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In the Absence of a Future Like Ours

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ABSTRACT
When is infant euthanasia permissible? Consider the case of a child born with a rare but severely painful and debilitating disorder, a disorder that is not treatable. The only course of action that a physician could undertake to abate the associated pain that the child suffers is to prescribe painkillers for the child's use. There is no prospect that the child will improve in health and there exist no emerging technologies which could have questionable importance in treating the child. Many among us shudder at the thought of giving birth to a child with such a disorder and find it unimaginable to be that very child. Some may even go as far as to say that this child's life may be ended, but for many others this is prima facie unethical because it involves killing. The central question of my paper is whether it is morally permissible to end the life of a hopelessly suffering child. I will argue that it is permissible to end this child's life provided: (i) that the child is in regular extreme pain and suffering, (ii) that there is no present or prospectively viable course of action that will improve the child's condition, and (iii) that there is no potential for the child to live a recognizably human life or, in other words, to have a future like ours. In my paper I draw on a real case similar to the one sketched above, the case of Bente Hindriks. I identify and address the ethical conflicts in this case, as well as motivate and explain qualifications (i)-(iii) given above. Qualification (i), in regarding the suffering that such an infant is in, motivates utilitarian considerations. However, my position isn't ultimately fully utilitarian. Qualification (ii) displays the problem that a lack of effective treatment poses. Lastly, qualification (iii) appeals to the significance of what we would consider to be a life worth living, an argument inspired by Don Marquis. Toward the conclusion of my paper I consider possible objections to my position and responses to such objections, and provide a commentary on some central features of my position and their consequences. The ultimate goal of this paper is twofold: 1) to defend the thesis above, which is to provide an account for why infant euthanasia is permissible in some cases, and 2) to provide a sketch of the moral status of infants that is grounded in Marquis' concept of a "future of value like ours."

KEYWORDS
Infant, Euthanasia, Infanticide, Escobar, Marquis, Munson, Nesbitt, Future of Value, Future Like Ours, Bente Hindriks, Suffering, Treatment, Utilitarian, Bioethics, Moral Status

A child is born. This child has a rare but severely painful and debilitating disorder, a disorder that is not treatable. The only course of action that a physician could undertake to abate the associated pain that the child suffers is to prescribe painkillers for the child's use, painkillers which cannot completely alleviate the suffering of the child. There is no prospect that the child will improve in health and there exist no emerging technologies which are likely to help in treating the child. Many among us shudder at the thought of giving birth to a child with such a disorder and find it unimaginable to be that very child. Some may even go as far as to say that this child's life may be ended, but for many others this is *prima facie* unethical because it involves killing. The central question of my paper is whether it is morally permissible to end the life of a hopelessly suffering child. I will argue that it is permissible to end this child's life provided:

> (i) that the child is in regular extreme pain and suffering
>
> (ii) that there is no present *or* prospectively viable course of action that will improve the child's condition, and
>
> (iii) that there is no potential for the child to live a recognizably human life or, in other words, to have a future like ours.

This paper is divided into five sections: in §1 I provide some groundwork on some significant distinctions that will shape the course of the discussion, in §2 I will present a case similar to the one sketched above, the case of Bente Hindriks, in §3 I will identify and address the ethical conflicts in this case, as well as motivate and explain qualifications (i)-(iii) given above, in §4 I will consider possible objections to my position and responses to such objections, and in §5 I will conclude the discussion with a commentary on some central features of my position and their consequences. The ultimate goal of this paper is twofold: 1) to defend the thesis above, which is to provide an account for why infant euthanasia is permissible in some cases, and 2) to provide a sketch of the moral status of infants that is grounded in the concept of a "future of value like ours."

§1: GROUNDWORK

Throughout the course of this paper, I will be referring to the concept of infant euthanasia, as opposed to the more general infanticide. The reason for

this choice rests in the fact that I will argue that my position only applies to a subset of cases within infant euthanasia, which itself shares significant overlap with infanticide. This distinction is critical to the extent that my argument only applies to this specific subset of infant euthanasia, *not* infant euthanasia generally nor most cases of infanticide. I define both below:

> Def. Infanticide: The *intentional* killing of an infant.[1]

> Def. Infant Euthanasia: The *intentional* mercy-killing *or* "letting die" of an infant.

There is a question which naturally follows from the above distinction: can there ever be a case where qualifications (i) and (ii) are satisfied but the killing is not a mercy-killing and, thus, falls outside of the scope of infant euthanasia and into infanticide generally? The answer is "yes," and to explain why there is a need for a clear formulation of what mercy-killing is. A *mercy-killing* is one where the patient's condition is described by both qualifications (i) and (ii), and when the patient is killed *for the reason* of these qualifications. When an infant is in regular pain and suffering, and there is no way to improve the infant's condition or no prospect of doing so, and the agent performs the killing for these reasons, then it is a mercy-killing. Note that this very particular formulation is absolutely crucial to the extent that it rules out killings which may be done for more immoral or, at the very least, non-moral motives. For instance, if a killing is performed simply because the afflicted infant will be a financial burden to its parents, then the killing is *not* a mercy-killing.[2] The very same considerations apply to "letting die." If a parent lets

1. In this paper I will not be further engaging in the debate of what intentionality entails. Here, too, I take a conservative and, for our purposes, sufficient approach: An *intentional killing* is one where the agent performing the killing 1) sets out to kill a being and 2) kills a being.

