

Are We Animals? Abortion, Identity and a Modified Future-of-Value Account

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¿Somos animales? Aborto, identidad y una revisión del *Future-of-Value Account*

ABSTRACT: Donald Marquis's *Future-of-Value Account* of the wrongness of killing provides one of the strongest arguments against the permissibility of abortion. According to his argument, we have very strong reasons against abortion when killing a foetus deprives it of a valuable future. Since Marquis assumes that we are essentially human animals who begin to exist very early in pregnancy, these reasons apply from a very short time after conception. In this article I will argue that we need not accept this ontological premise and that, instead, we may embrace a Lockean view about what we essentially are. I will show how, then, it is possible to reformulate Marquis's argument in a way that allows us to infer that it is not until late in pregnancy that the foetus's valuable future can give us reasons against killing it.

RESUMEN: El *Future-of-Value Account* de Donald Marquis sobre la incorrección de matar proporciona uno de los argumentos más robustos contra la permisibilidad del aborto. De acuerdo con su argumento, tenemos razones muy fuertes contra el aborto cuando matar a un feto le priva de un futuro valioso. Puesto que Marquis asume que somos esencialmente animales humanos que empiezan a existir muy al inicio del embarazo, estas razones son aplicables muy poco tiempo después de la concepción. En este artículo sostengo que no tenemos por qué aceptar esta premisa ontológica y que, en cambio, podemos suscribir una visión lockeana sobre lo que somos esencialmente. Mostraré cómo, entonces, es posible reformular el argumento de Marquis de modo que nos permita inferir que no es hasta tarde en el embarazo cuando el futuro valioso del feto nos puede dar razones en contra de matarlo.

KEYWORDS: ethics of killing, abortion, personal identity, Donald Marquis

PALABRAS-CLAVE: ética del matar, aborto, identidad personal, Donald Marquis

0. Introduction

According to the latest World Health Organization report (WHO, 2012), almost forty-five million abortions were performed in 2008, the last year for which such data are available. Furthermore, the WHO estimates that each year there are an astonishingly eighty-five million unintended pregnancies. Because the quantity of abortions and of women who consider whether to have one is so high, it is worth asking what we have most reason to do when confronted with the decision whether to abort a foetus¹.

The philosophical discussion on abortion has become increasingly complex and sophisticated since Judith Jarvis Thomson published her seminal work on the topic (Thomson, 1971). One widespread argumentative strategy for the moral permissibility of abortion consists in attempting to show that our moral reasons not to kill a foetus are, all things considered, usually weaker than our reasons against killing beings like us (paradigmatic adult human beings). This is often taken to follow from the claim that a foetus's interest in continuing to live is correspondingly weaker than ours (Tooley, 1972; McMahan, 2002; Steinbock,



2011; Singer, 2011 [1979]; DeGrazia, 2005). Conversely, those authors who believe that our reasons against abortion are relatively strong will attempt to establish that a foetus's interest in its future life is at least as strong as ours (Marquis, 1989; Lee, 2010; Kaczor, 2011).

In this article I will argue that the most widely discussed of those attempts, Donald Marquis's *Future-of-Value Account*, fails (Marquis, 1989)². Though there might be other ways to do it, I will focus on Marquis's assumption that we are essentially human animals, granting the truth of the other premises in his argument for the sake of this discussion. I will proceed as follows. In section one I will show why Marquis's account constitutes the best argument contrary to abortion. In section two I will spell out the two ontological positions to be discussed —Animalism and Lockeanism. In section three I will defend Lockeanism from the main objections which are pressed against it, and conclude that we have sufficient reasons to endorse this view. In section four I will describe some facts about the onset of foetal consciousness. Finally, I will show how the *Future-of-Value Account* can be reformulated to support a view favourable to abortion.

1. The *Future-of-Value Account*

Marquis develops a general account of the wrongness of killing grounded on the claim that what gives us our main reasons against killing an individual is how bad death would be for her. Thus:

Future-of-Value Account:

- (a) The fact that dying would be bad for the one who dies gives us our main reasons not to kill her;
- (b) The badness of death for the one who dies at a certain time is determined by the net value her life would have were she not to die at that time;
- (c) One can *only* be deprived by death, in the normatively significant sense, of a future that is *her own*.

