

*Pro-life arguments against infanticide and why they are
not convincing*

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Abstract:

Alberto Giubilini and Francesca Minerva’s controversial article ‘After-Birth Abortion: Why Should the Baby Live?’ received a lot of criticism since its publishing. Part of the recent criticism has been made by pro-life philosopher Christopher Kaczor, who argues against infanticide in his updated book ‘Ethics of Abortion’. Kaczor makes four arguments to show where Giubilini and Minerva’s argument for permitting infanticide goes wrong. In this article I argue that Kaczor’s arguments, and some similar arguments presented by other philosophers, are mistaken and cannot show Giubilini and Minerva’s view to be flawed. I claim that if one wants to reject the permissibility of infanticide, one must find better arguments for it.

INTRODUCTION

Alberto Giubilini and Francesca Minerva's controversial article 'After-Birth Abortion: Why Should the Baby Live' received a lot of criticism since its publishing. Professor Christopher Kaczor argues in his updated book 'Ethics of Abortion' against infanticide or what Giubilini and Minerva called 'after-birth abortion'¹. Kaczor makes four arguments to show that Giubilini and Minerva's view of allowing infanticide is wrong.² However, I argue that Kaczor's arguments, and some similar arguments proposed by other authors, against Giubilini and Minerva's paper are flawed and do not give enough support (if any) to refuse permissibility of infanticide.

Kaczor argues that there are four mistakes in Giubilini and Minerva's view:

1) arguing from controversial to even more controversial, 2) assuming a falsely view called body-self dualism to be true, 3) undermining the fact that if all persons have an equal right to life then the characteristics that make a being a person can't come in degree and 4) assuming that 'harm' is only possible if someone experiences it as harm.

In this article I will show that none of Kaczor's arguments are reasonable to refute Giubilini and Minerva's argument because all of them are in fact flawed. I will respond to these arguments sequentially.

¹ A. Giubilini & F. Minerva. After-Birth Abortion: Why Should the Baby Live? *J Med Ethics* 2013; 39: 261–263.

² C. Kaczor. *Ethics of Abortion*. 2nd edn. New York, NY: Routledge 2015: 18–20.

FIRST OBJECTION AGAINST INFANTICIDE: ARGUING FROM CONTROVERSIAL TO EVEN MORE CONTROVERSIAL

Kaczor writes that not just one but several of the premises leading to Giubilini and Minerva's conclusions are false. The first thing that is wrong in Giubilini and Minerva's view, according to Kaczor, is that they argue from controversial to even more controversial. As Kaczor claims:

Giubilini and Minerva assume that not all human beings have basic human rights because of the permissibility of lethal embryo research, legal abortion, and capital punishment. However, it is far from self-evident that lethal embryo research, legal abortion, and capital punishment are indeed ethically permissible. Giubilini and Minerva presuppose the moral acceptability of practices that are among the most controversial and disputed in our society. They then argue from the deeply controversial to support the even more controversial.³

Giubilini and Minerva write that 'Merely being human is not in itself a reason for ascribing someone a right to life. Indeed, many humans are not considered subjects of a right to life: spare embryos where research on embryo stem cells is permitted, fetuses where abortion is permitted, criminals where capital punishment is legal.'⁴

³ Kaczor, *op. cit.* note 2, p. 18.

⁴ Giubilini & Minerva *op. cit.* note 1, p. 262.

Capital punishment, embryo research and abortion are thus just examples of their view. Kaczor mistakenly understands that *because* of the permissibility of lethal embryo research, legal abortion and capital punishment, Giubilini and Minerva think that not all human beings have a right to life. Instead, Giubilini and Minerva believe that not all human beings have a right to life because not all human beings are persons, and because of that, abortion and embryo research are morally permissible – and that infanticide is also morally permissible. So abortion, embryo research and capital punishment are simply examples that show how societies implement the view that a right to life requires something other than being a member of a certain species. Those examples do not in themselves support the view and are not proof that human beings do not have a right to life. They are simply conclusion from the view that only persons have a right to life.

