'PERSON' IN MEDICAL ETHICS

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ABSTRACT

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A conception of person frequently appears in the literature of medical ethics. This thesis will explore 'person' as it appears in this context. My position is that there are such individuals as persons. Scientific and psychological investigation of persons as a kind will provide knowledge about what they are and how they might be harmed. Once we understand that persons are whole beings - gestalts - distinct from, yet at the same time within, a social context, and are metaphysical entities rather than moral constructs, some roadblocks to achievement of the following may be removed: agreement about the nature of persons, subsequent maximization of promotion of their best interests, and just consideration of the moral status of others who are not persons, or whose personhood is indeterminable.

This knowledge is significant for medical ethics. Knowledge of the impending loss of their personhood is a source of suffering for some patients. Physicians must understand that many of their patients are persons, and get to know them as individual persons in

order to promote their health and well-being. For this reason, good communication between physician and patient, including the process of obtaining valid consent, is essential.

The role 'person' plays in its familiar context of the issues of abortion and euthanasia will be seen to be inappropriate. Basing the permissibility of abortion on the non-personhood of the fetus is a mistake. It has led to the ill-fated attempts to specify essential characteristics and criteria of persons, and to the obsession with the right to life. This has deflected attention from the more meaningful sense of person, from which more positive and productive obligations may be drawn.

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Chapter 1

Introduction

The concept 'person' may be found in metaphysical and moral philosophy. That the same term, let alone concept, is used in these different areas of thought raises questions which this thesis will formulate and explore. The very use of the word 'person' may be problematic; in common use it always refers only to human beings. Etymologically it has the meaning of a role or conferred status. Using this word seems to predetermine the direction of the enterprise, and it invites confusion of the metaphysical and moral senses in which the word is used. These various issues are all part of the main problem which must be addressed. This is to investigate the nature of the conception of person which is relevant to ethical theory and is used in medical ethics.

Problems may arise as a result of using the word 'person' in important ways when its particular meaning, and the class of individuals to which it refers, is unclear. One possible undesirable consequence is unjust treatment of individuals (human or otherwise), based on mistaken judgements about rights and moral

status. Two contemporary issues where this injustice may be seen are the abortion and euthanasia questions. In both these issues personhood or non-personhood is sometimes used as part of an argument intended to determine moral status. Since so much of importance depends on its use, we should be clear about its meaning. And so, while the concept 'person' is frequently a part of the medical ethics literature, the role it plays in its familiar context of the issues of abortion and euthanasia will be seen to be inappropriate. In my view, the discussion of personhood in medical ethics, weighted as it has been by the abortion debate, has focused on the wrong question. We have been busy with the question "who or what is a person" to the neglect of the question "how ought we to treat persons"? Of course, this second question trades off the first to some extent, but the fact is that only in very extraordinary circumstances are we doubtful as to whether or not the being with whom we are dealing is a person. We may be doubtful about the personhood of certain beings such as fetuses and patients in a persistent vegetative state, but the personhood of most of the beings with whom we relate in a medical setting is not in doubt. Moreover, I believe that how we are obliged to treat them derives, at least in part, from the fact that they are persons.

In some ways, it would be more satisfying to be able to either discover or stipulate that 'person' may be defined in such a way that we could maintain with confidence that there are specific necessary and sufficient criteria which would allow us to determine exactly which individuals were persons and which were not. My investigation will show, however, that it is not this kind of concept at all.

I will suggest that the concept of person relevant to medical ethics is a descriptive concept, as distinct from a purely evaluative one. It is a cluster concept, or one which has a number of characteristics, although individual persons need not hold any one characteristic in common. We might develop a theory about which physical and psychological characteristics are typical of persons, and how these characteristics are interrelated, by studying persons as members of a natural kind. Natural kinds are groups of individuals about whom we may develop theories and build bodies of information. I will also suggest that persons are gestalts, which means it is more illuminating to consider them as wholes rather than as collections of individual parts or properties. Thus there is no single characteristic which all persons must possess (including biological humanity).

While other disciplines, such as biology and psychology, may develop theories about what kinds of characteristics are typical of persons, ethical theorists will have to accept that there are limitations to the concept which make it unsuitable in some ways for their enterprise. This is not to say, however, that the concept 'person' is irrelevant for ethical theory - far from it. While the inherent difficulties with establishing criteria make the concept of person inappropriate for determining a single moral status for all persons, it provides us with insight as to the nature of particular individuals. In this way, we may determine how these individuals may benefit or be harmed by our actions.

The conception of person examined in this thesis is significant both as it refers to the group of individuals who are persons, and as it is used to refer to an individual's unique personality. I will propose that as important as it is to have a general conception of what a person is, it is especially critical that we understand that individuals have a sense of their own personhood. In attempting to reach agreement about what persons are typically like, individuals may value the various kinds of characteristics persons possess differently. Similarly, individuals may vary in their beliefs about what characteristics are important to

themselves in terms of their own personhood. The elements of their individuality may contribute in various ways to maintaining the integrity, wholeness, or unity of their personhood. That the combination of elements, and the importance each assumes in the whole, may vary from individual to individual, and may be compromised by illness and injury, creates special obligations for physicians, given their commitment to the principles of beneficence and non-maleficence. These obligations include recognizing and respecting the differences in their individual patients, and considering them as whole persons.

The method I shall use in attempting to achieve an understanding of what persons are, and the importance of this understanding for medical ethics, is to first raise questions about the conception of person used in ethical theory. Chapter 2 will consider these questions, and make some suggestions which will subsequently be supported. One such suggestion is that any analysis of 'person' must be based on a theory which is as free as possible from moral bias. In other words, the concept 'person' is judged to be a descriptive one, although some evaluative judgements are necessary in order to say coherently what a person is. In addition, a theory of personhood may not be rejected as mistaken or accepted as true merely because

of the morality of actions based on that theory (e.g. rejecting an argument that fetuses are not persons for the sole reason that if this were true then abortion might be permissible).

I will proceed as follows. I begin with the hypothesis that the majority of humans have certain special physical and psychological characteristics which distinguish them from most other animals. We must then acknowledge that there are some humans who do not have these characteristics. To prevent confusing those humans who do with those humans who do not, the first group will be called persons. Through the consideration of an exemplar and empirical investigation, we may discover which characteristics are typical of persons. For example, are all persons human? Are they all rational? On the basis of what we have learned about persons, it may now be possible to determine ways in which they may suffer and may be harmed. Since the medical profession is directed by the ethical principles of beneficence and non-maleficence, this information will be of vital importance to the ethical practice of medicine.

I will argue that because person is a cluster concept with open texture, it is difficult to say with certainty which, if any, characteristics of persons are necessary or sufficient. This difficulty may be traced

to the evaluative judgements which decide which characteristics are theoretically important to an understanding of personhood. These judgements may vary from individual to individual.

The plausibility of these suggestions is supported throughout the remaining chapters, beginning with Chapter 3, which introduces the notion of natural kinds. Theories about natural kinds include the ideas of cluster concepts with open texture, and evaluation of significant characteristics. Here the suggestion is offered that persons are members of natural kinds, and that this fact has significance for the practice of medicine. Specifically, the scientific study of persons as a kind yields knowledge of physiological structures, including those which are foundational for cognitive activity. Those practising medicine must understand these structures in order to understand how and why persons suffer, and thus how their suffering might be relieved.

Chapter 4 will consider in some detail the inclination of some theorists to conflate 'person' and 'human being'. Theories which exhibit this tendency will be explored, as will the relationship between "being human" and "being a person". While it may be true that most persons are also human, there may be humans who are not persons, and it is at least

conceptually possible that there are persons who are not members of our own species. The significance of species membership to ethics will be explored, and I will argue that while mere membership in a species is not relevant to one's moral status, knowledge about an individual's species will indicate ways that individual might be harmed or helped.

Chapter 5 considers some characteristics which are judged to be central to the concept 'person': consciousness, reason, self-motivated activity, communication, self-consciousness, and moral consciousness. These characteristics will be seen to contribute to personhood without necessarily constituting it. The relationship between these characteristics and some ways in which persons suffer will be explored. The difficulties in clearly articulating a theory, or even an explanation, of these characteristics will support the claim that person is a cluster concept with open texture.

Chapter 6 will propose that persons are gestalts, and thus may not properly be understood by a mere analysis of their component characteristics. In general, persons are more correctly understood as a whole - an interaction of the various interdependent characteristics, such as those which were discussed in Chapter 5. This understanding is significant at the

conceptual level, but also at the particular level, which adds a new dimension. The evaluation of which characteristics are important to personhood will not only be made by the theorist attempting a conceptual analysis, but will also be made at a most personal level by an individual.

In Chapter 7, the concept 'person', as it is now to be understood, will be considered as it may relate to ethical theory in general. Although the thrust of this investigation - to determine how persons may be harmed and benefitted by the medical profession - suggests a connection to utilitarianism, the conception of person developed here is relevant to any ethical theory which proscribes harm to others. The final task will be to connect all this to medical ethics. The concept 'person' will be considered within the context of a particular ethical framework - that of the Canadian Medical Association. Based as it is on the principle "do no harm", and since most patients are persons, some special ways which persons may be harmed are related to the Association's Code of Ethics. The notions of health and well-being, and life and death as they appear in the code are examined, as well as the principles proscribing unjust discrimination and requiring a respect for privacy and autonomy. Also, the issues of abortion and euthanasia will be

addressed, since it is here where mistakes about the concept 'person' have most often been made.

An essential component of ethical theory is that we must consider how our actions will affect other members of the moral community. In order to understand how others might be harmed and to have insight into the ways they suffer, it is important to have information about their psychology and physiology. This kind of information may be gathered by learning about individuals as members of kinds which tend to share certain typical traits and characteristics. I will develop the thesis that 'person' is a useful and important concept in this context - particularly for those practising medicine.

CHAPTER 2

A Concept of Person

I. Introduction

What is required, for the sake of clarity and thoroughness in this investigation, is a careful analysis of the conception of person used in medical ethics. I will begin by 'setting the scene' - i.e. providing a brief historical discussion of the word and concept 'person'.

Disputes about the true meaning of 'person' may be partially explained by an examination of the concept itself. One such conflict takes place when a particular ethical theory is allowed to inappropriately influence the conceptual analysis. In this chapter I will suggest that, while some value judgements are unavoidable in such an enterprise, those of a moral nature should be avoided. This conclusion will be reached after addressing the question whether the better explanation of 'person' is reached by a meta-theoretical evaluative type of theory or a moral-evaluative type of theory.

Another reason for disagreement is that some consider 'person' to be a closed concept, meaning there are necessary and sufficient conditions for personhood. Others see it as an open concept, but among them there is disagreement over which characteristics of personhood are the most important ones. This is where the evaluative process intrudes; as a result conflict is unavoidable and the concept of person appears to be a cluster concept with open texture. In the remainder of this dissertation I will build support for this hypothesis, and explain its implications for medical ethics.

II. A Context for the Discussion

Assuming that we might learn something about the way the word is now used, and the theories which are currently offered about its meaning, a brief discussion of the history of 'person', the word and the concept, is in order.[1] Some insight will be gained through consideration of various theoretical positions as well.

The word 'person' originally meant a character, or role, in drama - from the latin persona. This is

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[1] More in-depth studies may be found in Jenny Teichman, "The Definition of Person," and Adolf A. Trendelenburg, "A Contribution to the History of the Word Person."

likely the ancestor of 'impersonate', and of the way 'person' is used today when it refers to a position such as chairperson. This word is intended to show that the role is the important thing, not the sex of the individual who fills it.

The use of the word 'person' to suggest a role also hints at the need to distinguish between persons and human beings. 'Person' has been used in theology to refer to the Trinity - the three are united in one person. This suggests the possibility that persons - in at least one sense of the way the word is used - need not be human, or even biological, beings. Historically some humans were not considered persons (slaves, blacks and women, for example). The judgement that these individuals were non-persons was often based on a belief that they lacked some of the psychological characteristics associated with persons. For example, each of these groups has at various times in our history been considered to lack the high level of rationality supposedly possessed by normal, white, males, as well as their high level of development as moral agents. This indicates that whether or not one is a person has been considered relevant to one's moral status - a consideration which has been questioned recently by some involved in the abortion debate and the animal welfare movement.

Probably the first known philosophical use of the concept of person is found in Boethius, who defined it as an "individual substance of a rational nature"[2]. Locke used 'person' to mean "a thinking intelligent Being" while considering questions of personal identity and morality[3]. Kant solidified the perceived importance of rationality:

> Beings whose existence depends not on our will but on nature's, have nevertheless, if they are nonrational beings, only a relative value as means, and are therefore called <u>things</u>; rational beings, on the contrary, are called <u>persons</u>, because their very nature points them out as ends in themselves, that is, as something which must not be used merely as means, and so far therefore restricts freedom of action (and is an object of respect).[4]

This development must surely be considered extremely influential on the current moral issues which consider personhood significant. For example, debates about the issues of abortion and euthanasia often posit a relationship between characteristics such as rationality and moral status.

There are many current philosophical discussions of persons in the context of both personal identity and

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[2] J. Teichman, "The Definition of Person", p. 175, quotes Boethius.

[3] John Locke, <u>An Essay Concerning Human Understanding</u>, chapter XXVII.II.9 and <u>passim</u>.

[4] Immanuel Kant, <u>Fundamental Principles of the Metaphysic of Morals</u>, p. 56.

morality. Some of these follow the position that persons are rational beings and develop this in various ways, typically using psychological or behavioral terminology. Others stipulate that persons are individuals who possess certain rights, such as the right to life, or the right to self-determination. These rights may in turn be based on the possession of certain qualities, but they need not be. Some combine these approaches.[5] Engelhardt, for example, talks about 'persons in the strict sense' (corresponding to the first type), and 'persons in the social sense' (corresponding to the second). What is significant for my investigation is the longstanding association which has been made between one's personhood and how one ought to be treated. I will show this association to be a valid one.

Problems may arise as a result of using the word 'person' when its particular meaning is unclear. The distinction between the term 'person' as it is commonly used (person = human being), 'person' as it is used

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[5] For examples of the first kind, see Peter Carruthers, Introducing Persons: Theories and Arguments in the Philosophy of Mind; Daniel Dennett, "Conditions of Personhood"; Joseph F. Fletcher, "Four Indicators of Humanhood - The Enquiry Matures"; and Mary Anne Warren, "On the Moral and Legal Status of Abortion." Michael Tooley, Abortion and Infanticide, is probably the best known of the second type. See also Michael Davis, "The Moral Status of Dogs, Forests and Other Persons." H. Tristram Engelhardt, Jr., exemplifies the third - see his "Medicine and the Concept of Person."

metaphysically (e.g. person = rational being), the legal sense of 'person' (person = an individual with legal rights and/or responsibilities), and 'person' as it is used in a moral context (eg. person = a being with moral rights) may lead to a misunderstanding of which use is intended in a certain situation.

One such problem arises in the abortion debate. Stevenson's theory of persuasive definition illuminates the nature of the problem. As he explains,

> [a] 'persuasive' definition is one which gives a new conceptual meaning to a familiar word without substantially changing its emotive meaning, and which is used with the conscious or unconscious purpose of changing, by this means, the direction of people's interests.[6]

As we have seen, the conceptual meaning of 'person' usually connotes an individual with certain psychological and intellectual characteristics. This is typically seen to include also a certain elevated moral standing, i.e. a status deserving of respect and dignity, which has led to higher moral consideration and political power. As the notion of rights began to permeate moral and political theories, the tendency to consider all humans morally equal, regardless of their intellectual characteristics or capacities, grew. This has led to the virtual elimination of slavery,

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[6] Charles L. Stevenson, Facts and Values: Studies in Ethical Analysis, p. 32.

extension of political rights to women, and disapproval of discrimination in general.[7] Some now consider 'person' to connote individuals with rights, using religious or moral arguments to provide the basis for these rights. The emotive meaning did not change, however.

This plays itself out in the abortion debate as follows. An argument for the moral permissibility of abortion is that persons are individuals with certain psychological characteristics. Fetuses do not have these characteristics. Therefore they are not persons. An anti-abortion argument might also use the concept of person, but will start with the position that a fetus has rights and is therefore a person. The shift in the conceptual meaning, though the emotive meaning of respect remains unchanged, results in a change in the concept's application. This represents a confusion which has resulted in the tendency to confer what I judge to be inappropriate rights and moral status on some humans, and has precluded a just relationship with other animals.

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[7] See Stanley I. Benn, "Equality, Moral and Social." This egalitarian attitude is predominant only in some politics and philosophies, of course. There are still countries where slavery exists, and even western democracies fall far short of their democratic ideals.

Historically, then, there has consistently been a connection between personhood, psychological or intellectual capacities, and moral status. I will proceed to examine the nature of this relationship, and explore further the changes effected by the introduction of the concept into the abortion debate.

III. Some Important Considerations of Method

a) Concepts and Criteria for Application

It is not the purpose of this thesis to develop or defend a general theory of concepts. This has been done to some extent by others. M. Weitz provides a useful survey[8], as does the Encyclopedia of Philosophy.[9] We do not need to have a specific explanation of what concepts are in order to talk about the particular one of interest to us here. Nor is it my intention to offer a conceptual analysis of 'person'. Rather, it is to examine a particular conception of person - that which appears in philosophical discussions of issues in medical ethics. Included in this notion - as will become clear as the thesis develops - are the sorts of properties and

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[8] Morris Weitz, The Opening Mind: A Philosophical Study of Humanistic Concepts.

[9] P.L. Heath, "Concepts," p. 177.

characteristics persons typically have, and what kinds of things it would be appropriate to consider persons. I will also be discussing criteria for personhood in this same context, i.e. that of medical ethics. By a criterion I mean a particular characteristic, or group of characteristics, an individual must possess in order to be a person.

b) Meta-theoretical Evaluative Judgements and Moral-evaluative Judgements[10]

Is 'person' primarily a descriptive or an evaluative concept? Ideally, a descriptive concept would be one free of value judgements, while an evaluative concept would involve a value judgement of some kind. This value judgement might be an appraisive one, or it might involve a built-in reference to a norm. I will introduce a third way value judgements are involved, contributing to an explanation of why disagreements about the nature of persons persist. This is the view that, with cluster concepts, theorists may differ as to the explanatory significance they place on the various relevant characteristics. Once we acknowledge that there may be more than one kind of

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[10] These terms come from H.L.A. Hart, "Comment," pp. 36-40 and W.J. Waluchow, "The Weak Social Thesis," pp. 37-45.

value judgement[11], the distinction between descriptive and evaluative concepts becomes problematic.

Discussing legal theories, Hart and Waluchow observe that we might develop what is a descriptive theory which contains evaluative judgements without those judgements being morally biased (i.e. supporting or promoting a particular ethical theory).[12] The values reflected in these theories will be those which recognize that certain aspects of the theory are more important than others in contributing to enlightenment and explanation of the phenomena concerned. Waluchow suggests

> [w]e might refer to these as 'meta-theoretical evaluative judgments', to distinguish them from 'moral-evaluative judgments', which are concerned not with what is enlightening, important (in a theoretical sense) and central, but with what is morally good and bad.[13]

These notions need not be restricted to discussions of legal theory. Indeed, they will be very useful here in the discussion of theories which purport to explain the concept of person.

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[11] See Ernest Nagel, The Structure of Science, pp. 485-502, for an argument supporting this.

[12] H.L.A. Hart, "Comment," p. 39, and W.J. Waluchow, "The Weak Social Thesis," pp. 37-45, passim.

[13] W.J. Waluchow, "The Weak Social Thesis," p. 40.

I will begin by rejecting outright theories which make moral-evaluative judgements about the concept of person, which reject a particular view, not because it is incorrect or insupportable, but because its use or application would have immoral and undesirable consequences.[14] This might be a valid reason for refusing to incorporate a theory into practice, but it cannot invalidate the theory itself. For example, it might be argued that genetic interventions to manipulate the D.N.A. of humans are immoral and ought not to be permitted. This argument does not affect the validity of scientific theories about such a procedure.

This leaves meta-theoretical evaluative theories. But moral considerations may enter here as well, although I will argue that in an investigation such as this they should not. I will reject the assumption that it is an analytic truth that we should treat persons fairly and include them in the moral community[15].

Moral philosophers offer various definitions of persons. Some, like Michael Tooley, stipulate a

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[14] See, for example, Ronald Duska, "On Confusing Human Beings and Persons," and Roslyn Weiss, "The Perils of Personhood."

[15] Gary M. Atkinson, "Persons in the Whole Sense," p. 99.

definition. Some deny the concept's validity, rejecting it as another example of the 'is-ought' problem. Others, whose position I will support here, argue that "[t]he concept of personhood may be foundational to morality without being itself a moral concept."[16]

A claim that certain traits or abilities have intrinsic worth seems inescapably normative. On the other hand, the claim that individuals may be classified into groups on the basis of having characteristic x (or some of the bundle of characteristics x, y, z, etc.), or typically having characteristic x (or some of the bundle) seems like a non-normative, though admittedly evaluative, judgement. One may be faced with decisions such as which characteristics among many will determine an entity's group membership, what to do when an apparently significant characteristic is missing, and what to do when an entity has significant characteristics of more than one group (e.g. the duck-billed platypus, which lays eggs and suckles its young - each characteristic suggesting membership in a different biological classification). Since facts alone cannot decide these kinds of questions, they will be decided on the basis of a (non-moral) value judgement. The notion of person

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[16] P. Carruthers, Arguments in the Philosophy of Mind, p. 229.

which has significance for medical ethics has a certain, as yet unspecified, descriptive content; it describes something which has certain properties or characteristics. A decision of which characteristics are central, or most important, to a definition or determination of personhood, will unavoidably involve a value judgement.

Theories about persons which integrate moral considerations may develop in several ways. Sometimes philosophers who discuss the role of morality in this method of theorizing suggest that moral considerations determine what one's criteria for personhood will be (i.e. that it is unavoidably and perhaps problematically morally value-laden). As we have already seen, the values of the theorist may indeed play a role in development or assessment of a particular theory - it is probably true that the most scientific of theories will be influenced by the values of its formulators. This is unavoidable, and I will stipulate here that it is unlikely that there are any theories at all that may legitimately be called completely value-neutral, including those which propose to define 'person' or determine certain criteria for personhood. This in itself does not make them morally biased, for the values involved need not be moral values.

Some theorists argue that a person is essentially a moral agent, others that a person is a moral patient, which is an individual which we are obliged to consider and respect in some way. Moral patients may also be, but need not be, moral agents. Finally, there are those theorists who suggest that persons are those individuals judged to be morally good, or virtuous.[17]

The confusions introduced by this variety of ways of incorporating moral notions into the concept of person will be sorted out as this thesis develops. The most serious problem will be resolved if the distinction between the concept of person as determined by non-moral considerations, and the morally-biased concept of person, is remembered and maintained. To this end, I will refer to the first (non-moral) concept by the word 'person' alone, and the second (morally-biased) concept by 'person'$_M$. The failure to make this distinction has been responsible for a great deal of confusion and disagreement about what 'person' means and how it may properly be used in moral theories. A theory <u>without</u> moral bias would consider the first notion, person, the more basic of the two, and would

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[17] Examples of these various views are, respectively: Henry Ruf, <u>Moral Investigations: An Introduction to the Study of Current Moral Problems</u>; M. Davis, "The Moral Status of Dogs, Forests, and Other Persons"; S.F Sapontzis, "A Critique of Personhood."

derive moral obligations towards persons from the concept developed within this theory. I will support this view. A theory <u>with</u> moral bias would start with the concept $person_M$, defined by moral considerations, and derive other elements from this. I will reject this view.

If we exclude moral elements, we are left with the suggestion that persons are those with certain physical, psychological or social characteristics - i.e. persons in the morally-neutral sense. The evaluative nature of the theoretical enterprise emerges in the determination of which characteristics specifically describe persons. Current philosophical discussions about personal identity, for example, concern themselves largely with psychological continuity, and so consciousness and self-consciousness are inexorably linked to persons. Because of some problems with using 'human' as a classification in ethical theories, philosophers like Warren suggest using the classification 'person' instead. Inspired by her suggestion, I will proceed as follows:

1. Begin with the observation that the majority of humans have certain special physical and psychological characteristics which distinguish them from most other animals.

2. Acknowledge that there are some humans who do not have these characteristics. To prevent confusing those humans who do with those humans who do not, the first group will be called persons.

3. Through empirical investigation, discover which characteristics are typical of persons. For example, are persons typically human? Are they typically rational?