Yet in order to adopt a view contrary to foeticide Marquis needs to add the following premise to his argument:

(d) We are essentially human animals.

This account easily yields a conclusion contrary to abortion. Let us assume that fetuses are living organisms of the same sort we are. That means that the future of the foetus consists of everything that will be good or bad for the child and adult that will develop out of it. If its life will be worth living it will typically come to enjoy those goods which make the life of human animals especially valuable. If that is so, then we have very strong reasons against killing it, usually decisive. Of course, some fetuses cannot be expected to have such bright future. It will even be true of some that their lives are worth ending. But then, that is also true of adults –some people have lives more worth living than others’, and for some the net value of their life is negative, so that death would not be bad for them. Sometimes, then, there are just weak reasons against abortion and, some other times, even reasons *for* it.

Marquis’s account constitutes one of the most robust views contrary to abortion. First, it is *salient*, in that it appeals to facts which can hardly be denied to be morally relevant, such as the prudential value of a life –that is, how good or bad a life is for the one who lives it. This clearly distinguishes Marquis’s position from *anthropocentric* accounts of the wrongness of killing that derive our reasons against killing beings like us from our membership in the *Homo sapiens* species, that is, from the mere fact that we are human animals. Species membership is, nevertheless, morally irrelevant (Horta, 2010).

Second, this account has the theoretical virtue of *generality*, by applying to all the beings which can have an interest in continuing to live which can be frustrated. It applies to all sentient beings –to all beings with a capacity for enjoyment and suffering and, thus, those for whom there is anything that can be good or bad. It is then a truly universal account of the wrongness of killing. This is a feature which also distinguishes the *Future-of-Value Account* from the anthropocentric views previously mentioned. Since their argument is based on the significance of being a human animal and since this is a trait which members of others species necessarily lack, they cannot derive implications regarding the reasons we may have for or against killing non-human sentients.

Finally, anthropocentric accounts have many counterintuitive implications which do not burden the *Future-of-Value Account*. Some human animals have futures which are neither good nor bad for them. This is true of humans which have irreversibly lost their capacity for sentience, such as individuals in persistent vegetative state. It is also true of human animals that never obtained that capacity, such as anencephalic infants³. In spite of this, all anthropocentric accounts insist that just because these individuals are human we have very strong reasons against killing them. On the other hand, some human animals have lives worth ending. That is why on occasion suicide, whether assisted or not, is justified. Anthropocentric accounts claim that even in these cases we ought not to kill these humans. As we already saw, however, Marquis's account, manages to distinguish between those cases in which continuing to live is good for someone, from those others in which it is bad, or in which it is neither good nor bad. It plausibly entails that in each of these cases the prudential value of an individual's future gives us, respectively, reasons against killing, reasons for killing, and (when no such value exists) no reasons at all.

Suppose that I am correct in identifying Marquis's account as one the most robust philosophical arguments against abortion⁴. The case for the moral permissibility of abortion would be greatly strengthened if it can be shown that we need not believe its conclusion contrary to abortion. In what follows, I will try to show that this is the case.

2. What we are essentially: Lockeanism and Animalism

In his argument against abortion Marquis assumes that we are essentially human animals. This is one possible answer to the question about what we are essentially. I shall now assess the reasons we have to believe it.

Individual objects satisfy predicates which stand for *sortal* concepts⁵. Thus, for instance, we may say that Clara is a girl, whereas Pounce is a cat. These concepts provide an answer to the question about *what* something is. Some sortal concepts –like being an acorn or a girl– need not apply to an object at all times during its existence. They are called *phase sortals*. Yet for any object there is some sortal, called *substance sortal*, such that:

- (1) It necessarily applies to that object at all times during its existence;

- (2) It provides us with the criteria to distinguish the object from other, numerically distinct objects (criterion of individuation);
- (3) It provides us with the criteria to identify those changes in attributes which the object can withstand and those that cause it to cease to exist (criterion of continuity or persistence).

