

## NATURAL LAW, SANCTITY OF LIFE, AND FUTURE OF VALUE ARGUMENTS

### LEY NATURAL, SANTIDAD DE LA VIDA Y EL FUTURO DE LOS ARGUMENTOS SOBRE EL VALOR

CHRISTOPHER TOLLEFSEN<sup>1</sup>

#### **Abstract**

The growth of natural law theories and arguments over the past half century or more has been accompanied by the development of arguments in support of the doctrine of the *sanctity of human life*. But both the content of that doctrine, and the best form of argument in favor of it, are contested. In this essay, I address the question of both the content and the nature of the argument by way of contrast with a very different approach to the ethics of killing, the *future of value argument* of the late Don Marquis.

#### **Key Words**

Sanctity of human life; abortion; Don Marquis; future of value; persistent vegetative state; human dignity.

#### **Resumen**

El crecimiento de las teorías y argumentos del derecho natural durante el último medio siglo o más ha estado acompañado por el desarrollo de argumentos en apoyo de la doctrina de la santidad de la vida humana. Sin embargo, tanto el contenido de esa doctrina como la mejor forma de argumentar a su favor son objeto de debate. En este artículo, abordo la cuestión del contenido y la naturaleza del argumento en contraste con un enfoque muy diferente sobre la ética de la muerte: el *argumento del valor futuro* del fallecido Don Marquis.

#### **Palabras clave**

Santidad de la vida humana; aborto; Don Marquis; valor futuro; estado vegetativo persistente; dignidad humana.

**Overview:** 1. Introduction 2. The Core Argument 3. The Practical Argument 4. Three Remaining Questions

---

<sup>1</sup> Ph.D., Emory University, 1995. Professor of Philosophy, University of South Carolina. Email: Tollefsen@sc.edu.

## 1. Introduction

The late philosopher Don Marquis was the author of one of the most widely read and reprinted essays to defend the claim that abortion is usually morally wrong.<sup>2</sup> After criticizing both pro-choice and pro-life arguments in that essay, Marquis asserts that it is necessary, in order to answer the moral question about abortion, first to explain why it would be wrong to kill *us* (i.e., for our purposes, you the reader, or me, the author, of this essay). His answer is well known:

When I am killed, I am deprived both of what I now value which would have been part of my future personal life, but also what I would come to value. Therefore, when I die, I am deprived of all of the value of my future.<sup>3</sup>

As Marquis says, the “account of the wrongness of killing defended in this essay does straightforwardly entail that it is *prima facie* seriously wrong to kill children and infants, for we do presume that they have futures of value.”<sup>4</sup> But fetuses also have a future of value; and so Marquis concludes that because it deprives fetuses of their future of value, abortion is usually morally wrong.

Marquis’s conclusion surely endeared him to many natural law thinkers.<sup>5</sup> For the past sixty or more years of growth and development of natural law theory have been accompanied by the growth and development of arguments for the moral wrongness of abortion. Such arguments have in turn been part of a larger project, to which natural law thinkers have contributed, of defending the *sanctity of human life*, the view that, at a minimum, the intentional killing of innocent human beings is always morally wrong. The sanctity of life view, so understood, rules out the intentional killing of human beings at the fetal stage. Marquis’s claim about the moral wrongness of abortion thus converges with a central teaching of virtually every sanctity of life view defended by any contemporary natural law thinker.<sup>6</sup>

But Marquis believed, and argued in “Why Abortion is Immoral,” that the future of value account of abortion’s wrongness was *superior* to that of a sanctity of life account. There, he claimed that one advantage of the future of value account was that it did not, as a sanctity of life account does, rule out the permissibility of euthanasia. For Marquis, it was a mark in favor of a theory of the wrongness of killing that it delivered different

---

<sup>2</sup> Marquis, Don, “Why Abortion is Immoral,” *The Journal of Philosophy* 86 (1989): 183-202.

<sup>3</sup> Marquis, “Why Abortion is Immoral,” 190.

<sup>4</sup> *Ibid.*, 191.

