill or let die all and only individuals who have full moral standing.

Since (i) and (ii) are the theory's constitutive moral propositions, they are intratheoretical moral propositions. But so are (iii) – (vi) below, as each is deducible from the theory's constitutive moral propositions:

- (iii) It is prima facie seriously wrong to kill or let die brown-eyed individuals.
- (iv) It is prima facie seriously wrong to kill or let die brown-eyed standard adult human beings.
- (v) It is not prima facie seriously wrong to kill or let die blue-eyed standard adult human beings.
- (vi) It is not prima facie seriously wrong to kill or let die Jake Gyllenhaal.

The first of these four additional intratheoretical moral propositions, (iii), can be deduced directly from the theory's constitutive moral propositions. The second, third, and fourth cannot be so deduced, but they can be deduced after the latter are conjoined with one or more nonmoral proposition, including (though not necessarily limited to) 'Brown-eyed standard adult human beings are brown-eyed individuals' (for (iv)); 'Blue-eyed standard adult human beings are not brown-eyed individuals' (for (v)); and 'Blue-eyed standard adult human beings are not brown-eyed individuals' and 'Jake Gyllenhaal is a blue-eyed standard adult human being' (for (vi)). With all six of these intratheoretical moral propositions in mind, one might argue that this theory is intrinsically implausible on the grounds that at least four of them – (i), (ii), (v), and (vi) – are counterintuitive if not absurd.

In contrast to the preceding, consider now the moral proposition 'It is prima facie seriously wrong to kill or

let die blue-eyed standard adult human beings when doing so involves killing or letting die brown-eyed standard adult human beings.' This is not one of the above theory's intratheoretical moral propositions since it is not one of the theory's constitutive moral propositions or deducible from the theory's constitutive moral propositions. Indeed, if the moral proposition 'It is prima facie seriously wrong to kill or let die blue-eyed standard adult human beings when doing so involves killing or letting die brown-eyed standard adult human beings' is to be deduced at all from a theory's constitutive moral propositions, it is to be so from some *other* theory's constitutive moral propositions, of which one is 'It is prima facie seriously wrong to kill or let die individuals who do not have full moral standing when doing so involves killing or letting die individuals who do have full moral standing.' At best, then, the moral proposition 'It is prima facie seriously wrong to kill or let die blue-eyed standard adult human beings when doing so involves killing or letting die brown-eyed standard adult human beings' is an extratheoretical moral proposition.

Having fleshed out the distinction between intratheoretical and extratheoretical moral propositions a bit more, I trust it is clear why a theory's intrinsic plausibility is partly a function of the former rather than the latter: intratheoretical moral propositions are intrinsic to the theory, while extratheoretical moral propositions are not. But something else might be clear as well: given that a theory's intratheoretical moral propositions are distinct from extratheoretical moral propositions, it follows that when one objects to a theory's intratheoretical moral propositions and, with them, the theory's intrinsic plausibility, one does not thereby object to extratheoretical moral propositions that may be invoked in defense of the theory and, with them, the theory's (if you will) extrinsic plausibility. For example, when one objects to the theory above on the grounds that the moral proposition 'It is not prima facie seriously wrong to kill or let die blue-eyed standard adult human beings' is counterintuitive if not absurd, one does not thereby object that the moral proposition 'It is prima facie seriously wrong to kill or let die blue-eyed standard adult human beings when doing so involves killing or letting die brown-eyed standard adult human beings' is also counterintuitive if not absurd. Accordingly, if one is to adequately defend a theory against the objection that one or more of its *intratheoretical* moral propositions are counterintuitive if not absurd, one cannot do so simply by invoking *extratheoretical* moral propositions. Rather, either one must demonstrate that the alleged intratheoretical moral propositions are not, in fact, intratheoretical moral propositions, or one must grant that they are intratheoretical moral propositions but motivate the judgment that they are not counterintuitive much less absurd. If one does neither of these things, then one's defense is inadequate.

