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ORPHANS CANNOT BE AFTER-BIRTH ABORTED: A RESPONSE TO BOBIER

Prabhpal Singh

ABSTRACT

I offer a response to an objection to my account of the moral difference between fetuses and newborns, an account that seeks to address an analogy between abortion and infanticide which is based on the apparent equality of moral value of fetuses and newborns.

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Christopher A. Bobier objects to my account of the moral difference between fetuses and newborns, an account which seeks to address Alberto Giubilini's and Francesca Minerva's analogy between abortion and infanticide.[1, 2, 3] In this response, I argue the case of orphans does not apply to the analogy with abortion and infanticide because, in the orphan case, the reasons for the infanticide cannot be the same ones that justify having an abortion. This is because there is no one to suffer the relevant social, psychological, and economic harms.

On my account, newborns have the morally relevant relational feature of being the proper objects of parental responsibilities, which are the special moral responsibilities that parents have in virtue of participating in a parent-child relationship. Newborns have this feature in virtue of participating in a parent-child relationship in the role of the child. Fetuses, however, do not participate in a parent-child relationship, but rather in a progenitor-offspring relationship. Unlike a parent-child relationship, a progenitor-offspring relationship is not as such entangled with moral responsibility. Any responsibilities a pregnant person has for taking care of their fetuses, such as refraining from

frequently consuming large amounts of alcohol during pregnancy, are ultimately in the service of the future newborn's well-being, thus supporting the notion that there is a moral difference between newborns and fetuses because newborns possess a morally relevant feature in virtue of participating in a special relationship that fetuses do not.

Bobier raises the case of orphans as a counterexample to this account. Orphans do not participate in a parent-child relationship. As such, they do not have the morally relevant feature of being the proper object of parental responsibilities. If the moral difference between fetuses and newborns is that newborns have this feature and fetuses do not, and orphans do not have this feature, then there is no moral difference between fetuses and newborn orphans. This creates a problem for my account because the orphan case seems to be a case in which the analogy with abortion and infanticide persists. Because I argue that my account allows the permissibility of abortion while maintaining the impermissibility of infanticide, there is a problem if my account leads to cases where infanticide would be permissible, such as the killing of orphans.

In response, I argue that the orphan case does not apply to the analogy with abortion and infanticide as the analogy was presented by Giubilini and Minerva. Because my account is meant to address the problem of the analogy of abortion and infanticide as Giubilini and Minerva presented it, attempted counterexamples that do not fit their analogy, such as the case of orphans, are not a problem for my account.

Giubilini and Minerva argued that if abortion is morally permissible, then what they call "after-birth abortion",^[3] which is a particular kind of infanticide, should also be morally permissible for the same reasons that would justify abortion because fetuses and newborns are morally equivalent.

They took fetuses and newborns to have equal moral value due to relevant similarities between them, including a lack of rational capacity, a lack of first-person experience, a lack of self-consciousness, a lack of a chain of memory, a lack of autonomy, a lack of a capacity for higher-order thinking, a lack of a capacity for moral responsibility, and lack a capacity of self-determination. The purpose of showing that fetuses and newborns are morally similar is to show they have equal moral status. From this, Giubilini and Minerva think they can show that abortion and infanticide are analogous. It is important to be clear on just how abortion and infanticide are supposed to be analogous. Giubilini and Minerva do not take the analogy to be simply that if fetuses and newborns have the same moral status, then if abortion is permissible, so is infanticide. Rather, their argument concludes that the moral similarity between fetuses and newborns means that the same reasons that would justify having an abortion would analogously justify infanticide. Abortion and infanticide are meant to be analogous because the same reasons are supposed to be able to justify either. And any instance of infanticide whose reasons were the same as those that would justify abortion would be an instance of after-birth abortion.

The reasons Giubilini and Minerva consider as the potential reasons one may give to justify having an abortion include the social, psychological, and economic harms one may incur if they fail to have an abortion, such as the burdens of going through pregnancy, childbirth, and then of raising the child. However, if one fails to have an abortion, the relevant social, psychological, and economic harms can still be avoided if the parent were to commit after-birth abortion.

In the case of orphans, the reasons that would justify having an abortion do not persist. This is because, in the case of abortion, the relevant reasons are the avoidance of certain social,

psychological, and economic harms. On Giubilini's and Minerva's understanding, the analogous case of after-birth abortion is one in which a parent who would suffer or continue to suffer similar social, psychological, and economic harms commits infanticide. However, this cannot apply in the case of orphans. Orphans cannot be after-birth aborted. This is because they do not have parents that would suffer or continue to suffer the relevant social, psychological, or economic harms. If they did, then they would not be orphans. In the absence of a parent that would have the relevant reasons for committing infanticide, the killing of an orphan cannot be the relevant kind of infanticide that is meant to be analogous to abortion.

The killing of an orphan is an instance of infanticide that is not analogous to having an abortion in Giubilini's and Minerva's view of the analogy because the sort of infanticide they take to be analogous with abortion is after-birth abortion and orphans cannot be victims of after-birth abortion. Because what my account seeks to address is Giubilini's and Minerva's analogy, and their analogy requires the persistence of the reasons that would justify abortion in the case of infanticide, and the presence of these reasons requires the presence of a moral agent to have those reasons to commit infanticide, the case of orphans is not a problem for my account because this requirement is not met in the orphan case.

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