One might justifiably claim that these examples of common practice, such as abortion, miss the point. As Beard and Lynch have pointed out: ‘it is the moral permissibility of the first two of these actions [embryo research and abortion] which is in question.’ But Giubilini and Minerva give these examples – and capital punishment as well, even though it has nothing to do with the personhood – simply to show that the fact that one belongs to the human species is not sufficient reason to claim that it is impermissible to kill her (or it).

It is also worth mentioning that Giubilini and Minerva do not presuppose the moral acceptability of practices that are among the most controversial and dispute in our society, as Kaczor puts it. Giubilini and Minerva use capital punishment and other examples descriptively not normatively. What

they are arguing is that abortion, embryo research and capital punishment are considered acceptable by many, not that they are necessarily morally acceptable. With this in mind, we can see what Giubilini and Minerva mean: People who believe that capital punishment, abortion or embryonic research are sometimes morally permissible, usually accept the view that merely belonging to the human species is not in itself a reason for ascribing someone a right to life. So infanticide cannot be condemned simply because it is an act where one kills a member of the human species.

Thus it is not accurate to say that Giubilini and Minerva argue from controversial to even more controversial or that they presuppose the moral acceptability of such practices as Kaczor claims. They simply argue that being a person (being able to value own life) means one has right to life and if one is not a person then one does not have right to life. Because embryos, fetuses and infants are not persons (in this psychological way), albeit humans, they thus do not have a right to life. Of course the claim that infants do not have a right to life, does not necessarily mean we have right to end their life. At least not without a good reason or justification. It might be said that dogs, for example, do not have a right to life but it does not mean that one can kill dogs without a good reason.

Surely Giubilini and Minerva think that some members of the human species do not have a right to life, but the reason for that is not the fact that capital punishment, abortion and embryo research are legal somewhere and that some people sees those as morally acceptable practices but rather because not all human beings are persons who are capable to value their own existence.

**SECOND OBJECTION AGAINST INFANTICIDE: THE VIEW
THAT PERMITS INFANTICIDE RESTS ON BODY-SELF
DUALISM**

Kaczor's second argument why Giubilini and Minerva fail to show infanticide morally permissible is that their view is based on what Robert George and Patrick Lee have called a body-self dualism.⁵ Kaczor argues that:

On this view, 'you' are your aims, desires, awareness and your body is not you. A human organism – not you – was born, and then about two years later 'you' began to exist. Body-self dualism leads to absurd conclusions, such as that you are not a human being, you were not born and you, are not made of flesh and blood. If body-self dualism is correct, then your mother has never hugged you (since no one hugs the aims, desires, awareness that constitutes a person).⁶

So according to Kaczor, body-self dualism leads to odd conclusions like I was never born but a few years after my body came to exist, I came to exist. Because of this, body-self dualism is false, argues Kaczor.

Lee and George also claims that body-self dualism is false; we are not just consciousness that possess or inhabit bodies, rather we are living bodily entities. They argue in favor of a view called the substance view (hereafter,

⁵ P. Lee & R. George. *Body-Self Dualism in Contemporary Ethics and Policy*. Cambridge, UK: Cambridge University Press 2008.

⁶ Kaczor, *op. cit.* note 2, p. 18

SV). It is the view that you and I are bodily beings, physical, animal organisms – albeit rational and free.

Now the question is, why should we prefer SV over body-self dualism?

Simply the fact that SV can explain wrongness of infanticide cannot be the reason, because SV leads to even more difficult problems.

SV contradicts the widely held belief that abortion gets worse the longer pregnancy goes on. According SV, abortion is equally wrong just one day after conception as it is just one day before birth. SV also conflicts with the usual belief that abortion is justified when pregnancy is a product of a rape. Clearly, rape does not make a fetus less of a person, so abortion would be equally wrong in case of a rape. In addition, if you or I came to be at conception (as supporters of SV claims), one might ask why we celebrate birthdays instead of conception days? After-all what is morally relevant, according to supporters of the SV, is the conception. But it would be ludicrous to celebrate the day you were conceived or count the years and days how old you are from the date of the conception (at least as ludicrous than say that you or I were never born).