To be sure, there may be a place for determining what comes of conjoining a theory's intratheoretical moral propositions with one or more extratheoretical moral proposition. But as a reply to the objection that one or more of the theory's intratheoretical moral propositions is counterintuitive if not absurd is not it.

This brings me to Friberg-Fernros's attempt to rebut some of my objections to SV. As indicated above, the objections at issue are directed primarily at SV's intratheoretical moral propositions. One such intratheoretical moral proposition, a particularly noteworthy one for present purposes, is:

- (3) It is just as *prima facie* seriously wrong to kill or let die the standard human fetus as it is to kill or let die the standard adult human being.

since (3) is deducible from the conjunction of (1), (2), and the SV-defender-approved nonmoral proposition: 'Both the standard human fetus and the standard adult human being possess the essential property of the basic capacity for rational moral agency.'¹² Yet, despite the fact that my objections to SV are directed primarily at its intratheoretical moral propositions and, with them, SV's intrinsic plausibility, Friberg-Fernros's primary defense of SV involves merely invoking extratheoretical moral propositions and, with them, SV's extrinsic plausibility. In some cases, the extratheoretical moral propositions are stated rather explicitly; in others, they are implied. But in general, the extratheoretical moral propositions take the following form: 'It is not as wrong to kill X as it is to kill Y' or 'It is not as wrong to let X die as it is to let Y die,' with 'X' and 'Y' standing for individuals possessing the essential property of the basic capacity for rational moral agency and, in turn, full moral standing. Friberg-Fernros's primary defense of SV, then, does not involve attempting to demonstrate that what I allege to be SV's intratheoretical moral propositions are not, in fact, intratheoretical moral propositions. Nor does it involve granting that they are intratheoretical moral propositions but attempting to motivate the judgment that they are not counterintuitive much less absurd. Thus, Friberg-Fernros's primary defense of SV does not address my objections to SV's intrinsic plausibility and, as a result, is inadequate. What's more, his secondary defenses of SV are inadequate as well. To see all this clearly, let us consider each objection and reply in turn.

¹² More explicitly, from (1), (2), and the nonmoral proposition, one may deduce that it is *prima facie* seriously wrong to let a standard human fetus die as well as to let a standard adult human being die. Since the serious wrongness of letting each of these individuals die supervenes on their moral standing, and since both possess full moral standing, one may deduce it is just as *prima facie* seriously wrong to let a standard human fetus die as it is to let a standard adult human being die.

On the embryo rescue argument

To begin with, consider Friberg-Fernros's reply to my first objection to SV, what he refers to as the 'embryo rescue argument'. Very briefly, what I argue is that, given SV's intratheoretical moral propositions – especially those that are deducible from SV's constitutive moral propositions, such as (3) – if one is in a position to rescue from imminent death either a ten-year-old boy or a frozen human embryo, but not both, then, all else being equal, one ought to decide whom to save on the basis of an independent procedure, such as that of a coin flip.¹³ But that one ought to decide to save either the ten-year-old boy or the frozen human embryo on the basis of an independent procedure is, I submit, counterintuitive if not absurd.¹⁴

Friberg-Fernros's reply to this argument is as follows:

Now, I do not think that such a conclusion is correct. I think it is compatible with the substance view to hold the view that the embryo and ... a child are equal with regard to their status as persons and that it would be wrong to kill such persons and still maintain that it would be more wrong to kill a child than an embryo. This is the case since it is fully compatible with the substance view to conclude that killing the child brings additional evils ... which the killing of an embryo does not. One form of such additional evil is the fact that the child in contrast to the embryo has strong time relative [sic] interest.¹⁵

As Friberg-Fernros sees it, then, it's not the case that the decision to save either the ten-year-old boy or the frozen human embryo ought to be based on an independent procedure. Instead, it may be based on a moral proposition, something along the lines of 'It is not as wrong to let the embryo die as it is to let the child die.' But this is not an intratheoretical moral proposition, for it is not one of SV's constitutive moral propositions or deducible from SV's constitutive moral propositions. Indeed, if the moral proposition 'It is not as wrong to let the embryo die as it is to let the child die' is to be deduced at all from a theory's constitutive moral propositions, it is to be so from *another* theory's constitutive moral propositions, of which one is 'It is not as wrong to let individuals who have weak time-relative interests die as it is to let individuals who have strong time-relative interests die.' Friberg-Fernros seems to be aware of the

¹³ See Lovering, *op. cit.* note 1, p. 269ff for a fuller statement of each of my objections to SV to be addressed here.

