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# Thinking the Unthinkable: A Response to 'After-Birth' Abortion

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Two philosophers from Australia, Alberto Giubilini and Francesca Minerva (University of Melbourne), have proposed a new term for an old concept: “after-birth abortion.” By this, they mean the taking of a newborn baby’s life, even if the infant is healthy, as long as social or economic factors make the child’s presence a hardship for the parents. Here is the abstract of their paper, published in the distinguished *Journal of Medical Ethics*:

Abortion is largely accepted even for reasons that do not have anything to do with the fetus’ health. By showing that (1) both fetuses and newborns do not have the same moral status as actual persons, (2) the fact that both are potential persons is morally irrelevant and (3) adoption is not always in the best interest of actual people, the authors argue that what we call ‘after-birth abortion’ (killing a newborn) should be permissible in all the cases where abortion is, including cases where the newborn is not disabled.<sup>1</sup>

As unsettling (OK, horrifying) as this idea is, there is nothing new here. Utilitarian philosopher Peter Singer and his colleague Helga Kuhse proposed the infanticide of handicapped infants, in their well-known book, *Should the Baby Live*, back in 1985.<sup>2</sup> However, there are two significant differences in this latest proposal: 1) The current authors extend the moral permission of killing newborns to *all* babies, not just the disabled; and 2) They propose the euphemism “after-birth abortion” to make the act seem more acceptable.

Predictably, the publication of this latest paper in a major ethics journal has evoked a storm of public protest and controversy. In defending the decision to publish the article, Editor Julian Savulescu writes, “This article

has elicited personally abusive correspondence to the authors, threatening their lives and personal safety. The Journal has received a string [of] abusive emails for its decision to publish this article.”<sup>3</sup>

On the other hand, we would counter that these disturbing claims need a reasoned and serious refutation. Many persons of faith have tried to marginalize or ignore Peter Singer, despite his enormous influence. Singer’s writings have contributed to the privileging of personal autonomy and utilitarian reasoning as the touchstone principles of modern medical ethics, and have helped to dethrone the Hippocratic principles that served as the normative model for clinical reasoning for over 2400 years.

This paper will attempt to provide a refutation of Giubilini and Minerva, as well as Singer and other secular writers, by addressing their core rationale: a functional understanding of human personhood.

### **Some Background on Human Personhood**

Human personhood as a moral concept has many definitions, but at its core it connotes value. We prefer the definition provided by Kittay: “membership in a moral community of individuals deserving equal respect and dignity.”<sup>4</sup> The fact that ‘person’ is not always thought to be coextensive with ‘human being’ is clear from the frequent denial of such status for the unborn and for elderly patients with dementia, to name but a couple of examples. In general, there are two major theories of human personhood.

*Empirical functionalism* is the idea that protectable human value is based on a set of functions or abilities.<sup>5</sup> In this view, the unborn do not yet possess moral status because they are not

yet self-aware. Singer has defended this stance on the basis of comparative *interests*. Since the unborn do not yet perceive themselves as *selves*, they have, strictly speaking, no personal interests that would be threatened or damaged by their death. Their value is completely dependent on the interests of others.<sup>6</sup>

When Singer, along with Giubilini and Minerva after him, extends this idea to include the infanticide of newborns, they are being completely consistent. Singer has said, “Infanticide before the onset of self-awareness . . . cannot threaten anyone who is in a position to worry about it.”<sup>2</sup> ‘After-birth abortion’ is simply a logical extension of the empirical functional view. If the presence of a newborn is discomfiting to the parents, parental interests trump.

In contrast, *ontological personalism* is the idea that all human beings are human persons. In this view, the intrinsic quality of personhood begins at conception and is present throughout life.<sup>5,7,8</sup> The unborn, as well as the newborn, are not “potential” or “future” persons; they are persons by nature, appropriate in size, shape, and development for their age. There is no such thing as a human being who is not a person. In other words, the terms *human being* and *human person* are coextensive.

Support for this idea philosophically comes from the idea that a human being is a *substance*. A substance is a distinct unity of essence that exists independently of its parts. This concept was first articulated by Aristotle and amplified by Thomas Aquinas. In our modern era, it has been defended extensively by Christian philosopher J P Moreland, as well as many others.<sup>7,9</sup>

If a human being is a substance, this means that humans are different from cars, refrigerators, or computers. Such machines are mere piles of parts (the philosophical term is *property-things*), and are defined completely by those parts. For example, replacing the CPU of a modern desktop computer radically changes its nature, even though many of the parts may remain the same.

The same is not true of human beings / persons, who are greater than the sum of their parts. Replacing an organ, a heart valve, or a joint of a person does in no way change his or her identity. This sameness over time is independent of the component parts. Our outer skin cells are completely replaced every three to four weeks. The stomach lining changes even more quickly, every 5-7 days.<sup>10</sup> Some have estimated that every cell of the human body is replaced every seven years, yet we remain the same persons as the years pass.