2. One might object here by claiming that it is impossible in most, if not all, real-world cases to attribute such clear-cut motives. For instance, parents may be both motivated to kill in light of their child's medical condition *and* financial considerations. This objection threatens the applicability of the mercy-killing condition that the child is killed *for the reason* provided by the qualifications. I don't have a means of formally resolving this issue in a systematic way, and I admit the objection's force. But I believe that for our purposes it is sufficient to appeal to primary motives. If, for instance, the parents see that killing will result in less of a financial burden, but are primarily motivated but their child's condition, then I would say this killing is an instance of mercy-killing.

an infant die because of mere neglect, we must consider this as separate from a case in which she lets the infant die for the reasons of its medical circumstances.

Furthermore, note that the question of whether killing is *necessarily* involved in euthanasia is a controversial one. One assumption that I take in this paper is that there may be a relevant moral distinction between active (i.e. "killing") and passive (i.e. "letting die") forms of euthanasia (Nesbitt 1995).[3] That is to say, it is possible that the agent performing euthanasia is not necessarily as morally responsible in the passive case as in the active case for the death of the infant. Some maintain that only passive euthanasia is permissible in certain cases, while others maintain that active euthanasia is preferable to passive euthanasia. On this and related debates I hope to stay as neutral as possible; here I merely mark the distinction as a common one that ought to be recognized in any thorough treatment of this subject. Whether or not an agent is justified in either a mercy-killing or a "letting die" is the very question that will be investigated in the course of the following arguments. The reason why I don't make a firm commitment will become evident in §3.1, where I provide a utilitarian-inspired backing of my position. To put the point briefly, the distinction is relevant for my purposes for the following reason: active euthanasia is *preferable* to passive euthanasia because, in the context I am discussing, it often entails less suffering.[4] Even if a "killing" may turn out to be (*ceteris paribus*) morally worse than a "letting die," the additional amount of suffering that can be alleviated by the killing will typically justify choosing it over a more painful passive euthanasia.

There is one final dimension to be considered. General euthanasia can be classified as either voluntary, involuntary or nonvoluntary. An infant is not able to provide informed consent, and, furthermore, never was able to provide informed consent.[5] For this reason, infant euthanasia is always nonvoluntary. It is not possible

3. While it would be inappropriate to discuss the entire argument against this assumption, James Rachels' "Active and Passive Euthanasia" is an excellent discussion presenting an argument against the distinction. The essay cited, Winston Nesbitt's "Is Killing No Worse Than Letting Die?" is an argument in favor of the distinction, framed largely as a response to Rachels.

4. As a brief and final note on this topic, observe that were a distinction to exist, not all cases of infant euthanasia fall under the infanticide umbrella, at least as I've defined it. This is because infanticide necessitates the active component, killing, and doesn't permit "letting die" in its scope.

5. To see a contrast here, consider a patient who recently entered a Persistent Vegetative State (PVS). This is a patient who was at one point able to give informed consent, and is now not able to

for it to be voluntary or involuntary because both of these categorizations require that the patient be able to provide informed consent, which an infant is not able to do. However, there is also the question of the extent to which the infant's parents or guardians provide informed consent. After all, someone else needs to make the decision of whether to euthanize or not, and that other person in practice will almost never be the physician euthanizing the patient. This is an important debate and one that will be introduced more clearly toward the conclusion of this paper, although I will not engage with it in any length.

My aim in providing these definitions is to provide conservative and simple formulations of the topic at hand. This discussion highlights assumptions that I take and significant distinctions that will be useful in §§3-5.

§2: THE CASE OF BENTE HINDRIKS

Before arguing for the moral permissibility of infant euthanasia in particular circumstances, it would be useful to understand the motivation for presenting this argument. Cases similar to the one I provided above are actual occurrences and not far-fetched thought experiments, and this makes the discussion relate to actual events rather than those merely imagined. The case of Bente Hindriks is an illustration of this fact. In this section I will provide a brief overview of the troubling existence Bente had.