¹⁴ Lest there be any confusion, I am not suggesting that the claim that one ought to decide whom to save on the basis of an independent procedure is counterintuitive if not absurd in every case. But I am suggesting that it is counterintuitive if not absurd when the decision is between a ten-year-old boy and a frozen human embryo.

¹⁵ Friberg-Fernros, *op. cit.* note 3, p. 212.

fact that this moral proposition is not intratheoretical, as evidenced by his referring to a view based on it as ‘compatible’ with SV; his granting that, given SV, a child and an embryo have equal moral standing qua persons; and his acknowledgement that ‘there is nothing specific in the substance view which requires that one prioritize the prevention of additional evil’ and ‘there is ... nothing specific in the substance view which implies a rejection of such a prioritization.’¹⁶ So, the moral proposition ‘It is not as wrong to let the embryo die as it is to let the child die’ is extratheoretical. In this instance, then, Friberg-Fernros’s defense involves merely invoking an extratheoretical moral proposition. Importantly, it does not involve attempting to demonstrate that what I allege to be SV’s intratheoretical moral propositions are not, in fact, intratheoretical moral propositions. Nor does it involve granting that they are intratheoretical moral propositions but attempting to motivate the judgment that they are not counterintuitive much less absurd. In short, Friberg-Fernros’s defense does not involve addressing the objection that I raise to SV’s intrinsic plausibility and, as a result, it is inadequate. As before, there may be a place for determining what comes of conjoining SV’s intratheoretical moral propositions with one or more extratheoretical moral proposition. But as a reply to the objection that one or more of SV’s intratheoretical moral propositions is counterintuitive if not absurd is not it.

And so it goes. To wit, directly following the paragraph which includes the preceding quotation, Friberg-Fernros claims that ‘we intuitively tend to accept the prioritization of some human persons at the expense of other human persons,’ citing as an example the prioritization of a president’s life over a common person’s life. ‘Although the president and the common person are equal in terms of human beings,’ he writes, ‘the killing of a president brings additional evils which the killing of a common person does not.’¹⁷ According to Friberg-Fernros, then, if one is in the (unfortunate) situation of having to kill a president or a common person, it’s not the case that one’s decision between them ought to be based on an independent procedure. Instead, it may be based on a moral proposition, something along the lines of ‘It is not as wrong to kill a common person as it is to kill a president.’ But, as before, this is not an intratheoretical moral proposition, for it is not one of SV’s constitutive moral propositions or deducible from SV’s constitutive moral propositions. If, in fact, the moral proposition ‘It is not as wrong to kill a common person as it is to kill a president’ is to be deduced at all from a theory’s constitutive moral propositions, it is to be so from another theory’s constitutive moral propositions, of

which one is ‘It is not as wrong to kill individuals who have common socio-political status as it is to kill individuals who have uncommon (read: weighty or superior) socio-political status.’ Once again, Friberg-Fernros seems to be aware of the fact that this moral proposition is not intratheoretical, as evidenced by his granting that, given SV, a common person and a president have equal moral standing qua human beings. So, the moral proposition ‘It is not as wrong to kill a common person as it is to kill a president’ is extratheoretical. In this case too, then, Friberg-Fernros’s defense involves merely invoking an extratheoretical moral proposition. It does not involve attempting to demonstrate that what I allege to be SV’s intratheoretical moral propositions are not, in fact, intratheoretical moral propositions. Nor does it involve granting that they are intratheoretical moral propositions but attempting to motivate the judgment that they are not counterintuitive much less absurd. So, as above, Friberg-Fernros’s defense does not involve addressing the objection that I raise to SV’s intrinsic plausibility and, thus, is inadequate.