However, there are even more serious problems with SV. According to SV, we should let a 10-year-old boy die in a burning building and save, let's say, 10 frozen human embryos instead, if we were in such situation where we can save either the boy or the embryos. That is because, as Francis J. Beckwith, supporter of the SV argues: '[I]f you are an intrinsically valuable human person now, then you were an intrinsically valuable human person *at every moment in your past* including when you were in your mother's womb, for you are identical to yourself throughout the changes you undergo

from the moment you come into existence.’⁷ It would surely be better to save 10 valuable human beings than just one, so the rescuer should save the embryos rather than the boy. But this seems at least as odd conclusion as accepting infanticide.

As Robert Lovering, who has raised some powerful criticism against SV (including detailed example of the embryo rescue argument), explains it:

[R]etaining the intuition that infanticide is wrong via SV requires that one adopt yet other positions on moral matters that are strongly counterintuitive. Given this, determining the plausibility of SV involves weighing the intuition of the wrongness of infanticide against these other counter-intuitions, among other things. And if the counter-intuitions are strong enough and numerous enough to outweigh the infanticide intuition, then SV is all-things-considered implausible.⁸

Kaczor responds to these kind of arguments by claiming that ‘killing violates the right to life which is equal for all innocent persons. It does not follow from this that killing an embryo and killing an adult are equally wrong in all other respects.’⁹ For example, it is more wrong to kill the

⁷ F. Beckwith. *Defending life: A Moral and Legal Case Against Abortion Choice*. Cambridge, UK: Cambridge University Press 2007: 51. Emphasis original.

⁸ R. Lovering. The Substance View: A Critique (Part 2). *Bioethics* 2014; 28(7): 378–386. p. 382–383.

⁹ Kaczor, op. cit. note 2, p. 99

President of the United States, because that may also generate global instability, upset millions of people, and perhaps even prompt world war, Kaczor claims.¹⁰ But appealing to consequences like that means that the President of the United States has more extrinsic value than ordinary people – the intrinsic value of the president, a 10-year-old boy, a fetus and an embryo are the same. So if we stipulate Lovering’s embryo rescue argument so that the 10-year-old child is an orphan with no family, relatives or friends whatsoever then there are no extrinsic reasons to save him rather than to save the embryos. Because the intrinsic value of the 10-year-old boy and an embryo are the same, the rescuer should rescue the embryos rather than the child, and if there were only one embryo, he should flip a coin for whom to save.

Henrik Friberg-Fernros has given different reply to Lovering’s embryo rescue argument.¹¹ Friberg-Fernros states that although both the embryo and the child have an equal right to life, one should rescue the child because he has stronger time-relative interests than the embryo has. What he says is based on Jeff McMahan’s Time-Relative Interest Account (TRIA).¹² According to Friberg-Fernros, those stronger time-relative interests bring additional evil to the killing of the child compared with the killing of the embryo and thus make the former worse. But this additional evil is just

¹⁰ Ibid.

¹¹ H. Friberg-Fernros. A Critique of Rob Lovering’s Criticism of the Substance View. *Bioethics* 2015; 29(3): 211–216.

¹² J. McMahan, *The Ethics of Killing: Problems at the Margins of Life*. Oxford, UK: Oxford University Press, 2002: 80, 170-74.

another way to say that the child has more intrinsic value than the embryo has – after all that additional evil is not like in the case of the president where killing has negative impact on other people’s lives.

Time-relative interest is just another way to argue for psychological continuity of personal identity. As S. Matthew Liao writes: ‘To have time-relative interests is to be able to stand in some psychological relations to one’s future and past selves.’¹³ For example, Peter Singer defines a person as a being which has an awareness of his or her own existence over time and in different places.¹⁴ Michael Tooley on the other hand claims that person is someone who has concept of itself as a continuing subject of experiences.¹⁵ But supports of SV precisely argue against this psychological continuity of personhood, so it would be strange if one could combine those two different views together – at least without facing serious problems or suspicion of TRIA addition being ad hoc.

But perhaps one can combine SV with TRIA, nevertheless, bringing TRIA into the picture would imply that it is not equally wrong to kill a normal adult, a child and an embryo. It would be *worse* to kill someone with strong time-relative interests (because he has more intrinsic value) like an adult or

¹³ M.S. Liao. Time-Relative Interests and Abortion. *J Moral Philos* 2007; 42: 242–256. p. 242.