4. On the basis of what we have learned about persons, it will now be possible to determine ways in which they may suffer and may be harmed. Since the medical profession is directed, at least in part, by the ethical principles of beneficence and non-maleficence, this information will be of vital importance to the ethical practice of medicine.

A different, and in my view mistaken, type of theory states that some individuals have an elevated moral status, then stipulates the reasons for this status as defining personhood. These individuals are $persons_M$. The difference between this kind of theory and the one I support is that the criteria are determined by particular moral considerations rather than (empirically verifiable) physical, psychological or social ones. In order to support a rejection of the former, mistaken, type of theory, I will discuss a specific example - that of Michael Tooley.

In addressing the issue of abortion, Tooley has developed a detailed theory of personhood. I will discuss both his early and later positions, and show how they are examples of the type of theory I have described as morally-biased. I will also look at a suggestion by H. Tristram Engelhardt that combines both theoretical methods.

Tooley's position changed somewhat between his earlier writings on abortion and infanticide and the publication of his substantial book on the same subject. In an early paper he says that "I shall treat the concept of a 'person' as a purely moral concept, free of all descriptive content"[18], thus indicating he is talking about $persons_M$. According to Tooley, to say that an individual is a $person_M$ is the same as saying that an individual has a right to life. He develops his theory by assuming there is such a thing as a right to life, then argues that in order to have a right to life an organism must (necessarily) possess a certain non-moral characteristic (for the purposes of this discussion the particular characteristic is not relevant).

Since Tooley's concept differed from the ordinarily used descriptive one, he was accused of

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[18] Michael Tooley, "Abortion and Infanticide", p. 299.

ambiguity and of inviting confusion. In his book he responds to these criticisms and changes his concept of $person_M$. In Abortion and Infanticide he recognizes the confusion which might result from using the term 'person', which in its ordinary use is often a descriptive term, in a purely evaluative way. So he proposes to "formulate a concept of a person that is itself purely descriptive, and free of all moral and evaluative elements." But, "in order to have a term that can play a certain, very important role, in the discussion of moral issues", the descriptive content of the concept is guided by moral considerations.[19]

Sumner, for one, considers this change somewhat of an improvement. I share his worry, however, that confusion is still likely. He warns

> [i]f we bring some special, technical sense of a person (whether purely moral or quasi-moral) to our inquiry into who has a right to life, then we will need to exercise the most extraordinary vigilance to prevent these ordinary-language limits on the class of persons from prejudicing the outcome of that inquiry.[20]

Since the concept of personhood is frequently used in the emotionally-charged abortion debate, it seems especially important to protect the discussion from

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[19] M. Tooley, Abortion and Infanticide, p. 87, p. 51.

[20] L.W. Sumner, "Critical Notice," p. 536.

vague or confused terminology.

While Sumner's worry is a significant one, it is not the only reason why Tooley's stipulative definition of 'person'$_M$ should be challenged. Another is that it makes the concept of person redundant and therefore unnecessary - some philosophers note that in these contexts attempts to analyze and define 'person' "merely push the important questions back one notch (or worse, allow people to evade them)", and that such definitions are superfluous.[21] Yet another concern is that Tooley limits the applicability of his definition of 'person'$_M$ by defining it in terms of rights. That he limits this to a 'right to life' is even more restricting.

My basic concern with Tooley's position, and with other theories about persons$_M$, is that they presume a particular moral stance, and the notion of person$_M$ they develop only works within that particular moral view. While Tooley is correct that the concept has a key role in the discussion of moral issues[22], his notion of person$_M$ is restricted to use in conjunction with a rights-based moral theory. An acknowledgement that

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21 L.C. Becker, "Human Being: The Boundaries of the Concept," p. 355; L.E. Lomasky, "Being a Person - Does it Matter?", p. 143.

22 Ibid., p. 51.

persons exist and an understanding of what they are like should form a basic component of most, perhaps all, ethical theories, not just those which incorporate the notion of rights.

Engelhardt takes what I believe is a similar line to Tooley's with his category of social $persons_M$. He begins with a class he calls 'persons in the strict sense'. This refers to the descriptive notion of person (with its acknowledged non-moral value judgements). The nature of 'persons in the strict sense' - in this case rationality - is combined with an ethical theory (in his case a Kantian one) which provides an argument or justification for why that particular characteristic deserves respect. Engelhardt claims that most of us have a strong intuition that there are some individuals who are not 'persons in the strict sense' to whom we nevertheless want to ascribe rights. In response to this he introduces the notion of 'persons in the social sense' - $persons_M$ - crossing the divide to a morally-biased theory.

Part of Engelhardt's argument is that we treat individuals such as infants as though they had the wants and desires of persons, by considering cries as

calls for food, attention, etc.[23] In fact, these are more likely the wants and desires of infants, and are most appropriately treated as such. In fact, his notion of 'persons in the social sense' begins in the same way as Tooley's did. He assumes rights and duties of certain types, posits which property endows an entity with a right (or creates in others an obligation), and then defines those who possess the property as 'persons in the social sense' (i.e. $persons_M$).

There is a common-sense, or ordinary, way in which the 'person' is understood. This notion includes, roughly, those psychological, intellectual, spiritual, social, and moral (in the sense of moral agency) characteristics that the normal adult human possesses. In this ordinary sense of 'person', and also in a more technical sense which will be discussed next, these characteristics might vary in importance or value, and to some extent will be seen to be interrelated. While it is undoubtedly true that there is a relationship between these characteristics and an individual's moral status, this moral status is much more complex than merely a 'right to life', and it is on the basis of

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[23] H. T. Engelhardt, Jr., "Medicine and the Concept of Person," p. 97.

these characteristics that we distinguish persons from other organisms and things. The concept of 'an individual with certain psychological, intellectual, spiritual, social, and moral (in the sense of moral agency) characteristics' and the concept of 'an individual with the moral status x' are clearly two distinct concepts. It does not promote clarity or understanding to refer to both as persons - in fact when discussing issues such as abortion and euthanasia it invites confusion and equivocation. Since it is the descriptive conception of person which reflects the differences between mere biological humans and those individuals with the characteristics listed above - differences which suggest that the two possess a different moral status - and since this is the more common use of the word, it is more appropriate that a different word be used in the kind of enterprise Tooley and Engelhardt are pursuing.

To use the word 'person' to refer to anyone or anything with moral standing, as Michael Davis does, leads to absurdity.[24] Davis ends up with the following categories:

Persons First Class - rational agents

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[24] Michael Davis, "The Moral Status of Dogs, Forests, and Other Persons," pp. 33-56.

Persons Second Class - sleepers, the senile, human vegetables, the dead.
Persons Third Class - children, the congenitally feeble minded, future generations, dogs.
Potential Persons Third Class - fetuses.
Persons Fourth Class - objects of reverence, e.g. trees.

Rather than referring to any and all entities with moral status as persons, it seems more reasonable instead to use 'person' in a way analogous to the way we use child, infant, etc. Like these other concepts, there may be individuals at the border of personhood (or infancy, or childhood) who we might not be able to say with certainty are persons (or infants, or children). Also, theoretically legitimate criteria may be developed for their correct application. And we avoid the use of morally-loaded notions such as rights and obligations.

It makes sense to classify things - there are many reasons for doing so. For the purposes of ethics in general, classification allows us to identify equals so that we might fulfil a requirement of justice that we treat equals as equals. 'Person' might describe one group, and we may be able to use what we know about persons, in conjunction with a particular ethical theory, to determine what our obligations are towards

persons, whether they have rights, and if so what these rights are. Likewise, we might examine and explore the notions of child, infant, fetus, sentient being, etc., as well as person, then determine what their moral status is and what our obligations towards them are. This, however, would be an enormously difficult and complex task, especially because it would require some kind of method of resolving conflicts between groups. The difficulty of such attempts has been demonstrated by attempts to weigh various rights in the abortion issue. I will not attempt it in this thesis.

IV. Theory of Important Criteria

In order that medicine might clarify its particular obligations towards persons, we should be able to determine what persons are and how they might be identified and studied. I will pursue my proposed course of developing a theory about what characteristics are typical of persons, and which, if any, an individual must have in order to be judged a person. Since I have suggested that this enterprise is to some extent an evaluative one, the first step must be to determine the nature of the evaluation necessary. The "Theory of Important Criteria" (TIC) developed by Michael Slote, which discusses certain disputes about the meaning of words and their correct application,

will provide some insight into this matter.[25] I will briefly summarize Slote's explanation of these kinds of dispute, in the context of our particular question.

According to Slote, we may frame analytic definitions of cluster terms as they are ordinarily used on the basis of their criteria. By criterion he means the following: a "characteristic 'x' is a criterion of 'f'-ness if and only if 'x' is a logically necessary condition of something's being a paradigm case of 'f'-ness, of an f (thing)." By a paradigm case he means "a perfect, or ideal case, or example, of an 'f' (thing), a perfectly paradigmatic case of an 'f' (thing), a thing displaying all the elements of 'f'-ness, which could not better exemplify, or be improved as a case of, 'f'-ness."[26] If we were to translate this into a real example, that of person, we might believe that a paradigm, or ideal, person must necessarily satisfy a certain set of criteria, say Joseph Fletcher's original indicators of humanhood[27]:

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[25] Michael Anthony Slote, "The Theory of Important Criteria."

[26] Ibid., p. 217.

[27] Joseph F. Fletcher, "Indicators of Humanhood: A Tentative Profile of Man." Fletcher himself does not suggest these be used as criteria.

Positive Human Criteria

1. minimal intelligence
2. self-awareness
3. self-control
4. a sense of time
5. a sense of futurity
6. a sense of the past
7. ability to relate to others
8. concern for others
9. communication
10. control of existence
11. curiosity
12. change & changeability
13. balance of rationality and feeling
14. idiosyncrasy
15. neo-cortical function

Negative Human Criteria

1. not non- or anti-artificial
2. not essentially parental
3. not essentially sexual
4. not a bundle of rights
5. not a worshipper

Among the whole catalogue of a term's criteria, Slote contends, there will be some which we will judge to be <u>important</u>.

> A characteristic 'x' is an important criterion of 'f'-ness if and only if 'x' is a criterion of 'f'-ness and knowing whether 'x' is or is not present in any given thing 's' is important for our disinterested understanding of or knowledge about 's'; i.e., tells us a good deal, something important, about (the sort of thing) s (is), about what 's' is really like, about the "nature" of 's'. A criterion is important, in other words, just in case its presence or absence in any given thing 's' makes a good deal of difference, from the standpoint of disinterested knowledge or understanding of 's', to (the kind of thing) 's' (is).[28]

So, while each of Fletcher's indicators of humanhood is significant in the sense that a paradigm person would <u>necessarily</u> possess each and every one of them, some indicators more than others may be judged to be <u>theoretically important</u> in the sense that they contribute seriously and meaningfully to our disinterested knowledge about what sorts of things persons are.

It should be fairly clear by now that Slote's TIC would help to account for disputes about personhood. The decision about whether or not something is a

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[28] <u>Ibid</u>. It is not clear what Slote means here by 'disinterested' knowledge - possibly he intends it to mean 'scientific'. Perhaps "knowledge which is as uninfluenced by the personal biases of the knower as is possible", while disagreeably wordy, would be better.

person depends on a judgement as to which criteria are theoretically important, and this judgement is based on a belief about the value of the information the criteria provide. Consider Slote's own example of the judgement that whales are mammals rather than fishes. This (meta-theoretical evaluative) judgement is based on a theory which considers the 'mammal criteria' possessed by whales more important than their 'fish criteria'. Theories about whales as mammals have more explanatory significance and scientific value than would theories about whales as fish.

The kind of dispute we are likely to see between two individuals who disagree about what a person is might result because one of the individuals believes that we can only reach a true understanding of what persons are if we judge that persons are creatures whose most important function, perhaps even 'essential nature', is a social one. This individual is likely to consider criteria such as the ability to communicate, and the ability to maintain a relationship, or even possibly to occupy a social role, to be the most important criteria for personhood. These criteria would be considered the most important because they provide the most valuable information consistent with the theory held (this theory might be a scientific,

sociological or ethical one). Any creature possessing these abilities would be a person.

The rival position might be that what is most significant in distinguishing persons from other creatures is their ability to use reason in a highly developed way. Introspection, intellectual development, and the perception of oneself as a self are likely to be the important criteria in this individual's judgement. Using this set of criteria, a severely retarded human being would not be a person. Using the first it might be. Although one may, and should, be able to give justification for one's judgement in a particular case, the fact that it is in some sense based on a value judgement explains why there is such persistent disagreement about what persons are and what our obligations to them are.

Slote's theory would seem to account for much of the disagreement about what a person is and how significant the concept is for ethical theory. The notion of theoretically important criteria will be used throughout this thesis, particularly in examining which characteristics are typical of persons in general, and which contribute to the personhood of individuals.

VI. Cluster Concepts and Open Texture

That 'person' is a commonly used word and concept will be clear from the examples used and theories discussed throughout this thesis. Some have suggested that 'person' is a cluster concept.[29] I will discuss and defend this suggestion. While a cluster concept is one which contains a number of properties or characteristics, particular instantiations may differ as to the number or combination of specific characteristics they possess. One or more of these properties might be necessary, or essential, but this need not be the case, and there need be no particular grouping of all properties common to each particular individual to whom the concept refers.

We might borrow Wittgenstein's example of the concept of game, which suggests that there is no one feature of games that is common to all examples of specific games. There are a number of properties or characteristics which might correctly be attributed to games. Each game possesses a number, or cluster, of these properties, yet there is no one property which is common, or essential, to all. "Don't say" he directs,

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[29] Jane English, "Abortion and the Concept of a Person" and William Frankena, "The Ethics of Respect for Persons", for example.

> "[t]here must be something common, or they would not be called 'games'" - but look and see whether there is anything common to all. - For if you look at them you will not see something that is common to all, but similarities, relationships, and a whole series of them at that.[30]

Given the prima facie observation that each person is unique, in the sense of having an individual character, the idea expressed in this example of Wittgenstein's seems to ring true when related to the concept of person being discussed in this thesis. I will return to the notion of cluster concepts again, when discussing typical characteristics of persons.

According to Wittgenstein, game is a concept with blurred edges.[31] Concepts with blurred edges were later described by Waismann as having open texture. He claimed that all our empirical concepts are essentially incomplete. (Since the conception of person with which I am dealing is an empirical one, I will limit this discussion to empirical concepts, as Waismann did). "In short", he says, "it is not possible to define a concept like gold with absolute precision, i.e. in such a way that every nook and cranny is blocked against entry of doubt. That is what is meant by the open

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[30] Ibid., p. 31.

[31] Ludwig Wittgenstein, Philosophical Investigations, p. 34.

texture of a concept."[32] To use the concept of person as an example of the ways something might be open-textured, we might come across a society of extraterrestrials who allow our scientists, sociologists and psychologists to study them in great depth. Even given that we are able to develop certain criteria for personhood, and with the data collected by the experts, we might still be unable to determine whether or not these creatures were persons. In other words, it is in the very nature of the concept itself that its boundaries are indistinct, and knowledge of all available facts about an individual will sometimes not necessitate a particular answer to the question whether that individual is a person. If the concept is to be used to define the limits of the moral community, the problems are obvious.

Most of our empirical concepts (i.e. those which refer to objects of experience) have an open texture. Our knowledge of facts and the natural world is incomplete; given its complexities and our relative ignorance, the more we learn about things, the more we discover there is to learn. To declare a concept closed in an attempt to reduce or eliminate vagueness,

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[32] Freidrich Waismann, "Verifiability", p. 121 and p. 119.

or in the belief that it would improve communication, would be to stipulate what the boundaries of that concept are. So, for example, the product of conception during its first eight weeks is called an embryo, afterwards a fetus.[33] In some cases this contributes to efficiency, and at the same time does no harm, in the sense either of violating truth or having any deleterious effects on individuals. But at other times, stipulating a definite boundary might exclude some unjustly - for example, a particular society might declare that one must reach the age of twenty-one before being considered a legal adult, and being entitled to the concomitant privileges. This might be based on the belief that it is around this age when most individuals can be considered capable of handling the responsibilities and privileges of citizenship, but it might exclude some who are capable and include some who are not.

A discussion of cluster concepts with open texture must be considered at leas'. philosophically interesting, and indeed extremely important in moral theory. As R.M. Hare notes,

> [t]hey express the undoubted truth that the expressions of our language (especially its descriptive terms) are used very tolerantly; not only is their use subject to change, but

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[33] This is the most simple account - scientists break down the embryo stage into zygote, blastocyst, and pre-embryo as well.

> at any one time there will be many border-line cases in which there is a certain liberty of use ...[34]

It serves an explanatory purpose to examine the implications of 'person' being a cluster concept with an open texture, and may help to dispel some of the existing conflicts.

An example of a philosophical theory which considers 'person' a cluster concept is that of Mary Anne Warren. Warren sees the criterion for personhood as the possession, in some combination, of the following characteristics:

(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 (activity which is relatively independent of either genetic or direct external control);

(4) the capacity to communicate, by whatever means, messages of an indefinite variety of types, that is, not just with an indefinite number of possible contents, but on indefinitely many possible topics;

(5) the presence of self-concepts, and self-awareness, either individual or racial, or both.[35]

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[34] R.M. Hare, Freedom and Reason, p. 7.

[35] M. A. Warren, "On the Moral and Legal Status of Abortion," p. 101.

Warren sees these traits as central to the concept of 'person', suggests that her list is a rough one, sees the definition as imprecise, and regards the criteria as difficult to apply.[36] This tentative attitude suggests that there may be limitations on this concept which will restrict its application in moral theory. Specifically, our idea, or conception of person, may be necessarily "rough" and "imprecise", meaning that there will always be questions about specific criteria necessary for judgements about individuals. There will be some borderline cases - individuals about whom definite and correct decisions about their personhood is impossible. This reflects the concept's open texture.

John Thomas agrees that it is somehow a combination of characteristics, with none of them or possibly even no particular combination of them, necessary for personhood. He suggests that it might be helpful if we use Fletcher's indicators of humanhood[37] as part of a disjunctive rather than a conjunctive definition, which would be unreasonably demanding. "Logically," Thomas argues,

> the requirement of a disjunctive definition is met if we possess only one characteristic. To meet the needs of practice, however, this

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[36] Ibid., p. 101-102.

[37] See page 36 of this thesis.

> deficiency could be remedied by insisting on the possession of a specifiable number of characteristics if anyone is to qualify as human.[38]

While Thomas's view is not inconsistent with the notion of cluster concepts, my discussion of the characteristics typical of persons will show the difficulties with his suggestion for a practical solution. Also, Thomas is correct in worrying that such a definition is likely to be too broad. A disjunctive definition, while attractive, is liable to be extremely difficult to articulate and reasonably support if all characteristics are given equal weight.

It is a little difficult, given that we might not know all there is to know about a concept such as 'person', to argue that it is extremely difficult - perhaps impossible - to specify a single necessary or sufficient characteristic an individual must meet in order to be a person. Nevertheless our investigation will show this to be more likely than not; it is probable that there is no such characteristic, although some philosophers have argued that there is. Later chapters will discuss various suggestions as to what this characteristic might be.

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[38] John E. Thomas, "Indicators of Humanhood and the Care of Aging, Chronically Ill Patients," p. 7. Both Fletcher and Thomas use the word 'human' to refer to the concept which I refer to as 'person'.

VIII. Conclusions

To this point I have been exploring the nature of the conception of person which is relevant to medical ethics, and introducing some ideas which will direct the course of this investigation. Part of the reason for this exploration is to understand why there is such persistent disagreement about what the concept means and which individuals might correctly be categorized as persons. I have made some suggestions as a starting point for this investigation. I have proposed that when it is used in the discussion of issues in medical ethics 'person' is a descriptive term, expressing a cluster concept with an open texture, and different value may be placed on the various characteristics and criteria for personhood. Tracing disputes to this source allows us to avoid what Dworkin calls 'the semantic sting', which is the trivializing of disagreements by considering them to be merely squabbles about the meaning of words.[39]

While some things have been said about 'person' as a concept, very little has been said about the specific characteristics or criteria for personhood. The next few chapters will consider some of these, keeping in

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[39] Ronald M. Dworkin, Law's Empire, p. 45.

mind both the suggestion made by Thomas that a disjunctive definition might be helpful, and the Theory of Important Criteria. I will examine some of the contenders for theoretically important criteria, and assess their value for our understanding of what persons are. This understanding may then be used in the context of an ethical theory in order to discern our obligations to persons.

If 'person' is indeed a cluster concept, there will be a number of characteristics typical of persons. After fleshing this suggestion out in the following chapter with the proposal that person is a natural kind, I will go on to consider what these characteristics are. While these characteristics on their own do not generate obligations or rights, they will be an essential part of the data which any ethical theory must consider, including a theory in medical ethics.

Chapter 3

'Person' as a Natural Kind

I. Introduction

I have proposed that in the context of medical ethics 'person' is a cluster concept with open texture, and that the best way to proceed is to develop a theory about what persons are. Knowing that would be significant for ethical theory. I began with the suggestion that 'person' is a descriptive concept, and will go on to consider what characteristics are theoretically important to personhood. In order to be theoretically important, a characteristic must contribute to our valid objective knowledge of what persons are. The goal of the theory is to provide a full and plausible explanation in order that the knowledge gained about persons may be used in conjunction with ethical theory (although the concept itself is not a moral one).

Support for this methodology will be provided in this chapter, which considers the possibility that 'person' is a natural kind. Consistent with the goal of exploring the relationship between what persons are, and how they ought to be treated, I will consider the

implications for ethical theory of 'person' being a natural kind. The relevance of this discussion to medical ethics becomes clear when we consider the possibility that there is a unifying natural integrity to the class of individuals who are persons, and that a sound understanding of the physiology of brains is necessary for an understanding of cognitive activity.[1] Studying persons as members of a natural kind would allow us to make use of existing and credible methods of scientific inquiry.

II. What is a Natural Kind?

This is not an easy question to answer. Philosophers do not agree on this matter, and it does not help to learn that there may be more than one sort of natural kind. Though there is much discussion, there seems to be little agreement. Working from the basic definition that "[a] natural kind is a class of individuals gathered according to a sameness criteria that is rooted in a comprehensive scientific theory,"[2] I will consider a few possibilities.

An Aristotelian would say that things which have the same essences form a kind - what makes a thing a

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[1] Paul Churchland, "Is Thinker a Natural Kind?" p. 227.

[2] Peter A. French, "Kinds and Persons," p. 241.

member of that kind is that which necessarily makes that thing what it is. They might say that what makes us human, for example, is rationality. Locke rejected Aristotle's theory of essences and offered his own. While he agreed that we might make sharp distinctions between kinds, we determine the boundaries by nominal essences, not real ones. "Indeed, as to the real Essences of Substances, we only suppose their Being, without precisely knowing what they are: But that which annexes them still to the Species, is the nominal Essence, of which they are the supposed foundation and cause." In fact, it is clear, says Locke, "That our Distinguishing Substances into Species by Names, is not at all founded on their real Essences; nor can we pretend to range, and determine them exactly into Species, according to internal essential differences."[3] So for Locke what would make us members of the kind human really - i.e. our real essence - might also be what makes us rational; but it is unknowable by us.

We might even look to Locke for some insight into the whole area of personhood theories. 'Person', he says, "is a Forensick Term appropriating Actions and their Merit; and so it belongs only to intelligent Agents capable of a Law, and Happiness and Misery." He

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[3] J. Locke, An Essay Concerning Human Understanding, III.VI.6; III.VI.20.

may have been the first to consider 'person' to be a moral category. He also referred to cases which are currently discussed in medical ethics, such as the mental capacities of fetuses and the moral status of grossly deformed newborns.[4]

In addition to the possibilities that natural kinds are defined by their real or nominal essences, we might also consider that the group formed by a species would correspond to what we would call a natural kind - some who discuss these matters consider them to be equivalent. Under most circumstances, the boundaries between kinds, and species, could be precise, and the classification of individuals might be precisely made. Developments in evolutionary biology suggest that this method of sorting individuals would have to be done on the basis of something other than an essential property or properties, however. The history of a species may show us that a kind 'y' may evolve into a kind 'z', and that at a certain point during the process it may be impossible to determine of which kind an individual is a member - i.e. there are no essential properties to help us determine this; there is open texture. According to Mayr, "[i]t is evident that the real turning point in the history of taxonomy was the

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[4] Ibid., II.XXVI.26; II.I.21; III.VI.26f.

abandonment of essentialism and of 'downward' classification, and this had been largely completed well before 1859."[5] This abandonment of essentialism follows a recognition that these concepts have open texture.