Upon birth, Bente was diagnosed with a genetic disorder called Hallopeau-Siemens syndrome (abbreviated H-S). This disorder is characterized by a genetic defect which "results in the formation of large blisters on the skin's outer layer, and even a light touch can rupture the blisters and make the skin slough off, causing excruciating pain" (Munson and Lague 2016, 515). In addition, feeding can become troublesome because a child with the syndrome can damage the lining of her mouth, necessitating the use of a feeding tube. Blindness can result due to scarring of tissues surrounding the eyes, and webbed hands or feet may result due to complications in healing and regenerating skin. The life expectancy of children with H-S is often three to four years, but in rare cases can go up to around ten, and such children "remain in constant pain throughout their lives, no

give informed consent. It is possible that such a patient could have given informed consent to be euthanized should he enter a PVS and, thus, he could have at one point given informed consent when he was once able to provide it, in spite of the fact that he is no longer capable of providing it. Whether or not such informed consent is permitted is an entirely different ethical discussion.

matter how short or how long" (*ibid.*). Typical causes of death include infection or skin cancer. The longer they live, the more medical intervention is necessary to maintain life. Bente was subject to such interventions, having to be fed through a feeding tube and needing a constant supply of antibiotics administered through an IV to ward off infections caused by the open patches of flesh where her skin had fallen off.

The argument I will put forth in the coming sections will rely on the fact that Bente is in pain, so if the details above happen to be insufficient in convincing the reader that she was in pain, here is further evidence toward that conclusion. She "showed signs of extreme suffering: uncontrollable and unceasing shrieking, abnormally high blood pressure, a rapid pulse, and fast breathing…[all] signs that experienced pediatricians recognize as indicating that a baby's body is under severe stress" (*ibid.*). She routinely screamed, and while her doctor provided her with painkillers they still weren't sufficient to stop her pain. Medical interventions meant to help Bente, such as bandaging the areas where her flesh was revealed, only tore off more skin and revealed more flesh. Bente had all of the physiological necessities to experience pain, which is to say an adequately developed nervous system, brain, and neurotransmitters. The doctors estimated she would live upwards of six years, which is to say a considerable amount of time filled with suffering. Bente would eventually live to die of "natural causes"—likely caused by a large dose of morphine—instead of being euthanized (Munson and Lague 2016, 516).

§3: POSITION IN FAVOR OF INFANT EUTHANASIA

The case of Bente Hindriks confronts us with a moral dilemma: should one let a child suffer throughout the duration of her lifetime, or terminate her life to eliminate the suffering? I believe that it is permissible to end the life of a child like Bente. In order to support my view, I will articulate what makes this case different from ones involving normal, healthy infants. The argument that I provide is heavily qualified, and to get a better understanding of the significance these qualifications have, I now turn to motivating and explaining them. In the three subsections that follow I consider each of my three qualifications that were first mentioned in this paper's introduction and connect each qualification with my central claim in favor of infant euthanasia.

§3.1: Qualification (i), Regarding Pain

The condition (i) *that the child is in regular extreme pain or suffering* is the basis for motivating the utilitarian considerations of the topic. Utilitarianism is the ethical principle that is concerned with assessing the utility which results from the consequences of actions. According to its simplest formulation, the ethical action is the one that promotes the greatest utility, or increases net pleasure or happiness for the greatest number of people.

At this point it is important for me to note that I do *not* take a "full" utilitarian position. My aim is not to present this discussion in terms of a simple utility calculation, because doing so would run contrary to my intuition, and most readers' intuitions, that infant euthanasia is generally impermissible. This is because the "full" utilitarian can't account for many cases of euthanasia (and killing generally) which are *prima facie* immoral. My aim in this section is to use some utilitarian *considerations*, in light of the fact that an infant with H-S, or conditions similar to H-S, is in extreme suffering, rather than taking a "full" utilitarian position. To illustrate why I don't take such a position, I consider two crucial components which make our considerations more complex, the concepts of directly and indirectly affected parties.

I will first classify the individuals to be considered. Since the child is the primary being to receive (or not receive) euthanasia, she is the directly affected party, and the parents and doctors who decide whether she is to be euthanized are the indirectly affected parties. They may be the ones making the decision to euthanize or not euthanize, but they are not the ones being euthanized. This point may seem trivial and unnecessary, but it is vital to understanding whose well-being we're considering in the first place. Before proceeding to my utilitarian-inspired analysis, I will note some important features of this distinction. It is uncontroversial to say that the parents of the child are going to be more poignantly impacted by any action or lack thereof rather than someone who hasn't seen the child's raw flesh or heard the child's shrieking. That is to say, to the extent they are affected by the child's life, they are to be considered in the decision to euthanize or not. It is important to clarify that this fact alone is *not* sufficient to weigh their interests on an equal footing to the infant's interests.