<sup>5</sup> And indeed, this essay was originally written for a panel convened in honor of Marquis at the Romanell Workshop on Bioethics at the University of Buffalo on which all the speakers (myself, Christopher Kaczor, and Patrick Lee) would consider themselves “natural law theorists.”

<sup>6</sup> Both Lee and Kaczor, for example. See Lee, Patrick, *Abortion and Unborn Human Life* (Washington, D.C.: Catholic University of America Press, 2010); Kaczor, Christopher, *The Ethics of Abortion: Women's Rights, Human Life, and the Question of Justice* (New York: Routledge Press, 2010).

answers, in relation to the question of moral permissibility of killing, to different kinds of cases.

And many who would describe their own position as a sanctity of life view would agree. Although they would differ from Marquis in holding that euthanasia is morally impermissible, they would agree with him that a theory of the wrongness of killing should return different verdicts on the permissibility of intending death in different kinds of cases. For example, killing in capital punishment is judged morally permissible by many Catholic defenders of a sanctity of life view.<sup>7</sup>

Let me make two clarifications here before continuing. First, I am concerned here only with killing in which death is intended as an end or a means. Disagreements over when it is permissible to accept death as a side effect are certainly to be found among proponents of sanctity of life views, but they do not form as radical a kind of disagreement as do disagreements over when and whether intentional killing is ever permissible.<sup>8</sup> So, to repeat, the disagreement between Marquis's future of value account and the account of some defenders of a sanctity of life view is over *which* forms of intentional killing are permissible, not over *whether any are*.

Second, proponents of a sanctity of life view also differ occasionally over the gravity of this or that instance of intentional killing; these disagreements also do not concern me here. I take it that the majority of defenders of any form of sanctity of life view will agree on the following: of any instance of intentional killing, it is either permissible or it is not permissible. If the latter, then it is not to be done, regardless of its gravity. So the relevant division between proponents of a sanctity of life view, the division that puts them with Marquis or against him, concerns whether an adequate theory of the ethics of killing should discriminate between impermissible and permissible forms of intentional killing.

I think the sanctity of life view should not discriminate. A view on which life is said to possess "sanctity" or is said to be "inviolable" should live up to its name, which suggests that human life is simply *never* to be taken intentionally, without exception. That is the view that I will discuss in the remainder of this essay with a view to showing what argumentative terrain such a sanctity of life view should occupy and how it should occupy it.

---

<sup>7</sup> See, for example, Feser, Edward and Bessette, Joseph, *By Man Shall His Blood Be Shed: A Catholic Defense of Capital Punishment* (San Francisco, CA: Ignatius Press, 2017).

<sup>8</sup> At any rate, when there is agreement *that* a particular instance of bringing about death is a side effect. Disagreements over *whether* some instance of killing is a side effect can be quite heated, as the controversy over the Phoenix abortion reveals; see Tollefsen, Christopher, "Double Effect and Two Hard Cases in Medical Ethics," *American Catholic Philosophical Quarterly* 83 (2015): 407-420.

## 2. The Core Argument

Marquis presented what he took to be the core argument for the sanctity of life view in a *festschrift* for Joseph Boyle, and he named that view the *substantial identity account*.<sup>9</sup> Here is a characteristic description from that essay: “According to the substantial identity account such killings [i.e., such killings as the intentional killing of post-natal children, adults, and human fetuses] are wrong because an individual has the right to life in virtue of being an innocent human being...”<sup>10</sup> Elsewhere Marquis says that the “substantial identity view is basically the view that we have the right to life in virtue of being human beings.”<sup>11</sup>

In the same volume, one can find Patrick Lee and Joseph Boyle articulating the view in similar ways. Lee writes: “every human being is valuable as a subject of rights in virtue of the fundamental or substantial kind of being he or she is...”<sup>12</sup> And Boyle in turn asserts that abortion “violates the rights the fetus has just in virtue of the fact that it is a member of the human species.”<sup>13</sup> And one can find all three offering an argumentative gloss of this claim that goes something like this: human beings – and other individuals with a rational nature – are all possessed of an intrinsic value that is the wrong-making feature in intentional attacks on their life or health. Again, Lee: “what each of us is, or the thing that each of us is, is intrinsically valuable or worth pursuing or promoting.”<sup>14</sup>