There is a distinction made between things which are members of a natural kind and things which are artifacts. Something might be identified as an artifact if it is impossible to tell what that thing is unless you know what it is used for. Once you know that, you know everything significant about that thing, as far as its group membership goes. Mayr points out another distinction, which is significant for our question of whether 'person' is a natural kind:

> Artificial or arbitrary classifications are legitimate for objects that are classified strictly on the basis of some quality or characteristic, like books in a library. Definite constraints, however, exist for the classification of items about which explanatory theories exist.[6]

The purpose in classifying books in such a way is so that we have a system which allows us easy access to them. Those items about which explanatory theories exist, however, are grouped according to information

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[5] Ernst Mayr, The Growth of Biological Thought: Diversity, Evolution, and Inheritance, p. 213.

[6] Ibid., p. 238.

provided by those theories. If the purpose of the classifier is to utilize those theories in conjunction with studying the group, the restrictions of the theory must be respected in order for the results to be credible.

The notion of what kinds of things are natural kinds tends to be vague, though there seem to be recurring themes. Sorting things by natural kind is a special way of sorting them. While it seems simplistic to say that things fall into kinds 'naturally', in a way this is true, though as Mark Platts warns, the importance of this is limited.

> Natural kind classifications within science are grounded in the investigation of nature, investigation carried out with an eye to providing law-invoking explanations of truths about the world around us. Yet it could be importantly misleading to say that natural kind classifications are 'made by nature' in the sense of simply copying, mirroring, or imitating some natural order of things, admittedly discovered, obtaining in the natural world. Such classifications reflect a feature of us - namely, our general interest in such law-based explanation.[7]

The branches of science have a variety of methods for classifying things in nature. As more things are learned about a particular thing or group of things, the classifications become more finely tuned. This allows predictions to be made with greater accuracy.

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[7] Mark Platts, "Explanatory Kinds," p. 147.

So, for example, a human being would be classified by a biologist as a member of the species Homo Sapiens, of the family Hominidae, of the suborder Pithecoidea, and so on up the hierarchy to the group Metazoa.

Current discussions of natural kinds come from philosophy of science and philosophy of language. We are not able to determine the boundaries between natural kinds by linguistic analysis, or by observing the properties of the things being sorted. There are no logically necessary, analytic truths when we are speaking of the properties of natural kinds. It is not necessarily true, for example, that cats are furry, four-legged and annoyingly independent, although most of us may use these characteristics to define and recognize them. It is also not necessarily true that they have a certain genetic structure, nor that they are members of the species felis catus, though the best currently available scientific evidence tells us that this is true. Scientists might just be wrong about this, just as I might know a fur-less, friendly cat with three legs. As noted by John Stuart Mill, our knowledge is incomplete:

> But a hundred generations have not exhausted the common properties of animals or of plants, or sulphyr or of phosphorus; nor do we suppose them to be exhaustible, but proceed to new observations and experiments, in the full confidence of discovering new

> properties which were by no means implied in those we previously knew.[8]

What we do seem to be able to say about natural kinds is as follows. Instead of formulating a definition of a kind, and a list of criteria for membership, natural kinds might be sorted by means of comparing individuals to an exemplar, or stereotype. The notion of cluster concepts helps us here, for the most common, and theoretically important characteristics will found in the exemplar. Obviously, there will be some looseness, and occasionally a questionable case may have to be decided arbitrarily, as is consistent with concepts with open texture. Once the best available scientific theory establishes the limits of a natural kind and investigates that kind with the generally accepted best method available and according to the known laws of nature, our knowledge about that kind, including the ability to make predictions, will be expanded and improved. Natural kinds, then, as Putnam describes them, are "classes of things that we regard as of explanatory importance; classes whose normal distinguishing characteristics are 'held together' or even explained by deep-lying

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[8] John Stuart Mill, A System of Logic, Ratiocinative and Inductive, p. 122.

mechanisms."[9] What we learn can lead us to make better and better predictions, expanding our scientifically valid and objective knowledge of a given kind.

To sum up, then, there is some agreement in the philosophy of science as to what a natural kind is. The notion of law-based explanations is central - explanations which will provide us with knowledge about the properties and behaviour exclusive to the members of a kind. What is also agreed is that there are no essences of natural kinds, although philosophers seem more reluctant to give this up than biologists are. There is not agreement about whether or not natural kinds and species are coextensive.[10]

If it is plausible to believe that natural kinds exist, it would be reasonable to use natural kind groupings in conjunction with scientific laws and explanatory theories in order to learn more about particular kinds, and also about particular members of the kind. I suggest that this method of studying kinds is significant for medicine's treatment of persons, and will proceed to provide some support for this proposal.

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[9] Hilary Putnam, "Is Semantics Possible?" p. 139.

[10] Michael Ruse, "Biological Species: Natural Kinds, Individuals, or What?" p. 239.

III. Is 'Person' a Natural Kind?

I will not attempt to prove that 'person' is a natural kind. Rather, I will suggest that it is a plausible idea and should serve as a hypothesis for further investigation. This could have positive benefits for medical practice and patients. Before exploring these potential benefits, I will remove certain roadblocks and address certain standard objections to the idea that 'person' is a natural kind.

Patricia Kitcher calls it a popular dogma, and a general assumption, that 'person' is not a natural kind[11], and Peter French claims that "[o]ur philosophical tradition certainly has not identified 'person' as a natural kind term."[12] Nevertheless, it seems true to say persons have certain prima facie similarities which seem extremely significant in explaining why we consider them different from other types of creatures. These similarities are those typical features noted by Warren: self-consciousness, rationality, etc. It is also plausible to work from the assumption that these characteristics have certain physiological underpinnings. Nothing we have discovered rules out that persons are natural kinds,

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[11] Patricia Kitcher, "Natural Kinds and Unnatural Persons," p. 541.

[12] Peter A. French, "Kinds and Persons," p. 242.

and the reasons usually given against this idea are weak. I will consider a few of these objections now.

1. Wiggins argues that the members of the class of persons might come from more than one natural kind[13]; since it is generally agreed that natural kinds do not overlap, 'person' could not refer to such a kind. While it does seem plausible that an individual might only belong to one natural kind at a time, this does not take into account the various levels at which kinds might be classified. 'Person' might be a broad natural kind in the same way that 'tree' and 'animal' are. Human beings as members of a natural kind would then be a member of the broad kind 'person', in the same way that cats are animals and maples are trees. So we might agree with Wiggins that all persons are also members of other natural kinds while maintaining that 'person' itself is a natural kind classification, admittedly one at a different level. This way of looking at the matter is not bizarre or even unscientific, and has support in the literature, as this passage from an eminent philosopher of science, discussing evolutionary theory, shows:

> Incorporated into the definition of any natural kind will be the name of a

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[13] D. Wiggins, "Locke, Butler and the Stream of Consciousness," p. 159f.

> higher-level natural kind in which it is included . . . This traditional mode of definition is admirably suited for a world made up of nested hierarchies of discrete natural kinds . . .[14]

It seems legitimate, even if we were to give up claims that natural kinds have essences or necessary properties, to preserve the notion of broad, or higher-level natural kinds. Platts's example helps illustrate this:

> Suppose we are given what we take to be 'good exemplars' of some presumed natural kind ϕ. On investigation we discover there to be three different 'explanatory structures' within different members of our group of 'good exemplars'. Have we discovered that there is no natural kind ϕ? Or that our set of 'good exemplars' was not so good, that it included some non-ϕ s, such that only one of the discovered explanatory structures is that distinctive of ϕ s? Or - the possibility we have just been led to appreciate - that ϕ s are a higher level natural kind with at least three lower level natural kinds standing to the kind ϕ in the relation <u>species</u> to <u>genus</u>?[15]

2. Another objection to the suggestion that 'person' is a natural kind term comes from Teichman.[16] She refers to the legal use of 'person' for corporations, and also the use of 'person' to refer to supernatural beings such as gods and angels, neither of which are

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[14] David Hull, <u>The Philosophy of Biology</u>, p. 52.

[15] M. Platts, "Explanatory Kinds," p. 137.

[16] J. Teichman, "The Definition of <u>Person</u>," p. 181.

natural kinds. Another similar objection might be that computers could be considered persons by virtue of their having some kind of intelligence. These arguments, while worth considering, are not convincing. Searle's argument that computers (at least at their current stage of development) cannot think, and thus do not have minds[17], also supports a claim that they are not persons. This same argument may be used against the notion that corporations are persons. Whether or not gods and angels are part of, thus subject to, the laws of nature is an extremely difficult question to resolve, and I will not attempt to do so here.[18]

Searle argues that a computer programme is nothing more than a series of symbols which follow certain rules - a syntax. Thinking, however, or a mind, has semantic content - meaning, or understanding. This is consistent with our prima facie belief about persons that they have some kind of mental states, or consciousness. Also, Wiggins makes the point that persons must be biological entities: "[t]o have feelings or purposes or concerns a thing must, I think

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[17] John Searle, Minds, Brains and Science, Chapter 2.

[18] It is interesting that in the Church of England's "Articles of Religion" (1562) God was supposed to have been 'personified' in Jesus, a biological human. "[T]hat two whole and perfect natures, that is to say, the Godhead and manhood, were joined together in one person . . ."

we still think, be (at least) an animal."[19] While these arguments might hold at this time, given our current level of technological development, they do not devastate the possibility that computers might some day be sophisticated enough to have mental states, be conscious, think, and feel. Computers might also someday be members of natural kinds (not mere artifacts) - and might even be persons.

Corporations, on the other hand, are really only persons by analogy. They are considered the equivalent of persons under the law, for the purpose of assigning responsibility and blame. While an argument might be made that corporations exhibit intentionality and thus are moral agents[20], the further claim that they are also persons remains undefended.

3. Patricia Kitcher has suggested an alternative to Wiggins's condition that a person must be a member of a natural kind. Her suggestion has been further

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[19] D. Wiggins, "Locke, Butler and the Stream of Consciousness," p. 162.

[20] Peter A. French offers this argument in Collective and Corporate Responsibility. Counter-arguments may be found in Michael Keeley, "Organizations as Non-Persons," and Patricia Hogue Werhane, "Formal Organizations, Economic Freedom and Moral Agency."

developed by Peter French.[21] Kitcher's suggestion is that 'person' is a kind, though not a natural one. While natural kinds, which are natural law-governed, are sorted on the basis of criteria developed by the best available scientific theory, members of the kind 'person', an empirical generalizations-governed kind, would be grouped on the basis of criteria developed by the best available psychological theory. The distinction Kitcher and French make between kinds determined by scientific theories (i.e. natural law-governed kinds) and those discovered by psychological theories (i.e. empirical generalization-governed kinds) is itself unclear and not uncontroversial,[22] and neither has worked out the specific details of how such an enterprise would work. We might imagine it would go something like this. The best available psychological theory would offer a sameness criterion for sorting individuals, say intentionality. All things observed to exhibit this characteristic would become the subjects of further study and investigation. As the data increased, the theory would become more and more refined. Some individuals originally included in the 'sort' would be eliminated as more information was

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[21] P. Kitcher, "Natural Kinds and Unnatural Persons"; P. French, "Kinds and Persons."

[22] Carl G. Hempel, Philosophy of Natural Science, p. 1.

gathered - for example when purely instinctive or mechanical behaviour was seen to have been mistaken for intentional behaviour. Eventually an exemplar would be chosen, and all future decisions about classification would refer to this exemplar, or a different one if the theory indicated a change.

This seems to be a reasonable beginning to a discussion of how persons might be identified. There is not, however, in the work of either Kitcher or French, a legitimate argument for why the persons in these theories would not also be members of a broad natural kind, as I have already suggested. It seems possible using Kitcher and French's method to develop a catalogue of properties usually associated with persons, but there need be no difference here from the way this is done in the classification of any other kinds of things. Given the possible connections between behaviour and its physiological underpinnings, the biological element would still play an important role in classification.

In a discussion about theoretical attempts to explain cognitive activity, Paul Churchland distinguishes between the functional, or 'top-down' approach, and the biological, or 'bottom-up'

approach.[23] While the functional approach is currently in favour, he argues that it suffers from the drawback of taking as its starting point common sense or 'folk' psychology. The 'bottom-up' method (which would consist of detailed investigations into the microanatomy, physiology, and chemistry of brains) would be a better approach, because it is consistent with our best available scientific theory about brains and their relationship with cognitive activity. In my view, the work of natural scientists studying persons as members of natural law-governed kinds, and social scientists studying persons as members of empirical generalization-governed kinds, would be complementary.

4. One objection to personhood theories, which would also count as an objection to 'person' being a natural kind, is their inability to decide borderline cases, other than in an arbitrary way. This is admittedly a practical problem, but the practical element of morality is an important, in fact essential, one. An ethical theory which is impossible to realize in practice, for example, would have no relevance and would fail as either a guide for action or an explanation of the human condition.

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[23] Paul Churchland, "Is Thinker a Natural Kind?" p. 225.

It is true that borderline cases are problematic, though less than might be thought if the scope of personhood theories is provided with its proper limits. While these limits will be determined at a later point, it is worth mentioning briefly here two ways in which this objection might be diffused.

To relieve the concern that some borderline persons might not be identified as such, we might include all borderline cases within the class of persons. Suppose, for example, that it was determined that some special kind of mental activity was associated with personhood, and that a functioning cerebrum was necessary for this activity. The degree of function or possible level of impairment of this part of the brain would not matter as long as there was some detectable functioning. So the retarded, insane, and other abnormal humans would in fact be persons. Those humans (or members of other species whose normal members would be persons) who had no cerebral hemispheres of the brain (e.g. anencephalics), or whose brain function was irretrievably lost (e.g. those in irreversible coma) would not be persons.

The second, and more significant, reply to the objection that personhood theories have difficulty with borderline cases is that while our duties towards, and possibly the rights of, persons, might be established,

at least in part, by what these individuals are, this does not mean that we have no duties towards non-persons. Our duties towards non-persons is another issue - even granting that we can reach agreement on whether or not 'person' is a natural kind term, we are then faced with the question of what, if any, special status this gives persons in the moral community.

These objections have not proven to be compelling ones, and in answering them I have provided some positive reasons why it would be legitimate to consider 'person' as a natural kind grouping. One of these reasons is that it is consistent with the intuition that, while grouping by species satisfies certain requirements of biological theory, such groupings ignore the importance of psychological and moral considerations in getting at the whole truth about individuals. Another is that it is reasonable to believe that persons are biological entities, and that to call such things as computers and corporations persons is to use the word in a different way (this acknowledges the various meanings of 'person' listed earlier, e.g. legal, metaphysical, etc.). The last objection having taken us into the area of ethical

theory, I will move on to discuss the significance of 'person' being a natural kind for ethics.

IV. 'Persons' as Natural Kinds and Ethical Theory

If we were able to determine, or discover, that 'person' is a natural kind, what would the implications be for ethical theory? I will develop an argument that it has theoretical importance because it provides information as to what persons are like - physically and psychologically - which will then help us determine how they may be harmed. This information will help us define our obligations towards persons.

We have a tendency to want to classify things into groups. This can be a very beneficial activity, since it can help us identify and reidentify things which may be harmful or useful to us. Sometimes in the past, as already mentioned, it has proved - when used in morally significant situations - to lead to injustices and evil. Some examples of this are discrimination against individuals because they belong to a certain race, or religion, or are a certain sex. Speciesism, which claims that mere membership in the human species entitles those members to special moral status, is another example. Classifications of this sort, when used as the basis for determining an individual's moral status, are considered unjust because they base moral

judgements about an individual's worth on biological characteristics. While some specific judgements about an individual might be based on biological characteristics, such as suitability for a job which requires great physical strength, general judgements about moral considerability should not be.

Theories of personhood offer criteria for membership in a particular group. Possession of the characteristics which form the core of these criteria, as distinct from mere membership in the group, can form the basis for moral consideration. These criteria tend to centre upon intellectual capacities, and they are usually very humanlike qualities such as self-awareness, rationality, the ability to communicate, etc. We might therefore be inclined to believe that only humans can be persons, but as Wiggins suggests,

> as human beings have come to the point where their powers of reason and analogy make it possible for some of them to transcend mere species loyalty, the sense of 'person' has been very slightly modified. We have become open to the suggestion that other species may in varying degrees enjoy many of the attributes which we value highly in ourselves.[24]

Though Wiggins' discussion of persons and natural kinds is an attempt to solve some problems associated with

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[24] David Wiggins, "Locke, Butler and the Stream of Consciousness," p. 162.

personal identity, it has important implications for ethical theory. His insight about our inclinations to consider members of other species as possible moral equals reflects what is best and most promising about personhood theories. That it might help us identify the group of individuals we believe warrant consideration by moral agents tends to make the concept of personhood very appealing. Since membership in the moral community should not depend only on which species one belongs to, there would be no unjust discrimination on this basis. Inclusion would depend on the qualities possessed by the individual.

It would seem, therefore, that mere membership in a natural kind would be as irrelevant to a judgement about an individual's moral considerability as mere species membership. This would only be true, however, if membership in a kind was the only reason for attributing or denying moral status to an individual. It is in fact those properties and capacities of the individual which determine membership in a kind which also contribute to an understanding of how that individual ought to be treated.

There are, of course, objections to personhood theories from ethical theorists. The most worrisome, perhaps, is that the same conditions which are used to include some members within the class of persons may be

used to exclude others. The resulting exclusion of individuals like deformed, or even normal, infants, the senile and the irreversibly comatose, strongly offends the moral intuitions of many people, and leads some to try to justify the moral status of humans gua humans.

I have already dismissed undesirable consequences of a theory's application as grounds for rejecting the theory. Nevertheless, the concerns of those who are uncomfortable about the consequences of personhood theories for certain vulnerable individuals are deeply felt, and I will try to relieve these concerns. Duska, for example, has an intuition that even the 'human vegetable' has a right to be treated with dignity, and Smith finds personhood theories repugnant to a "traditional conscience". Lomasky, discussing personhood theories which might exclude infants from equal moral consideration, finds this implication strongly counter-intuitive and suggests we consider rejecting such theories. He recommends that "when a hypothesized general principle runs afoul of some strongly held prephilosophical belief, one ought to reconsider just how strongly warranted the principle actually is."[25]

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[25] R. Duska, "On Confusing Human Beings and Persons," p. 164; David H. Smith, "Who Counts?" p. 242; L.E. Lomasky, "Being a Person - Does It Matter?" p. 147.

Another objection some offer to the kind of characteristics suggested is that they are measurable in degrees, and therefore require at some point an arbitrarily drawn line when deciding particular cases. This is an objection often used in abortion discussions. Yet another familiar objection is that the characteristics usually considered theoretically important or even essential for personhood vary from theory to theory. This suggests that any such theory might be purely relative. Opponents consider membership in the moral community to be of greater importance than this implies.

Keith Ward has suggested that human beings are paradigm persons, and that being a human being is a sufficient condition of being a person. He considers all humans to be members of the broad kind 'person'. Those humans who are defective in some way, or who are not currently exercising the relevant capacities (while sleeping, for example), are given equal moral standing by virtue of having a human nature. Ward gives special status to individual members of the human kind who do not possess the morally valuable characteristics, merely because they have a certain biological structure. Unusual members of other kinds, for example Washoe the chimp who can communicate with humans by using sign language, would thus be denied equal moral

consideration because they were not typical of their kind, even though they possessed the morally valuable characteristics.

While this argument would alleviate concerns that theories of personhood might wrongly exclude some human individuals from the moral community, it fails to take seriously a very real worry of those offering personhood theories. Their concern is that we not discriminate against others for reasons which are morally irrelevant. Things like individual psychological characteristics and capacities are considered by them to be relevant reasons. Mere membership in a species, or a kind, or a race, or any other purely biological group defined by things like Ward's 'biological structure', is not considered relevant.

There would be several advantages to considering 'person' as a natural kind. Those physical and psychological characteristics which a comprehensive scientific theory considered theoretically important for explaining and making predictions about persons could be identified by observation of an appropriate exemplar - possibly a normal human adult. Others exhibiting these characteristics would be considered for inclusion, and examination of their physiological structure (e.g. central nervous system) might provide

further evidence of their personal nature. If it is typical for normal members of a particular species to also be persons, then other members who do not exhibit the relevant properties (rationality, self-consciousness, etc.) might be closely examined to see if the biological underpinnings are present. If they are not - for example, in the case of anencephalic infants or brain-dead individuals - then it might be reasonably assumed that they are not, and cannot, be persons.

With a recognition that humans might be only one of the low-level natural kinds making up the broader kind 'person' should come a recognition that creatures other than humans have morally relevant characteristics, and characteristics of such a similar nature to our own that discrimination in certain areas would have to be justified. The kind of knowledge that can be gained from the study of the physical and psychological attributes of persons can provide data essential to the making of good moral judgements. Learning what kind of an environment persons need to flourish, or even to survive, should govern our relationship to that environment. Learning that other creatures can have interests which we would recognize as significant, and the thwarting of which would cause

great suffering, should make us consider very carefully how we treat them.

It is clear how the practice of medicine might benefit from the knowledge that could be gained by using the methodology developed by science to study natural kinds. The following three examples show what has already been accomplished by the scientific study of human physiology. I will suggest here how they relate to the personhood of patients.

1. An electrolyte imbalance can cause a temporary mental instability, impairing rational judgement and self-perception. In all probability this would compromise the validity of the patient's consent for treatment.

2. A particular piece of DNA, when discovered in a particular location in an individual, allows the virtually certain prediction whether the gene associated with Huntington's disease has been inherited. This allows those individuals who are at risk for the disease to find out if they will have it, should they wish to know.

3. A connection has been established between the brain's malfunction in the production of dopamine and Parkinson's disease. Various ways of compensating for this malfunction are being investigated, giving hope to

those who suffer from this disease which leaves the mind intact while destroying the body.

I will introduce the following notion now, and develop it later when I specifically discuss the obligations of medicine to persons. Each of these examples is, of course, of a certain disease or disorder which can cause physical pain. They can also cause the patient experiencing them to suffer in ways related to her or his personhood. In each case self-determination, in which persons typically have a strong interest, is threatened. Physicians, in order to fulfil their obligations of beneficence and non-maleficence, must understand the etiology of disease and the causes of suffering. Science, through studying 'person' as a natural kind, may work towards determining the underlying causes of diseases. Physicians may then further develop their understanding of disease and illness, and especially of how individual persons deal with them.

V. Conclusions

The notions of cluster concepts, open texture, and the evaluative nature of theoretically important characteristics and criteria fit beautifully with natural kind theory. Natural kinds, like cluster concepts, have a number of properties or

characteristics. As open texture of a concept was shown to indicate indistinct boundaries - meaning we might not be able to decide about certain borderline cases - so natural kinds have the same indistinct boundaries. And as we saw that it is reasonable to consider those characteristics theoretically important which contribute significantly to our understanding and knowledge of what a thing is and how it functions, so natural kind groupings are made on the basis of what will provide the best scientific theory for purposes of explanation and prediction.

I have proposed that fine-tuning our knowledge about individuals, based partly on what we can learn about them as members of a kind, is extremely important for ethical theory. In order to know how persons ought to be treated, we must know what makes them persons, what maintains them as persons, and how - as persons - they might be harmed. The best method is to use theories of scientists, social scientists, and also, I propose, of ethical theorists, which consider 'person' to be a natural kind.

Chapter 4

The Relationship Between Humanity and Personhood

I. Introduction

This chapter is an essential starting point for a discussion of the characteristics typical of personhood, and will continue to analyze ways in which the conception of person being considered in this thesis is meaningful for ethics. The following discussion will try to sort out what, if any, relevant relationships exist between "being human" and "being a person". The biological species to which a person belongs will be determined to be theoretically important in the sense developed earlier - i.e. it is a significant factor for the purpose of making a decision about an individual's personhood, and it will be seen to be relevant to the way we treat individuals. It is not, however, a necessary condition for personhood, nor is it sufficient.

The views I will discuss claim that humans have special moral standing because they are human. I interpret their views to mean "all humans are $persons_M$", and will argue that the moral standing of an individual does not depend on whether or not that

individual is biologically human. It has been suggested that humans have special moral status because they have a special immaterial or physical element, or that species membership alone may determine moral standing. I will reject all these views.