Francis Schaeffer and C Everett Koop once wrote of the moral equivalence of a valued newborn and its status just “10 minutes” earlier, in the womb.<sup>11</sup> Clearly, they wrote, no one could claim that the moral worth of a baby changes just because of its *location*. That millions of Americans intuitively understand this logic is clear: the overwhelming majority opposed partial-birth abortion before it was made illegal. Mere location does not change our nature, nor does the passage of time. We remain the same persons, indeed the same *substance*, over the months and years of our lives.

This concept helps to push the origin of human personhood all the way back to conception. The newly formed embryo directs its own de-

velopment, requiring nothing more than time and nutrition to arrive at the status of an adult member of the human species.<sup>12</sup> On this idea, human embryos are complete, developmentally appropriate human beings, who are worthy of moral status. Human life is a continuum from conception until death. Functionalism fails us here because human persons do not become a different “kind” of entity with the development of self-awareness, as Singer, Giubilini, and Minerva argue, nor with any other developmental stage.

The functional view of human personalism also has implications for other ages and stages of life. For example, for severely handicapped infants who may never develop a self-concept, would “after-birth abortion” be permissible at any time? For those affected by injury or dementia later in life, who therefore cease to have self-awareness, do they lose their ‘humanness’ and become targets of ‘after-birth abortion’? Functional views of persons dehumanize us to the point that we are no different, and certainly no better, than machines. If self-awareness is the only ethical warrant for human value, many human beings will be marginalized. As a society, we will reap what we philosophically sow.

### **After-Birth Abortion**

Giubilini and Minerva acknowledge that the phrase ‘after-birth abortion’ may seem to be an oxymoron, but defend this usage over ‘infanticide’ in order to reinforce the idea that “the moral status of the individual killed is comparable to that of a fetus . . . rather than to that of a child.”<sup>13</sup> In attempting a strong refutation of the morality of ‘after-birth’ abortion, we would raise the following objections.

Giubilini and Minerva use a variety of medical examples to justify their view. One is Treacher-Collins syndrome (TCS), a rare disorder that causes facial deformities and breathing problems. Note the authors’ statement: “Usually those affected by TCS are not mentally impaired and they are therefore fully aware of their condition . . .”<sup>14</sup> So even before the authors defend their point of view by invoking a lack of self-awareness in newborns, they use an example of a fully aware individual, implying that such an individual would not wish to be born. In fact, persons who have lost abilities are more likely to want to die than persons who have never had those abilities. Furthermore, ethicist Robert Orr has pointed out that physicians, nurses, and other healthcare professionals are notoriously poor at deciding the quality of life of an individual.<sup>15</sup> It seems disingenuous to assert that such a patient would not wish to exist.

The authors also invoke the example of Down syndrome, decrying the fact that only 64% of cases are diagnosed prenatally: “Once these children are born, there is no choice for the parents but to keep the child . . .”<sup>16</sup> Once again, they seem to assert that there is no functional purpose for such individuals, therefore questioning their right to exist. This idea has certainly had its influence in a broader context, *viz.* the Oregon case where a couple was awarded \$2.9 million for the “wrongful birth” of their Down Syndrome daughter.<sup>17</sup>

Legal scholar Paige Cunningham has used the phrase “the abortion distortion” to describe abortion jurisprudence since *Roe v. Wade* in 1973 and *Planned Parenthood v. Casey* in 1992. By this she is referring to the legal landscape wherein the right to



abortion and the denial of fetal personhood has become so enshrined in the courts as to appear almost as a constitutional right. This makes it very difficult to pass any reasonable restraints on abortion.<sup>15</sup>

The abortion distortion is also at work here. We have become used to the idea of abortion, based on the idea that the unborn child is somehow less of a person, lacking in value, whose worth is based solely on the attitude others have towards it. Giubilini and Minerva, like Singer before them, have actually performed a valuable service: they have helped us to see the ultimate logical conclusion of such sloppy and unwise thinking.

### Conclusion

Two philosophers from Australia have shocked many thoughtful observers by thinking the unthinkable when it comes to newborn infants. They have euphemistically coined the term ‘after-birth abortion’ as a more palatable synonym for infanticide. We contend that this idea is not new, but is a natural extension of functional ideas that have smoldered under the surface of the abortion debate for many years.

In their paper in the *Journal of Medical Ethics*, Giubilini and Minerva state, “Euthanasia in infants has been proposed by philosophers for children with severe abnormalities whose lives can be expected to be not worth living and who are experiencing unbearable suffering.”<sup>1</sup> This harkens back to a familiar expression, first coined in a 1920 publication, *Permitting the Destruction of Unworthy life*, by Binding and Hoche.<sup>16</sup> The German phrase *lebensunwertes leben*, “life unworthy of life,” was used to justify medicalized killing during World War II. The eugenic idea here was that the right to life must be *earned*, never assumed.

If we are to avoid repeating the utilitarian mistakes of the past, all ages and stages of human life must be protected. If not, the alternative is unacceptable: we will continue to rethink the unthinkable.

*Note: The authors would like to thank our colleagues Charles Dolph, PhD, Professor of Psychology, and Jeff Lewis, PharmD, Associate Professor of Pharmacy Practice, for valuable suggestions in the preparation of this manuscript.*

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