I think that taken on its own, this argument suggests the possibility of the very sorts of exceptions to a norm against killing that the tradition out of which this argument arises tends to favor – different exceptions than Marquis, but exceptions, nonetheless. For it is not obvious why there are no circumstances in which it would not be practically reasonable to destroy an intrinsically valuable thing – to save two or more intrinsically valuable things, for example (although this is obviously not the sort of exception the tradition tends to favor). Or (more commonly) because someone with presumptive authority decides which intrinsically valuable things should be preserved and which saved had judged or commanded that this one be destroyed. Or, also known to the tradition, because some defeater might obtain of the presumption against killing grounded in the intrinsic value of a thing – the commission of certain sins, for example, might block the argument from intrinsic value from going through.<sup>15</sup>

---

<sup>9</sup> Marquis, Don, “Why Abortion is Seriously Wrong: Two Views,” in C. Tollefsen (ed.) *Bioethics with Liberty and Justice: Themes in the Work of Joseph M. Boyle* (Dordrecht: The Netherlands, 2011): 3-22.

<sup>10</sup> *Ibid.*, 3.

<sup>11</sup> *Ibid.*, 12.

<sup>12</sup> Lee, Patrick, “Substantial Identity, Rational Nature, and the Right to Life,” in C. Tollefsen (ed.) *Bioethics with Liberty and Justice: Themes in the Work of Joseph M. Boyle* (Dordrecht: The Netherlands, 2011): 23-40.

<sup>13</sup> Boyle, Joseph M., “An Appreciative Response,” in C. Tollefsen (ed.) *Bioethics with Liberty and Justice: Themes in the Work of Joseph M. Boyle* (Dordrecht: The Netherlands, 2011): 243-257.

<sup>14</sup> Lee, *op. cit.*, 33.

<sup>15</sup> Variations of both justifications for intentional killing can be found in St Thomas’s treatment of killing in *Summa Theologiae*, II-II, q. 64.

### 3. The Practical Argument

However, Lee – and Boyle elsewhere, as Marquis notes – makes another argument, which is at least *prima facie* somewhat different, and the relationship of which to the argument I have just sketched I wish to discuss. Marquis says that rather than a future of good experiences, which on the future of value account is foundational, one “might say that the potential goods in the remainder of one’s life constitute one’s future of value.”<sup>16</sup> Marquis has an objection to this that I’ll return to, but it is worth noting the somewhat different shape this argument takes. Here is Lee’s version of this argument:

In moral deliberation we directly apprehend that our genuine fulfillment (basic human goods) is worth pursuing and protecting. The fulfillment grasped as worthy of pursuit is not just one’s own fulfillment as an individual, but the fulfillment of oneself and of others with whom one can have personal communion, those with whom one can rationally cooperate as co-agents. Moreover, the fulfillment of those subjects is worthy of pursuit and protection during those times that they are not conscious, and so it is not just actual co-agents whose fulfillment is worth pursuing but also those entities that have the basic capacity of being rational agents. Subjects with a capacity for rational pursuit of fulfillment and cooperation are worthy of full moral respect during all the times that they exist.<sup>17</sup>

Notice that in its starting point, this argument is deeply practical rather than, for want of a better word, recognitional: it starts with practical reason’s apprehension of goods-to-be-pursued as giving one reasons for action. It does not start with the recognition of the value of an entity, the human being or human person. This already makes it more like Marquis’s future of value account. Marquis says of his own account that it “locates the wrong of killing just where it should be...It locates the wrong of killing in the prospective future of the victim. When Fred kills Joe, Fred does not alter Joe’s past. Joe’s past is already completed. It cannot be changed. Furthermore, when Fred kills Joe, Fred does not really alter Joe’s present. The present is instantaneous; it divides the past and the present. Because killing should make a difference to the victim, it must concern the victim’s future.”<sup>18</sup> An approach that focuses on goods to be pursued does just that.