Hence, when it is claimed –as in premise (d) of Marquis’s account– that we are essentially human animals, what is asserted is that *human animal* is our substance concept and that it is to the principles furnished by this concept that we need to turn in order to keep track of beings like us and to distinguish those changes in properties that we can survive from those that result in our destruction. Now, none of the alternative positions that shall be discussed hereafter need to deny that we are somehow related to a human animal. They just need to deny that this is the kind of relation fixed by the fact that the concept of human animal is our *substance* sortal. Consequently, where those who claim we are essentially human animals argue that, of necessity, we share the fate of the human animal we are so closely associated with, its detractors are wont to show that it would be possible for us to part ways with such animal and that, therefore, it cannot be what we essentially are.

Those writers who claim that our substance sortal is ‘human animal’ are called *Animalists*. The most important alternative account is *Lockeanism*, so called after the earliest supporter of this view⁶.

2.1 Lockeanism

Pre-theoretically it may seem obvious that we are animals. A classic example by Shoemaker (1963, 23-24) will help us understand why, on reflection, this need not be so:

“...a surgeon discovers that an assistant has made a horrible mistake. Two men, a Mr. Brown and a Mr. Robinson, had been operated on for brain tumors, and brain extractions had been performed on both of them. At the end of the operations, however, the assistant inadvertently put Brown’s brain in Robinson’s head, and Robinson’s brain in Brown’s head. One of these men immediately dies, but the other, the one with Robinson’s body and Brown’s brain, eventually regains consciousness. Let us call the latter “Brownson”. Upon regaining consciousness Brownson exhibits great shock and surprise at the appearance of his body. Then, upon seeing Brown’s body, he exclaims incredulously “That’s me lying there!” Pointing to himself he says “This isn’t my body; the one over there is!” When asked his name he automatically replies “Brown”. He recognizes Brown’s wife and family (whom Robinson had never met), and is able

to describe in detail events in Brown's life, always describing them as events in his own life. Of Robinson's past life he evidences no knowledge at all. Over a period of time he is observed to display all of the personality traits, mannerisms, interests, likes and dislikes, and so on that had previously characterized Brown, and to act and talk in ways alien to the old Robinson."

Many people, including me, feel strongly inclined to claim that Brownson is Brown. This belief can be vindicated if we deny that we are essentially animals and, instead, accept some Lockean view. Lockeans claim that our persistence conditions are psychological in nature and that we are some mind or minded thing. There are two distinct families of views, *narrow* and *wide*, in this tradition. They disagree regarding the necessity of physical persistence for our continued existence over time⁷.

On the

Narrow View the persistence over time of beings like us consists in non-branching⁸ psychological persistence caused by the physical persistence of the material stuff where our mental states or capacities are realised.

Now we can explain our intuition that Brown persists as Brownson. Brown's psychological features continue in Brownson and, since the brain is preserved intact and merely suffers change in location, the kind of physical continuity required on the *Narrow View* obtains. There is even more physical continuity than it is strictly needed. Brownson would still be Brown even if only Brown's cerebral hemispheres had been transplanted into Robinson's head. That is because that seems to be the part of the brain on which our mental states and capacities are realised⁹.

On the

Wide View the persistence over time of beings like us consists in non-branching psychological persistence, even if it is not caused by the physical persistence of the material stuff where our mental states or capacities are realised.

According to this view we might survive the destruction of our entire body, including our brain, provided there is one future person with whom we are psychologically continuous¹⁰. This is the philosophical view that makes sense of the notion that teletransportation is just the fastest way of travelling, and not some way to die (Parfit 1984).

2.2. Animalism

Animalists, however, believe that we are essentially an animal and that the persistence conditions of animals are incompatible with those proposed by Lockeans.

The first step in the formulation of the persistence conditions of animals, conceived of as living organisms, is to understand what a *life* is. Lives are events constituted by the sum of activities of some particles of matter. The persistence of organisms can be analysed in terms of the persistence of a life. Thus, we can specify for animals, including human animals (van Inwagen, 1990; Olson, 1997b), a

Biological Criterion, i.e., for any x existing at t_1 and any y existing at a later time t_2 , where x and y are animals, x and y are the same animal just in case the activities of the particles that constitute y 's life at t_2 are causally continuous in the appropriate way with the activities of the particles that constitute x 's life at t_1 .