¹⁴ P. Singer. *Practical Ethics*. Cambridge, UK: Cambridge University Press 2011: 82.

¹⁵ M. Tooley. Abortion and Infanticide. *Philos Public Aff* 1972; 2: 37–95. p. 46.

a child, than someone with less time-relative interests like an infant or a fetus. If this is so, then SV does not explain the equality of humans, because according to it, not all humans are equal; those with stronger time-relative interests have more value. This is in fact Kaczor's third criticism against infanticide, which now seems to have turned against SV itself: contradicting the Equal Worth View, the view that all humans are equals.

THIRD OBJECTION AGAINST INFANTICIDE: EQUAL MORAL WORTH IS NOT SUITABLE WITH DEGREED CHARACTERISTICS OF A PERSON

Kaczor argues that the view which permits infanticide cannot explain the basic equality of human beings.¹⁶ He writes:

If our moral rights are based on degreed characteristics, then the more we have of the value-making characteristic, the greater the value we have and the greater the right to life we would have. But this contradicts the widely held notion that all human persons have fundamentally equal rights. So, whatever it is that makes human beings count as a person cannot be a quality that comes in degree.¹⁷

Lee and George also claim that: 'if human beings were worthy of full moral respect (as subjects of rights) only because of such qualities, and not in virtue of the kind of being they are, then, since such qualities come in

¹⁶ Kaczor does not address this argument directly against Giubilini and Minerva. He is rather giving this argument against infanticide in general.

¹⁷ Kaczor, *op. cit.* note 2, p. 19

varying degrees, no account could be given of why basic rights are not possessed by human beings in varying degrees.’¹⁸ Bertha Manninen has argued for the same thing when she asks ‘Does a 1-year-old have just a little bit of that right [to life] – less than a 5-year-old, but more than a neonate?’¹⁹ Pro-life philosophers thus claim that because a right to life is equal among humans, it cannot be based on something that is not equal among humans (like psychological capacities).

But we can say that characteristics that make someone a person come in degree but when one’s characteristics have reached a certain level, then, and only then, that person is granted full human rights. So we can state that personhood is a threshold concept. As Michael Quante writes:

Although the person-making characteristics can come in degrees and although there are different ways of fulfilling this list sufficiently so that the status of personhood can be ascribed, we should not think of the status of being a person as coming in degrees or having different meanings (related to the concrete way an entity fulfils the list of person-making characteristics). Since in our social practices the status of

¹⁸ Lee & George, *op. cit.* note 6, p. 138

¹⁹ B. Manninen. Yes the Baby Should Live: A Pro-Choice Response to Giubilini and Minerva. *J Med Ethics* 2013; 39: 330–335. p. 333

being a person entails a special moral significance, we should take personhood (in the status-sense) as a threshold concept.²⁰

Let me illustrate this by analogy. For a license to study at a university one need to pass an entrance examination. Some applicants will pass the exam with high remarks, and others pass it just barely. Still everybody who reaches that certain bar will be accepted and get full and equal rights as a student. It doesn't matter if one passes the test just barely and other with full scores, they both have equal and full rights as a student. Similarly, there is a threshold that every being has to pass to count as a person. After passing that threshold, any further increases in the degree of relevant capacities does not make one 'more of a person', because anyone who crossed the threshold is already fully a person. This means that we can accept the equal moral status of persons even though we believe that the person making characteristics or capacities comes in degree.

One could argue against this that if we take person as a threshold concept, then whatever threshold is chosen has to be chosen arbitrarily and important moral aspects just cannot be chosen that way. As O'Mathúna writes: 'The declaration of personhood becomes an arbitrary decision based on the evaluation of functions that are very difficult to quantify. For example, it is

²⁰ M. Quante. The Social Nature of Personal Identity. *J Conscious Stud* 2007; 14: 56–76. p. 68.

very difficult to determine precisely when cognitive abilities have reached some threshold that warrants the granting of personhood.²¹

But we don't need to actually choose or find that threshold, it is enough that we recognize that some beings (like fetuses and infants) are not even close to that threshold and others (normal human adults) are clearly beyond that threshold. We do not doubt the existence of the colour red just because we cannot say exactly where that colour changes and becomes purple. There is no clear line between colours but that does not mean that colours do not exist or that we do not know what the colour red refers to. Similarly, we know that fetuses and infants clearly are not persons even though it is difficult to determine when exactly a human being becomes a person.