And so it goes indeed – Friberg-Fernros relies upon this defensive move time and time again throughout the rest of the article, hence my referring to it as his ‘primary’ defense. Suffice it to say that, each time he does so, his defense of SV against my objections to it fails. In sum, defending the intrinsic plausibility of the substance view by calling upon some other theory of moral standing is no defense at all.

On the embryo mortality argument

Consider, next, Friberg-Fernros’s reply to my second objection to SV, what he refers to as the ‘embryo mortality argument.’ Very briefly, what I argue is that, given SV’s intratheoretical moral propositions, our failure to give serious and considerable attention to and, in turn, attempt to do something about the roughly six million spontaneous abortions that occur each year in the United States (where I reside) – and two-hundred and thirty million worldwide – is almost certainly seriously wrong. But this, I submit, is counterintuitive if not absurd.

Friberg-Fernros has a number of things to say in response to this objection. First, as with the embryo rescue argument, he invokes extratheoretical moral propositions such as ‘It is not as wrong to let individuals who have weak time-relative interests die as it is to let individuals who have strong time-relative interests die.’ Since I have already discussed the problems with his doing so, I will move on to his next line of defense.

Second, Friberg-Fernros argues that if nothing can be done about spontaneous abortions, then our failing to do something about them is not wrong – ‘ought,’ after all, implies ‘can’. He then suggests that nothing can be done about (many) spontaneous abortions. As he puts it:

¹⁶ Ibid: 213.

¹⁷ Ibid: 212.

[P]reventing embryo loss seems – if not impossible – inherently difficult because of several factors. Firstly, as Lovering himself concludes, at least 50% of all embryos in spontaneous abortions, [sic] are not viable at all – a fact which is considered – also by Lovering – to imply that there is nothing one can really do about this category of embryos. Another reason why this maxim is relevant is the fact that the majority of pregnancy losses ‘occur prior to the time of the missed menstrual period, and are not revealed’ – a fact which also makes it hard to see how one ‘can’ do anything about it.

(An important correction is in order before I offer my reply. I do not report, as Friberg-Fernros writes, that *at least* 50% of embryos in spontaneous abortions are not viable. I report that *up to* 50% of embryos in spontaneous abortions are not viable.)¹⁸

Now, I agree with Friberg-Fernros that if nothing can be done about spontaneous abortions, then our failing to do something about them is not wrong. The question, then, is whether something can, in fact, be done about them. Allow me to be the first to say that I do not know whether anything can be done about spontaneous abortions; hence my choice of language, that of *giving attention* to and *attempting* to do something about spontaneous abortions. But I do know this: whether something can be done about spontaneous abortions cannot be settled a priori, much less by mere philosophers. To settle this issue, scientific research must be conducted, scientific experiments must be performed, and so on. Furthermore, and importantly for the issue at hand, if SV is correct, then it seems we *should* be conducting scientific research and experiments in an attempt to do something about spontaneous abortions, everything else being equal. After all, if SV is correct, then somewhere between three and six million innocent individuals possessing full moral standing are lost to a potentially preventable natural cause each year in the United States. That’s more than five times the number of Americans who die each year from cancer (580,000), a cure for which oncologists are working around the clock, incidentally.¹⁹ Isn’t the loss of somewhere between three and six million innocent individuals possessing full moral standing a (much) greater moral problem than the loss of 580,000 innocent individuals possessing full moral standing? If SV is correct, and everything else is equal, it is indeed. And invoking extratheoretical moral propositions, as Friberg-Fernros is wont to do, does nothing to rebut this.

¹⁸ See Lovering. *op. cit.* note 1, p. 268.

¹⁹ Centers for Disease Control and Prevention (CDC). 2016. *FastStats: Cancer*. Atlanta, GA: CDC. Available at <http://www.cdc.gov/nchs/fastats/cancer.htm> [Accessed Sept. 8, 2016].