Notice also that at least in its starting points, the practical argument, like the future of value argument, is not deontological, as the above presentation of the substantial identity account can appear to be, with its claim that an entity of value must be respected. But at least as presented by Lee, the two arguments seem to come together at the end of his brief statement: “Subjects with a capacity for rational pursuit of fulfillment and cooperation are worthy of full moral respect during all the times that they exist.”

---

<sup>16</sup> Marquis, *op. cit.*, 16.

<sup>17</sup> Lee, *op. cit.*, 23.

<sup>18</sup> Marquis, *op. cit.*, 4.

But I think that is not quite where the practical argument should end; and I think an important part of the practical argument is missing from Lee's very brief statement. When reinserted, I think the practical argument provides a better argument for a fully coherent sanctity of life view that is exceptionless and in no way deontological.

Practical deliberation begins with recognition that the complex good of human life and health is-to-be pursued, and that no further good is necessary in order for the potential that human life and health would be realized by trying to transform a possibility into an opportunity: i.e., to give an agent a basic reason for action. It would be a mistake to characterize the apprehension as of an agent-neutral good – life and health is not a Moorean good, good independent of the existence of any agents. Rather, because the apprehension is practical reason's apprehension, it is of the good with a view to action, and the one apprehending is a potential agent in relation to that good. But it is an apprehension of the good as a *human good*, not simply as an agent-relative good in its relation to me. That is, I think the primitive recognition implicitly includes within it the qualifier "human" – for young human agents first achieving this practical insight, likely in the form "that's good, an opportunity to be pursued for and by things like me."

For an argument about the impermissibility of intentional killing to emerge from this practical insight requires a further insight, one best described philosophically using the technical language of incommensurability.<sup>19</sup> Whenever I am in a situation of choice and the human good of life and health is at stake in one or more of the options – the others of which might involve other goods, or other aspects of the good of life and health – then the options are strictly speaking incommensurable in goodness.<sup>20</sup> For the non-philosophically educated agent, that is simply the recognition that in choosing x over y, the benefit of y that makes it choice worthy by contrast with x simply won't be realized, and vice versa. Otherwise, they would not really be options. (In Ruth Chang's language, that means that the options are not merely incommensurable – not measurable in terms of a common unit of value – but also incomparable: the judgment that x is of more or greater value is out of place, whether by cardinal or ordinal comparison.<sup>21</sup> But I'll continue here to use the language of incommensurability.)

So, apprehension of the good makes options choice-eligible, and if there are genuine options, the choices are incommensurable in respect that makes them choice eligible. And goods provide the, and the only, genuine reason-for-action-making-feature in any

---

<sup>19</sup> See, for further discussion of the relationship of the argument to the incommensurability of options, Grisez, Germain, "Towards a Consistent Natural Law Ethic of Killing," *American Journal of Jurisprudence* 15: (1970) 64-96; and Finnis, John, "Incommensurability and Public Reason," "Commensuration and Public Reason," in R. Chang (ed.), *Incommensurability, Incomparability, and Practical Reason* (Cambridge, MA: Harvard University Press, 1997): 15–33.

<sup>20</sup> See, for discussion, Boyle, Joseph, "Free Choice, Incomparably Valuable Options, and Incommensurable Categories of Good," *American Journal of Jurisprudence* 46 (2002): 123-141.

<sup>21</sup> Chang, Ruth, "Introduction," in R. Chang (ed.), *Incommensurability, Incomparability, and Practical Reason* (Cambridge, MA: Harvard University Press, 1997): 1–34.

situation where there are genuine options for choice. That is what goods do: they generate reasons for, and, just in themselves, only reasons for action.

Acting to destroy what is good in an option for choice is, then, just in itself, unreasonable – it is literally contrary to reason because contrary to what is only (and always) a reason for action. But of course, most action in which the destruction of an option insofar as it is a good realizing option is undertaken for the sake of realizing some further good realizing option, i.e., it is undertaken as a means, as when I end a friend's life in order to end his suffering. Could the intended destruction of one state of affairs insofar as it was good-realizing for the sake of actually realizing some other good-realizing state of affairs be reasonable? I can think of only one way in which it could be, viz., if the goodness of the end to be brought about was *greater*, good-wise, than the goodness of the damaged or destroyed state of affairs. But the incommensurability of goodness thesis rules out precisely that judgment, and so the choice to damage or destroy an instance of a basic good in order to bring about some other instance of a basic good is also always unreasonable and therefore morally wrong.