Lee and George claims that the difference between a being that deserves full moral respect and a being that does not cannot consist only in the fact that, while they both have some feature, one has more of the same feature than the other. 'A mere *quantitative* difference (having more or less of the same feature, such as *the development* of a basic natural capacity) cannot by itself be a justificatory basis for treating different entities in *radically* different ways.'²² But Lee and George, or Kaczor for that matter, don't tell *why* the mere quantitative difference cannot be justificatory basis for treating different entities in radically different ways. They simply claim it to be so. In fact, we *do* treat people radically differently way only because a mere

²¹ D. O'Mathúna. Personhood in Bioethics and Biomedical Research, *Research Practitioner* 2006; 7: 167-174. p. 173.

²² Lee & George, *op. cit.* note 6, p. 137.

quantitative difference of some feature. For example, a person who gets enough points in university entrance exam will be given full rights as a student and some other person who is below that threshold just few points will give no rights as a student. Most people would say that there is nothing morally wrong in this.

We can thus accept the view that characteristics that are needed to counted being as a person comes in degree, but we can still say that everybody who reaches those criteria and that threshold has equal and full rights. From that point of view, we can permit infanticide because an infant has not yet reached that bar to count as a person and so Kaczor's third argument against infanticide fails.

FOURTH OBJECTION AGAINST INFANTICIDE: THE VIEW THAT PERMITS INFANTICIDE CANNOT EXPLAIN WHY ANY MURDER IS WRONG

Giubilini and Minerva write that 'a necessary condition for a subject to have a right to X is that she is harmed by a decision to deprive her of X.'²³ They argue that there are many ways in which an individual can be harmed, and not all of them require that she values or is even aware of what she is deprived of. If a woman buys the winning lottery ticket, but someone secretly replaces it with a losing ticket, she has been harmed, even if she is unaware of the switch, Giubilini and Minerva claim. They continue that 'in such cases we are talking about a person who is at least *in the condition* to

²³ Giubilini & Minerva, *op. cit.* note 1, p. 262.

value the different situation she would have found herself in if she had not been harmed.’²⁴

Kaczor claims that if we accept the view that someone is harmed only when she is able to value the different situations she would have found herself in if she had not been harmed, then we cannot explain why murder victim is harmed by murder because a murder victim (a dead person) is not in the condition to value not being murdered over being murdered. Kaczor writes: ‘If murder victims do not consciously survive their own death, then those murdered do not experience their own death as a harm nor are they in a position to value the state that they would have been in if they had not been killed, since these human persons do not experience anything at or after their death.’²⁵

Despite Kaczor’s claim, in Giubilini and Minerva’s view, murder is not permissible. This is because one should be in the condition to value the different situations she would have found herself in if she had not been harmed *before* the harm has occurred. We cannot harm a dead person by ‘killing’ her but we surely harm a living person if we kill her. We harm living person because she is in a condition to value different situations *before* that harm occurs, not *after*. If someone commits a murder and before that murder occurs the victim is in condition to value not being murdered over being murdered, then she is harmed and so murder is morally impermissible. Just like if a man replaces a woman’s winning lottery ticket

²⁴ Giubilini & Minerva, *op. cit.* note 1, p. 262, emphasis original.

²⁵ Kaczor, *op. cit.* note 2, p. 20.

with a losing ticket, she is harmed because she is in the condition to value different situations before that ticket switch happens. For example, if a dog has a winning lottery ticket and someone changes it to a losing ticket then no harm is done, because the dog already is in the position where it cannot value a winning ticket over a losing ticket (obviously, for the dog there is no difference between a winning and a losing lottery ticket).

