

The Challenge to Personhood

Dr. Neil Cudney

We live in interesting days. It is a time of unprecedented advancements in health and sciences. It is a time of rising activism and advancements for social justice, rights and equality for special interest and minority groups. It is a time that holds promise and hope for the future, yet we also find ourselves wrestling with deep ethical dilemmas that will greatly impact future generations. The focus of this short paper is on one minority group in particular: the disabled.

Philosophy

We start our exploration of 'personhood' in the field of philosophy. The ideas of today often become the realities of tomorrow. The Wright brothers had the idea that manned flight was possible. One hundred years later, it is estimated there are 5,000 planes in the air at any given time in America alone. The idea to send an American safely to the Moon before the end of the decade was announced by President Kennedy on May 25, 1961. That idea became a reality in July 20, 1969. It is important to pay attention to the theories of today because they lay the visions for the realities of tomorrow.

One important idea that has been resonating in philosophical circles over the past two decades is a growing conversation regarding the difference between what is 'human' and who is a 'person'. The ideas of what constitutes a 'person' are certainly not new. We find the roots of these controversial discussions in the writings of the Greek philosophers Socrates, Plato and Aristotle. Many of the new 'ideas' are simply a repackaging of very old ones. We will look at a few of the more current voices in this debate. It must be noted that due to space only a cursory treatment of the topic is possible. I will, however, seek to identify key points.

Mary Anne Warren (1947 – 2010) was an influential American writer and philosopher. Arguably one of her most significant contributions was a philosophical establishment of criteria of personhood.¹ Her work has become a benchmark used by many philosophers in their own arguments. Here are the key criteria:

1. **Consciousness** of objects and events external and/or internal to the being, and in particular the capacity to feel pain
2. **Reasoning:** The developed capacity to solve new and relatively complex problems
3. **Self-motivated activity** which is relatively independent of either genetic or direct external control
4. **Capacity to communicate**, by whatever means, messages of an indefinite variety of type
5. **Presence of self-concept/self-awareness**

Her primary argument was that *genetic humanity is not sufficient for personhood*. She does not state that to be considered a 'person' a human being needs to pass all of the criteria, but she strongly suggests that at least criteria 1 and 2 would be the most basic consideration. While her initial argument was primarily related to abortion (which is not our focus here), it quickly moved into implications for those with significant cognitive impairments. These implications can be ascertained from the following quote:

Some human beings are not people, and there may well be people who are not human beings. A man or woman whose consciousness has been permanently obliterated but who remains alive is a human being which is no longer a person; defective human beings, with no appreciable mental capacity, are not and presumably never will be people.

But to ascribe full moral rights to an entity which is not a person is as absurd as to ascribe moral obligations and responsibilities to such an entity.²

¹ Mary Anne Warren in "On the Moral and Legal Status of Abortion" *The Monist*, 57, no. 1 (January 1973) 43-61

² http://instruct.westvalley.edu/lafave/warren_article.html

She goes on to recognize the impact on the 'unwanted and those with special needs'. She indicates that society **does** in fact have an obligation to support those who have '*extreme[ly] severe mental or physical handicaps*'. The ground for support, she argues, flows not from the characteristics of those receiving support but rather from those giving it (both the caregivers and society). The ability to or importance of providing this support is contingent on:

1. "The source of great pleasure and satisfaction" that some persons get from giving care to such beings and
2. So long most people feel this way, and so long as our society can afford to provide care for infants that are unwanted, or which have special needs that preclude home care.³

One can observe that these criteria provide no permanent or lasting reason why this support should continue to be provided in the future. Mary Anne Warren's philosophical ideas have had great influence on other philosophers as well as conversations in social policy which we will consider later.