But intentional killing – choosing to end life – for the sake of some other benefit, such as the relief of suffering, one's future life prospects, the pursuit of justice, or what have you – is doing *that*: it is destroying an instance of a basic good for the sake of another instance. The one feature of such an act that could justify it never obtains. So it is never to be done.

Put thusly, the argument raises the following questions: First, the argument does not on the surface sound anything like the substantial identity argument. So why is the latter presented at such great length by defenders of the former? What is the relationship here? Second, why must this argument lead, in a way that neither the substantial identity account, nor Marquis's future of value account must, to an exceptionless account of the wrong of killing?

And third, can the argument respond to Marquis's objection to the goods-based future of value account? In the remainder of this essay, I briefly address these three issues.

#### 4. Three Remaining Questions

##### 4.1 The Role of the Substantial Identity Argument

First: I think the role of the argument from substantial identity, for its most clear-minded defenders, is entirely dialectical. It is not a grounding argument for the norm against killing and its deontological flavor is misleading. The need for the argument from substantial identity arises only because of the pervasive attempts by philosophers and others to justify this or that form of intentional killing. Those attempts at justification – the ones the argument from substantial identity is attempting to address, all work by saying, in effect,

that the practical conclusion that human beings must not be killed does not apply *here* because of the presence or absence of some property in the human being in question: it is not, for example, sapient, sentient, part of the community, in possession of the neurological rudiments of a brain, or a fully developed brain, or fully born, or what have you.<sup>22</sup>

How does the argument from substantial identity respond to such arguments? I think we should see the core of the argument from substantial identity as an appeal to fairness: it would be unfair, because arbitrary in some way or other, to limit the application of the norm against intentional damage or destruction of the good of life, and hence the norm against intentional killing, to this or that subclass of human beings, which is the class of beings recognized in our primordial practical insights to be the beneficiaries of human goods. To say, of beings that are fundamentally like us in that they can be benefited by being alive, or loved, etc., that they need not be so benefitted, is to treat them unfairly.<sup>23</sup> But the norm against intentional killing is not itself grounded in considerations of fairness, nor can considerations of fairness generate a moral absolute, so the argument from substantial identity is a secondary argument in the dialectic concerning the permissibility of killing.<sup>24</sup>

Thus, I suggest, almost all the claims and conceptual apparatus of the substantial identity are dependent and derivative on the practical argument. The practical argument, for example, does not need the concept of *person*, but it makes sense to use that concept in response to challenges that distinguish, arbitrarily and hence unfairly, between human beings to whom the practical argument applies and human beings to whom it does not. The practical argument shows that among all the corporeal beings we are aware of, human beings are unique and privileged as regards the ethics of killing. Their exalted status is reasonably described as a form of *dignity*, and reasonably contrasted with the different excellences of things that merely have a price. No human being is to be intentionally killed; all therefore have an *inalienable and absolute right* against being intentionally killed. The substantial identity account thus exists in order to serve the dialectical defense of the practical argument.

What, briefly, about non-human intelligent beings? Is the practical argument too anthropocentric? No. For we could not recognize non-human intelligent beings as such *except* by recognizing them as available for personal communion in relation to precisely the same set of goods, or at least a considerable subset of those goods, that human beings can pursue for their own sake. We should be able to recognize the possibility, for example, of shared pursuit of the goods of life, of knowledge, or of play, and of shared

---

<sup>22</sup> See, for familiar efforts at such arguments, Tooley, M., "Abortion and infanticide," *Philosophy and Public Affairs* 2 (1972), 37–65; Mary Ann Warren, "On the Moral and Legal Status of Abortion," in T.L. Beauchamp and L. Walters (eds.), *Contemporary Issues in Bioethics*, 4th ed. (Belmont, CA: Wadsworth, 1994): 302–311.