In addition to this point, it is important to note that we are dealing with a directly affected party who cannot give informed consent to carry out the euthanasia;

instead, this burden is left to the indirectly affected parties.[6] It follows that they are not only affected emotionally, but affected with the burden of deciding whether to euthanize or not, *ceteris paribus* and law-permitting. For the purpose of this paper I will point to the central intuition that many of us share, namely that when the directly affected party is one we are deciding whether to kill, the indirectly affected parties' utility doesn't factor into the calculation in the same way as the infant's utility. Rather, it will always take a secondary role to the infant's utility.[7] To demonstrate the importance of this provision, consider that the parents of a child like Bente choose not to euthanize her because of the emotional trauma that they would feel if they permitted it to happen. In spite of the fact that they may have reason to euthanize their child and choose in her best interests, they choose not to because of their own interests. They may rationalize this in whichever way they choose, perhaps by claiming that the interests of rational adults outweighs the interests of an infant. I, and many others, would not be convinced. The point is that when the parents' interests hinge so much on the continued, considerable suffering of their child, it is unreasonable to weigh their interests over their child's interests. The suffering of the child will always take precedence over *any* possible suffering the parents experience due to the child's medical condition, and the reason for this is because the child is the directly affected party.[8] The "full" utilitarian would be very skeptical of applying these ideas of direct and indirect parties into calculations. If this "full" utilitarian is committed only to simple utility

6. That the child can't give consent can be taken to be an objection, but this is misguided. No infant can give consent, but that doesn't mean that we should reject all medical procedures for infants. The "full" utilitarian, if his commitment is as strong as he may claim, will deny the importance of informed consent altogether. I only use it in this discussion to highlight what limitations existing medical standards may present to him.

7. This is to say that even if the parents' suffering might outweigh that of the child in a typical utilitarian calculation, here I am insisting that there is a *categorical* difference in the way in which their suffering should factor into this decision. In this way my position is similar to John Stuart Mill's when he invokes qualitative (categorical) distinctions as well as quantitative distinctions in measuring utility.

8. In many cases, this is equivalent to saying that there is more utility at stake in the loss of life than in the grievance over a child. However, even if this were contested by arguing that the parents' utility outweighs the infant's, I would still maintain that, since the parents' utility takes a secondary role, it will never compete with the infant's utility. This is true no matter how severe and crippling the emotional trauma they face, since they are not the directly affected party their utility will be in a league of its own.

calculations, then there's no way he can account for them and, in neglecting to do so, he would be defying the aforementioned intuitions. For these reasons I only employ utilitarian considerations, rather than taking a fully utilitarian position.

With these clarifications foregrounded, we can take a look at what the utilitarian considerations can provide for this argument. The proposed good in euthanizing a child like Bente is to *avoid* suffering. This is to say that the utility in favor of infant euthanasia is in the net reduction of suffering. Recall that the child has all of the physiological necessities to experience pain, and is indeed experiencing it invariably. Since the proposal of undertaking infant euthanasia is to alleviate the pain of such a child, this qualification is necessary. At this point we need to consider how best to approach euthanasia.

Recall the discussion of active and passive euthanasia in §1. Since it is the case that active euthanasia will typically entail a faster, more painless death than passive euthanasia, and we are interested in reducing suffering subject to the conditions outlined above, we must consider the degrees of suffering which each entails. It is useful to provide a sketch of these degrees. Consider the "ranking" below:

Active Euthanasia > Passive Euthanasia >> Late Euthanized Death >> No Euthanized Death
[Least Suffering]----------[Most Suffering]

To the left of the ">" is an action that entails less suffering than the one to its right. To the left of each ">>" is an action that entails *substantially* less suffering than the one to its right. Though I am not sure if this sort of ranking can be defended with a straightforward argument, the intuitive plausibility of it should be apparent to most readers. While I have the urge to say the actions on the left side of the spectrum are morally preferable to those on the right, I do not have the tools to provide this as a rigorous argument. In rejecting the "full" utilitarian position in favor of wanting to line up with commonly-held and deep-seated intuitions, it appears that I may forfeit the possibility of ever having such tools. In spite of this fact, the conclusion is still compatible with my overall position. I am arguing that there exist cases where infant euthanasia is permissible, *not* arguing that such cases are ever obligatory. This leaves open the possibility that one need not euthanize at all. The reasons for this will become clear in §3.3.

This utilitarian analysis points to the permissibility of euthanasia because the one feasible way of significantly reducing suffering for the child is to euthanize, as will be shown in §3.2.

§3.2: Qualification (ii), Regarding Possible Action

The condition (ii) *that there is no present or prospectively viable course of action that will improve the child's condition* displays the problem that a lack of effective treatment poses. Were there to exist a way of curing or, at the very least, treating a genetic disorder such as H-S, there would exist a way of combating the suffering associated with the disorder. At the present time there are no available resources which will accomplish this. On the contrary, many efforts to help someone like Bente only served to worsen the condition. For instance, medical practitioners "bandaged her raw flesh where the skin had peeled away, but when they changed her bandages, they tore off even more skin. *No medical intervention seemed to help* [emphasis mine]" (Munson and Lague 2016, 515). In such circumstances, there simply is no other alternative to reducing extreme suffering besides euthanasia.

