

The Maternal Body Bears Violence: A Feminist Contractarian Reply to Giubilini and Minerva

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The Giubilini and Minerva article “After-birth Abortion: Why Should the Baby Live?” invites a feminist contractarian ethical position to defend their premises. Factoring in sociopolitical conditions that impact reproductive health, “After-birth Abortion” morally reflects on the lived experiences of women. Infanticide is then proposed as a response to structural inequalities that disproportionately burden childbearing individuals and the greater family unit. Objections outside of the feminist ethical lens attempt to disband these premises through *reductio ad absurdum*. Yet the maternal body absorbs absurd violence, therefore, absurd violent solutions must be considered when renegotiating the social contract for those harmed by reproductive inequality. I will establish that Giubilini and Minerva’s arguments are congruent with the goals of feminist ethics with the following content structure: (P1) and (P1.5) the feminization of poverty, (P2) justice through social contracts, (P3) a historical analysis of feminist agent-morality. I will demonstrate that the premises and the conclusion in “After-birth Abortion” are factually correct and defensible through feminist contractarianism. However, evaluating the technical structure of the premises leaves open the possibility that the argument may be invalid.

Assessment and Evaluation Through Feminist Contractarian Ethics, “After-birth Abortion” presents the following premises:

- (P1) Abortion is permissible when a fetus can potentially burden interested parties.
- (P1.5) Adoption is not an option because of potential burdens to interested parties.
- (P2) Both fetuses and newborns share equivalent moral status as non-persons.
- (P3) Both fetuses and newborns having the potential for personhood is morally irrelevant.
- (C4) Therefore, infanticide ought to be permissible on the same grounds as (P1).

I have rearranged the chronological order of the premises by situating (P1.5) in relation to (P1) due to resonant commonalities in the contents of the argument. Notably, (P1.5) follows after (P3) in the “After-birth Abortion” article prior to the conclusion. Both (P1) and (P1.5) describe the “social, psychological, economic” toll to which childbearing individuals are subjected (261). The mental distress of the mother is an invisible wound that requires moral reflection. However, presenting paradigmatic sufficient conditions for seeking ‘justifiable’ abortions inadvertently generates the category of ‘moral abortions’. To imply a category of ‘immoral’ abortions restricts the autonomy of certain women. The preamble is cognizant of the claim that all after-birth abortions should be permissible, regardless of the health of the fetus. A feminist contractarian would accept the utilitarian statement that foregrounds maternal interests above the prescribed ‘best interests’ of the fetus. This theoretical lens supports mutually advantageous relationships through non-coercive family planning. The source of coercion is not derived from the fetus, but rather the external societal structures that reinforce the feminization of poverty among mothers. (P1) is a widely accepted premise that holds factual accuracy. (P1.5) is evocative of the circumstances that precede (P1), although (P1.5) does not immediately appear relevant to the overall argument structure. Even if (P1.5) was false and that the adoption process was remarkably efficient, the coercive forces that burden the agents would still remain intact (P1). I also take note that the similarities between (P1) and (P1.5) poses disruptions in the typical deductive reasoning process, as the trajectory of the premises do not move from the general to the specific in the article itself. Both (P1) and (P1.5) contain widely accepted premises that outline the reasons why unwanted pregnancies harm women’s autonomy and wellbeing.

Assessing (P2) for factual accuracy is rather inconclusive, given that this premise is a departure from all mainstream decisive moment theories for personhood. (P2) additionally resists legal definitions, asserting that “merely being human is not in itself a reason for ascribing someone a right to life” (262). The legal parameters for personhood have been historically defined by male-dominated institutions. The institutions that

prescribe what is in ‘the best interest of the fetus’ also reinforce sex inequality. Feminist ethics disrupts these personhood paradigms by disavowing universalism, as suggested by the conclusion paragraph of the relevant (P2) section detailing that moral status is conferred onto the fetus by the mother. Feminist contractarianism is largely concerned with care work and the asymmetrical relational dynamics that implicate gendered exploitation. Rational agents could reasonably accept an asymmetrical social contract with a newborn, or a non-person, if ties of affection merit the multiplicity of burdens that (P1) outlines. If the interests of mothers and families are overridden by the interests of those who have yet to be born, then these asymmetric relations between the mother and the non-person become unjust.