<sup>23</sup> See the discussion at the end of Tollefsen, Christopher, "Fetal Interests, Fetal Persons, and Human Goods," in S. Napier, (ed.), *A Critical Analysis of Pro-Choice Arguments* (Dordrecht, the Netherlands: Springer, 2011): 163- 183.

<sup>24</sup> For further discussion of the relationship of fairness to moral absolutes, see Tollefsen, Christopher, *Lying and Christian Ethics* (New York: Cambridge University Press, 2014), Chapter Four.



friendships with such beings. Of course, the form of certain goods common to us might not be available in a fully shared manner: we likely could not marry intelligent extra-terrestrials, for example, since we would be unable to pursue a one flesh union with beings too biologically dissimilar to us. But we should expect that such beings would, like us, realize in their lives complex social forms that involve the reproduction of their species, forms of familial life, and mutual and exclusive forms of fidelity, and we should be able to act in ways that benefit or harm those goods in their lives and vice versa. Such beings would thus be “human beings” in the relevant sense required by the practical argument.

#### 4.2 The Problem of Exceptions

Second, the practical argument does not seem to me to suffer the same threat of exceptions that the argument from substantial identity would if taken to be foundational. The practical argument puts all its weight on what there are reasons for doing and how reasons for action stand in relation to one another for someone who wants to be all-in reasonable, i.e., fully responsive to reasons. But consider the direction of recent magisterial thought on the ethics of killing, which tends towards absolutism, with that of the tradition, which tends towards permitting some forms of intentional killing.

Two elements of the tradition support its different approaches to intentional killing: on the one hand is a claim about the dignity and hence inviolability of the human person made in God’s image. Both Pope John Paul II and Pope Francis have made human dignity a centerpiece of their discussion of the ethics of killing and their emerging criticisms of the death penalty.<sup>25</sup> And the recent Instruction from the Dicastery for the Doctrine of the Faith asserts that human beings have “infinite dignity,” a claim difficult to square with the permission that some such beings be intentionally killed.<sup>26</sup>

On the other side of the tradition, however, is a claim about the absolute nature of God’s authority, an authority apparently exercised by God in many Old Testament commands to kill. As Boyle writes elsewhere, “the transcendent greatness of God and the fundamental importance of keeping his law seem to swamp altogether any ideas about the inviolability of the lives of those who run afoul of either.”<sup>27</sup>

Today, by contrast, the emphasis on human dignity is pushed to the point of eclipsing claims of divine authority. The image that comes to my mind is that of an audio mixer with

---

<sup>25</sup> For the groundwork of such argument, see Pope John Paul II, Encyclical Letter *Evangelium Vitae: The Gospel of Life*, 25 March 1995. Available at: [https://www.vatican.va/content/john-paul-ii/en/encyclicals/documents/hf\\_jp-ii\\_enc\\_25031995\\_evangelium-vitae.html](https://www.vatican.va/content/john-paul-ii/en/encyclicals/documents/hf_jp-ii_enc_25031995_evangelium-vitae.html); regarding Pope Francis, see Bordoni, Linda, “Pope Francis: ‘death penalty inadmissible,’” *Vatican News* 02 August 2018. Available at: <https://www.vaticannews.va/en/pope/news/2018-08/pope-francis-cdf-ccc-death-penalty-revision-ladaria.html>.

<sup>26</sup> Dicastery for the Doctrine of the Faith, Declaration *Dignitas Infinita on Human Dignity* 8 April 2024. Available at: <https://press.vatican.va/content/salastampa/en/bollettino/pubblico/2024/04/08/240408c.html>.

<sup>27</sup> Boyle, Joseph, “Sanctity of Life and its Implications: Reflections on James Keenan’s Essay,” in K. Wildes and A. Mitchell (eds.), *Choosing Life: A Dialogue on Evangelium Vitae* (Washington, D. C., Georgetown University Press, 1997), 73.

two channels, which are adjusted to different relative degrees depending on what one believes about who it is permissible to intend to kill.