John Finnis has made different version of the same argument.²⁶ According to Finnis, someone killed without pain or warning has no experience of either harm or loss and so it would not be wrong to kill someone who is sleeping because while asleep, one cannot value not being killed over being killed (because an unconscious person cannot value anything over anything else). In fact, several authors have claimed that if ‘person’ means an individual who is capable of attributing to her own existence some (at least) basic value such that being deprived of this existence represents a loss to her, then we cannot explain why killing people in their sleep is wrong.²⁷

²⁶ J. Finnis. Capacity, Harm and Experience in the Life of Persons as Equals. *J Med Ethics* 2013; 39: 281–283.

²⁷ For example: M. Hauskeller. Reflections from a Troubled Stream: Giubilini and Minerva on ‘After-Birth Abortion’. *Hastings Center Report* 2012; 42: 17-20; G. Benagiano. et al. ‘After birth’ Abortion: A Biomedical and Conceptual Nonsense. *J Matern Fetal Neonatal Med* 2013; 26: 1053–1059. p. 1055; J. Laing. Infanticide: A Reply to Giubilini and Minerva. *J Med Ethics* 2013; 39: 336–340. p. 337.

But infants or fetuses are not like sleeping adults. Unconscious or sleeping adults have been conscious sometime *before* the harm occurs, so they have been in condition to value different situation if not harmed. Infants (just like fetuses) have not been in that sort of condition before the ‘harm’ occurs because they simply have not existed before in a way they could have valued different situation over another. Put this another way. If a person is killed (without pain or her knowledge of what is happening) while she is asleep, there still was a moment in her life when she was conscious and awake and so she has been in a condition where she was able to value different situations, and thus it is wrong to kill her. So adults, even unconscious ones, are like Nathan Nobis says *have-been-conscious substances* while fetuses and infants are *pre- or never-been-conscious substances*.²⁸

But why should this be morally relevant, one might ask? ‘Of course, murder victims may have ‘attributed value to their own existence,’ but so what? They certainly don’t any more, do they?’, asks Michael Hauskeller.²⁹ If the person does not actually experience any loss, why should we give moral value to that loss even if she were in condition where she *could have* felt that loss but not have actually felt that loss? As Finnis writes ‘For if a sleeping individual is killed without warning, there is at no time any

²⁸ N. Nobis. Abortion, Metaphysics and Morality: A Review of Francis Beckwith’s *Defending Life: A Moral and Legal Case Against Abortion Choice*. *J Med Philos* 2011; 0: 1–13. p. 3.

²⁹ M. Hauskeller. Reflections from a Troubled Stream: Giubilini and Minerva on ‘After-Birth Abortion’. *Hastings Center Report* 2012; 42: 17-20.

individual with frustrated expectations, and at no time any individual suffering from (experiencing) a loss.³⁰ So what Finnis is saying, is that neither an unconscious adult or an infant (or a fetus) experience loss or harm because if we kill them painlessly there are no such a moment in their life when they *actually* think about the expectations they will not have or desire something that will not be achieved. Finnis seems to think that a victim of a murder should have been consciously thinking about his future which, after the act of murder, is lost and so it is a true loss to him. But why a murder victim should have thought *consciously* about something she desires so that we could say that she is deprived of it if not achieving it? Imagine, for example, a man who justifies his adulterous affair by saying, ‘Oh, yes, sometimes my wife has the desire that I be faithful to her, and when she is having that desire I always act in accordance with it. But she isn’t having that desire right now because she is sleeping, so I do not harm her by having an affair with my co-worker.’³¹ His wife is nevertheless harmed by the act of adultery because she was before the act of harming in the condition to value faithfulness, and that desire or interest to faithfulness does not vanish every time she is asleep or for some other reason that involves her not actually thinking about it.

Similarly, a woman who buys lottery ticket, but is unaware that her ticket is a winning ticket is harmed if a man secretly replaces her ticket to losing one. So one does not have to actively think of the loss one can suffer, but instead

³⁰ J. Finnis. *op. cite.* note 27. p. 281.

³¹ I have altered this example from D. Boonin. *A Defense of Abortion*.

Cambridge, UK: Cambridge University Press 2003: 68.

one should be at least in position where one could have valued that situation over another if not harmed.