If we are identical with a human animal, then our persistence conditions are those spelled out in this criterion. We began to exist when the group of cells we refer to as 'zygote' became sufficiently integrated to constitute a life. We shall cease to exist when that integration becomes impossible to maintain and death ensues. This also entails that we continue to exist as long as our metabolic activities carry on in a self-regulated way, even if we happen to lose our psychological capacities –that is, being a person is just a possible phase in the life of a human animal, consisting in its being conscious of itself as a temporally extended entity.

I said that on any Lockean view Brownson could still be Brown even if only the cerebral hemispheres had been transplanted. Animalists will deny this. Suppose that it was only Robinson's hemispheres that were irreparably damaged, so that its brainstem is not removed. The brainstem is the part of the brain that regulates the processes necessary for life. Assuming proper nutritional support is provided, these activities shall carry on unimpeded and directed from the brainstem. In short, an Animalist will insist that what lies on the operating table is Robinson himself, very much alive, but lacking the upper part of his brain. A similar tale can be told about Brown when his hemispheres are removed and readied for the transplant. What remains lying on that operating table is not Brown's former body, but Brown himself, deprived of his capacity for thought. As before, Brown's hemispheres are transplanted into Robinson's body. They thereby become trapped

in the metabolic activities regulated from the brainstem they are now attached to. On Animalism Brownson is just the animal we called Robinson, albeit with a new seat of consciousness.

3. The problems of Lockeanism and how to overcome them

Animalists identify three entailments of the Lockean view that make it implausible (Olson, 2007, 2010).

As we saw, a Lockean will claim that Brownson is Brown, and not Robinson with Brown's hemispheres, and that the other body in this story is not Brown, though it was Brown's body once. Yet a Lockean can hardly deny that what was Brown's body is a living organism, and an animal, and human. Where did that animal come from? There are two possible answers. It either began to exist when Brown's hemispheres were removed, or it existed before that and continued to exist after the hemispheres' removal. But the first alternative is implausible for it implies three implausible contentions. First, that the removal of cerebral hemispheres is a procedure for introducing new animals into the world. Second, that while the person exists there is no animal associated with it. Third, that the foetus that became me ceased to exist when its cerebral hemispheres became active and, consequently, that their activation is a successful procedure for removing animals from the world. Surely, the second alternative is more parsimonious: the animal on the operating table is the one who had always accompanied Brown. It had preceded Brown as an unconscious foetus, Brown made use of it for a while and now he has parted ways with it.

But if that is true of Brown, then it is true of all persons. Thus, wherever we stand there are a person and an animal, and both Animalists and Lockeanism agree that they are very closely associated. They share many of their attributes. For instance, if it is true that Clara is one and a half meters tall, it must be because that is an attribute of her human animal. If she is in China, then her human animal is too, and so on.

This presents two counting problems for Lockeanism. One is the

Too Many Thinkers Problem: for every one of us, there are two thinkers. This is because whenever one of us entertains a thought, our animal is thinking it too.

Another is the

Too Many Persons Problem: wherever we are there are two persons, ourselves and our animal. This is because if we are thinking intelligent beings able to perceive ourselves as temporally extended, then our animals are too.

If our metaphysics is good, it ought to give us the means to count the objects that inhabit the world. If Lockean personal ontology fails in this regard, it misses its theoretical aim.

There is a further worry –the

Epistemic Problem: suppose that we think ‘I am the non-animal person’. The truth-value of that proposition depends on the reference of the personal pronoun ‘I’. It always refers to the one who thinks it or utters it. Thus, the proposition will be true if thought by the non-animal person, but false if thought by the animal one.

Whenever we think it, whose thought is it? Is it the non-animal’s or the animal’s? The Animalist contention is that there is no way for us to identify the correct answer. For all we know we might be wrong whenever we think that we are the non-animal person and that we could survive the fantastic situations imagined by Lockean ontologists.

These are, then, serious problems for Lockeanism. However, I will argue that these problems can be overcome.