But at least as regards the ethics of killing, and certain other moral absolutes, the core practical argument is straightforward: acting contrary to reason cannot possibly be reasonable, and an act that just in itself is an act in which the agent intends damage or destruction to an instance of a basic good cannot be reasonable in the only way that could make sense, i.e., by bringing about a greater good than the good that is destroyed. Therefore, any and all killing of a human being in which death is intended is contrary to reason and morally impermissible. There is no room in the argument for the possibility of exceptions.

#### 4.3 Responding to Marquis

Third, keeping the aforementioned structure of the practical argument in mind helps us to respond to an argument made by Marquis that he thinks calls the substantial identity account into question. Marquis hangs a lot on his suspicion that the biological life of a person in a persistent vegetative state has no intrinsic value. He writes:

Suppose, for some reason, you fall into an irreversible vegetative state, a state in which you are, and always will be, incapable of either awareness or purposive movement. Why would it be wrong to end your life? According to the future of value account of the wrongness of killing, the standard reason why ending the life of a human being is wrong is that ending her life would deprive her of a future of value. If you are in an irreversible vegetative state, you lack a future of value. Therefore, unless there is some other reason why it would be wrong to end your life, ending your life would not be wrong.<sup>28</sup>

Now obviously no one would *choose* to live in such a state; life in a persistent vegetative state represents a tremendous loss of health and of access to many human goods. But I think we can recognize, of any person who is in a persistent vegetative state, that certain remediable privations give reasons for action to other agents to remediate those privations, even if there are other reasons not to. A physician will recognize that there is some benefit to be had in healing an infection of that patient, just as a family member will recognize that there is some benefit to be had in stopping a visitor's mockery of the patient. And the possibilities are not only remedial: friends have reason to make the room of a pvs patient beautiful, to play music enjoyed by the patient, and to pray for and in some sense with the patient, rather than to fill the patient's room with images and music that were despised by the patient, and to treat the patient as beyond the possibility of care. Thus, pvs patients are not beyond the scope of benefit to be realized in action for the sake of their good.

---

<sup>28</sup> Marquis, "Why Abortion is Seriously Wrong: Two Views," p. 15.

But the recognition that there are such reasons for action of their behalf is all that it takes to get the argument against intentional killing off the ground: if there is a reason *at all* to maintain the life or health of the patient, or indeed, *to do anything at all for the patient* that offers some benefit that would not be gained by killing the patient, then there is a choice available between incommensurably good options. For one can benefit the patient by maintaining his or her life or by realizing some other good such as friendship or beauty; *or*, by means of *ending* the patient's life, one can thereby achieve some other good (whatever that good might be). I have argued that such a choice could only be justified if the good achieved was greater than the good intentionally destroyed. But the possibility of a choice, predicated on recognition of a benefit to be realized by not killing, shows that there is no such greater good, and that the choice to intend the death of a patient in a persistent vegetative state, or any other significant condition of disability, is contrary to reason and thus, once again, not to be done. Only if (as I think, *per impossible*) the good achieved in killing was a greater good than the good achieved in refraining from killing or providing some other benefit could Marquis's claim above be correct.

Accordingly, I think that what I have called the "practical argument" against intentional killing is stronger than both the future of value argument, and more foundational than the argument from substantial identity. Moreover, unlike the future of value argument and some claims concerning the sanctity of human life, the practical argument shows that the norm against intending death is absolute: there are no exceptions to it.<sup>29</sup> The practical argument is thus central to a natural ethics of killing.

---

<sup>29</sup> A version of this paper was presented at the Romanell Workshop in Bioethics at the University of Buffalo, organized by David Hershenov. Romanell Fellows then blogged about the paper and offered me the opportunity to respond to their comments, for which I am very grateful. But the comments and the response can be found here: <https://www.buffalo.edu/romanell/blog/tollefsen-sanctity.html>.

## REFERENCES

Bordoni, Linda, "Pope Francis: 'death penalty inadmissible,'" *Vatican News* 02 August 2018. Available at: <https://www.vaticannews.va/en/pope/news/2018-08/pope-francis-cdf-ccc-death-penalty-revision-ladaria.html>.