In general, issues in medical ethics are concerned only with humans (although some issues, such as experimentation and transplantation, may involve animals as well). Nevertheless, this chapter will contribute to my investigation for the following reason. I will ultimately argue that if one knows that an individual is a person, one will also have certain information about how that individual may suffer. This will facilitate decisions on how to help that individual. Knowing that she or he is a human person provides even more essential information - likewise, non-person humans will have different specific needs.

II. The Standard Belief

Mary Anne Warren warns of confusion when she indicates that it is important to make a clear distinction between the moral sense of human and the genetic sense of human.[1] Attempting to avoid this confusion, Warren suggests using 'person' to refer to

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[1] M. A. Warren, "On the Moral and Legal Status of Abortion," pp. 53-54.

those who are human in the moral sense - i.e. those who have characteristics like rationality, self-awareness, etc., which are more appropriate grounds for moral status than species membership.

However, in some discussions of persons there is a tendency to confuse 'person' with 'human'. Fletcher, for example, uses the concepts 'human', 'man', and 'person' interchangeably. It is worth noting again here that I am using the word 'person' to express the following: persons are individuals with certain characteristics, but the determination of the moral status of those individuals is a separate matter from the determination of what characteristics persons possess.

Roger Wertheimer, in his paper "Philosophy on Humanity", claims that there is a Standard (non-philosophical) Belief about the moral status of humans. This belief, the existence of which he claims may be empirically verified, is that all human beings have human (moral) status, where human (moral) status "... refers to a kind of independent and superior consideration to be accorded an entity."[2] (Notice the difference from Warren's view, which is that only those

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[2] Roger Wertheimer, "Philosophy on Humanity," p. 107.

humans who were also persons would have this special moral status.)

The Standard Belief is not held by most philosophers, according to Wertheimer, because

a) it involves a vague and nonsensical notion of unique inherent value and

b) it is speciesist.[3]

In fact, however, the Standard Belief does seem to be held by many philosophers - many of whom want to give all individuals who are genetically human special moral status as well. The usual reason given for this is that humans are special in some way - they have a certain nature that is of intrinsic value, which is relevant in a moral sense. Some argue that only humans are blessed in this way; this might be an argument from religious premises. For example a Christian might argue that, among animals, only humans have souls.[4] Others might be more willing to accept that it is logically possible for non-humans to achieve the same moral status as humans, through evolution perhaps, or that we might discover intelligent beings from other

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[3] Tom Regan, in The Case for Animal Rights, attributes the first use of this term to Richard R. Ryder, in Victims of Science: The Use of Animals in Research, London: Davis-Poynter, 1975. A speciesist draws moral boundaries solely on the basis of species membership.

[4] See, for example, William E. May, "What Makes a Human Being to be a Being of Moral Worth?"

worlds to whom we would want to ascribe the same moral status as we now do to humans alone. They usually do not believe that there is any such species or kind of individuals at this time.[5]

I believe their argument may be interpreted as follows (note the similarity to Tooley). There is a certain moral status x (the content of which depends on the moral bias of the theorist) which only some individuals possess. Only those with a certain property are endowed with moral status x. Only humans have this property (or being human is this property). Therefore, only humans have moral status x - or, to only humans are $persons_M$.

What is common, then, to many of these approaches is the contention that <u>all</u> humans are $persons_M$ (AHP_M). Anything that is biologically human is a full and equal moral patient, i.e. a bearer of rights or a possessor of moral status x. This would include fetuses at any stage in their development, infants, the senile or severely retarded, and those in irreversible comas. $Persons_M$ are categorized by what they are (i.e. biological humans), not by what they can do (e.g. reason, have intentions, etc.).

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[5] See, for example, Keith Ward, "Persons, Kinds and Capacities" and Ronald Duska, "On Confusing Human Beings and Persons."

There are problems with AHP_M that I will discuss. One is the question of whether or not the class of humans is coextensive with the class of persons. Another is the question whether there is something special about members of the species Homo sapiens that gives them a moral status superior to members of others species. The third is the issue whether membership in a class defined biologically can give the individuals in that class moral status. These concerns will emerge in a focused discussion of several authors' arguments. While Wertheimer does not use the term 'person', his theory exposes an argument we will be addressing here - that humans have special moral status because they are humans.

I will begin with the argument that AHP_M, which says that all humans have special moral status because normal adult humans possess certain characteristics or abilities. This view will be rejected because it fails to demonstrate that mere membership in a group, in this case the human species, is sufficient to determine moral status. Further support will be accumulated for my view that $person_M$ is an inappropriate classification.

The second view I will examine denies AHP_M but submits that only humans are persons (OHP). The basis

for this thesis is to be found in the unique biological constitution of human beings, in their possession of a certain kind of brain necessary for the characteristics constitutive of personhood. This theory apparently does not recognize the strong similarities that exist between the brains of some other mammals and ours, or the possibility that there might be other types of creatures which have a totally different biological structure but are still persons. While it is likely that a normal human adult would be a sensible choice for a paradigm person, it is possible that non-humans could also be persons.

The third view defends AHP_M on the grounds that all humans, as 'minded entities', possess a certain unique crucial nature. This unique nature accounts for the special moral status all humans enjoy. It also accounts for why only human beings are $persons_M$. Then the claim is that all and only human beings are persons ($AOHP_M$). This argument, weak at best, fails to prove that all humans are in fact 'minded entities'.

III. Species Membership

It is not uncommon for philosophers to take the position that all humans are $persons_M$ (AHP_M). Their motivation is usually concern for those humans who lack the characteristics of persons, whether permanently or

temporarily. This enterprise is often inspired by a belief that it is counterintuitive, indeed morally repugnant, to exclude others of our own kind from equal moral consideration. Wertheimer's Standard Belief reflects the tendency we have to include others like us in the group to which we ascribe special moral status.

There seem to be two arguments offered as to why all humans should be considered $persons_M$. The first is that all entities with certain characteristics have intrinsic dignity and value. The second view recognizes problems with the first - i.e. as is typical of cluster concepts, there is no one characteristic which <u>all</u> humans possess. So, it states that all members of a species <u>the typical members of which</u> are persons in the morally-neutral sense ar ersons in the morally-biased sense ($persons_M$) - despite the failure of some to meet the criteria met by the typical members. (Note the confusion again between the descriptive and morally-biased conceptions of person.) I will discuss these views, after considering the issue of discrimination. This is important at this point since I will argue that attributing moral status on the basis of species membership is unjustly discriminatory.

James Rachels provides an interesting discussion of the Standard Belief I have already described. He

refers to this belief as our traditional morality.[6] Our traditional world-view made us comfortable with the belief that humans are special, and have a special moral standing, different from that of other animals. This view had a Judeo-Christian foundation which has since been displaced by a Darwinian conception. Traditional morality has remained - without, however, a rational foundation. It is time, he argues, that we reassess our traditional moral views. Peter Singer also develops this position, as do the Routleys. "The distinction", they say,

> which historically rested on the assumption that humans possessed a soul (or higher reason) but that other animals, brutes, did not, appears to have been uncritically retained even after the religious beliefs or philosophical theories underpinning it have been abandoned.[7]

While some philosophers discover through such a reassessment that there can be no adequate justification for attributing special moral status to humans gua humans, others attempt to explain and defend our tendency to give special moral status to all and only members of our own species. Claims that membership in the human species alone is a necessary

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[6] James Rachels, "Darwin, Species, and Morality."

[7] Peter Singer, "Unsanctifying Human Life"; Richard Routley and Val Routley, "Human Chauvinism and Environmental Ethics," p. 103.

and sufficient condition for personhood$_M$ are labelled by some as being 'speciesist'. The use of this label suggests an analogy between this kind of discrimination and other kinds, including racism and sexism.

It is claimed by some that it is 'natural' for us to identify more closely with others when they are like us.[8] We can communicate with them, for one thing, and because they look like us we imagine that they think and feel as we do. This helps us to identify with them, as well as allowing us to avoid the fear that we often feel towards the unknown.

The arguments offered as attempts to justify this position may be motivated by an intuition on the part of the writer that it is not morally justifiable - in fact is morally reprehensible - to exclude from the moral community those precise members of our own species who seem most in need of our protection. Might there be a case made for giving equal moral status to those towards whom we have such strong feelings? After all what harm would it do? Devine points out, however, that

> [m]any . . . are not prepared to be so generous in extending the protection of the moral rule against homicide. Nor is this

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[8] See, for example, Michael Wreen's "In Defense of Speciesism," Robin Attfield's "On Being Human," and Loren E. Lomasky's "Being a Person." I wonder if the acknowledgement that nonhumans could be of the same natural kind, and thus fellow persons, would change the way they are treated by humans.

> surprising, for the admission that a given creature is a person is morally very expensive, and becomes more so as the lists of human rights grow longer.[9]

In health care in particular, resources are limited, and to attempt to provide extensive care to all comers, even those to whom we might not have a moral obligation to do so, results in a lower standard of care for all, and perhaps a shortage of care for those to whom we do have such an obligation. Thus, positive arguments are required in order to determine to whom and to what extent we have moral obligations to provide care and protection from harm.

Another real danger is in denying others our moral concern for arbitrary or irrelevant reasons. This is, ironically, a concern of those who argue that all humans have an equal dignity, and are 'ends in themselves'.[10] According to Stanley Benn, the principle of formal equality "states that where there is no relevant difference between two cases, no rational ground exists for not treating them alike; but conversely, where there is a relevant difference, there

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[9] Philip Devine, The Ethics of Homicide, p. 58.

[10] See, for example, Stanley I. Benn, "Egalitarianism and the Equal Consideration of Interests" and Gregory Vlastos, "Human Worth, Merit, and Equality."

is a reasonable ground for treating them differently".[11]

This principle is normally applied only to humans. Beyond claiming that there is a basic intrinsic worth in all humans, it may be extended to situations in which rewards, privileges, or services might be conferred on the basis of an individual's abilities. In these cases, all individuals might not be considered equal - but the differences being considered must be relevant to the benefits being passed out. Some examples here would help demonstrate this.

1. Ron and Jim apply for a job shelving books in a library. Jim has had polio as a child. His right arm has virtually no strength, and he must use two canes to walk. Since he is physically incapable of performing the duties required by the job, it is reasonable to refuse to hire him on the basis of his handicap. We allow differential treatment in this case because it is not unfair to do so.

2. The same two men apply for a different job in the library. This job involves data input at a computer terminal. Since Jim has demonstrated that his handicap would not impair his ability to perform this job, it is not justifiable to use it as a reason not to hire him.

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[11] S.I. Benn, "Egalitarianism and the Equal Consideration of Interests," p. 67.

If he proves to be the better candidate there would be no justifiable grounds not to hire him.

Another example comes from Peter Singer:

> We could defend a decision to teach young members of our own species to read, without making the same effort on behalf of young dogs, on the grounds that the two kinds of being differ in their capacity to benefit from these efforts. This difference is obviously relevant to the particular proposal. On the other hand, anyone who proposed teaching some humans to read but not others, on the grounds that people whose racial origin is different from his own should not be encouraged to read, would be discriminating on an arbitrary basis since race as such has nothing to do with the extent to which a person can benefit from being able to read.[12]

This passage shows that the species to which one belongs can indeed be relevant to the way one is treated. It is not, however the fact of being a member of a species that dictates one's moral standing. Rather, it is knowledge about a species which indicates to us ways in which they may be harmed or benefitted - significant information for moral decisions. I have already indicated that knowing that an individual is a member of the natural kind 'person' is relevant, and specifics about this will emerge when ethical theory is addressed more directly. Also, I have suggested that different species may belong to the kind 'person'. Knowledge about these species is also important.

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[12] P. Singer, "Unsanctifying Human Life," p. 46.

Historically there have been reasons given for not distributing the goods of society to certain individuals - reasons which are now considered unjust, or discriminatory in a pernicious sense (discrimination is not always unjustified, as the examples above have shown). Discrimination merely on the basis of sex, race, or religion is usually unjust discrimination, although this is not always the case (consider someone wanting to hire a rabbi or a surrogate mother). In fact, Noonan, Wertheimer and Bok point out that certain groups (slaves, women, blacks, etc.) have been judged to be non-persons, or non-human, and thus denied equal rights with other members of the community.[13] Though they were usually protected and cared for, this was as chattels or children. Consider Aristotle's claim that there were 'natural slaves'; "[t]hat which is able to plan and to take forethought is by nature ruler and master, whereas that which is able to supply physical labor is by nature ruled, a slave to the above"; ". . . the slave is an animate article of property"; "[a] man is a slave by nature if he can belong to someone else (this is why he does in fact belong to someone else) or if he has reason to the extent of understanding it

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[13] Ruth Macklin, "Personhood in the Bioethics Literature," p. 51; R. Wertheimer, "Understanding the Abortion Argument"; and Sissela Bok, "Who Shall Count as a Human Being? A Treacherous Question in the Abortion Discussion."

without actually possessing it."[14] These kinds of attitudes are (at least theoretically) now considered morally indefensible. Discrimination within the human species, among groups or individuals, must be justified.[15] At a certain basic level all humans are equal. So, for example (at least theoretically), no one human's right to life is worth more than any other's, irrespective of any qualities, characteristics, status, etc., either may possess. When we look at the position that humans have special moral status because they have certain characteristics, or because they belong to a species the typical members of which have these characteristics, the principles concerning discrimination become relevant. There is abundant empirical evidence that whatever characteristic, or combination of characteristics, is chosen as constituting personhood (rationality, self-awareness, moral agency, etc.), there will be humans who do not possess these characteristics. Many others will possess them in diminished or impaired form. Ascribing personhood to the first group is unwarranted,

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[14] Aristotle, Politics, Book I, pp. 383, 386, and 388.

[15] See, for example, Janet Radcliffe Richards, "Discrimination"; Evan Simpson, "Discrimination as an Example of Moral Irrationality"; and Wilfrid J. Waluchow, "The Ethics of Hiring: Should Looks Count?"

and it remains to be established if personhood is something one may possess in degrees.

We are therefore not able to ascribe to these individuals personhood, or special moral status based on the possession of certain characteristics, (by this I mean status equal to that we give other humans, and which we deny animals), because they do not possess the required characteristics. Could we ascribe personhood or special moral status merely on the basis of the fact that they belong to the human species (and are therefore, according to some, $persons_M$)? The arguments against discrimination would seem to prohibit such an ascription, which the following 'argument from marginal cases'[16] suggests is rationally inconsistent, and therefore in my view immoral.

The argument from marginal cases begins by saying that creatures with roughly the same mental capacities have roughly the same moral status. This prevents discrimination on the (purely biological) fact of one's species membership in cases where different species share roughly the same, though not identical, mental powers. While this does not specifically prescribe what our behaviour should be towards either, say, a

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[16] Evelyn B. Pluhar, "The Personhood View and the Argument from Marginal Cases," and P. Singer, "Unsanctifying Human Life."

group of humans of minimal intelligence or a group of adult chimpanzees with about the same mental abilities, it does say that we should not treat them differently in significant ways. So, for example, if we believe it is wrong to perform medical experiments (painful or not) on severely retarded human infants, we cannot be justified in performing them on the chimps. Taken further, if we do not recognize degrees of intelligence, intraspecies, as grounds for killing or using other humans for our own ends, such actions against other animals, interspecies, would not be justified either. Hume may have been the first to see the problems with this:

> The common defect of these systems, which philosophers have employed to account for the actions of the mind, is, that they suppose such a subtility of thought, as not only exceeds the capacity of mere animals, but even of children and the common people in our own species;

and "[m]en are superior to beasts principally by the superiority of their reason; and they are the degrees of the same faculty, which set such an infinite difference betwixt one man and another." [17]

There is considerable scientific evidence that humans and other animals are more similar than has previously been thought. The tendency was to believe

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[17] David Hume, Treatise of Human Nature, pp. 177, 610.

that animals were different from us in a significant way. Descartes, for example, claimed that although animals had sensations, they had no consciousness of the sensations (or of anything else).[18] Descartes' belief has been more widely held than Hume's, which stated that "no truth appears to me more evident, than that beasts are endow'd with thought and reason as well as men."[19]

Evidence now shows that among mammals neurological systems are very similar, making it reasonable to assume that we have very similar kinds of mental experiences. Language and communication, previously thought to be exclusively a human capability, is common among animals, though of course animal communication seems to be at a level which is much less complex and has a radically different range than it has among humans.[20] While suffering involves more than just physical pain, and is likely to be more keenly experienced in that sense by humans, it remains true, as Singer points out, that

> [E]very particle of factual evidence supports the contention that the higher mammalian vertebrates experience pain sensations at least as acute as our own. To say that they

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[18] T. Regan, The Case for Animal Rights, p. 3.

[19] D. Hume, Treatise of Human Nature, p. 176.

[20] Donald R. Griffin, The Question of Animal Awareness, p. 169; p. 170.

> feel less because they are lower animals is an absurdity; it can easily be shown that many of their senses are far more acute than ours.[21]

To say that humans as a species have certain abilities, capacities, or qualities that animals do not, which would justify attributing to humans higher moral status, would be to deny the evidence. In order to include all humans in this argument, the level of these abilities would have to be so low that it would also include many nonhumans.

According to Devine, it is a greater harm to deprive a human being of life than to deprive a nonhuman animal, because human life is richer.[22] While this is probably generally true, there are many tragic cases of human life which are in no way 'rich', whatever that might mean. Anencephalics have no consciousness, for example, and one can only imagine what life must be like for those afflicted with the mental retardation and extreme compulsive self-mutilation of Lesch-Nyhan Syndrome.

In his article on equality Benn, somewhat surprisingly, takes a similarly unreasonable position:

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[21] Peter Singer, "Animals and the Value of Life," p. 225. For an insightful discussion of suffering, as distinct from physical pain, as it is experienced by persons, see Eric J. Cassell, "The Nature of Suffering and the Goals of Medicine."

[22] P. Devine, The Ethics of Homicide, p. 49.

"If the human species is more important to us than other species with interests worthy of special consideration, each man's for his own sake, this is possibly because each of us sees in other men the image of himself." [23] We recognize in other humans, he says, what we experience ourselves - things like rationality and moral freedom. He goes on to say that for this reason, humans, even imbeciles, are owed more respect than non-humans. However, since imbeciles have the approximate mental development of a five year old child, it seems likely that some non-human animals will be at roughly this same level of rationality and moral freedom (an adult chimp, for example). The only significant difference, then, is species membership: Benn's argument basically states that things which look like us superficially have the same moral status as a normal adult human, and superior moral status to any other creature. This seems exactly the same as favouring women over men because they are women, blacks over whites because they are black, etc. While this might be psychologically explicable, it is in no way morally justifiable. It also implies that we might discriminate against humans who have some horrible and disgusting deformity, to the extent that we are unable

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[23] S.I. Benn, "Egalitarianism and the Equal Consideration of Interests," p. 70.

to identify or empathize with them. Both of these implications are inconsistent with the rest of Benn's argument, which promotes equality.

Attempting to avoid such inconsistencies, various philosophers have tried to argue that, while certain humans lack some of the characteristics of personhood they possess an essential one - membership in a species in which personhood is the norm. This seems like a grasping attempt to provide rational grounds for following an intuition that fetuses, infants, the severely retarded and the irreversibly comatose have an intrinsic dignity and value equal to that of a normal adult human, that AHP_M is true. The problematic aspect of these arguments is that the importance of characteristics such as rationality, self-awareness and intentionality is recognized, and assigned moral significance, yet those precise individuals lacking these characteristics are considered to be $persons_M$ (but not persons!) nevertheless. As Rachels points out, while this idea may be appealing because it is consistent with our moral intuitions, it is unfair and irrational because "[i]t assumes that we should determine how an individual is to treated, not on the basis of <u>its</u> qualities, but on the basis of <u>other</u>

individuals' qualities".[24] I will consider several specific examples of this argument.

Jenny Teichman supports AOHP, the position that all and only humans are persons. This, she argues, is consistent with what is ordinarily meant by the word 'person', and would allow inclusion of those who are lacking the characteristics proposed by some as essential. She suggests that "[i]f philosophically interesting conceptions of personhood lead to false and obnoxious conclusions [i.e. the counter-intuitive suggestion that we would be justified in denying certain humans moral standing] then in the end we will have to give up those conceptions".[25] She attempts to rebut theories which base an attribution of personhood on the possession of certain characteristics (her example is rationality) by suggesting the following. In order to be a person, an individual need only belong to a species typified by rationality. She uses a curious analogy to demonstrate this[26]: a way of defining mammals is "animals who suckle their young". The males of a species do not suckle their young, yet we still classify them as mammals. This shows, she argues, that

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[24] J. Rachels, "Darwin, Species, and Morality," p. 108.

[25] J. Teichman, "The Definition of Person," p. 176.

[26] Ibid., p. 181.

not all members of a class must possess the important, or possibly essential, characteristics of that class. So, she goes on, if we consider 'person' to be 'a rational kind', not all members need be rational. While not all human beings are rational, they belong to a kind whose members tend to be rational.

This argument is weak - it depends on a confusion about definitions. Mammals might more accurately be defined as 'animals of a species in which the females suckle their young', or 'animals whose mothers suckled their young'. Humans might then be defined as 'animals of a species in which normal adult members are rational'. To say that all humans, even non-rational ones, are also persons, just seems untrue. To say they are all $persons_M$ begs the question. Again we are faced with a confusion between the biological sense of the word human, and the moral sense. There is no dispute that many (although not all) individuals whose personhood is in doubt are members of the human species. There is no reason, however, why mere species membership should be considered sufficient for personhood, or a morally relevant characteristic.

Shannon Jordan perceives personhood as something which may be achieved in two ways.[27] We become persons

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[27] Shannon M. Jordan, "The Moral Community of Persons."

by autonomous self-constitution. By this I think she means something like what is meant when we say about someone that 'she has become her own person since she left her parents' home', or 'since he left school and began working he is a different person'. An individual, by beginning to establish goals and determining ways of achieving them, becomes an agent in charge of her or his own life. This will be achieved by degrees.

Jordan sees a second way personhood may be achieved. When an individual infant, fetus, or incompetent, is involved in a relationship with a rational other, even if only to the extent of being a recipient, he or she also <u>becomes</u> a rational being. Her or his rationality is constituted by the rational behaviour of others; the infant or incompetent is a rational being because her or his survival depends on the rational activity and intentions of others. "It follows", she says,

> that the incompetent person is not merely an animal organism whose experience of pleasure and pain places certain obligations on the rest of us; rather, what follows is that the incompetent is a person, in traditional terms, because he is a rational being. He is a rational being because his life depends on rational activity.[28]

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[28] <u>Ibid</u>., p. 59.

This is a very strange argument. Jordan appears to be trying to avoid basing the incompetent individual's moral status strictly on her or his relationship to another by ascribing rationality to the incompetent in her or his own right. This is not, to say the least, the usual sense of rational, and might be compared to saying that my car is rational because it depends on my rationality (to know when to change its oil, for example) in order to survive. Other absurd examples are possible, but do not seem to be necessary.

In summary, the obvious difficulties with claiming that all humans are persons lead to attempts to argue that all humans are $persons_M$. Attempts to develop a coherent argument for species membership as a sufficient ground for moral status are strained and unconvincing. This is because there are only two ways to proceed, and neither is satisfactory. The first is unjustly discriminatory, because it bases moral status on species membership alone - an irrelevant ground. The second adds to this by making non-person humans $persons_M$ "by association". Because they are member of a group, the argument goes, typical members of which have certain characteristics - and thus moral status 'x' - they too have moral status 'x'. As I have shown, neither of these arguments works. What is of significance in these theories is that there is a

recognition of the existence of characteristics which are typical of persons and the significance of those characteristics for morality.

IV. The Physical Element

I have shown that mere membership in the human species is insufficient to ground moral status. Another type of argument leads to the conclusion that only humans can be persons by virtue of their exclusive possession of a certain kind of physiology. Those putting this argument forward do not claim that all humans are persons - just those with the developed and functioning physiology. The implication might be made from this type of argument that therefore only humans are persons (OHP - only humans are persons in the morally neutral sense). Here I will examine three of these theories and will deflect this implication.