Instead of claiming that we are *identical with* some human animal, Lockeans may claim that we are *constituted by* one (Baker, 1997, 1999a, 1999b, 2002a). This is arguably the relation between a statue, say, Michelangelo’s *David*, and the piece of marble that makes it up. Both entities are spatiotemporally coincident. Also, they share many of their other properties, such as height, weight, shape and so forth. Certainly, if *David* weighs n kilos, then the piece of marble weighs n kilos. But it would be a mistake to infer that it makes sense to add up their weights and conclude that their combined weight is $2n$ kilos. If *David* is n -weighty, it is so in virtue of being constituted by that particular piece of marble. Had it been constituted by another piece of marble, its weight might have been different. Sculptures borrow their weight from whatever constitutes them. The piece of marble, however, would have weighed the same even if it had constituted no statue. This suggests that the piece of marble is the primary or *non-derivative* bearer of the attribute of being an n -weighter, whereas the statue is its *derivative* bearer.

Something similar might be said about the animal that constitutes us. It is a thinker and a person only because it borrows these attributes. It is not a separate thinker, or a separate person but the same thinker and the same person we are. Just like the statue is the same *n*-weighter as its piece of marble.

Lockeans may claim, alternatively, that we are the conscious, controlling part of a human animal (McMahan, 2002; Parfit, 2012). According to this *Embodied Part View*, human animals think, but do so only derivatively, that is, in virtue of having a part that does the thinking. As Parfit (2012, p.15) says:

“Animals digest their food by having a part, their stomach, that does the digesting. Animals sneeze by having a part, their nose, that does the sneezing. These facts do not create a Too Many Digesters or Too Many Sneezers Problem.”

When we are careful to count how many thinkers there are we do not take the animal and its thinking part to be *separate* thinkers.

This suggestion is related to a further one which may help us solve the *Epistemic Problem*. It has been proposed that our personal pronouns are ambiguous (Parfit, 2012). Thus, the truth-value of ‘I am the non-animal person’ will depend on how its thinker was using the word ‘I’. We may use

‘Inner-I’ to refer to the part that does the thinking for the animal, and

‘Outer-I’ to refer to the human animal.

Now we can disambiguate. If it was meant that Inner-I is the non-animal person, then the proposition is true. Moreover, we (the thinking part) know it to be true, for we understand the way we have chosen to use the pronoun. If, conversely, it was meant that Outer-I is the animal person, then the proposition is false. Moreover, the animal would know that it is false. For the animal only knows derivatively, and only what its thinking part (Inner-us) knows directly. Since its thinking part understands this disambiguation, the human animal understands it too.

Thus, Lockeanism is compatible with various approaches to the relation with our human animal which solve the problems identified by Animalist authors. We need not to accept Animalism.

4. The onset of foetal consciousness

Let us, then, assume that we are essentially some sort of psychological entity. According to Lockeanism, the moment when the foetus becomes conscious marks the earliest possible time when we might have begun to exist.

The majority view regarding the correlates of consciousness is the *corticocentric perspective*, according to which the capacity for consciousness is entirely based on the cortex (Lee *et al.* 2005)¹¹. This would allow us to dismiss the presence of mature stress responses as indicative of the experience of pain, since they are processed by structures located below the cortex. On this account, the earliest time at which we might justifiably expect a foetus to acquire a capacity for conscious experience is no earlier than twenty-third week of gestation (Lee *et al.*, 2005; Derbyshire, 2006, 2008) and no later than the thirtieth (Lee *et al.*; Lowery *et al.*, 2007).

Yet there is a second, emergent view about the neural correlates of consciousness. On this *mesoencephalic perspective*, the functionality of several structures in the brainstem (and, thus, located below the cerebral cortex) would be sufficient for a rudimentary form of consciousness (Merker, 2007a, 2007b). As a consequence, it is suggested that we ought to lower the temporal threshold of possibility for foetal consciousness, proposals ranging from the twentieth (Brusseau & Mashur, 2007; Condic, 2013) to the twenty-second week of gestation (Doctors on Fetal Pain, 2013).