Michael Tooley is the professor of Philosophy at the University of Colorado. Tooley's positions have been equally controversial and he builds on Warren's criteria. He states that "only a being possessing the concept of self as a continuing subject of experience and other mental states [is] itself such a continuing entity that qualifies for uniquely personal status". He goes on to qualify this belief,

That anything that has, and has exercised, all the following capacities is a person, and that anything that has never had any of them is not a person: the capacity for self-consciousness; the capacity to think; the capacity for rational thought; the capacity to arrive at decisions by deliberation; the capacity to envisage a future for oneself; the capacity to remember a past involving oneself; the capacity for being a subject of non-momentary interests; the capacity to use language.⁴

While he upholds the social moral responsibility⁵ for those who are defined as 'person's', his conclusions lead him believe that society does not hold the same social moral responsibility to those who are non-persons or even potential persons.

Bioethics

Peter Singer is an Australian moral philosopher. He is currently the Ira W. DeCamp Professor of Bioethics at Princeton University. He is arguably the most influential philosopher on the subject of bioethics alive today. He is also one of the most controversial thinkers, particularly on the topic of personhood. Utilitarianism forms the backbone of Singer's theories. For him, ethics and the question of personhood should be rooted in 'quality of life' rather than in hypothetical ideas about 'sanctity'. Much of his thinking revolves around the question "can they suffer?" As such, animals and humans are placed on equal terms. For him the question is not between human and animal, but between 'person' and 'non-person'.

Suppose, for example, that parents knew in advance of a baby's birth that it would be born without arms and legs. In such cases, Singer supports the parents' right to terminate this life. He argues that this same principle applies up to 28 days after birth. In the case of lives that would be irredeemably difficult and painful, Singer endorses not simply abortion of the unborn, but infanticide. Singer would argue there is little difference between a seriously impaired fetus and a newborn. The fact that the latter is alive outside of the womb is trivial for him, since in either case this being has a painful life ahead of it that Singer would argue is not worth living.

He states,

³ http://instruct.westvalley.edu/lafave/warren_article.html

⁴ James W. Walter, "What is a person: An Ethical Exploration" University of Illinois Press, United States, 1997 p. 36 quoting Michael Tooley

⁵ Singer advocates a social constructed moral responsibility not a theistic defined one.

"When the death of a disabled infant will lead to the birth of another infant with better prospects of a happy life, the total amount of happiness will be greater if the disabled infant is killed ... killing a disabled infant is not morally equivalent to killing a person. Very often it is not wrong at all."⁶

Regarding Down syndrome, in an early work entitled *Should the Baby Live* he concludes, "Down syndrome is surely relevant to the decision [whether or not] to operate because it means a reduced potential for a life with the unique features which are commonly and reasonably regarded as giving value to human lives".⁷

Robert Edwards is a British scientist and pioneer in in-vitro fertilization (IVF) research who won the Nobel Prize in Physiology or Medicine in 2010. Edwards and his research partner, Patrick Steptoe, pioneered the process by which the first test tube baby was born in 1978. Since that time an estimated four million babies worldwide have been born as a result of IVF. In 1999 Edward did an interview with London's *Sunday Times*, in which he said "Soon it will be a sin of parents to have a child that carries the heavy burden of genetic disease. We are entering a world where we have to consider the quality of our children".⁸

The *Journal of Medical Ethics* 2012 published a paper by Alberto Giubilini and Francesca Minerva, entitled "After-birth abortion: why should the baby live?" which concludes:

If criteria such as the costs (social, psychological, economic) for the potential parents are good enough reasons for having an abortion even when the fetus is healthy, if the moral status of the newborn is the same as that of the infant and if neither has any moral value by virtue of being a potential person, then the same reasons which justify abortion should also justify the killing of the potential person when it is at the stage of a newborn.⁹

Again, the purpose of this present inquiry is not an examination of the moral or legal issues regarding abortion. The reason for including these theories is that many of their arguments have impact on and implications for the definition of personhood for those with disabilities.

The debate around euthanasia is a growing one in legal and social policy here in North America, but has been a part of the landscape of some European communities for decades. In its implications for the disabled, one only need consider a phrase that at first appears to be an oxymoron: "Compassionate homicide". What constitutes a person to whom society has a moral obligation to protect? What is a non-person to whom the obligation is to consider economic impact and the end of suffering?¹⁰ Is there such a thing as a human non-person and, if so, what are its criteria? The way one answers these questions has dramatic impact on both people with developmental disabilities and those providing care.