Joseph Fletcher's discussion of persons is more practical than metaphysical. He makes the same distinction Warren did between being biologically human and being human in a meaningful sense, i.e. being a person.[29] While he distinguishes between humans and persons, claiming that it is on the basis of being a

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[29] Joseph F. Fletcher, "Indicators of Humanhood: A Tentative Profile of Man," and "Four Indicators of Humanhood - The Inquiry Matures."

person that rights are ascribed, he claims that the essential criterion of personhood is human neocortical function (i.e. a functioning human brain). Kluge's position is that

> an entity has the constitutive potential for being perceptually aware, reasoning and making judgments, and for being self-aware [i.e. for being a person] if and only if its neurological system is structurally similar to that of a normal adult human being.[30]

Along similar lines, Brody argues that being meaningfully human (i.e. being a person) requires "the possession of a brain that has not suffered an irreparable cessation of function".[31] Each of these positions is open to the interpretation that individuals who are not members of the human species cannot be persons.

Fletcher, Brody and Kluge all consider persons, or those who are human in the meaningful sense, to be bearers of rights because of certain characteristics, capacities, or abilities that they have. They each argue that the sine qua non for these characteristics or capacities is a physical characteristic or ability. And in all cases, these are only found in humans.

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[30] Eike-Henner Kluge, "Infanticide as the Murder of Persons," p. 35.

[31] Baruch Brody, Abortion and the Sanctity of Human Life, p. 108.

Brody and Kluge have limited their discussions to the abortion question, and so their perspective is narrower than some others. They might consider their arguments only relevant to human beings. Nevertheless those arguments do have implications for the questions we are addressing. It will prove useful, then, to examine these arguments to see what they imply regarding our responses to human persons, human non-persons, and non-human persons.

Fletcher's first approach to the problem of defining personhood offered the fifteen indicators of humanhood, which he also called positive human criteria. He arrived at this list by an analysis of human nature. Some of these indicators are qualities or capacities that it seems only humans have - e.g. a balance of rationality and feeling. Others seem to be present in some other animals - e.g. self-awareness[32], the capability to relate to others and curiosity. In fact, most of Fletcher's indicators may be found in other animals to some degree. His second attempt narrows the list to four: self-awareness, the ability to participate in social relationships, the ability to

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[32] When shown a mirror and asked whose reflection she saw, Washoe, a chimpanzee who has been taught to communicate with sign language made the signs for "Me, Washoe". This seems to indicate self-awareness, as well as the ability to communicate - indeed, to communicate with another species in that species' own language.

be happy, and the necessary precondition for them all, neocortical function.

There are some obvious problems with Fletcher's theory - problems which are endemic to the practical use of personhood theories. Which, if any, of his four indicators of humanhood are essential? He seems to believe that only neocortical function is:

> To be truly Homo sapiens we must be sapient, however minimally. Only this trait or capability is necessary to <u>all</u> of the other traits which go into the fullness of humanness. Therefore this indicator, neocortical function, is the first-order requirement and the key to the definition of a human being.[33]

If neocortical function is the only necessary indicator, then it is not impossible that it might be present while all the other indicators Fletcher lists are not. In fact, such would be the case of a fetus[34] or of someone who was in a coma but was judged to retain some neo-cortical function. On its own, then, without the psychological abilities and activities which Fletcher has argued constitute humanhood, neocortical function indicates at best only a <u>potential</u> for humanhood, or personhood. It cannot,

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[33] J. F. Fletcher, "Four Indicators of Humanhood - the Enquiry Matures," p. 6.

[34] Clifford Grobstein, <u>From Chance to Purpose: An Appraisal of External Human Fertilization</u>, pp. 93-97.

therefore, serve as a criterion for personhood by itself.

Alternatively, it is not impossible that a creature might exist who exhibited the other indicators Fletcher lists without possessing a cerebral cortex, and thus the neocortical function Fletcher considers essential. This possibility is raised by Sumner: "Possession of particular neural structures cannot serve as a criterion of moral standing, for we cannot rule out encounters with sentient beings whose structures are quite different from ours."[35]

These problems with Fletcher might be resolved if some of his terminology were modified, and the scope of his analysis clearly limited. First, it should be emphasized that he is only talking about biological humans. As a medical ethicist, Fletcher is concerned with problems like euthanasia, infanticide and abortion, where a judgement of the moral status of the individual patient is crucial. This does not mean that he considers that only humans (in particular, only some humans) can be persons, although his unfortunate tendency to use the terms 'person' and 'human' interchangeably suggests this possibility. Even if we were to keep his essential condition of a functioning

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[35] L.W. Sumner, Abortion and Moral Theory, p. 147.

neocortex, this would not necessarily eliminate some non-human animals from consideration. The argument that the human brain is bigger and better than that of any other animals is no longer defensible; whales, dolphins and elephants have larger ones, and "[t]he neocortex, in evolutionary terms the youngest part of the cerebral cortex, is comparatively better developed in certain toothed whales than in man".[36] This means that many of the other indicators on Fletcher's list may also be present in these and other mammals.

Second, it is not entirely clear from Fletcher's account if he is talking about self-awareness, relating, happiness, and neocortical function as being criteria for personhood, or merely indicators of personhood, as he refers to them. The first would suggest a definitional approach. Those characteristics essential to personhood would be determined by an analysis of the concept of person. It would need to be established which criteria are necessary, or sufficient, or if all or a certain combination of them are required or sufficient. This determination would be crucial because it would result in the inclusion of certain individuals in a group with certain special moral rights and/or privileges. It will also mean that

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[36] K. Fichtelius and S. Sjolander, Smarter Than Man? pp. 37-39.

some others would be excluded, and so very careful justification would have to be given. On the other hand, if they are merely indicators, then this list of characteristics or functions is an empirical tool, and their presence may be used to indicate that the creature being tested is indeed a person. But some explanation would be required of why these particular indicators should be the ones tested for. We would still be left with no adequate understanding of what a person <u>is</u> and why an entity who met Fletcher's indicators qualifies as one.

Kluge considers that "[a]n entity is a person if and only if <u>either</u> it now is perceptually aware, reasons and makes judgements, and is self-aware, <u>or</u> it is in a state of constitutive potential with respect to these."[37] This provides us with the opportunity to note the distinction between capacity and potential - a distinction which will be worthwhile examining.

According to Kluge, the fetus or young infant is not currently capable of the functions listed above, but will be so if allowed to develop normally. This does not seem to avoid the problem usually associated with potentiality in these kinds of discussions, that

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[37] Eike-Henner W. Kluge, "Infanticide as the Murder of Persons," p. 35.

despite being a potential x, or having the constitutive potential for being an x, one is not an x. A woman may have the constitutive potential for having a child - this does not make her a mother. Nor will having the constitutive potential to swim help a drowning man. He seems to mean, then, the following (using the terminology we have stipulated): In order for x to be a $person_M$, x must either be a person or have the constitutive potential to be a person. Again, we see how the inappropriate use of 'person' to refer to an entity with a certain moral standing leads us into confusion.

Of course in denying that the potential for certain abilities is sufficient for personhood, one must be careful to differentiate between having a potential and possessing a capacity. These two are conceptually very different. To have a capacity for consciousness, for example, means one is now capable of being conscious - i.e. there are no current physical or psychological impediments to the exercise of this capacity (although there may be some externally imposed impediments, such as drugs). Someone with the capacity for consciousness can realize this now, not at some unspecified future time. So, a fetus might have the constitutive potential for those capacities associated with personhood but not the capacities themselves. A

normal adult human would have some or all of the capacities themselves. Someone in a temporary coma might also have the constitutive potential (this would be hard to determine reliably) but not the capacities, and someone irreversibly comatose would have neither.

Kluge's position suffers from the confusion between persons and $persons_M$ which has been previously noted. The difficulties of equating potential persons with actual $persons_M$ might be avoided if he were to acknowledge that it is the moral standing of these two groups that he wishes to equate, and then proceed to argue for this on grounds other than personhood. There might be good reasons for believing that fetuses at some stage in their development have moral standing (e.g. when they are capable of feeling pain), but Kluge's failure to distinguish between capacity and potential, and between persons and $persons_M$ leads to an unwarranted conclusion.

Brody also attempts to resolve the contentious issue of at what stage in its development a fetus acquires a right to life. He argues that this happens when it becomes meaningfully human - in other words, when it becomes a person. There surely does not seem to be any question of whether or not the fetus is a member of the human species. Presumably at this most basic level agreement could be reached if it were

clearly understood that we are talking about species membership alone. Genetic makeup, the condition that both parents are humans, basic morphology, or some combination of these or other criteria could establish this.[38]

Since it is not disputed that the fetus is a human entity from the moment of conception, when Brody talks of the fetus becoming human at about six to eight weeks (when it possesses a functioning brain), he is clearly referring to 'human' in the meaningful sense, or 'person'.[39] In searching for what is essential to being human, Brody discusses natural kinds and essentialism. Brody refers to natural kinds (and he follows Aristotle in this) as classes of individuals which share a characteristic which is essential to their being a member of that kind. As we have seen, the concept of a natural kind is commonly used in science, or philosophy of science, as a means of classifying individuals - and most often, in biology at least, kind division is equivalent to species division.

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[38] This is an open question, and one I am not considering in this thesis. So, for example, there might be an individual who would meet none of these criteria whom we would still want to call human. As seen in our discussion of natural kinds, species names, like 'person', are open-textured.

[39] B. Brody, Abortion and the Sanctity of Human Life, p. 68.

I have not restricted its use in this way, and neither has Brody.

However, Brody's use of natural kinds in his argument is flawed. His argument is as follows. All members of a natural kind must necessarily possess what is essential to that kind. In the case of 'human', this is "the possession of a [human] brain that has not suffered an irreparable cessation of function."[40]

I have several points to make about this argument. The first echoes a criticism made earlier of Fletcher's view. Without the psychological abilities and activities which are typical of personhood, the possession of a human brain indicates at best only a potential for personhood. This detail became clear in the discussion of the capacity/potential distinction aimed at Kluge. While I would admit that the point in its development at which a fetus has a developed brain is likely a significant factor in determining its moral status, reaching this stage of development does not in itself constitute the borderline between non-personhood and personhood - a border which it is becoming increasingly obvious is not clear cut.

A second point is Brody's claim that members of a natural kind must all possess one, essential, property.

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[40] Ibid., p. 108.

This is not consistent with the predominant, current theories about natural kinds, as has already been discussed.

My third negative comment about Brody will lead to a positive suggestion. Study of the natural kind 'human' allows us to augment our scientific and medical knowledge about human fetuses. The claim that fetuses are not members of the kind 'human' until six to eight weeks in their development (although admitting that they are human genetic material before this) does not seem correct. Brody's argument might have been, as mine is, that at a certain stage in development a member of the natural kind human also becomes a member of the kind 'person'. This captures the significance that he wishes to acknowledge for morality, although it is not clear just when or at what stage in development personhood begins - a further indication of the open texture the concept possesses.

Some significant points have been made in this discussion about how the physical human structure contributes to personhood. There has been further acknowledgement of the theoretical importance of those psychological characteristics typically associated with persons. However, since we have no evidence that the human physiology is the only one which can support such functions, there is insufficient justification for

saying that it is necessary for personhood. Further, it is not sufficient for personhood, since it seems possible for an individual to have the appropriate structure yet not function as a person (e.g. a fetus or someone in a coma). And again, the distinction between the determination of what a person is and how a person ought to be treated must be maintained.

V. The Immaterial Element

William May answers the question asked by his article, "What Makes a Human Being to be a Being of Moral Worth?" with the claim that all and only humans have a moral dimension to their existence. In other words, he supports $AOHP_M$. He proceeds to argue that the only beings capable of acting as moral agents are human ones. He offers empirical evidence for this - psychological theories mostly, as well as the accounts given us by Jane Goodall. This, of course, is only part of the story; our failure at this time to have observed other animals acting morally, if we have in fact failed to do so[41], does not mean that they are incapable of such actions. I have chosen to consider this particular paper because, though a Christian

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[41] See, for example, Vicki Hearne, "The Moral Transformation of the Dog," and the elephant story in Karl-Erik Fichtelius and Sverre Sjolander, Smarter Than Man? Intelligence in Whales, Dolphins, and Humans, p. 31.

theologian and philosopher, May has attempted to offer an argument for the moral worth of humans, for $AOHP_{M'}$ which does not involve religious premises.

May's argument may be summarized as follows. Modern psychology distinguishes between perceptual thought and conceptual thought. Perceptual thought involves "the ability to learn from experience, to generalize, to discriminate, to solve problems by trial and error and even to make inductive inferences from empirically learned cues". Most humans and many animals have this ability. Only humans, however, are capable of conceptual thought. "A concept," says May, "is an acquired disposition or learned ability to understand what that kind of thing that one can recognize through an act of perception is like."[42] Being capable of conceptual thinking makes one a moral being (i.e. capable of acting from moral considerations) and a minded entity. There is, according to May and the psychologists he invokes, no evidence that any non-human animals are capable of conceptual thought, and abundant evidence that most humans are.

Obviously, some humans are not capable of any thought at all. Nevertheless, May argues, those humans

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[42] W. May, "What Makes a Human Being to be a Being of Moral Worth?", p. 432; p. 437.

who do not, or cannot, become minded entities nevertheless share with minded entities a 'principle of immateriality':

> My thesis is that the ultimate reason why some human beings are capable of becoming minded entities (i.e. moral beings) is something rooted in their being human beings to begin with, something that they share with those members of the human species who are not actually minded or moral beings, and something that is the root reason why they and all members of the human species (including neonates, infants, raving maniacs and fetuses) are beings of moral worth. . . However named, it is the principle immanent in human beings, a constituent and defining element of their entitative makeup, that makes them to be what and who they are: beings of moral worth capable of becoming minded entities or moral beings; it is a principle of immateriality or of transcendence from the limitations of materially individuated existence.[43]

So far May's argument has developed coherently, although he is not clear on several important points, such as his principle of immateriality. He should provide evidence for this principle of immateriality - his position is undeveloped and fails to support what must surely be his most important point.

May takes his position from Adler. "The basic argument," says May, "is simply that the power of conceptual thought cannot be accounted for in terms of material reality or in terms of neuronal changes

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[43] Ibid., p. 437.

occurring in the brain."[44] A brief quotation from Adler explains that our concepts are universal, but our brain is material. Since universals (i.e. concepts) cannot exist in matter, and matter can only produce material things, there must be an immaterial power which produces and uses our concepts. May does not quote Adler's own acknowledgement that the argument is obscure;[45] nor does he explain or justify his own disregard of any recent work in the philosophy of mind or behavioral psychology.[46]

There is no shortage of philosophers who try to make a case for an immaterial element in our make-up, or for some kind of mental substance. It is conceivable that May might develop his argument into something more plausible. He might argue successfully that the capacity for conceptual thought entails a mind that is more than a function or activity of a brain. This is a difficult and unresolved issue which need not divert us here. The more serious and fundamental objection to May's argument is that he attributes this mind, or at least the immaterial element which serves

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[44] Ibid., p. 438.

[45] Mortimer Adler, The Difference of Man and the Difference it Makes, p. 220.

[46] See, for example, Gilbert Ryle's rejection of Cartesian dualism in his The Concept of Mind, and D.M. Armstrong's A Materialist Theory of the Mind.

as its basis, to all humans. This begs a very important question.

May's purpose has been to explore why human beings are beings of moral worth. He explains what this means:

> By a being of moral worth I mean an entity that is the subject of inalienable rights that are to be recognized by other entities capable of recognizing rights and that demand legal protection by society. By a being of moral worth I mean an entity that is valuable, precious, irreplaceable just because it exists. By a being of moral worth I mean a being that cannot and must not be considered simply as a part related to some larger whole.

"What makes an entity to be a human being," he says, "simultaneously makes it to be a being of moral worth."[47] All human beings have moral worth. What makes us human (and $persons_M$) is the presence of an immaterial element in our constitution which enables us to be or become minded and moral beings.

> An adequate explanation for our being minded and moral demands that we infer the presence, within our being as humans, of an entitative component that is the antecedent condition for the possibility of our becoming minded and moral. And that component, which is ours in virtue of our being the kind of beings that we are to begin with, namely human beings, members of the human species, is a nonempirical, nonobservable, yet rationally

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[47] W. May, "What Makes a Human Being to be a Being of Moral Worth?" p. 416; p. 421.

inferable and real component of our humanity.[48]

The following counter-example poses serious problems for May. Consider an anencephalic infant, i.e. a human infant born with no cerebral cortex. If we believe that there is some essential connection between the upper and middle brain and the mind, then the necessary precondition for that individual to be a person, or a minded entity, is not present. Similarly, it would be reasonable to ask May why we should believe that an anencephalic infant, who is not and never will be a minded or moral being, possesses the principle of immateriality which he argues is the necessary precondition, and which he claims all members of the human species possess. Even appealing to the nature of potentiality will be of no use here. While a human fetus, for example, may be a potential minded entity, the anencephalic lacks even the potential for this. So even if May has shown that only humans are minded entities, and that minded entities necessarily possess a principle of immateriality, it in no way follows that all humans necessarily possess a principle of immateriality. The conclusion does not follow validly.

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[48] Ibid., p. 442.

Another of May's problems is that he has confused the notions of 'moral agent' and 'moral patient', thus presenting a confused picture of what kind of moral community he is talking about. He attributes moral worth to humans because, basically, they are capable of being moral agents, but attributes that same worth (via the unclear and undemonstrated notion of a principle of immateriality) to those humans who are manifestly incapable of being moral agents.

Any theory which suggests that all humans are persons (AHP) because they possess a nature which disposes them to rationality, self-consciousness, the ability to communicate, etc., will face the same problem when confronted with individual humans who are incapable of any of the functions associated with higher brain activity. While the argument might reasonably apply to those who had these capacities and lost them, or who had the unfulfilled potentiality for these abilities (for example a baby who suffered brain damage at birth), a human embryo which fails to develop a higher brain at all has neither the capacity nor the potentiality for these functions. Other reasons for ascribing a certain moral status to these infants might be found, but attributing a human nature dependent on certain characteristics which can never develop is a groundless enterprise.

VI. Conclusions

This chapter has dealt with a number of arguments which were intended to show that all, or only, or all and only, members of the human species are persons$_M$ or persons, and are thus entitled to superior moral status. These arguments were:

a) That all humans are persons$_M$ because most of them are persons.

b) That humans have a special brain which enables them to function in ways which are significant in ascribing personhood to them.

c) That humans have a special nature - an immaterial element - which shows itself as a minded, moral being (i.e. a person).

The first argument was criticized on the grounds that it is discriminatory because it ascribes special moral status to certain individuals on the basis of their species membership alone. While it seems reasonable when dealing with humans to act on the prima facie assumption that they are or will become persons, overwhelming evidence to the contrary (e.g. the absence of the upper and middle brain, or the diagnosis of severe and irreversible brain damage or coma) should be acknowledged.

The discussion of this first argument proved beneficial since it exposed and clarified the following. The identification of a certain individual as a person will likely determine that it has standing in the moral community, and that there are certain ways it ought to be treated. This does not, however, decide the status of non-persons, nor provide us with information about our obligations towards them. Those who are motivated by a fear that identifying some individuals as non-persons is to deny them rights or deny that we have obligations towards them may rest easy here. Nevertheless, it is incumbent on them to build an argument grounding these rights and obligations on something other than membership in the human species or personhood.

The second argument failed to show that mere possession of a functioning human brain is either necessary or sufficient for personhood. It is not necessary because there is plausible evidence that non-human animals might be, or might evolve to a stage where they might be, persons. It is not sufficient because the presence of a functioning human brain at best shows the capacity for those abilities which are linked with personhood. However, it is important to note that many of the persons we now know exist are

humans, and a functioning human brain is necessary for human persons.

The third argument failed through lack of evidence for its claims. That there is a definitive human nature is difficult to establish, and when attempts are made to do so on the basis of the possession of or potentiality for certain capacities, empirical evidence intervenes with contrary indications - e.g. the anencephalic infant, who will never and can never possess anything like a mind.

While membership in the human species does not appear to be either necessary or sufficient for personhood, information about the human species has the same usefulness for ethical theory as information about the natural kind 'person'. The next chapter will examine several typically human characteristics which are also typical of persons after choosing the average human adult as an exemplar for personhood.

Chapter 5

Characteristics of Persons

I. Introduction

There are good reasons for considering an average[1] adult human to be a paradigm person. It is certainly consistent with the methods used to investigate other natural kinds. We know something about the mental and physical existences of human persons, from self-examination, relationships with others, the theories generated by natural and social scientists and the data they collect, and from the observations of philosophers. While suggestions are beginning to be made that there are non-human persons (like Washoe), we are quite familiar with, and knowledgeable about, human persons.

Having examined the question of whether or not persons must also be human, I will now look at those features of the average adult human which might be considered to be theoretically important for that individual to also be a person. The traits considered

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[1] I have chosen the word 'average' here, and mean it in the sense of "what is usual", or "what is to be found in most cases," hoping to avoid the problems which often arise from the use of the word 'normal'.

by Mary Anne Warren to be most central to the concept of person are fairly representative of theories about persons, and so I will examine the characteristics suggested by her. They are:

(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 (activity which is relatively independent of either genetic or direct external control);

(4) the capacity to communicate, by whatever means, messages of an indefinite variety of types, that is, not just with an indefinite number of possible contents, but on indefinitely many possible topics;

(5) the presence of self-concepts, and self-awareness, either individual or racial, or both.[2]

These are notions which figure, often uncritically, in many discussions of personhood. In exploring them we may find some clues as to whether any of these properties are necessary, sufficient, or theoretically important. I would like to stress two things, however. First, it is not my position that these are the only characteristics typical of persons, nor that these are necessarily the most important. I will argue, however, that some of them are important as they interrelate to

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[2] M. A. Warren, "On the Moral and Legal Status of Abortion," p. 101.

contribute to an individual's personhood. Second, I am considering these characteristics as typical of a paradigm person. In the next chapter I will suggest that different characteristics may contribute to the personhood of individuals in various ways.

This chapter is an exploratory one, examining some of our intuitions and assumptions about persons. I will look at each of these characteristics individually and as they interrelate, and attempt to determine if there are obvious theoretically important features missing from Warren's list, and if any of the traits suggested by her are singly, or in combination with others, theoretically important to an individual's being a person. They will also be considered as possible criteria for personhood. These reflections will further illuminate my proposal that 'person' is a cluster concept, and will show that it has open texture. Major conclusions will not be drawn in this chapter - obstacles to our understanding the concept of person will be cleared away so that, in the next chapter, a positive theory can be offered.

II. Consciousness

Articulating a conception of consciousness is as difficult as articulating a conception of person. Consciousness might be considered to be a state in

which we have an awareness of phenomena external to us (explaining why our perceptions and experiences appear similar to those of others), and also of some of our own internal states. Consciousness might also be considered a process, i.e. part of each perception or belief, rather than a state in which one must be in order to have perceptions or beliefs.

There are various levels of consciousness; one is basic experiencing, perceiving, or feeling. To be aware of these sensations or processes would seem to be a more complex kind of consciousness, as is being conscious of oneself as a subject of experiences. Preconsciousness might be considered part of this system as well. This is the level of thought, or contents of the mind, which lie close to conscious awareness, yet are not its immediate objects. The notion of preconsciousness is more readily understood with the help of an example given by a modern (unnamed) philosopher, as related by Stuart Hampshire.

> He [the unnamed philosopher] points out that it's quite natural if we trip coming downstairs, to say: "Well, I thought there was another step." The implication is that the process of walking downstairs is governed by thought and belief. And a great variety of such thoughts and beliefs are at a preconscious level, not formulated and not worked out articulately.[3]

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[3] Jonathan Miller, States of Mind, p. 104.

Another way to show the meaning of preconsciousness is to imagine driving home through busy traffic while thinking about a problem of some kind. Upon arriving home, one cannot remember details of the journey - the necessary observation of and response to details was at a preconscious level.

There is less striking evidence for the unconscious mind, and it is all indirect. While it might seem curious to consider this as part of consciousness, most psychological theories consider the relationship among the various levels of consciousness to be a close and interactive one. While it might be possible to imagine a mind as consisting only of the highest level of consciousness, it does not seem possible to imagine a person who is not an integrated system of conscious, self-conscious, preconscious and unconscious mental events, processes and contents.

As average adult humans, we sometimes have direct knowledge of our own conscious states, and we can infer the existence of preconsciousness and unconsciousness in ourselves, as well as all levels of consciousness in other adult humans. Diverse psychological theories postulate the existence of conscious minds of various kinds and levels of complexity in other organisms which have achieved a certain stage of evolutionary development, as well as those humans who are not

average and/or not adult (and therefore may not be persons).