One could also argue, that according to this, we would harm human beings who have suffered irreversible loss of all functions of the brain, (brain dead) by ‘killing’ them because they have been conscious before, and there was a moment in their life when they could have valued living over being killed – even though they cannot value it right now. But the difference here is that brain-dead humans will never be conscious, whether the ‘harm’ is done or not. So we may want to redefine this view by saying that a person suffers harm

- 1) if there was a moment in her life when she was able to value different situation over another (harmed over not harmed) if not harmed

and

- 2) if there is a possibility that in the future she could be in the condition to value different situation over another if not harmed

Someone could try to contest this view by giving an example where someone seems to be harmed although only the second criterion is met. Killing an infant or a fetus would not count as such an example because the question here is whether fetus or infant is harmed by killing it. One such example could be when someone gives money to a newborn so that she can use that money later for example when she is adult and wants to get an education. If someone steals that money when she still is a baby, it could be said that she nevertheless is harmed, although there never were a moment in her life when she was able to value different situation over another (harmed

over not harmed) if not harmed. But it is not obvious that she in fact is harmed if someone steals the money. It might be said that those who gave the money to her only fail to benefit the baby and merely failing to benefit someone does not necessarily constitute harming that person. Maybe one could say that the baby has right to that money even if she is not harmed and an infant has a right to life even if she is not harmed by death. As interesting as this approach is, it faces other problems. For example, it would seem that sometimes it is permissible to kill someone even if she has a right to life, for example in self-defense. The claim that someone have a right to something even though she is not harmed if prevented to achieve that something, is important, but nevertheless, is beyond the scope of this paper.

So what does this all have to do with infanticide? When talking about infanticide we are talking about a human being who has never in her life been in a condition where she could have valued the different situation she would have found herself in if she had not been harmed – even though there is a possibility that in the future she could be in the condition where she can value one situation over another if not harmed. So because an infant has never been in a condition to value life over death, infanticide could be morally permissible under the same conditions as abortion is permissible. Murdering an adult (or child) would still be impermissible, even while she sleeps, because the adult has been, at some point in her life, in a condition to value not being murdered over being murdered. She will also be in the future in the condition where she can value life over death. So even if the adult is unconscious he still has a strong desire to continue her life, and that desire do not vanish over temporary unconsciousness – infants do not have

that desire and that is the relevant moral difference between infanticide and killing sleeping persons.

CONCLUSIONS

I have argued that recent arguments proposed by Christopher Kaczor and other pro-life philosophers refuting Giubilini and Minerva's view which permits infanticide are not convincing. First: Giubilini and Minerva do not argue from controversial to even more controversial, they argue that infants are not persons because they cannot value continuing of their life and because only persons have a right to life, then infants do not have a right to life just like fetuses do not have a right to life. Fetuses' lack of right to life is not *evidence* for their view it is just a *conclusion* of it.

Second: whether Giubilini and Minerva assume view called body self-dualism to be true is not enough to refute their argument. What is offered as an alternative – the substance view – leads to problems as severe and conclusions as odd as body-self dualism does. Like the claim that we should save several embryos rather than a 10-year-old child, if we were in situation to make the choice to save just one of them. These problems can only be solved by ad hoc addition of the Time-Relative Interest Account. So just because Giubilini and Minerva's view seems to lead intuitively strange conclusions it is not a reason to abandon it altogether if there is no better alternative.

Third: equal moral worth is suitable with degreed characteristics of a person, unlike Kaczor and several others have argued, when we understand personhood as a threshold concept. Every being grants full human rights

when – not before – she reaches enough of those criteria that are needed to be counted as being a person (whatever those criterions may be).

Fourth: the view that permits infanticide can and does explain why a murder victim is harmed; because she was in a condition to value the different situation she would have found herself in if she had not been harmed *before* the harm occurred. Infants are not in that kind of condition, so they are not harmed by being killed. For the same reasons, if infanticide is morally permissible, it does not mean that killing people in their sleep would be morally permissible as well. The former can be morally permissible because infants are never-been-conscious substances while adults are have-been-conscious substances.

There may be some strong arguments against infanticide but if I am right, Kaczor's arguments, and some different versions of them stated by other authors, are not one of them. If we want to reject the permissibility of infanticide, we must find better arguments for it.³²

³² I thank anonymous reviewers for their helpful comments on an earlier version of this paper.