Finally, Friberg-Fernros argues that SV defenders may morally prioritize the issue of performed abortions over the issue of spontaneous abortions since ‘proponents of the substance view have stronger obligations – from their ethical point of view – to try to prevent performed abortions rather than spontaneous abortions.’²⁰ Though Friberg-Fernros fails to state what it is about their ‘ethical point of view’ that entails stronger obligations to try to prevent performed abortions rather than spontaneous abortions, I presume what he has in mind is that performed abortions involve killing, spontaneous abortions involving letting die, and SV defenders typically hold that killing is morally worse than letting die.

Whether killing is in fact morally worse than letting die – at least, whether it is *always* so – is, of course, debatable. But even if it is, in and of itself, this does not require SV defenders to morally prioritize performed abortions over spontaneous abortions. To be sure – and to switch the focus to standard adult human beings for illustration’s sake – if killing is morally worse than letting die and one has the opportunity to prevent either the killing of a standard adult human being or the letting die of a standard adult human being, but not both, then, all else being equal, one ought to give moral priority to preventing the killing of a standard adult human being. But this does not entail that one ought to do so in *every* case involving the prevention of the killing or the letting die of a standard adult human being. For from the fact that an act A is morally worse than an act B, it does not follow that a state of affairs involving A is morally worse than a state of affairs involving B.²¹ Take, for example, a case wherein one has the opportunity to prevent either the killing of one standard adult human being or the letting die of one thousand standard adult human beings, but not both. Even if killing is morally worse than letting die, it does not follow that the killing of one standard adult human being is a morally worse state of affairs than the letting die of one thousand standard adult human beings. Accordingly – and more generally – from the fact (ex hypothesi) that killing is morally worse than letting die, it does not follow that, for any case involving the prevention of either killing or letting die, the prevention of killing *always* brings about the morally superior state of affairs.

With the preceding in mind, consider that a little over one million human fetuses died as the result of performed abortions in the United States in 2011, while somewhere between three and six million human fetuses

²⁰ Friberg-Fernros. *op. cit.* note 3, p. 215.

²¹ Briefly, a state of affairs X is morally worse than a state of affairs Y when the moral reasons for opposing X are stronger than the moral reasons for opposing Y.

died as the result of spontaneous abortions that same year.²² Even if one accepts that performed abortions are morally worse than spontaneous abortions since the former involve killing while the latter involve letting die, one is not thereby required to hold that the deaths of a little over one million human fetuses through performed abortions is a morally worse state of affairs than the deaths of somewhere between three and six million human fetuses through spontaneous abortions. It is, in other words, an open question which state of affairs is morally worse. That said, given SV's intratheoretical moral propositions, the latter state of affairs seems to be morally worse than the former state of affairs – indeed, much worse. After all, the fetuses involved in both performed abortions and spontaneous abortions have full moral standing, and the number of fetuses lost through spontaneous abortions is much greater than the number of fetuses lost through performed abortions. And, once again, invoking extratheoretical moral propositions does nothing to rebut this.

On the requirement for legal punishment argument

Finally, consider Friberg-Fernros's reply to my third objection to SV, what he refers to as the 'requirement for legal punishment argument'. This third objection involves conjoining SV's intratheoretical moral propositions with two extratheoretical (and plausible) moral propositions, namely 'Morally similar cases should be treated morally similarly' and 'The legal penalty for intentionally killing (a) – (d) should be severe.'²³ The objection begins with the following normative question: What, given SV, should be the legal punishment for intentionally killing (e) through an abortion? Very briefly, what I argue is that, by conjoining SV's intratheoretical moral propositions with the preceding extratheoretical moral propositions as well as the SV-defender-approved nonmoral proposition '(a) – (e) possess the essential property of the basic capacity for rational moral agency,' one may deduce that the legal punishment for intentionally killing (e) through an abortion should be as severe as the legal punishment for intentionally killing (a) – (d). And this, I submit, is counterintuitive if not absurd.