Is the concept of consciousness useful to our understanding of persons? Kathleen Wilkes claims it is not, and that if "some 'special' kind of consciousness is indeed pivotal to the concept of a person, then the manifest obscurity of the notion is worrying." According to Wilkes, consciousness is a second-order concept, which depends on a number of other, more specific predicates. "In other words," she says,

> we presuppose a healthy subset of a whole slew of psychological ascriptions - to do with perception, motivation, belief and desire, misperception, illusion, recognition, and so on and so forth - when an ascription of consciousness is to make sense.[4]

These mental states, or processes, themselves may provide us with scientific knowledge about the human mind, but 'consciousness' itself cannot. It is far too vague, and in any case only makes sense if we consider it as consisting of these various other things. (Even Freud found the concepts of consciousness and unconsciousness less and less interesting and significant as his theories developed.[5])

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[4] Kathleen Wilkes, Real People: Personal Identity without Thought Experiments, p. 169; p. 194.

[5] Calvin S. Hall, A Primer of Freudian Psychology, p. 54.

Support for Wilkes' view may be found in the psychological theory of Alan Allport. Allport agrees that, while we have a strong intuition that we know what consciousness is, there is no such phenomenon. There is, he claims, "no unique process or state, no one, coherently conceptualizable phenomenon for which there could be a single, conceptually coherent theory," and the concept of consciousness "is not susceptible of explanation in terms of a single explanatory principle."[6] There are just too many diverse instances of individuals whose states of awareness (if this is what consciousness is) are fragmented or dissociated for a unitary theory, as described above, to make sense.

There are other problems with regarding consciousness as either a necessary or a sufficient condition for personhood. An obvious concern is that there are many periods in the life of any conscious organism during which it is not conscious, for example, states of sleep, reversible coma, and temporary unconsciousness (syncope, or fainting) such as that caused by shock, extreme pain, or insufficient oxygen reaching the brain. If consciousness is a necessary condition for personhood, then one would only be a

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[6] Alan Allport, "What Concept of Consciousness?" p. 161, p. 162.

person intermittently.[7] This does not seem consistent with what we believe a person to be, although there may be some confusion with the sense of person found in discussions of personal identity. The notion of person I believe is important for medical ethics to consider, however, does contain something of this other sense - i.e. the persistence of a person through time. As I will propose, it is the threat from illness or injury to a sustained sense of oneself as a person which can cause suffering to persons.

Some believe they have dealt with this problem by making a capacity for consciousness, or some such thing, a condition for personhood - thereby denying that consciousness itself is necessary. As noted in the earlier discussion of Kluge, it is essential to distinguish between capacity and potential. What are we to make of this distinction for our own investigation? Simply this. If we consider consciousness to be a characteristic which is theoretically important to our conception of person, it is not because persons must continuously be conscious. Rather, they must possess the capacity (not merely the potential) for conscious awareness.

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[7] John Locke discusses this problem in An Essay Concerning Human Understanding, II.XXVII.9,10.

Warren suggests that the ability to feel pain has a special relationship to consciousness when we are considering personhood. Sentience, the ability to perceive and feel, is a characteristic possessed by a much wider class of creatures than those whom we would consider persons, and is considered by some to be a necessary and sufficient criterion for moral standing.[8] While most ethical theories are likely to consider the ability to feel pain as worthy of consideration as a characteristic when determining the class of moral patients they designate, it obviously describes a broader class than that of persons. Also, it is easy to imagine an individual who is conscious, yet is unable to feel pain - someone in whom the communication between body and brain has been impeded, for example by a severed spinal cord or an anaesthetic drug.

The following observations are offered in summary. There seems to be good reason to believe that many types of creatures are conscious and capable of experiencing pain, and yet are not persons. Consciousness would therefore not be a sufficient condition for personhood. Scientific knowledge about what consciousness is remains indecisive. Wilkes' suggestion that 'the state of being conscious' depends

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[8] See L. W. Sumner, Abortion and Moral Theory, for example.

for its existence on various other mental states or capacities as well as a certain kind of physical apparatus is reasonable. It is not clear, and may not be determinable, if it is consciousness itself which is theoretically important, or even logically necessary to the concept of person, or if it is one or several of the other mental states or capacities which are.

There does seem to be a strongly intuitive belief that consciousness is in some way theoretically important to some aspect of personhood since it seems necessary for the various mental activities which are generally held in high value and are also associated with personhood (Fletcher's Indicators of Humanhood, for example). However, we seem also to be influenced in our mental activities and our personality development by preconscious and unconscious thought processes. There is certainly no agreement on how these interact or influence the conscious mind (or, I suppose, even that they exist).

Our ideas about consciousness are themselves unclear, and attempts to determine criteria for its presence, absence, or existence run into the same problems that we find with the concept of person. The common sense notion of consciousness may be analyzed into a cluster of properties which themselves must be subjected to a similar analysis. It seems also that

the notion of open texture is appropriate when we are discussing consciousness, and thus other concepts of which consciousness is an element. And we might well anticipate that in our upcoming discussion of other suggested criteria for personhood, consciousness itself may be a constituent property of the cluster concepts rationality, language, and self-consciousness.

III. Reason

As the last section explored the notion of consciousness - a characteristic typically associated with persons - this section will look at the concept of reason.

The following passage is representative of the point of view held by some who see reason, or rationality (I will use the two words to mean the same thing), as somehow defining the essence of either homo sapiens or persons.

> Man is a rational animal. Like the other higher animals, man lives and breathes, seeks food and drink and nourishes himself, finds or makes shelters to protect himself from the weather, mates and produces offspring and cares for them, fights or flees from enemies, associates with his own kind in groups, responds to their cries for help and cries for help himself, labors as he must and plays when he can, and continuously searches curiously in his environment, exploring and investigating. Unlike all other animals, he thinks, he reasons about the way he does things, and whether he can do them better, and wonders why he does them at all. By dint of thinking he produces art, science,

> politics, religion, literature, philosophy, mathematics, technology, and all the other facets of culture which mark him off in sharp contrast to the rest of the animal world.[9]

There are a number of points which must be made about this attitude, and about the claim that reason is a theoretically important characteristic of persons.

The separation of reason from other capacities such as emotion and creativity, and its enthronement as the sole uniquely human characteristic is a fairly recent phenomenon. Although we may discover references to the significance and role of reason as far back as Plato and Aristotle, rationality usually appears as one part of a larger whole - albeit the part that ideally should control and guide the more passionate elements. The 17th century rationalists exaggerated this division to an extreme, seeing the passions as the source of disorder and falsehood, and as such a threat to humanity's future. Reason was seen as the key and guide to human perfection. This may change; Genevieve Lloyd argues in her article relating the supremacy of reason to the exclusion of women from the power structure that a critical assessment of reason yields the current view "that it will not all be solved by the

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[9] Michael Stock, "Dimensions of Personality," p. 613.

progress of reason . . . Man's reason is no longer an unequivocal object of his self-esteem."[10]

Considering those products of humanity enumerated above (they were art, science, politics, religion, literature, philosophy, mathematics, technology, and other facets of culture) it does seem appropriate to associate them with reason - but to what extent, and in what sense? If considered in a very narrow sense, the ability to reason is the ability to use certain rules of logic, and perform certain mental calculations or operations. While this very specific activity may be practised by some individuals some of the time, it would only be a one part of any of those products of humanity. Some, in fact, might flourish without the influence of this particular kind of reason (religion and art, for example).

A broader sense of reason is the general mental activity which may be observed in that paradigm person, the average adult human - trying to arrive at a conclusion on the basis of reasons.[11] One interpretation is that reason will "generally involve conscious representations of the states to be attained, and conscious selections between alternative courses of

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[10] Genevieve Lloyd, "The Man of Reason," p. 35.

[11] Richard B. Angell, Reasoning and Logic, p. 2.

action to arrive at those states. In a phrase: persons are planners."[12] This would include the ability to consider options, choose goals, and determine relevant and appropriate ways to achieve those goals. (The rationality of the goals themselves is another aspect of this activity.) For example, someone may wish to die, and correctly predict that a number of methods may achieve this end. Those methods which are not realistically available may be rejected, and the one most consistent with other goals of the individual (avoidance of pain, protection of the sensibilities of family members, etc.) may be chosen. Taking the proper steps to enact the method may follow. This whole process may be considered a perfectly reasonable one, in the sense that the chosen actions are ones which lead to the desired goal. This type of reasoning may not be unique to humans, as the use of tools by other animals suggests.

In contrast to this practical reasoning is abstract, or theoretical, reasoning. The ability to form and use concepts, theories, and possibly language is of relevance here. These practical and theoretical types of reasoning are probably what Warren means when she describes reason as "the developed capacity to

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[12] P. Carruthers, Introducing Persons: Theories and Arguments in the Philosophy of Mind, p. 236.

solve new and relatively complex problems." While reason is integral to those products of humanity we are considering, there are other activities which are perhaps equally important, e.g. creativity, empathy, spirituality.

There are many different abilities and skills involved in problem-solving and theorizing, which on their own would not constitute rationality. Powers of perception and observation, the application of learned principles and previous experience, the ability to recognize and analyze problems are just a few of these. It might therefore be argued that reason is the same kind of second-order concept that consciousness was suggested to be - indeed, as Carruthers' definition shows, the two may be inexorably entangled.

If the ability to reason is used as a logically necessary criterion for personhood, then additional problems arise. It seems clear that within individuals and between individuals there are different levels of rationality, whether it is the narrow, more mechanical sense, or the wider sense of problem-solving abilities. We may consider this to be a continuum of reasoning capabilities, with certain individuals having limited abilities in this area. Some of these individuals may develop their abilities. Some may not, through the lack of opportunity or motivation. Like consciousness,

then, the concept of reason might accurately be considered to have open texture, since there would certainly be difficulties in determining whether or not some borderline individuals were in fact rational.

Warren's requirement that the capacity be developed is presumably related to the difficulties with potentiality I have already discussed. Her stipulation that reasoning also requires the ability to solve new and relatively complex problems intends, I suppose, to exclude creatures such as birds and other animals who possess some problem-solving abilities. Carruthers also notes this difference. "If a creature is capable of planning at all," he says, "then it must be capable of doing so in a wide range of circumstances."[13] Otherwise their actions are likely to have resulted from instinct or conditioned habit rather than from reason. Most humans are capable of a relatively high degree of complex intellectual activity. I think we may infer from Warren's comments, and those of others who see rationality as a uniquely human, or 'personal' ability, that they mean a level of rationality which is by nature of its scope and complexity an ability different in kind from similar ones possessed by other kinds of entities.

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[13] Ibid., p. 236.

Upon examination, this difference is not a straightforward one. Quinton, for example, suggests a clear distinction be made between those who have a highly developed reasoning ability and those who can reason at a level which is lower and less complex, yet different in kind and more complex than is possible for most animals.[14] He denies that Kant's 'person/thing' distinction is all encompassing, i.e. that everything that exists is either a rational being or an object. Quinton distinguishes <u>two</u> kinds or levels of personhood, and believes that we all implicitly do the same. The significant difference between the two is that those capable of the highest level of reasoning are moral agents, while those at the lower level (including children, the senile, some higher primates, etc.) are not. He does not see this as a continuum, although presumably within each group there would be divergence among the members' abilities. Quinton's view adds another alternative to explanations of the relationship between reason and personhood.

Whether rationality is measurable on a continuum, or is composed of a number of distinct levels or kinds, there may be difficulties in classifying individuals,

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[14] Anthony Quinton, "Two Conceptions of Personality," p. 387.

or groups, according to their reasoning abilities. As Sumner points out,

> [t]he rational/nonrational boundary is more difficult to locate with certainty than the animate/inanimate boundary, since rationality (or intelligence) embraces a number of distinct but related capacities for thought, memory, foresight, language, self-consciousness, objectivity, planning, reasoning, judgement, deliberation, and the like.[15]

Like consciousness, rationality may be intermittent. One may be non-rational because one's capacity to reason is impaired in some way (e.g. by drugs or alcohol), or one may choose not to act in a reasonable way (i.e. according to the 'rules of reason'). In the second case, one would still have the capacity to reason; in the first one would not.

To conclude, there are a number of observations to make about rationality. It seems that it is no less controversial a notion than that of consciousness, and also that it is an activity which depends on a number of others, such as perceiving, observing, conceptualization, and analysis. While rationality is often considered the sine qua non of personhood, as the author of the quotation at the beginning of this section clearly believes, in my view the link between

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[15] L.W. Sumner, Abortion and Moral Theory, p. 137. Sumner obviously does not use the terms 'reasoning' and 'rationality' synonymously, as I have. His 'reasoning' refers to the narrow, logical, sense described on page 133.

it and activities believed unique to persons (such as religion, art and science) is inexplicit. Theories vary as to the value of reason, and its importance to such activities may be rated less significant than others such as inspiration, spirituality, and emotion.

Nevertheless, while evidence supporting the claim that the capacity to reason is essential to personhood may be weak at best, there may be some grounds for considering it a theoretically important characteristic of persons. Reasoning must certainly contribute significantly to explanatory theories of the 'meta-theoretical evaluative' kind, such as those described in our discussion of natural kinds, since it enhances our understanding of persons. However, given the difficulties with the concept - its vagueness, for example, and the questions raised about its nature and role in our activities - we should resist using it in as a necessary criterion for personhood.

IV. Self-Motivated Activity

This of all the traits which Warren considers central to the concept of person seems to fail to coincide with a strong intuition about the nature of persons. While her other conditions are frequently mentioned by others as being characteristics which are essential to, or at least distinctive of, human nature,

"self-motivated activity (activity which is relatively independent of either genetic or direct external control)" is not. While I admit that this is a characteristic possessed by a paradigm person, it does not seem plausible that self-motivated activity would be a theoretically important characteristic of persons.

It seems justifiable to assume that Warren is referring here to physical activity, rather than mental. She certainly covers those mental activities usually considered unique to persons with her other conditions. While it is conceivable that she makes this requirement so as to exclude cases of reasoning and introspection which result from brainwashing, drugs, electric brain stimuli, or some such thing, this seems unlikely. While she suggests that activity might be construed to include the activity of reasoning, this seems redundant, given her earlier inclusion of the capacity to reason. A process of reasoning which was either genetically controlled or directly controlled by external forces would hardly be the kind of reasoning we would be likely to associate with persons - it is rather more mechanical than this and is more like that performed by calculating machines.

One possibility is that there is meant to be a connection between self-motivated activity and intentionality, which <u>is</u> sometimes seen as a

theoretically important characteristic of persons.[16] This might be implied by Warren's parenthetical condition that the activity be independent of genetic control (presumably this condition would exclude reflexive or instinctive types of action). However, while we might be able to infer intentionality from activity in some cases, there does not seem to be a necessary relationship between the two, in the sense that one's intentions may never result in activity at all. (There is in fact a disorder, known as apraxia, which manifests itself as a difficulty or inability with performing voluntary and purposive movements.) At any rate, the connection between intentionality and self-motivated activity is an indistinct one, and will not be pursued here.

Since we have little to go on, it seems reasonable to regard self-motivated activity as the capacity for purposive bodily movement which is not genetically programmed. Self-motivated activity of this kind is certainly highly valued by persons, at least the kind of persons we know. Someone experiencing the devastating loss of this ability has lost a great deal, but surely has not lost personhood as well. If we consider all of Warren's other central characteristics,

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[16] See, for example, D. Dennett, "Conditions of Personhood."

it seems self-evident that if all the rest were present in a particular individual, although self-motivated activity was not, she or he would still be a person. In fact, personal experience with health care workers has been that a common use of the notion of person for them is to indicate that they can sometimes sense that a person exists although self-motivated activity is no longer possible.

Since Warren seems to have accounted for mental activity elsewhere, and since it seems difficult to establish her reasons for including physical activity as a central characteristic of persons (it is certainly a characteristic, but a central one?), I will not pursue this further.

V. Communication

The ability to use language is a favourite candidate for marking the separation of humans from animals. Puccetti, for example, describes what he sees as a belief of many contemporary philosophers that "the kind of rude nonvocal but still verbal abilities demonstrated by chimpanzees after arduous human training . . . is a far cry from what actual persons like you and me are able to do."[17] Carruthers agrees

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[17] Roland Puccetti, "The Life of a Person," p. 104.

that the language used must be rich in order to indicate a certain level of rationality and the presence of such concepts as time, generality and negation. F. Lhermitte quotes Paul Valery: "The honor of Man, blessed speech."[18]

Indeed, language, or the capacity for complex communication, is often considered a theoretically important part of being a person. However, Carruthers' comment suggests that it might not really be language itself that is theoretically important as one of the constituent characteristics of personhood, but that the use of language indicates a certain kind or degree of rationality which is. Being able to communicate using certain concepts indicates (though not conclusively) that one is able to formulate and correctly apply the concepts. While this is indeed a valuable guide to the rational capabilities of others, it is by no means certain that the lack of a language indicates the lack of thought or complex reasoning ability. The following is a description of an individual who undoubtedly thinks, and seems prima facie to be a person despite his lack of language skills.

> At his birth his brain perhaps suffered a meningeal hemorrage. The child, now twelve years old, developed normally except for speech. He utters only a large number of

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[18] P. Carruthers, Introducing Persons, p. 238; Francois Lhermitte, "Thought Without Verbal Expression," p. 11.

> phonemes with intonation and now and then a word. He understands the speech of others so little that he cannot designate pictures of objects in terms of words pronounced by the examiner. . . His intelligence, as judged by tests on non-verbal efficiency, is normal. There can be no doubt that the child thinks. His affectivity is vibrant and his personality suitable for life in society, without the mediation of speech. Even if the "how" of the mechanism of his thought is difficult to explain, the fact remains and must be accepted.[19]

From this account, while unable to use the language of his testers, this child can obviously communicate.

Aphasics may experience the following: an inability to combine words effectively into syntactic structure; word-finding difficulty; an inability to recognize familiar speech sounds; and an inability to recognize groups of sounds as words. Some who are severely impaired with chronic schizophrenia also have lost the ability to communicate through verbal or nonverbal language. Benedetti suggests that the schizophrenic's "experiences are not communicable and transformable into speech, because they do not arise from that linguistic approach to the world which is correlated to an ontologically preserved ego

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[19] F. Lhermitte, "Thought Without Verbal Expression," p. 16. It is not clear from this account whether or not this child can write - he clearly can communicate in other ways.

structure."[20] So, there are some adult humans who are impaired in such a way that they are unable to use language - perhaps even to communicate in a meaningful way. I believe they are still persons.

Warren does not refer to language per se; possibly this is a more narrow form of communication than she wishes to consider as a trait central to personhood. She specifically refers to "the capacity to communicate, by whatever means, messages of an indefinite variety of types, that is, not just with an indefinite number of possible contents, but on indefinitely many possible topics."[21] The type of communication to which Warren refers seems to depend on the variety of messages the entity might be able to transmit. The complexity of the messages themselves is not mentioned, nor is the ability of the person to receive messages of various types and with assorted contents, although an argument might be developed that this is an essential aspect of communication. Obviously this is not a sufficient condition for personhood, since sophisticated computers are capable of this as well.

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[20] G. Benedetti, "The Irrational in the Psychotherapy of Psychosis," p. 132.

[21] M.A. Warren, "On the Moral and Legal Status of Abortion," p. 101.

Also, consider Griffin's account of communication among honey bees, which he believes is strong evidence of a simple level of intention and awareness, and not merely explicable genetically. The bees' special 'dance' communicates directions to and evaluation of something needed urgently by the colony - a new home. "Furthermore the dances are used for lengthy 'arguments' about which cavity is most desirable, and only after a consensus has been reached and all or almost all dances refer to a particular cavity does the swarm . . . fly there."[22] Bees seem to have the ability to communicate in a relatively complex way (whether or not we would want to call their dance a language), yet it seems unlikely that we would want to consider them persons. This suggests, along with the observation about computers, that the ability to communicate is not sufficient for personhood.

It is likely that the ability to communicate would be a theoretically important characteristic of personhood. We have already seen that possession of a language need not be necessary, but some kinds of messages may be communicated without the use of language. It complicates matters when we try to consider communication as an ability of persons

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[22] Donald R. Griffin, "The Problem of Distinguishing Awareness from Responsiveness," p. 8.

distinct from consciousness and reason. The relationship among these characteristics is not clear, and while it might seem that rationality allows communication and language, Benedetti's comment that "psychotic experience becomes irrational to some degree as it loses the organization of communication"[23] suggests that the relationship might in some way be reciprocal.

It is not difficult to imagine being in a condition exactly as one is now - thinking, feeling, introspecting - yet unable to communicate by any means whatsoever. Consider the quite plausible case of an individual such as this, in a state of total paralysis, and ask if this individual might still be a person. It seems that the ability to communicate might be central to a conception of person - i.e. theoretically important in the sense I have been discussing all along - without being necessary.

VI. Self-Consciousness

We have already seen that there are problems specifying what is meant by the concept of consciousness. Self-consciousness will face similar problems, which causes complications for our investigation. This is because while other animals may be conscious,

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[23] G. Benedetti, "The Irrational in the Psychotherapy of Psychosis," p. 132.

self-consciousness is usually considered to be a characteristic unique to persons. In addition to obscurities with the notion of consciousness, there are a number of ways in which we might understand the self in this context.

Psychologists, like philosophers, are also concerned with questions about the nature of the self,[24] and like philosophers they not only differ in their views about what the self is, but also about the extent to which the concept itself is meaningful or important. It seems beyond dispute, however, "that the subjective feeling state of having a self is an important empirical phenomenon that warrants study in its own right."[25] I have already suggested that animals other than human ones might be self-aware, and some scientific attempts have been made to investigate this. One investigator has some evidence that chimpanzees are self-aware, but he acknowledges that psychologists know very little about the self-concept and believes that it may be impossible to study it objectively in other organisms.[26]

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[24] See Seymour Epstein, "The Self-Concept Revisited, or a Theory of a Theory," for a survey of these views.

[25] Ibid., p. 405.

[26] G.G. Gallup, "Self-Recognition in Primates: A Comparative Approach to the Bidirectional Properties of Consciousness," p. 335, p. 330.

As we shall see, there are a number of accounts of what the self is. There are also a number of theories of how humans came to possess self-consciousness. One is that we developed a self-concept along with our ability to use tools, since "[o]nly an animal that needs to know who owns and uses which tools needs such a strong sense of personal identity." Another attributes our (evolutionary) need for a self to our social nature, since the best way for individuals to understand others "was to use a 'privileged picture' of themselves as a model for what it is like to be another person." Julian Jaynes theorizes that the concept developed fairly recently - his literary analysis of early Greek writings and the Old Testament finds no evidence of a self-concept.[27]

The following discussion examines philosopher Michael Tooley's account of what the three main theories of self are.[28] Exploring the notion of self may further our understanding of self-concept and self-consciousness. The purpose of this examination, again, is to show that the concept under consideration is fairly obscure. This obscurity contributes to the

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[27] Susan Blackmore, "Consciousness: Science Tackles the Self," p. 38 for these three views.

[28] M. Tooley, Abortion and Infanticide, p. 143.

difficulty in providing a straightforward analysis of 'person'.

The first notion of self is what Tooley calls the pure ego interpretation. Here the self is seen to be something which has experiences, and is part of mental states yet may be distinguished from them. The notion of a mental substance is a familiar one here, as is its notorious obscurity.

The second view may be traced to Hume. Tooley calls this view the logical construction analysis. According to this view, he says, "the concept of a self is not the concept of some entity that stands behind experiences, but simply the concept of a collection of experiences that exhibit a certain sort of unity - that stand in certain relations, especially causal ones."[29]

The third view remains neutral, contending that we may talk about the self without committing to either a 'pure ego' or a 'logical construction' view. While such a compromise, or at least an avoidance of conflict, is always appealing, it is the second view which I find most plausible. I will therefore discuss it in detail, and look for support in the phenomena of schizophrenia and autism, since these are disorders which seem prima facie to threaten or destroy

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[29] Ibid., p. 143.

personhood.

Hume addressed and rejected the pure ego view that there is a self of which we are intimately conscious; "that we feel its existence and its continuance in existence; and are certain, beyond the evidence of a demonstration, both of its perfect identity and simplicity."[30] Hume's usual method of proceeding was to test assertions such as these against his personal experience, in light of his position that in order to have an idea of anything, that idea must be derived from an impression. When looking for a self, however, he was unable to locate anything, through introspection, other than perceptions. "For my part," he says,

> when I enter most intimately into what I call myself, I always stumble on some particular perception or other, of heat or cold, light or shade, love or hatred, pain or pleasure. I never can catch myself at any time without a perception, and never can observe any thing but the perception.[31]

Hume concludes that we are (or our mind is) a bundle, or collection, of perceptions. These perceptions occur in succession and are constantly and rapidly changing. This effectively means that since perceptions change, disappear, and appear from moment to moment, so the bundle or collection of perceptions, or our mind, also

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30 David Hume, Treatise of Human Nature, p. 251.