Boyle, Joseph M., "An Appreciative Response," in C. Tollefsen (ed.) *Bioethics with Liberty and Justice: Themes in the Work of Joseph M. Boyle* (Dordrecht: The Netherlands, 2011): 243-257.

Boyle, Joseph, "Sanctity of Life and its Implications: Reflections on James Keenan's Essay," in K. Wildes and A. Mitchell (eds.), *Choosing Life: A Dialogue on Evangelium Vitae* (Washington, D. C., Georgetown University Press, 1997), 70-74.

Boyle, Joseph, "Free Choice, Incomparably Valuable Options, and Incommensurable Categories of Good," *American Journal of Jurisprudence* 46 (2002): 123-141.

Chang, Ruth, "Introduction," in R. Chang (ed.), *Incommensurability, Incomparability, and Practical Reason* (Cambridge, MA: Harvard University Press, 1997): 1–34.

Dicastery for the Doctrine of the Faith, Declaration *Dignitas Infinita on Human Dignity* 8 April 2024. Available at: <https://press.vatican.va/content/salastampa/en/bollettino/pubblico/2024/04/08/240408c.html>.

Feser, Edward and Bessette, Joseph, *By Man Shall His Blood Be Shed: A Catholic Defense of Capital Punishment* (San Francisco, CA: Ignatius Press, 2017).

Finnis, John, "Incommensurability and Public Reason," "Commensuration and Public Reason," in R. Chang (ed.), *Incommensurability, Incomparability, and Practical Reason* (Cambridge, MA: Harvard University Press, 1997): 15–33.

Grisez, Germain, "Towards a Consistent Natural Law Ethic of Killing," *American Journal of Jurisprudence* 15: (1970) 64-96.

Kaczor, Christopher, *The Ethics of Abortion: Women's Rights, Human Life, and the Question of Justice* (New York: Routledge Press, 2010).

Lee, Patrick, "Substantial Identity, Rational Nature, and the Right to Life," in C. Tollefsen (ed.) *Bioethics with Liberty and Justice: Themes in the Work of Joseph M. Boyle* (Dordrecht: The Netherlands, 2011): 23-40.

Lee, Patrick, *Abortion and Unborn Human Life* (Washington, D.C.: Catholic University of America Press, 2010).

Marquis, Don, "Why Abortion is Immoral," *The Journal of Philosophy* 86 (1989): 183-202.

Marquis, Don, "Why Abortion is Seriously Wrong: Two Views," in C. Tollefsen (ed.) *Bioethics with Liberty and Justice: Themes in the Work of Joseph M. Boyle* (Dordrecht: The Netherlands, 2011): 3-22.

Mary Ann Warren, "On the Moral and Legal Status of Abortion," in T.L. Beauchamp and L. Walters (eds.), *Contemporary Issues in Bioethics*, 4th ed. (Belmont, CA: Wadsworth, 1994): 302-311.

Pope John Paul II, Encyclical Letter *Evangelium Vitae: The Gospel of Life*, 25 March 1995. Available at: [https://www.vatican.va/content/john-paul-ii/en/encyclicals/documents/hf\\_jp-ii\\_enc\\_25031995\\_evangelium-vitae.html](https://www.vatican.va/content/john-paul-ii/en/encyclicals/documents/hf_jp-ii_enc_25031995_evangelium-vitae.html).

Tollefsen, Christopher, "Fetal Interests, Fetal Persons, and Human Goods," in S. Napier, (ed.), *A Critical Analysis of Pro-Choice Arguments* (Dordrecht, the Netherlands: Springer, 2011): 163- 183.

Tollefsen, Christopher, *Lying and Christian Ethics* (New York: Cambridge University Press, 2014).

Tollefsen, Christopher, "Double Effect and Two Hard Cases in Medical Ethics," *American Catholic Philosophical Quarterly* 83 (2015): 407-420.

Tooley, M., "Abortion and infanticide," *Philosophy and Public Affairs* 2 (1972), 37-65.