In order to provide a point of contrast to untreatable H-S, I'll contrast such a condition with a congenital disorder known as duodenal atresia. In this disorder, the entrance to the small intestine (called the duodenum) is closed off due to atresia (a closure or narrowing). This entails that food from the stomach cannot enter the small intestine and be digested. Unlike H-S, "[s]urgery can repair this condition and is successful in most cases" (Munson and Lague 2016, 529). Indeed, surgery is so successful that Escobar *et al.* find that in the 12% of cases in which late complications occur, only 6% of those result in mortality (Escobar et al. 2004, 867). In cases of duodenal atresia, medical interventions do help. Qualification (ii) does not apply to such cases of duodenal atresia because there exists a course of action to improve the child's condition.

The preceding discussion may make a reader consider cases where a present effective course of treatment may not exist but where an experimental and questionably effective one does. Qualification (ii) accommodates for this fact, and the consequence is that such *prospective* treatments should be attempted prior to undertaking euthanasia. This effort is subject to the discretion of the medical practitioner and should be consistent with the conclusion reached in §3.1 regarding the net reduction of suffering. That is to say, were such prospective

treatments to be developed, they ought to be applied only if they can be seen to provide a net reduction of suffering. For instance, putting more bandages on Bente would *not* be a prospective treatment for it would only result in greater net suffering.

§3.3: Qualification (iii), Regarding Human Life & Value

The condition (iii) *that there is no potential for the child to live a recognizably human life* appeals to the significance of what we would consider to be a life worth living. To provide my reasoning for this qualification I will briefly shift gears and use features of an enticing anti-abortion argument contained in Don Marquis' "Why Abortion Is Immoral."[9] Marquis argues that what makes abortion immoral isn't so much that a fetus is a "potential" human being, but rather that there is one property which *most* fetuses share: a future of value like ours, herein abbreviated as FOVLO (Marquis 1989, 189-94). It is not just fetuses that have FOVLOs. According to Marquis, this is the same property that makes killing an adult wrong (Marquis 1989, 201-2). He notes that "[t]he loss of one's life deprives one of all the experiences, activities, projects, and enjoyments that would otherwise have constituted one's future. Therefore, killing someone is wrong, primarily because the killing inflicts (one of) the greatest possible losses on the victim" (Marquis 1989, 189). It does not limit what these experiences, activities, etc., are. Moreover, "[t]he future of a standard fetus includes a set of experiences, projects, activities, and such *which are identical with the futures of adult human beings and are identical with the future of young children* [my emphasis]" (Marquis 1989, 192). The beings that have a FOVLO, the FOVLO-bearers, either have the property or don't; it does not admit of degrees.[10] The fetus that has the property has it in the same way that a sixty-year-old adult does. Fetuses and infants, even though they may not have current engagements like adults do, have a future of engagements that provide value to their lives. To be deprived of this FOVLO is to be wronged, for it would take away that property which makes our lives worth living and lends itself to our ability to flourish.

9. This may at first seem counterintuitive because it seems unlikely that any ideas in opposition to abortion may actually be used in support of infant euthanasia, but this is not the case.

10. To the extent that FOVLO doesn't admit of degrees, it can be regarded as a *threshold*, rather than a scalar, account.

Before delving into the argument for how the FOVLO property factors into my thesis, there is first a need to clarify in more detail what is meant by the property, and what it entails. The following subsections constitute a lengthy but necessary commentary that cover the necessary and sufficient conditions of the FOVLO, an account of moral status, and the application of the property.

§3.3.1: Necessary and Sufficient Conditions

There are a number of things to be said that regard the necessary and sufficient conditions of the FOVLO. I consider two aspects: the necessary and sufficient conditions as they relate to 1) FOVLO-bearing beings, and 2) the use of FOVLO in my argument. Addressing (1) will clarify what makes this view distinct from a personhood account, and addressing (2) will provide an important foreground to how the FOVLO property can be applied to cases of infant euthanasia.

A FOVLO is a property that all biological humans, whether in a womb or outside, *potentially* have. Note, however, that it is not necessary that a being be a human to have a FOVLO. Indeed, Marquis himself makes this very suggestion, writing "[i]t is possible that there exists a different species from another planet whose members have a future like ours" (Marquis 1989, 191). He also leaves open the logical possibility that certain non-human animals on our own planet have a FOVLO. From these considerations we can conclude that being a human is neither necessary nor sufficient for possession of a FOVLO. At this point, some readers may be curious about FOVLO's bearing on the concept of "personhood." I take it that one virtue of this approach is that there is absolutely no need to frame this conversation in terms of personhood (or for that matter, "potential" personhood). This is one of many benefits in using a property to ground the ethics of infant euthanasia, and for this reason I won't need to consider the many controversies surrounding how to properly define personhood. I follow Marquis here when he writes "[t]he category that is morally central to this analysis is the category of having a valuable future like ours; it is not the category of personhood. [We can proceed] independently of the notion of person or potential person or any equivalent..." (Marquis 1989, 192).