31 Ibid.

changes. The idea of a continuing, unchanging, identical self is an illusion.[32]

Hume's explanation is counter-intuitive, but his motivation is not to try to convince us that we are nothing but a bundle of different perceptions. He is examining both the philosophical belief that there is some immaterial substance in which our perceptions inhere, and what is presumably the common-sense belief that we are (highly exceptional cases aside) the same person throughout our lives. The belief in a continued existence of some part of an individual, an essence if you will, is a strong one. And yet, according to Hume, it has no foundation in reality - i.e. no corresponding impression; we are "nothing but a bundle or collection of different perceptions, which succeed each other with an inconceivable rapidity, and are in a perpetual flux and movement."[33]

This is a little difficult to grasp, but I believe that Hume means that our memory of repeatedly experiencing the constant conjunction of two occurrences leads us to the notion of a cause and effect relationship. Our lives, or the existence through time of our 'selves', are made up of a string

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[32] Ibid., p. 252.

[33] Ibid., p. 252-53.

of perceptions, memories and ideas, all causally connected (by the imagination). Part of the fiction of personal identity is that this self exists even through those times we cannot remember. "But all my hopes vanish," Hume complains, "when I come to explain the principles, that unite our successive perceptions in our thought or consciousness. I cannot discover any theory, which gives me satisfaction on this head."[34]

Hume might have argued that I have no separate idea of 'myself', but the idea of self is connected to every impression and idea that is part of my bundle. I cannot have a thought or a feeling without it being my thought or my feeling. This would have satisfied the first half of his enterprise - the elimination of a simple, unchanging self. It would not help with his concern over his explanation of how our perceptions appear unified in the imagination. Hume does not deny the existence of self. He argues convincingly, however, that it is not like the self typically described by philosophers.

Whatever it is, and wherever it comes from, it seems fair to say that the notion of self is very important to us. As one scientist notes, "the only thing that gives [us] any stability is the constant

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[34] Ibid., p. 636.

presence of a stable self model. No wonder we cling to it."[35] This suggests that it is indeed a theoretically important characteristic of persons, and encourages further investigation.

To get an idea of what it means to be self-conscious, it will be worthwhile to look at two personality disorders where the awareness of oneself as a self seems to be impaired. Here Hume's account of the self might be considered quite credible, and the claim that self-consciousness is a necessary condition for personhood may now be open to question.

The first of these disorders is schizophrenia. Much about this illness is unknown, and a good deal of its history is myth-laden. It is not true, for example, that schizophrenics have dual personalities, or two minds. It does seem nonetheless that there is an inability on the part of schizophrenics to have a strong and cohesive sense of self. When they 'hear voices', it is probably their own thoughts intruding as though from a foreign source, disconnected from themselves. In the words of one schizophrenic:

> [s]uppose, for example, that someone hears his own thoughts being echoed or repeated or spoken aloud in his head, so loud that he feels that anyone standing nearby must be able to overhear them. Suppose that the experience goes further; that some of the

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[35] Susan Blackmore, "Consciousness: Science Tackles the Self," p. 38, p. 41.

> thoughts have a distorted quality and do not appear to be his own, or that they seem to come from outside, i.e. are heard as 'voices'.[36]

In most cases this illness develops after a sense of self has been well established. The beginning of the distortions, and the feeling that one's familiar, organized, inner life is becoming fragmented and passing from one's own control is confusing and frightening. Schizophrenics sometimes feel the necessity of fighting to concentrate or risk losing themselves: "I can control my mind sufficiently to prevent such thoughts getting out of control and destroying my inner self."[37]

Schizophrenics, while in a period of illness, seem unable to recognize themselves as subjects of experience. To put it into terms more consistent with Hume's observations, they still perceive, and experience individual perceptions in an orderly way, but fail to recognize those perceptions as their own. As one individual notes, "it means feeling sometimes that you are inside your head and walking over your brain, or watching another girl wearing your clothes

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[36] Henry R. Rollin, Coping With Schizophrenia, p. 104.

[37] Ibid., p. 124.

and carrying out actions as you think them."[38] This experience is, significantly, called depersonalization, and it may also result from sleep and sensory deprivation.

The autistic individual, rather than losing a sense of self, more commonly never develops a significant self-concept. "Existentially he knows no self, neither his own nor another's. He has never known any other self. It is as if he sees himself in a zero center and every mirror he seeks reflects the naught."[39] It is believed there is a connection here with problems of language development, but the relationship between language and a self-concept is not clear. Those observing children who are able to respond favourably to therapy witness in those children an obvious fear of disintegration - even of the parts of the children's own bodies. They literally touch themselves constantly, and address the parts of their bodies as if calling a roll or herding sheep. In extreme cases distinctions such as those between animate and inanimate, person and thing, and 'own' and 'common' are impossible, and "autistic children most ingeniously avoid the first personal pronoun. They

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[38] Ibid., p. 162.

[39] J.N. Hines, "Person and Word," p. 331.

avoid the 'I'. In their most regressive states they use 'I' not at all, and they use 'you' little if any."[40]

Those individuals affected with these disorders seem at times to have lost their concept of self. They also appear to have been impaired in other ways relevant to our discussion, yet do not seem to have lost completely powers of thought, language, or self-motivated activity. The schizophrenics' accounts make sense in light of Hume's theory, i.e. that we do not observe a 'self' upon introspection - rather our thoughts, experiences, feelings, etc., are organized in a way which makes them distinctly ours. Their disorder is such that this feeling of ownership is missing, although the thoughts, etc., are not.

Warren's characteristics of personhood considered here seem in many ways to be inter-related and interdependent. It may be impossible, in fact, to make a sensible distinction between the self and these other elements. For example, as we have seen, it has been proposed that there might be a connection between the ability to use language and the possession of a self-concept. It is not clear which, if either, is necessary for the other. With autistic individuals,

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[40] Ibid., p. 335.

this goes beyond language to their ability to communicate at all, and to relate with others.

While self-consciousness is sometimes considered the most significant of those characteristics central to a conception of person, it appears possible that it cannot indisputably, or perhaps even meaningfully, stand on its own as a necessary characteristic of personhood. It does seem significant, however, that those suffering an erosion or impairment of their self-concept seem to be the most likely of all those we have considered to have lost, or be in danger of losing, their personhood. This will certainly be an important consideration when we discuss medicine's particular obligations to persons.

VII. Moral Consciousness

So far we have considered each of the characteristics which is central to Mary Anne Warren's concept of person, and have been unable to determine that any are singly necessary for personhood. We have also discovered that there would be difficulties with using these characteristics as criteria in the making of decisions about whether or not an individual is a person. Now we must look at another concept which may be considered as representing a characteristic

essential, or even equivalent, to personhood. This is moral agency.

By now there should be little doubt that there will be no easy definitions or explanations of this concept, or criteria for its application. We have seen earlier that the notions of persons and $persons_M$ are easily and often confused. An earlier reference was made to Carruthers' comment that "[t]he concept of personhood may be foundational to morality without being itself a moral concept".[41] It is time to begin exploring this relationship.

According to Kant,

> [a] person is a subject whose actions can be imputed to him. Moral personality is thus the freedom of a rational being under moral laws (Psychological personality is merely the power to become conscious of one's self-identity at different times and under the different conditions of one's existence.)[42]

The persons that Warren describes would be what Kant calls 'psychological persons'. What I will suggest here is that those whom Kant (and others) refer to as 'moral persons' are actually 'moral agents'. I will argue that moral agency is not necessary for personhood. Like the other characteristics we have been discussing in this chapter, however, it is typical

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[41] P. Carruthers, Introducing Persons, p. 229.

[42] Immanuel Kant, The Doctrine of Virtue, p. 22.

of, and theoretically important to, being a person. Moral agency is a theoretically important characteristic of persons which is conspicuously absent from Warren's list.

The notion of $person_M$ has already been introduced and discussed. Particularly, we looked at Tooley, who determined what a person was by determining what kind of beings had a right to life. Engelhardt introduced 'strict' and 'social persons', the first being moral agents with rights and responsibilities, the second moral patients - perhaps with rights, but at least individuals who merit moral concern. Quinton, as we have seen, suggests that there are two concepts of person. He distinguishes them in this way:

> For moral purposes it is clear that we need to have conceptions of two large but non-coincident classes of individuals: moral agents and moral patients, the proper objects of moral concern . . . The notion of a person, from the moral point of view as well as others, is dual.[43]

Each of these characterizations of $persons_M$ has been shown to be misleading because of its unnecessary and confusing employment of the word 'person'. Moral patient is a more appropriate designation. As moral agent is etymologically derived from 'active', or 'action', so moral patient is derived from 'passive'.

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[43] A. Quinton, "Two Conceptions of Personality," p. 400.

The implication of this is that, while not necessarily moral agents, these individuals are capable of being affected - harmed or benefited - in serious ways by the actions of others. This might also be interpreted as meaning that they have interests. A particular ethical theory might ascribe certain specific rights to persons, and extend these rights also to some or all individuals who are moral patients but are not persons. This extension, however, must be justified or explained on grounds other than the personhood of the moral patients.

Michael Goodman makes use of the notion of moral person in the Kantian sense.[44] He too distinguishes between persons and $persons_M$; he calls them 'metaphysical' and 'moral persons'. The first are intelligent, conscious, feeling agents, who might or might not have what he calls moral consciousness. Those who are persons in this sense must also possess moral consciousness in order to be moral persons as well, that is, if they are to be agents who are morally accountable for their actions and who have moral rights and responsibilities. According to Goodman, moral consciousness is simply "having a concept of right and wrong, or, what I would argue amounts to the same

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[44] Michael Francis Goodman, The Moral and Metaphysical Aspects of Personhood.

thing, the ability to act from a belief that something (or other) is right or wrong."[45] The features which make an individual a 'moral person', he claims, are "features of morality",[46] while characteristics such as rationality, the ability to communicate, and self-consciousness are metaphysical or ontological in nature. Goodman offers the sociopath, who he claims does not have rights or responsibilities, as an example of a 'metaphysical person' (person) who is not a 'moral person' ($person_M$).

Goodman claims that all and only 'moral persons' ($persons_M$) have rights, and that moral consciousness is not a metaphysical or ontological characteristic. He also is rather cavalier in his assertions about the nature and moral standing of sociopaths. I will not dwell here on the matter of rights. It is, I believe, sufficient to say that the nature and existence of such things is itself a contentious issue. Views range from those which question the existence or importance of

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[45] Ibid., p. 109.

[46] Ibid., p. 100.

rights to those which would extend the class of beings who possess rights beyond that of person or human.[47]

Goodman claims that those features which constitute moral personhood are moral in nature. If he means to associate this with his statement that "[m]oral agency is bound up, in large measure, with such things as duties, rights, rewards and punishments, and so on . . .",[48] he is proposing a morally-biased concept of $person_M$, and he should articulate the ethical theory to which he subscribes. It is not his position that the possession of rights makes one a moral person, however, but that the possession of moral consciousness does. I would propose that this is not "a feature of morality", but is the same kind of 'metaphysical', or psychological, characteristic as rationality, self-consciousness, etc. Support for this proposal will be found if we pursue the third of Goodman's claims with which we are concerned - that sociopaths are metaphysical but not moral persons.

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[47] See, for example, J. Bentham, Anarchical Fallacies; A. MacIntyre, After Virtue; T. Regan, "One Argument Concerning Animal Rights"; L.A. Rollins, The Myth of Natural Rights; and Michael E. Zimmerman, "The Critique of Natural Rights and the Search for a Non-Anthropocentric Basis for Moral Behaviour."

[48] Michael Francis Goodman, The Moral and Metaphysical Aspects of Personhood, p. 55-56.

Sociopathology[49] is often superficially characterized as the inability to tell right from wrong, but it is a far more complex matter. The following qualities of sociopaths have been catalogued by an experienced and acknowledged authority. They certainly suggest that while sociopaths' lives are not virtuous ones, they are not obviously either insane or non-persons.

1. Superficial charm and good 'intelligence'.
2. Absence of delusions and other signs of irrational thinking.
3. Absence of 'nervousness' or psychoneurotic manifestations.
4. Unreliability.
5. Untruthfulness and insincerity.
6. Lack of remorse or shame.
7. Inadequately motivated antisocial behaviour.
8. Poor judgement and failure to learn by experience.
9. Pathologic egocentricity and incapacity for love.
10. General poverty in major affective reactions.
11. Specific loss of insight.
12. Unresponsiveness in general interpersonal relations.

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[49] Sociopathology and psychopathology usually refer to the same disorder, although there seems to be some feeling that they are used too vaguely and inconsistently to be intelligible in scientific or medical applications.

13. Fantastic and uninviting behaviour with drink and sometimes without.

14. Suicide rarely carried out.

15. Sex life impersonal, trivial, and poorly integrated.

16. Failure to follow any life plan.[50]

To some, sociopathology is a personality conflict - others believe it is instead a lack of conflict (presumably the kind generated by what is commonly called a 'conscience').[51] Searching for reasons for sociopaths' behaviour, some describe them as incapable of understanding values or the dignity of persons; some see them as emotionally impaired and lacking self-control.[52]

Goodman portrays the sociopath as lacking moral consciousness. As we have seen, by this he means "having a concept of right and wrong, or, what I would argue amounts to the same thing, the ability to act from a belief that something (or other) is right or

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[50] Hervey Cleckley, The Mask of Sanity, p. 362-63.

[51] Richard L. Jenkins, "The Psychopathic or Antisocial Personality," p. 324, p. 318.

[52] Anthony Duff, "Psychopathy and Moral Understanding," p. 192; Michael S. Pritchard, "Responsibility, Understanding, and Psychopathology," p. 639; Ronald D. Milo, "Amorality," p. 487.

wrong."[53] Since Goodman does not provide an argument or explanation of this, I am not sure what he means by 'having a concept' of something. In this case it is not clear that sociopaths do not possess a concept of right and wrong. While they are sometimes considered to be child-like in not having a developed morality, unlike small children they "are able to converse very intelligently about moral matters, making all the distinctions one would expect from a moral agent."[54] They are certainly aware that society has moral and legal rules, and understand that their behaviour violates these rules. And, as Milo points out, "it is not entirely clear, from the accounts of psychopathy given by psychologists, whether we should describe the psychopath as lacking the concept of moral wrongdoing or as simply being indifferent to matters of right and wrong."[55]

How they possess the concept is a more pertinent question. There may be some kind of intellectual understanding of morality accessible to the sociopath, without the ability to act on the basis of a moral

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[53] M. F. Goodman, The Moral and Metaphysical Aspects of Personhood, p. 109.

[54] M.S. Pritchard, "Responsibility, Understanding, and Psychopathology," p. 631.

[55] R.D. Milo, "Amorality," p. 485.

belief. In this regard he may be rather like a deaf man, who can read about music, watch others enjoying it, and even feel vibrations from the sound waves. This man, at a certain level, understands what music is (possesses the concept?), and yet cannot experience it. (In fact, the sociopath has been described as lacking a moral 'sense'.[56]) Or, he might be like a nondeaf person who can hear the music but does not appreciate it. A sociopath may be able to understand a society's set of moral rules from outside of it, without the appropriate moral principles or rules forming part of his web of beliefs or acting as a motivating force on his actions.

The point so far has been to make a distinction between the possession of a concept, or understanding what it means in a cognitive sense, and the capacity to understand or believe that the same concept might in some way motivate action. We might consider an individual with the first capacity to be 'morally conscious', and an individual with both to have a 'moral conscience'. Only the second could legitimately be called a moral agent.

More than having an intellectual understanding of moral concepts, moral agents must also appreciate that

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[56] Jeffrie G. Murphy, "Moral Death: A Kantian Essay on Psychopathology," p. 286.

these concepts apply to themselves and experience some sort of moral feeling or sentiment. Whether or not an individual then chooses to act on the basis of this understanding, appreciation or feeling will tell us something about that individual's character. It would be possible, however, for an individual to possess moral concepts and be unable to act on the basis of them (kleptomaniacs being an example of this). Since he fails to make the distinction between those who are capable of acting on the basis of these moral feelings and those who are not, Goodman's notion of moral consciousness is flawed.

If we consider consciousness to mean, roughly, some kind of awareness, being morally conscious alone would not make one a moral agent. While Goodman is probably correct that sociopaths are not moral agents, it is not obviously true that they do not possess moral consciousness.[57] This, however, is likely to be as indeterminable as whether or not some individuals are rational, or self-conscious. One psychologist suggests that sociopathy is a developmental failure, and that

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[57] For an intriguing suggestion that sociopaths might actually hold moral values see Robert J. Smith's article, "The Psychopath as Moral Agent." Smith distinguishes our society's idealized values, which are Kantian in nature, from the Machiavellian ones we actually practice and reward. The sociopath, then, does learn from experience, operates reasonably and responsibly from within a consistent framework of values, and "is a heavily socialized, not antisocial personality," p. 193.

"in one sense we are all born psychopaths."[58] That sociopaths function in almost all other ways in society and seldom kill themselves or others suggests that something checks their actions. Whether or not this is something like a conscience is unknown, and while most who study sociopaths do not believe they may be held responsible for their actions, and are thus not moral agents, ambivalence is suggested by their published results. One states that the sociopath ignores the restrictions of his culture, another that he fails to recognize the rights of others and the obligations he has to others.[59] Both these observations imply that the sociopath might have done otherwise.

Using the above list of typical qualities of sociopaths, and Warren's list of typical characteristics of persons as a test, there seems prima facie to be no reason to deny that the sociopath is a person. Each of Warren's characteristics is present. Sociopaths would also be what Kant calls psychological persons, and would likely be $persons_M$ for Tooley as well, and thus possess a right to life. They certainly

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[58] R. L. Jenkins, "The Psychopathic or Antisocial Personality," p. 324.

[59] Ibid., p. 322; J.G. Murphy, "Moral Death: A Kantian Essay on Psychopathology," p. 291.

lack to a large extent something which seems indisputably a theoretically important characteristic of the paradigm person, which is the capacity for moral agency. Kant said that "[n]o man is entirely without rational feeling, for were he completely lacking in capacity for it he would be morally dead."[60] While some consider the sociopath to be 'morally dead' (Goodman and Murphy, for example), the significance of this for personhood is not clear.

Most persons are morally conscious and are also moral agents. From our discussion the following observations may be made. Some persons, and I include the typical sociopath as a prima facie person, may possess moral consciousness and yet not be moral agents. The capacity for moral agency requires some degree of moral consciousness, and undoubtedly also requires some degree of consciousness, rationality, and self-consciousness, i.e. the other characteristics we have been examining. Moral agency and moral consciousness seem to be typical characteristics of persons, and also to be theoretically important to an understanding of persons.

VIII. Summary

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[60] I. Kant, The Doctrine of Virtue, p. 60.

This chapter has examined a number of traits which are considered to be essential to personhood, and by others to be characteristic of typical persons. Mary Anne Warren's list was used as a basis for discussion; moral agency, as a characteristic others believe crucial, was added to the list. I believe that at this time we would likely achieve agreement that these are traits which are theoretically important in the sense discussed earlier - i.e. given our knowledge of science and psychology they are significant in contributing to an explanation of the nature and function of persons. That self-consciousness seems to be a fairly recent evolutionary development confirms that our theories might develop and change.

Evidence is accumulating for the view that 'person' is a cluster concept - indeed each of the characteristics looked at in this chapter also seem to be cluster concepts. The next chapter will develop further arguments based upon what we have learned in this one. Common among the characteristics discussed in this chapter is lack of a clear and precise meaning, difficulties in considering each characteristic separately, and problems with establishing criteria for determining the existence of each in individuals. Wittgenstein's rope analogy and the notion of gestalt will be introduced to help sort out these difficulties.

After that, I will investigate how the resulting conception of person has relevance for ethical theory and medical ethics.

Chapter 6

Persons as Gestalts

Attempts to argue convincingly for a nuclear set of necessary and sufficient conditions for personhood have been remarkably unsuccessful. This has been noted by a number of philosophers.[1] A.J. Ayer remarks that while most philosophical theories about persons agree that the concept of a person is derivative, "in the sense that it is capable of being analyzed into simpler elements,"[2] they do not agree on the character or combination of these elements. In the last chapter I examined several characteristics which have been held, singly or in some combination, to be ones which all persons necessarily possess. There have been other candidates suggested as typical indicators that an individual is a person - the ability to experience pleasure of a certain kind, for example, or being able

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[1] See, for example, L.E. Lomasky, "Being a Person - Does it Matter?"; Jack F. Padgett, "Personhood, Morality and Medical Choice"; Peter Simpson, "The Definition of Person: Boethius Revisited."

[2] A. J. Ayer, The Concept of a Person and Other Essays, p. 85.

to maintain social relationships.[3] Fletcher, we saw, began with fifteen positive and five negative indicators, which he later reduced to four, and ultimately to one - neo-cortical function. Various suggestions have been made as to the characteristic which is the sine qua non of personhood, and the chosen one - whether it is rationality, the ability to communicate, or self-consciousness (or any of the others) - is usually considered as definitive of human, or more appropriately, personal, nature.

There are no doubt many philosophical theories and analyses which adequately, or even excellently, isolate and articulate concepts of reason, consciousness and language. What is more difficult, as we have seen, is to isolate them when we are discussing them in a context, not as abstract concepts but as characteristics of persons. So the ability to communicate may depend on rationality and self-consciousness, and yet may also be necessary for the development of a self-concept. While one is inclined to believe that consciousness must exist for reason to function and to allow for the possibility of self-awareness, we are not even sure what the activity of reason involves, and whether such things as memory,

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[3] See, for example, Daniel O. Dahlstrom, "Personal Pleasure," and Glenn Langford, "Persons as Necessarily Social."

perception, beliefs and desires constitute consciousness, reason, or something else. Some suggest that these capacities may be possessed at various levels, others that you either have them or you don't.

We have looked at schizophrenics, autistics, aphasics, and sociopaths who lack one or more of the traits under consideration. Rather than judging individuals so afflicted to be non-persons, it is tempting rather to think of them as impaired, or sick, or disabled persons, although this is a judgement which is based on a particular conception of health. It might perhaps be better, less value-laden, to say instead that they differ in significant ways from the paradigm. For those who have difficulties not thinking of persons in moral terms, it would seem that our obligations to these individuals might in fact be more compelling than those we hold with respect to normal persons.

These observations about the interrelatedness of the characteristics associated with personhood may help to clarify the rather sketchy notion of cluster concepts with open texture which was introduced earlier. English and Frankena both suggested that person might be such a concept, although neither developed this promising idea. Frankena states that a legitimate ethic based on respect for persons needs "an

unloaded descriptive concept of a person . . . Perhaps it might be a cluster concept." English more specifically depicts the position supported here: "'Person' is a cluster of features . . . there is no single core of necessary and sufficient features which we can draw upon with the assurance that they constitute what really makes a person; there are only features which are more or less typical."[4]

An analogy with a rope may be used to shed light on the nature of cluster concepts. A rope may be made of the twisting together of a number of fibres of various thicknesses, lengths, and strengths. Depending on its size and the size and strength of the others with which it is twisted at one particular place, if a certain fibre has a flaw, or weakness, the integrity, or unity, of the whole may be in jeopardy. If the other fibres are not strong enough to withstand the stress applied, the rope may disintegrate. On the other hand, if the other strands are stronger than, of equal strength to, or perhaps weaker but strategically organized around, the imperfect piece, then the flawed fibre may fray and even detach from the rope without the rope itself being significantly affected. At any

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[4] W.K. Frankena, "The Ethics of Respect for Persons," p. 152; J. English, "Abortion and the Concept of a Person," p. 234-35.

point on the length of the rope there may be more or less strands of various thicknesses and strengths without its effectiveness or even appearance as a rope being compromised. In light of the earlier discussion of the characteristics associated with persons and those impairments resulting from a lack or distortion of one or some of them, the analogy suggests that if one could look at a slice of time in the life of a person one would find a number of characteristics typical of persons. At that slice the combination may be lacking one or several of the characteristics, and some (such as rationality, self-consciousness and the ability to communicate) may vary in strength or levels of development. One may compare slices from different persons, or from various times in one person's life and find roughly the same characteristics, yet differences will no doubt exist.