Sociology

The *Globe and Mail* reported a recent Danish headline that reads "Plans to Make Denmark a Down syndrome-free perfect society". In Denmark the discussion is taking place regarding aborting fetuses with Down Syndrome so their society will be "free of" such people around 2030. On bioethicist describes it as a "fantastic achievement".¹¹ The article identifies the controversial nature of the decision and comments, "What kind of society might result

⁶ Peter Singer, *Practical Ethics*, Cambridge University Press, 3rd edition, 2011 p. 163

⁷ Kuhse and Singer, "Should the Baby Live; the problem of handicapped infants" Oxford University Press, 1985 p. 140

⁸ Ellen Painter Dollar, "No Easy Choice: A story of disability, parenthood, and faith in an age of advanced reproduction" Westminster John Knox Press, Louisville Kentucky, 2012 p. 8

⁹ Alberto Giubilini, Francesca Minerva, *Journal of Medical Ethics*, "After-birth abortion: why should the baby live?" February 23, 2012

¹⁰ The impersonal identification of 'it' is to highlight the transition from person to non-person.

¹¹ Margaret Somerville, *Deselecting our Children*, *Special to the Globe and Mail* published Monday August 22nd, 2011. <http://www.theglobeandmail.com/commentary/deselecting-our-children/article626406/>

from endorsing a belief that a society with disabled people is “perfect?” The use of science in the search for human perfection has been at the root of some the greatest atrocities.¹²

Of concern is the increase of successful litigations of ‘wrongful birth’ globally. Recent cases in the US have awarded compensations upwards of 3 million dollars. The rise of these cases caused Forbes magazine to write an article “Wrongful Life and Wrongful Birth Lawsuits Raise Tax Issues”.¹³ This is a complex issue that is not always what it may appear to be on the surface. Particularly in the United States, parents may feel they have no alternative but to sue in order to obtain the resources necessary to support a disabled child because of insurance and medical costs. However, the end result is the social policy conversations that revolve around economic costs and liabilities to an already strained system. In this view, the ‘responsibility’ to bring *potential persons* who will be healthy and contributing members of society is an obligation that parents must shoulder.

An expose by Mail on November 29th, 2012 revealed that Liverpool Care Pathway (hospital) was engaging in,

The practice of withdrawing food and fluid by tube is being used on young patients as well as severely disabled newborn babies. They say it is a form of euthanasia, used to clear hospital beds and save the National Health System money. The use of end of life care methods on disabled newborn babies was revealed in the doctors’ bible, the British Medical Journal.¹⁴

One only needs to revisit the beginning of the 20th century to discover the impacts and implications of Eugenics. It would difficult to distinguish this present behaviour from similar activities conduct in Germany in the 1930’s.

Conclusion

This is brief overview of some of the implications of current conversations surrounding ‘personhood’. It is a landmine-ridden subject laden with controversy, emotion, ideology and faith. One of the key difficulties lies in the fact that who the conversations are about and those whom are primarily affected are the very ones often unable to contribute to the discussion. Commonalities of inter-faith dialogue include some form of the ‘golden rule’ as well as a belief that a society is somehow measured by how it treats its weakest citizens. The purpose of this article is to draw attention to an already-at-risk population and begin to identify the important role faith and culture groups can play in advocating more humane ways of defining and defending personhood. It is hoped that this brief scan will raise both awareness and interest in the public discourse.

Respectfully submitted,

Neil Cudney, D.Min.

¹² Ibid

¹³ <http://www.forbes.com/sites/robertwood/2012/03/31/wrongful-life-and-wrongful-birth-lawsuits-raise-tax-issues/>

¹⁴ <http://www.dailymail.co.uk/news/article-2240075/Now-sick-babies-death-pathway-Doctors-haunting-testimony-reveals-children-end-life-plan.html#ixzz2PEHp4uOg>