Given these discrepancies among the experts, I shall assume a conservative stance, and grant that it is justified to believe that by the twentieth week of gestation the foetus acquires a mind. According to Lockeanism, none of us existed before that time.

5. Conclusion: modifying the *Future-of-Value Account*

Because we cannot consider the foetus to be conscious before the twentieth week of gestation, accepting Lockeanism instead of Animalism transforms Don Marquis's account of the wrongness of killing in such a way that it implies a view favourable to abortion.

Suppose we accept premises (a) to (c) of the *Future-of-Value Account*. Because we are assuming that we are essentially some psychological entity, killing an early foetus (that is, a foetus before the twentieth week of gestation) cannot be correctly described as destroying one of us, for the early foetus is not numerically identical with us. This makes it false that the future life we would have is *its own*. Consequently, it is also false that in case that such life would be worth living, it would be prudentially valuable *for it*. In fact, since an early foetus is identical to no-one in the future, dying cannot be bad for it. This does not exclude that there exist other reasons against killing it, but they shall not be given by any harm which that might inflict on it.

From a moral perspective, then, early foeticide is much more akin to contraception than to homicide. When we prevent conception, we are not depriving an existing individual from any kind of future, but deciding against creating an individual. Similarly, when an early foetus is killed, it is not deprived from a future. We are deciding not to bring into existence another one of us.

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Notes

1. As scientific categories go, it is not only the *foetus* I am concerned about, but also the *zygote* and the *embryo*. These three terms refer to different stages of development of prenatal human life. For the sake of simplicity, I shall use 'foetus' to refer to prenatal human life without distinction.
2. See also Marquis (1998, 2001, 2002, 2003, 2004, 2005, 2006, 2007a).
3. These are infants born without cerebral hemispheres and, thus, presumably without the capacity for conscious experience.
4. Though I do believe that Marquis's account provides the less problematic argument against abortion, I do not endorse the view that the *Future-of-Value Account* is the best theory about the wrongness of killing. This is because I believe premise (c) —that one can only be deprived of a future that is *her own*— is false. This premise presupposes that identity is the relation with the future which has normative significance for prudence. However, I concur with Parfit (1984) and McMahan (2002) that this is not so: what fundamentally matters is some gradual psychological relation. As it will become apparent, though, even if these authors are right, my conclusion still follows.
5. Cf. Strawson (1959), Lowe (2003) Wiggins (2001).
6. Animalists include: Carter (1982), DeGrazia (2005), Olson (1997a, 1997b), Snowdon (1990) and van Inwagen (1990). This position is different from the claim that we are bodies (and that, therefore, we continue to exist after death *as corpses*) pressed on, for instance, by Thomson (1997). Besides

Locke himself (2008 [1689]), Lockeans include: Grice (1941), Lewis (1983), McMahan (2002), Johnston (1987), Parfit (1971, 1984, 2008, 2012), Perry (2008 [1975]), Shoemaker (1963, 1970, 1984, 1997) and Unger (1990, 2000). Nozick (1981) and Wiggins (2001) are friends of neither view; and though not an Animalist, Williams (1973a, 1973b) was contrary to Lockeanism.

7. My *Wide* has been defined so as to include Parfit's (1984) *Wide* (continuity by a reliable cause) and *Widest* (continuity by any cause).
8. Since identity over time is a transitive relation, persistence conditions that define it must somehow preserve that attribute. The non-branching clause manages to prevent that by establishing that if an individual at t_1 is related in the way relevant for persistence with more than one future individual at t_2 , then at t_2 that individual no longer exists.
9. Different construals of the condition of psychological persistence are offered. For some (Shoemaker, 1997; Parfit, 2008, 2012) the basis of psychological persistence is psychological continuity and connectedness (continuity of *mental content*). For others (McMahan, 2002; Unger, 1990) continuity of mental content is unimportant for psychological persistence, the preferred construal being sameness of the relevant psychological *capacities*, such as the capacity for consciousness.
10. See Grice(1941), Shoemaker (1984), Noonan (2003).
11. See also Royal College of Obstetricians and Gynaecologists (2010), American Congress of Obstetricians and Gynecologists (2013),