Some readers may take the above to provide a hefty blow to Marquis' argument, because it appears that we can't attribute a single necessary condition to the kinds of beings which possess a FOVLO. I believe this is mistaken. Insofar as what is morally relevant is the FOVLO property, the only necessary condition is

that the being have it, regardless of any notion of "potentiality," "personhood," etc. Moreover, it is pertinent to note that our interest rests in identifying the beings that do not possess a FOVLO, rather than those who do. We know that most human beings possess a FOVLO, but when we identify one that doesn't have this property and for which there is reason to believe that euthanasia is justified, then (in conjunction with qualifications (i) and (ii)) we have all we need. Needless to say, part of the purpose of this paper is to demonstrate that there exist such biological humans, like Bente Hindriks, who do not have such a FOVLO. What this analysis provides us with is a useful corollary: An ethics of infant euthanasia requires that we need only guarantee that a being *doesn't* have a FOVLO, instead of having to guarantee that a being has a FOVLO.

Next, I'll consider the necessary and sufficient conditions of the FOVLO property as it relates to my argument, rather than its bearers or non-bearers. Thankfully, this is much more straightforward than the preceding discussion. I see the role that the FOVLO property plays in my argument as having both a sufficient *and* necessary part in my account of the ethics of infant euthanasia. The following conditional results:

> (S): If an infant lacks the FOVLO property, then it is a potential candidate for euthanasia.

In this context, a potential candidate for euthanasia is one that satisfies qualifications (i) and (ii), which were argued for in §§3.1-3.2.[11] Similarly, the converse holds:

> (N): If an infant is a potential candidate for euthanasia, then it lacks the FOVLO property.

Accordingly, the FOVLO property functions as a kind of baseline, after which utilitarian considerations take hold; if it's satisfied, and we have reason to believe

11. One may be curious here on whether (S) commits me to the view: "If an *adult* lacks the FOVLO property, then it is a potential candidate for euthanasia." I believe that it may, although I will not argue for this point because it is outside of the scope of this paper. "Potential candidate" needs to be interpreted cautiously, because in many cases consent is possible when considering adults. Marquis is relevant on this point, and he notes that "the claim that the loss of one's future is the wrong-making feature of one's being killed does not entail, as sanctity of human life theories do, that active euthanasia is wrong. Persons who are severely and incurably ill, who face a future of pain and despair, and who wish to die will not have suffered a loss if they are killed" (Marquis 1989, 191).

euthanasia is appropriate, then euthanasia is justified. One consequence of this reasoning is that the wrongness of an *unjustified* infant euthanasia rests on the fact that the ethical baseline, the baseline of possessing a FOVLO, is not respected where it in fact held by the infant. This can be shown to be logically equivalent with the help of a simple contrapositive of (N):

> (N'): If the infant *has* the FOVLO property, then it is *not* a potential candidate for euthanasia.

In such a case, the alleged intentional mercy-killing or "letting die" of the infant would not be justified. In terms of its broader discussion, this analysis helps suggest why general infanticide is wrong; it deprives the FOVLO-bearing infant of its future. FOVLO-bearing infants are, of course, most infants, but as we've seen it is unfortunately not all. Next I'll consider how this property factors into our understanding of moral status.

§3.3.2: The Moral Status of Infants

This entire discussion wouldn't be fruitful if we didn't have the means to apply it. The preceding discussion welcomes a very important question: What is it that makes general infanticide, or unjustified infant euthanasia, *morally impermissible*? In order to answer this question, we must first get clear on the moral status of infants. So far, we've established two things that will be useful in this discussion: that most infants have a property, a FOVLO, and that ending a FOVLO-bearing infant's life is what makes killing them wrong. However, it is not immediately clear that a FOVLO is what guarantees infants' status in the moral community. To illustrate this point, consider a common attitude toward non-human animals. Most people hold that it is impermissible to senselessly kill animals. Yet, they would also hold that animals don't hold an equal moral status with humans. A common means of demonstrating this point in the discussion is that, when presented with a scenario where one may save either, say, an unknown dog or an unknown human (but not both), most people are going to opt to save the human.[12] What this

12. Of course, this is not a universal attitude, but instead merely a common one. It is also not essential to my argument. I am merely using it as a means of illustrating different conceptions of moral status.

commentary demonstrates is the existence of different schema of status holders. I will next articulate what I believe these different categorizations to be.[13]

In order to do this, I'll take the conversation back to infants. It seems problematic to say that an infant is a moral agent *in the same way* that an adult, fully rational person is. What the FOVLO property provides us with is the following observation: an infant can have a title to life, can have a property which makes it *morally impermissible* to kill it if the appropriate conditions are present, but isn't a moral agent. At this point, a distinction is appropriate. Among the set of beings which hold *moral status* are *agents* and *non-agents*. I argue that (most) adults fall into the former category, and infants fall within the latter category. The motivation for this distinction comes from the fact that one can consider both an infant and adult to be FOVLO-bearers, but at the same time maintain that there is some criterion (or criteria) lacking for the infant to be a moral agent. The FOVLO property is not sufficient by itself for agency. We do not hold infants responsible for their acts in the way that we do adults. So what do adults have that infants don't? While it would be outside of the scope of this essay to provide a thorough answer to this question, I will provide at least a tentative one because it affords us a crucial insight into an infant's moral status.