²² Guttmacher Institute. 2016. *United States: Abortion*. New York, NY: Guttmacher Institute. Available at <https://www.guttmacher.org/factsheet/induced-abortion-united-states> [Accessed Sept. 8, 2016]. The CDC puts the number at roughly 730,000 (Centers for Disease Control and Prevention. 2015. *Reproductive Health: Data and Statistics*. Atlanta, GA: CDC. Available at http://www.cdc.gov/mmwr/preview/mmwrhtml/ss6311a1.htm?s_cid=ss6311a1_w [Accessed Sept. 8, 2016]). The difference between the numbers may pertain to whether illegally performed abortions were included in the count (the CDC's number includes only legally performed abortions).

²³ By a 'severe' punishment, I have in mind one involving lengthy incarceration at a minimum.

Friberg-Fernros has at least two things to say in response to this objection. First, as with the objections above, he invokes extratheoretical moral propositions such as 'It is not as wrong to kill individuals who are not biologically developed enough to be candidates for adoption as it is to kill individuals who are biologically developed enough to be candidates for adoption.'²⁴ Since I have already discussed the problems with his doing so, I will move on to his next line of defense.

Second, Friberg-Fernros embraces the view, if only for the sake of the argument, that those who intentionally kill (e) through an abortion should be punished severely. But he does not judge this to be counterintuitive much less absurd. His reasoning behind this is as follows:

[I]t is important to note that the classification of abortion as a murder does not clearly imply a specific punishment; it can vary between a few years in prison to a life sentence or capital punishment. If abortion was considered as a murder, I think it would be most like infanticide rather than any other kind of homicide. I think it is reasonable to assume that proponents of the substance view might consider the fetus in the same way that most societies consider infants. And the punishment for infanticide is generally much lower than the punishment for other kinds of murder. In many countries the maximum penalty is five years [sic] imprisonment.²⁵

Notice, if you will, that Friberg-Fernros's reply involves providing a non-normative answer to what is, as indicated above, a normative question. To the question, 'What, given SV, *should* be the legal punishment for intentionally killing (e) through an abortion?', Friberg-Fernros effectively responds, 'It *would* be equal in severity to the legal punishment for intentionally killing (d), but not (a) – (c).' But this answer is, at bottom, irrelevant. For the question at hand is what *should* the legal punishment be, given SV, not what *would* it be. Even if his non-normative answer regarding what would be the case happens to be correct, then, Friberg-Fernros fails to address the issue.

What's more, Friberg-Fernros's non-normative answer just pushes the problem back, for it introduces the question: What, given SV, should be the legal punishment for intentionally killing (d)? And similar to before, one could argue that, by conjoining SV's intratheoretical moral propositions with the aforementioned extratheoretical moral propositions as well as the SV-defender-approved nonmoral proposition '(a) – (e) possess the essential property of the basic capacity for rational moral agency,' one may deduce that the legal punishment for intentionally killing (d) should be as severe as the legal

²⁴ Friberg-Fernros. *op. cit.* note 3, p. 216.

²⁵ *Ibid.* 216.

punishment for intentionally killing (a) – (c). And whatever that might be, five years' imprisonment does not seem to be nearly severe enough, given SV.

CONCLUSION

I have argued here that an attempt to rebut some of the objections that I raise to SV fails. It should be noted that some of the mistakes that Friberg-Fernros makes are made by other SV defenders as well. For example, George and Tollefsen invoke extratheoretical moral propositions in an attempt to rebut objections directed at

SV's intratheoretical moral propositions and, with it, SV's intrinsic plausibility.²⁶ And Beckwith provides a non-normative answer to the previous normative question regarding what, given SV, the legal punishment for performed abortions should be.²⁷ All this to say, when it comes to defending SV, there remains work to be done.

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²⁶ George and Tollefsen, *op. cit.* note 7, p. 140.

²⁷ Lovering, *op. cit.* note 1, p. 269ff.