The factual correctness of (P2) reintroduces ambiguity towards defining personhood, especially since this statement is not a widely accepted premise. Giubilini and Minerva concede that an entity which has the capability to perceive pain will have aims to avoid harm, yet they neglect to define which stage of mental development determines personhood. To accept that both entities are equivalent to one another in the context of harm invites the objection that a fetus and a newborn conceptualize pain differently. The conclusion relies heavily on (P2) requiring the reader’s conditional acceptance to follow through with Giubilini and Minerva’s claims. (P2) simply restates the research goal in the preamble: “we need to assess facts in order to decide whether the same arguments that apply to killing a human fetus can also be consistently applied to killing a newborn human” (261). (C4) remains structurally intact even if the reader rejects (P1.5), but rejecting (P2) breaks the chain of reasoning leading to the conclusion. (P2) is needed to ease the remainder of the premises into an appropriation of Rachel’s Equivalence Thesis: if I accept (P1), then infanticide ought to be morally permissible for the same reasons. The content of (P2) begs the question, coming dangerously close to rendering the premise invalid. Overall, the truth value in (P2) is inconclusive. Nonetheless, accepting that both fetuses and newborns are morally equal maintains a sound argument.

The premise in (P3) supports (P2), where (P2) is justifiable because Giubilini and Minerva argue that the potentiality for a biographical life is not a sufficient condition for a right to life. This premise defines the parameters of harm, claiming that non-persons cannot be harmed since it is not possible to harm “someone who does not exist” (262). A reasonable objection arises here that postulates the end goal of feminist ethics is the elimination of inequality among all subjects. Would it be a non-feminist stance for mothers to abort female fetuses and newborns, thereby harming their potential passage towards personhood? This objection activates a contradiction in action at the heart of feminist ethics in action. While the goals of this paper do not intend to resolve this paradox, Historically, liberation movements that strive towards an expansion of justice require in-group essentialism. The in-group coheres around a defined set of characteristics that excludes others. For instance, Western suffragettes organized for legal personhood and the expansion of voting rights solely for middle-class white women. This action does not necessarily condone that the suffragettes acted morally by reaffirming class stratification and white supremacy, since these liberation projects did create harm for members of the out-group. The practical applications of feminist ethical theory, unfortunately, has not stepped outside of this recurring pattern of harming the out-group through single-issue activism. I am simply stating an observation of feminist agent morality.

Regardless of the metaphysical status of personhood among fetuses, after-birth abortion delineates an in-group of mothers alongside their affected family unit who mobilize against an out-group of newborns and fetuses. As qualifiers for the in-group, The Hobbesian social contract presumes that like-minded partisans are i) reasonably bright, ii) self serving, and iii) of roughly equal ability and strength and are inclined to cooperate (Davis 00:18:16). If the out-group cannot meet any of the three Hobbesian criteria, then they cannot participate in the social contract. While they do have the potentiality to eventually enter the contract and become moral agents, “it is not possible to damage a newborn by preventing her from developing the potentiality to become a

person in the morally relevant sense” (262). (P3) is factually correct; rejecting (P3) threatens women’s autonomy as outlined in the widely accepted premise for (P1).

Conclusion

I will comment on the material implications discussed in “After-birth Abortion” from a cultural relativist perspective. The ill effects of China’s one-child policy instigated widespread female infanticide. In rural China, male children are preferred farm hands and are the traditional caretakers of aging parents. Another contemporary example would be the dowry system in India, where carceral solutions attempt to deter the practice of female infanticide. Both examples—the cultural practice of dowries or the absence of state-sponsored geriatric care—propose future harm for families. These respective societies participated in after-birth abortion long before the publication of this paper, and will continue to practice female infanticide without seeking permission from the ideas presented.

I do recognize that due to the brevity of “After-birth Abortion: Should the Baby Live?” premises such as (P1.5) could not be adequately explored. To restate my two-pronged approach, the after-birth abortion argument is defensible through feminist contractarianism. However, analyzing the technical framework of the argument reveals structural weaknesses. I do not want to outright deem the overall scope of the argument false, as I do not believe that the fallacy in (P2) or that (P1.5) being a general statement condemns the conclusion. The premises leading to the conclusion are factually correct, yet the structural integrity of the argument is invalid. Overall, the argument presented in “After-birth Abortion” is unsound, but I will emphasize that the paper’s contributions are nonetheless thought-provoking. Would a free society unburdened by coercive forces still permit after-birth abortion? If we wish to renegotiate for a fairer social contract that supports family planning, women’s autonomy, and basic needs, will we require after-birth abortions in order to arrive there?

Works Cited

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