I believe that what differentiates the agent from the non-agent rests in the idea of positive moral expectations.[14] A *positive moral expectation* is one which applies only to agents who are expected to perform an action *and* are able to perform this action.[15] We have a moral expectation for the agent who has to save either the dog or the human. He must perform an action otherwise he is acting immorally. On the other hand, a *negative moral expectation* is one which applies to both agents and non-agents, and regards what can't be done to either. This division makes intuitive sense--we wouldn't expect an infant to make the choices which create an increase in net good or to carry out duties. Yet, we also don't think it is morally permissible to senselessly harm infants. Negative moral expectations

13. For a much more thorough discussion on these gradations see Jeff McMahan's "Infanticide"

14. Another possibility that is commonly put forth is rationality. One may claim that agents are rational whereas non-agents aren't rational. I do not dispute that this is case, but I also don't think it is appropriate to adopt because it doesn't explain *why* non-agents shouldn't be harmed, which is the objective of this section.

15. This latter condition is important because expectation alone is not sufficient to determine agency. The agent is able to perform a particular action and, consequently, also able to not perform the action (which helps explain why we can hold others accountable).

for what we can't do to both moral agents and non-agents exist in light of their status, not the condition of agency.[16]

If a being possesses a FOVLO, then there exists a negative moral expectation to not deprive it of its future. If a reader is persuaded by rights-language, this is compatible with saying that FOVLO-bearing beings have a *right to life*. Marquis suggests the same when he writes that the "value of a future-like-ours theory of the wrongness of killing shares strengths of both sanctity-of-life and personhood accounts while avoiding weaknesses of both" (Marquis 1989, 192). In this paper I take no position on whether "rights" exist, and I leave this open for the readers to fill in should they wish. We now have everything we need for the application to the real-world example provided in §2 and examples sufficiently similar to it.

§3.3.3: The Application

My intuition is that infant euthanasia is *prima facie* wrong, and the argument contained in this final subsection is to conclude that this intuition is sometimes misguided. The task at hand now is to extend Marquis' account to infants who lack a FOVLO and to examine those cases which aren't immediately evident. In order to do this, I will first quote Marquis at length to show the implications of the fringes of his theory and then apply these ideas to my argument.

Marquis writes that "ordinary killing could be justified only by the most compelling reasons," and, with regard to abortion, "[it can be justified] only if the *loss consequent on failing to abort would be at least as great* [emphasis mine]" (Marquis 1989, 194-6). To extend this idea beyond mere abortion, consider the claim that "[p]ersons who are severely or incurably ill, who face a future of pain and despair…*will not have suffered a loss* if they are killed." While depriving one of the value of his future is what makes killing wrong, "killing *does not necessarily wrong* some persons who are sick or dying [emphasis mine]" (Marquis 1989, 191). With these ideas put forth, we can piece together their significance to the topic at hand.

A child like Bente fits this above description. She is severely, incurably ill and faces a future guaranteeing pain and despair. Euthanizing her would not be wrong because she will not suffer the loss of a FOVLO because she simply has no FOVLO.

16. Influence for this discussion comes from Strawson's "Freedom and Resentment." While I do not borrow his terminology, I certainly am indebted to his insight on these issues. For a more thorough discussion on topics that relate to moral expectations, see this essay.

The "loss" in not euthanizing her is greater than simply letting her genetics take their eventual toll, for any continuation of her life is a continuation of invariable suffering combined with the lack of any recognizably human life. Qualifications (i)-(iii) provide us with the compelling reasons that Marquis suggests we need to justify killing.

§4: OBJECTIONS & RESPONSES

The following objections (Obj) and responses (Res) will showcase the strength that the qualifications have when combined, and the faultiness of neglecting them.

Obj(1): There are things we can do in our world today which would result in a net loss of suffering but would be *prima facie* wrong. For example, consider a case where a *healthy* individual's life can be sacrificed to help several others receive organs and tissue necessary to preserve their lives, and that the only way to accomplish this is to do so without that individual's knowledge or consent.

Res(1): In spite of the fact that such an objection takes us away from infant euthanasia because we are now considering healthy individuals, the argument I have provided has the means to present a response. Such an effort to sacrifice this individual's life is not compatible with the ideas expressed in §3.3. It is wrong to make such a sacrifice because this individual has a FOVLO. To sacrifice him for the sake of others would be impermissible to the extent that doing so would be to deprive him of the value of his future. This also ties into the discussion in §3.1, where I make it clear that I don't take a "full" utilitarian position, but instead employ utilitarian considerations.

Obj(2): We don't know that a patient such as Bente won't get better. Preexisting or emerging technologies may be adopted to treat such a disorder like H-S in ways currently unforeseeable. She could be euthanized when treatment is or will be available!

Res(2): With regard to the potential usefulness of preexisting technologies, in §3.2 I note that alternative methods of treatment ought to be tried before carrying out euthanasia. Were physicians to anticipate that a treatment may work, it should be tried for its efficacy. However, with regard to emerging or soon-to-be emerging technologies, those are and should be construed as mere possibilities. Imagine having to live in the extreme suffering of someone like Bente for the duration of her life, hopelessly waiting for whatever new medical technology that may or may not be effective in treatment when she could have been justifiably

euthanized earlier. It is implausible to keep such an expectation for something so uncertain and, in some cases, maybe even impossible.

Obj(3): We all experience pain and suffering! It would be foolish to end the life of an infant, say, if it received a mild cut or bruise.

Res(3): Such an objection doesn't do justice to the fact that a child like Bente is in *regular extreme* pain. The choice of these two emphasized words is present in qualification (i) not to elicit strong feelings in the reader, but to distinguish precisely such cases. Furthermore, an otherwise healthy infant with a mild cut or bruise doesn't experience the pain associated with the cut or bruise for an indefinite period of time. Not to mention the fact that mild cuts and bruises heal. A condition like H-S doesn't heal and isn't treatable.

Obj(4): Where do we draw the line between those infants it is permissible to euthanize and those which it is impermissible to euthanize?

Res(4): This objection highlights the importance of the way that all three qualifications (i)-(iii) function together. A child with, say, Down Syndrome who isn't in the regular extreme pain mentioned in (i) wouldn't qualify. In addition, this same child likely wouldn't qualify because condition (iii) isn't met—most children with Down Syndrome have a FOVLO, the ability to flourish and live a satisfying life. The line is drawn *exactly* where qualifications (i)-(iii) hold.

Obj(5): This argument appears to embody a tension between consequentialist and non-consequentialist reasoning. On the one hand, we have a utilitarian framework, and on the other we have a property which prohibits the taking of a life which looks like a deonotological constraint. These appear to be incompatible moral principles--how do we make sense of them?

Res(5): This objection invites a clarification to my overall position. Recall the conclusion of §3.3.1: What the FOVLO property provides us with is a baseline for moral consideration. I noted earlier that I do not take a "full" utilitarian stance, part of the reason being because of this very baseline. What makes this baseline special is its role in determining an infant's moral status as shown. It is there to provide us with an understanding of why, in the case of a FOVLO-bearing infant, it is impermissible to consider killing or neglecting the infant and why, in the case of a FOVLO-lacking infant, it is permissible to consider infant euthanasia. It is only *after* we establish that an infant is FOVLO-lacking that utilitarian considerations come into play, rather than from the start.

§5: COMMENTARY & CONCLUSION

One related area of ethical conflict concerns the nature of autonomy, and who is to be identified as the final decider for infant euthanasia. To illustrate this conflict, imagine that Bente's parents opt to keep her alive for as long as possible but that her doctor urges that she be euthanized. In the aforementioned arguments I suggest that it is often the case that both parents and doctor agree on the appropriate course of action regarding infant euthanasia, but this fact alone certainly doesn't necessitate that this will always be the case. If my argument in favor of infant euthanasia is accepted, then this would be an excellent point for further discussion because it would help illuminate more about the agent(s) making the morally significant action.

Another direction that further discussion can take it is to consider how far beyond infancy and early childhood a similar approach extends. Imagine that there exists a disorder similar to H-S but, instead of being evinced very early, is instead realized in adulthood. This person will be in the same extreme suffering, subject to the same medical interventions to which Bente was subject, and would be just as untreatable. One important difference between these is that the person who gets the genetic disorder later in life has already experienced a recognizably human life, has had the ability to flourish. Some may say that this fact strengthens that person's title to life, for whereas he has commitments in life and goals to accomplish, Bente does not. In other words, Bente has not experienced a recognizably human life whereas the late-onset patient has. My qualification (iii) makes no mention of having once experienced a recognizably human life, and part of the reason for this is simply that the scope of the argument provided regards the ethics of infant euthanasia rather than euthanasia generally. Perhaps (iii) can be revised to present the stronger case about euthanasia in general, but such a modification will entail a proper justification for why past experiences are significant to the ethics of the case. To my understanding, Marquis' theory will not be able to supply what we would need to account for this because it is having the FOVLO property, rather than *having once had it*, that matters. It may just simply collapse into a discussion of how euthanasia relates to consent.[17]

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