My conception of person involves a number of physical, mental, emotional and psychological characteristics. The specific features are, as English noted, more or less typical. But there appears to be something more to this concept than just a cluster of these traits or characteristics - an analysis of them alone does not yield the significance or nature of personhood. This is because, in addition to persons having a cluster of characteristics, persons are

gestalts. In order to understand what this means, I will turn now to a general discussion of gestalts, for this notion does not replace, but enhances, that of cluster concepts.

I. Gestalts

The notion of gestalt arose in the early part of this century.[5] It was developed and used largely by psychologists, specifically in the area of perception, but the concept itself is a general one, which may be applicable in a number of areas. The notion of gestalt emerged as a result of a dissatisfaction with the atomistic approach to scientific investigation, described by one psychologist as follows:

> The accepted way of analyzing a complex phenomenon scientifically had been that of describing the parts and arriving at the whole by adding up the descriptions thus obtained. Recent developments in biology, psychology, and sociology had begun to suggest, however, that such a procedure could not do justice to phenomena that are field processes - entities made up of interacting forces.[6]

The method of gestalt theory is to study the elements of an organism in context and as they interact, rather

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[5] D. W. Hamlyn, "Psychological Explanation and the Gestalt Hypothesis," says "[t]he term gestalt is said to be untranslatable, though references to it in English refer to such things as 'whole-processes', 'whole-structures', 'whole-properties' and so on." p. 511.

[6] R. Arnheim, "Gestalt Psychology," p. 58.

than abstractly in isolation. There is a great importance placed on the organization and dynamic structure of the whole, to the extent that parts may be altered without the whole being affected. The example of a tune is commonly used to demonstrate this principle. A melody may be transposed from C major to $C^{\#}$, thus changing each individual note - few would notice that as a sum of its elements the thing had completely changed. And yet, the individual notes comprising the original melody in C major may be jumbled up, and though the elements are the same, the tune is no longer discernible. This reflects what the gestalt theorists called 'the law of pragnanz': "the form or organized entity tends to be perceived in a structured, orderly, closed and stable way."[7]

The importance of the structure and interrelatedness of the parts of a gestalt is of fundamental interest to our inquiry. It is significant that the wholeness of a gestalt may be experienced "even when specific elements are missing or distorted", and "[t]here is a basic rule: something may be altered in each component part and still the whole remains identical, or very little may be altered and the whole

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[7] William W. Meissner, "Theories of Personality," p. 142.

is completely changed."[8] The component parts are not properly understood on their own, but must be considered in the context of the structure of the whole and in terms of their role and function therein. As expressed by Max Wertheimer, one of the founders of gestalt psychology,

> [t]he basic thesis of gestalt theory might be formulated thus: there are contexts in which what is happening in the whole cannot be deduced from the character of the separate pieces, but conversely; what happens to a part of the whole is, in clear-cut cases, determined by the laws of the inner structure of its whole.[9]

The individual parts or elements of a whole, <u>as a part in the whole</u>, have a character, function, and role. It is this aspect of the characteristics of personhood that is missed when an individual analysis of each is performed.

That these elements are interrelated contributes to an understanding of the dynamic nature of gestalts. The ability of the individual organism to adapt physically and psychologically contributes to its survival. According to Koehler these organisms "possess the ability, by changing the processes taking place within them, to compensate for irregularities of

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[8] W. W. Meissner, "Theories of Personality," p. 142; Max Wertheimer, "Gestalt Theory," 87.

[9] M. Wertheimer, "Gestalt Theory," p. 84.

conditions which might otherwise have been injurious."[10] Depending on the strength and unity of the organism, of course, and the extent to which it is affected by a change in its parts or organization, the effect may be a negative one.

II. Understanding About Persons as Gestalts

At least one philosopher has theorized that the self is a gestalt, and one psychologist that personality is a gestalt.[11] Our understanding of 'person', as well as of individual persons as unified, changing entities, is enhanced by these suggestions, by the notion of a gestalt, and the rope analogy.

The rope analogy, illuminating the idea of a cluster concept, shows that the component elements of some kinds of things may be present or not, and when present may manifest different levels of development. Just as it is not necessary in the case of a rope for one strand to run the entire length, holding it together and giving it strength, so no characteristics or traits of persons are singly necessary. This is

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[10] Wolfgang Koehler, "Some Gestalt Problems," p. 56.

[11] Risieri Frondizi, The Nature of the Self; Gordon W. Allport, Personality: A Psychological Interpretation. Frondizi declares that "the self is not a sum of experiences or an aggregate of parts in juxtaposition but a structure . . . whatever happens to one of its elements affects the whole, and the whole in turn exerts an influence upon each element," p. 175.

consistent with my examination in the preceding chapter of some types of individuals who seem prima facie to be persons, yet are lacking what have been considered by some to be necessary characteristics.

To return to the notion of natural kind groupings, they are characterized by Hollinger (following Putnam), as 'law cluster' terms:

> that is, terms whose use or 'meaning' is governed by sets of empirically well confirmed laws and hypotheses, where by 'well confirmed' I mean, among other things, confirmed in relation to a background of theory which is itself well confirmed.[12]

The groupings to which natural kind terms refer are of entities which are subject in the same way to the same laws of nature, and are groupings to which the best available scientific theories (including those of the social sciences when relevant) are applicable.

Candidates for classification in a particular natural kind are compared to a paradigm, which in the case of persons is a normal human adult.[13] The theories will determine which characteristics relevant

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[12] Robert Hollinger, "Natural Kinds, Family Resemblances, and Conceptual Change," p. 330.

[13] This means of classification has its limitations. Bertrand Russell noted in Human Knowledge "I conclude that the doctrine of natural kinds, thought useful in establishing such pre-scientific inductions as 'Dogs bark' and 'Cats mew', is only an approximate and transitional assumption on the road toward fundamental laws of a different kind," p. 444.

to the structure and function of the members are most significant for explanatory and predictive purposes. These will serve as the theoretically important criteria described by Slote - criteria which are determined, it is true, on the basis of a value judgement, but of a type free of a particular moral bias. An individual must possess some sufficient number, or combination, of these characteristics in order to be a person. A judgement would be made about the individual's personhood, not based on the presence or absence of these characteristics, but rather by regarding the whole individual.

With members of our own species, or other species similar to ours, the judgement of personhood will in most cases be instant, intuitive, and based on our perception of the other individual and that individual's behaviour. In some cases this judgement will be difficult to make with confidence. This will happen when the integrity, or wholeness, of the individual has been compromised in some way. It may even be obvious that the individual is not a person, but once was, or may become so. As we shall see, this is when one's personal ethical theory, or that of the society in which one lives, becomes relevant. This,

combined with a particular conception of health, may specify various ways of treating persons as morally obligatory, which would dictate the interventions of specialists.

Given the conception of person developed in this thesis, there is little reason to consider beings significantly dissimilar from the paradigm normal adult human to be persons, though this cannot be ruled out a priori. For example, there have been legitimate questions raised about the mental life of such creatures as dolphins and whales. These questions arise because, in their natural environment, the behaviour of these creatures is such that there are resemblances to paradigm persons; their possession of a certain kind of central nervous system provides further evidence. These questions may eventually be answered such that we will be able to judge definitely that these creatures are not persons. If we have enough evidence to make this judgement with confidence, it will only be because we will also have a significant amount of data about these creatures. This will also contribute essential information to the development of ethical theory. Some doubts will likely remain, however, about some individual cases as is to be expected given the nature of concepts with open texture.

The method of analysis need not be abandoned. It is valuable in determining which characteristics are indicators of personhood. It is more appropriate that we use 'indicators' rather than 'criteria' in this context, since the relevant characteristics are possessed as a bundle, which may vary from person to person. Also, we need not pursue Thomas's quest for a practical disjunctive definition, "insisting on the possession of a specifiable number of characteristics."[14] Although we may develop a catalogue of characteristics which a paradigm person might possess, and even learn through scientific and psychological investigations which are theoretically important, the characteristics possessed by individuals may vary from person to person. Each individual may have a perception about which ones are necessary for they themselves to maintain personhood.

III. Implications for Medical Ethics

The following observations, made by a physician, are based on clinical experience dealing with persons. From these observations it appears that persons view themselves as gestalts, and it is in the interests of persons that others view them this way as well.

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[14] J. E. Thomas, "Indicators of Humanhood and the Care of Aging, Chronically Ill Patients," p. 7.

Eric Cassell distinguishes between suffering and feeling pain or physical distress, and his discussion of personhood will provide a needed clinical perspective.[15] While all sentient creatures may experience pain, and this may be an extremely unpleasant experience for them, only persons can suffer. While this is, I think, debatable, there does seem to be a kind of suffering which only persons can experience. Suffering is experienced, says Cassell,

> when an impending destruction of the person is perceived; it continues until the threat of disintegration has passed or until the integrity of the person can be restored in some other manner . . . Most generally, suffering can be defined as the state of severe distress associated with events that threaten the intactness of the person.[16]

Remembering the characteristics of persons we have considered so far, including Warren's traits and Fletcher's indicators, we may now look at Cassell's. They are very similar, and consideration of each would show that they are related to the characteristics of self-consciousness, rationality, moral agency, communication, etc., that are typical of personhood. Cassell gives us a clinical perspective. It is, I believe, illuminating that he does not attempt to

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[15] E. J. Cassell, "The Nature of Suffering and the Goals of Medicine."

[16] Ibid., p. 640.

reduce his insights about persons to the characteristics I have suggested are typical of persons, and which are theoretically important to understanding them as persons. As I have already suggested, it would not be fruitful to attempt to identify specific direct links between the gestalt that is a person and particular characteristics in particular proportions, hierarchies, or combinations. It is more important to know that they contribute to personhood as an interrelated bundle.

Cassell sees persons as having personality and character, pasts and memories, cultural backgrounds, and roles. No persons exist without others. A person is a political being. Persons do things. Persons have regular behaviours, bodies, secret lives, perceived futures, and a transcendent dimension.[17] These qualities are related in obvious ways to Fletcher's indicators: e.g. a sense of time, a sense of futurity, a sense of the past, change and changeability, a balance of rationality and feeling, idiosyncrasy, and others. In turn, these may be related to the more fundamental characteristics of self-awareness, rationality and communication. We need not, however, deal with Cassell's particular list - the important

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[17] Ibid., pp. 641-42.

point here is his judgement that all of the elements he sees persons as having, or being, may be threatened by illness or injury. Since these traits or capacities form the gestalt which constitutes an individual's personhood, when they are threatened personhood is as well.

We have already seen that it is appropriate to consider these characteristics as typical of persons in general rather than traits that each person necessarily possesses. In order to understand why individuals are suffering and how their suffering might be relieved, physicians will need to know about them as <u>individual</u> persons. As Cassell states,

> [t]he personality of the patient is of real import because features of illness such as the loss of control or the sense of disconnection may be better tolerated or, conversely, be more threatening to one individual than to another.[18]

Physicians will need to know that their patients <u>are</u> persons in order to understand that their patients will have a perception of themselves <u>as</u> persons. The next chapter will develop this claim.

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[18] Eric J. Cassell, "Therapeutic Relationship: Contemporary Medical Perspective," p. 1673.

Chapter 7

Persons and Medical Ethics

I. Introduction

Some philosophers question the significance of a concept of person for medical ethics. Most of these claims appear in discussions about abortion, as do most theories about personhood. Ruth Macklin, for example, downgrades the importance of 'person' by suggesting that the "moral stances [held by most people] are often wholly independent of preexisting notions of personhood and are acquired prior to giving serious thought to the concept of personhood."[1] Donnie Self claims that the question of personhood is not an important concern in medical ethics, as the issues in the context of which it is usually discussed (abortion and euthanasia) are relatively untypical. She believes there are more important and pervasive problems which should be addressed, such as informed consent.[2] As the following discussion will show, I believe that 'person' is

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[1] R. Macklin, "Personhood in the Bioethics Literature," p. 37.

[2] Donnie J. Self, "The Relationship of Personhood to Medical-Ethical Decision Making," p. 84.

relevant and important to medical ethics - and indeed <u>especially</u> to the issue of consent.

In my view, the discussion of personhood in medical ethics, weighted as it has been by the abortion debate, has focused on the wrong question. We have been busy with the question "who or what is a person" to the neglect of the question "how ought we to treat persons"? Of course, this second question trades off the first to some extent, but the fact is that only in very extraordinary circumstances are we doubtful as to whether or not the being with whom we are dealing is a person. We may be doubtful about the personhood of certain beings such as fetuses and patients in a persistent vegetative state, but the personhood of most of those with whom we relate in a medical setting is not in doubt. Moreover, I believe that how we are obliged to treat them is related to the fact that they are persons.

Throughout this thesis the distinction has been made between persons and persons$_M$, and a recurring question has been whether morally-biased meta-theoretical evaluative considerations are appropriate in a theory about what persons (or persons$_M$) are. I have argued that 'person' is more appropriate, and that one's moral bias should not enter until after an understanding about this notion has been developed.

For 'person' does have relevance for ethical theories. In this chapter I will introduce ways in which a concept of person might be considered relevant to ethical theory in general. The context will then be narrowed to that of medical ethics. It will be narrowed even further to an examination of a particular ethical framework, as it is articulated in a specific ethical code - that of the Canadian Medical Association.[3]

I will examine the principles and values expressed by the Code, and other codes which it endorses, to determine ways in which a conception of person might have special relevance. I will consider these principles in turn, and will show how they are related to the ways persons may be harmed and may suffer. The reason persons may be harmed and may suffer in these ways is related to the fact that persons are typically self-conscious, rational, and morally conscious. This exercise will provide a model of the relationship between 'person' and ethical theory. As well, the relevance of 'person' to three issues in medical ethics

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[3] See Appendices for the full text of this code, and others endorsed by the C.M.A. within their code (specifically the Oath of Hippocrates, the International Code of Ethics, and the Declaration of Geneva.) I have chosen to study a medical code, as distinct from a nursing code or one from some health care profession, because of the traditional concern in medicine "to do no harm."

will be discussed: abortion, euthanasia, and consent to treatment. The relevant ethical principles are significant in this context as well, and I will show the particular importance of 'person' as a gestalt to health and well-being, and to the issue of consent.

II. Implications for Ethical Theory

The following passage introduces two significant ways in which ethical theory has dealt with the concept of person.

> A person is both active and passive, both an agent and a subject of experiences. Utilitarian and Kantian moral philosophers, however, characteristically place a different emphasis on these two aspects of our nature. The utilitarian emphasizes the passive side of our nature, our capacity to be pleased or satisfied, and is concerned with what happens to us. The Kantian emphasizes our agency, and is concerned with what we do. Alternatively, we may say that the utilitarian focuses first on persons as objects of moral concern, and asks, "what should be done for them?" whereas the Kantian addresses the moral agent, who is asking, "what should I do?"[4]

As we have seen, there are good meta-theoretical evaluative reasons for judging 'person' to be a descriptive rather than a moral classification. Nevertheless, the above quotation indicates that it is a notion which can have considerable relevance for

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[4] Christine M. Korsgaard, "Personal Identity and the Unity of Agency: A Kantian Response to Parfit," p. 101.

ethics. This section will examine various ways in which 'person' may legitimately be used (as opposed to its illegitimate use in theories such as Tooley's which stipulates '$person_M$' as a bearer of rights) in ethical theories.

The ethical theory which makes the most of the notion of person is what Frankena calls the "Ethics of Respect for Persons." This theory, he claims, typically asserts three propositions:

"A: All persons and only persons are moral agents."

"B: All persons and only persons are moral patients."

"C: Persons and their dispositions are morally good or virtuous, and their actions morally right, if and only if, and because they embody respect for persons as such."[5]

These classifications are similar to the ones mentioned by Korsgaard (quoted above) and, in general, seem to cover most ways in which the concept of person might have relevance for ethics. They will serve as a basis for discussion.

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[5] William K. Frankena, "Ethics and the Environment," p. 150-51. Note that Frankena sees these three as typical ethical theories embodying a 'respect for persons principle'. Other kinds of theories are possible - just not typical.

a) Persons as Moral Agents

One way the notion of moral agency would play a significant role in an ethical theory is suggested by Lawrence Becker. Becker recommends an alternative to the theory of rights which derives our duties to others from the nature of moral patients, and proposes instead that duties might reasonably be derived from the nature of agents instead.[4] This is a version of the 'Ethics of Respect for Persons' discussed by Frankena, in which all moral laws may be deduced from the notion of 'Respect for Persons', and echoes Korsgaard's description of the Kantian question "What should I do?".

The existence of sociopaths allows questions to be raised about moral agency being a necessary characteristic of personhood. Since this thesis is about persons, not moral agents, I will limit my discussion to those moral agents who are also persons. It is possible, of course, that all moral agents are persons - i.e. that the set of moral agents is a subset of persons.

Moral consciousness, rationality, and self-consciousness contribute in a significant way to our understanding of persons as moral agents, and would

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[4] Lawrence C. Becker, "Human Being: The Boundaries of the Concept," p. 350.

serve as a basis for the derivation of duties as suggested by Becker. In Chapter 5 I showed that moral consciousness must be present for moral agency, as well as the ability to act on the basis of moral considerations. These are obviously foundational to moral agency.

The ability to reason must also be recognized as important to any ethical theory which incorporates a notion of moral agency, since one must be able to understand the link between actions and their effects in order to be a moral agent. Tests for rationality are performed as part of a judgement of mental competence in order to determine whether or not an individual is a threat to her or himself or to others in society, and to determine whether or not the law may hold that individual accountable for her or his actions.[7] It seems likely that, as rationality may be possessed in varying degrees, so might competence. For example, a child may be permitted to refuse some kinds of medical treatment, but may not be judged competent to refuse treatment when the results of the refusal may be dire, even life-threatening. This is based on the

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[7] Thomas Grisso, Evaluating Competencies: Forensic Assessments and Instruments, p. 4.

judgement that the child is not capable of understanding the consequences of the refusal.[8]

That one is conscious of oneself as a unified self also seems relevant to moral agency. An impairment in the development of one's self-concept can inhibit relationships with others, as in the case of autism. Also, it appears that part of moral development involves learning about ourselves, and how the actions of others affect us. This is the first step in understanding that others may be affected by our actions and in developing feelings of empathy and sympathy.

Each of these characteristics typical of persons contributes to moral agency in some way. I have already suggested that there are difficulties in understanding the significance of the contribution each makes to personhood if they are considered separately, leading to my view that persons are gestalts. Likewise, although an ethical theory might assign a greater importance to one characteristic over another (as Kant did with rationality), it seems to be true that these characteristics are interrelated, and interacting together allow moral agency.

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8 Willard Gaylin, "The Competence of Children: No Longer All or None."

b) Persons as Moral Patients

This is the realm of ethical theory where a concept of person most often appears, and is most often misused. Important points, relevant to the notion of persons as moral patients, that have already been made, and for which arguments have been offered are as follows:

1. In the context of ethical theory, person is a metaphysical, or descriptive, classification. The stipulated use of the same term to refer to a moral classification, meaning a bearer of rights, or being with dignity, or something of this sort, invites confusion.

2. There is a cluster of characteristics which persons typically possess, some of which are rationality, self-consciousness, the ability to communicate, and moral consciousness. They may be possessed by persons in various combinations and to various degrees.

3. These characteristics are not necessarily exclusively possessed by members of the human species, and not all members of the human species possess them.

4. Membership in a biological species is not in itself a relevant characteristic when deciding an individual's moral status or considerability.

Knowing that individuals are persons does provide some basis for making a judgement about what kinds of

things and actions will cause them harm and what kinds of things and actions may benefit them. This will be extremely important to an ethical framework which holds fundamental principles of beneficence and non-maleficence, such as that of the Canadian Medical Association. A principle directing that we "do no harm", combined with specific physiological and psychological information about how persons can be harmed would facilitate the making of practical judgements.

One plausible interpretation of harm is that of Joel Feinberg, which includes the notions of interests and rights and which will be used for the purposes of this discussion. For Feinberg, one has been harmed if one's interests (which are things in which one has a stake) have been wrongfully set back (wrong in this sense meaning a violation of rights).[9] Individuals may have interests which are specifically related to their personhood. One example would be in developing and preserving a strong self-concept in order to deal with the types of suffering Cassell described. Another would be in ways related to the concepts of freedom and autonomy - concepts which we are able to formulate,

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[9] Joel Feinberg, The Moral Limits of the Criminal Law. See Chapter 1, Section 1 for an explanation and argument in support of this definition. Feinberg's theory serves here as an example only - other theories would work as well.

understand and value due to our rational abilities. The dependence of these interests on personhood will be shown when they are related to medical ethics.

Other interests of persons are more closely associated with their biological natures. In some ways, these biological features will be relevant to morality, since they will determine ways in which individuals may be hurt, though not necessarily wrongfully so. The value of natural kind classifications is that the study of such kinds may lead to more and better theoretical and predictive information concerning their members. As we have noted, it is important to have knowledge about persons as such and also as species members in order to understand how they might be harmed. Thus, group membership, while not determinant of moral status, is relevant as an informational tool in moral decision-making, although consideration of the individual in question will also be very important.

It is not merely in virtue of being a person that persons possess interests or bear rights. Ethical theories which attach an intrinsic value or dignity to being a person must provide a moral justification for this. They must articulate just what it is about persons that warrants this kind of assessment. In the interests of justice, other kinds of beings must be

assessed using the same moral standards, and decisions concerning differences in moral status must be based on morally relevant distinctions, as our earlier discussion of discrimination showed.

'Person' is especially significant, as it describes a type of moral patient. Since it is a concept with no clear necessary or sufficient criteria for its application, it is not useful as a label for a class of individuals with a certain moral status. There are two reasons for this. The first is that there will be borderline cases which we will be unable to categorize, and moral status ought not to be assigned arbitrarily. The second has been articulated repeatedly in this thesis - that reasons other than membership in a group are necessary as a justification for moral status.

My position is, rather, that it does indeed matter that there are such individuals as persons, and that we know what they are and how they might be harmed <u>even though</u> it will not provide the solutions to problems many have hoped for (such as the abortion issue). If we accept the point of view that persons are whole beings, distinct from, yet at the same time within, a social context, and are metaphysical entities rather than moral constructs, some roadblocks to achievement of the following will be removed: agreement about the

nature of persons, subsequent maximization of promotion of their best interests, and just consideration of the moral status of others who are not persons, or whose personhood is indeterminable.

III. The Canadian Medical Association Code of Ethics

This code includes principles of ethical behaviour for all physicians, and thus provides a moral framework from within which their professional association enjoins them to practice. I will refer to ways in which this ethical code is relevant to the notion of persons as moral patients. Large portions of the Code are not relevant to this discussion and will therefore be ignored here. The obligation of the physician to promote health and well-being is relevant, as is the notion of brain death. Also, three of specific principles have a direct connection to patients <u>because</u> they are persons: principles advancing non-discrimination, autonomy and privacy.

a) Health and Well-being

In this section I will relate the notion of persons as gestalts to the C.M.A.'s view that the well-being, not just the health, of patients is the physician's obligation:

"Consider first the well-being of the patient". (Code,[10] I)

While it may seem obvious that the health and well-being of their patients should be the primary concern of physicians, the sense of what this means as a principle governing action is not clear without an articulated theory of health.[11] The promotion of health and well-being is also presumably a task of others as well as physicians, i.e., those who do not have persons as their primary objects of care (such as veterinarians). Physicians provide care for humans who are persons and humans who are not.

The definition of health may be broad enough to encompass physical, emotional, and social areas of life (as in the World Health Organization's definition), or, more narrowly, to include only treatment of disease and injury. For the purposes of this discussion, I will consider health as a condition which is relatively free of organic illness or injury, and is free of mental

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[10] The following abbreviations will be used throughout this chapter: Canadian Medical Association Code of Ethics (Code); Hippocratic Oath (H.O.); Declaration of Geneva (D.G.); World Medical Association International Code of Medical Ethics (I.C.M.E.).

[11] There is little agreement over a definition of health. See John E. Thomas, "Health and Health Care," in Medical Ethics and Human Life, pp. 35-39, for a survey of various views.

illness defined as:

> a disorder of one or more of the functions of the mind (such as emotion, perception, memory, or thought), which causes suffering to the patient or others. If behavior as a whole is out of line with society's expectations, then the term 'illness' is not appropriate.[12]

Well-being is another notion which is open to a great deal of interpretation,[13] and there is some question as to the extent of the physician's obligation in this area.[14] However, for the purpose of this discussion I will stipulate that, to some extent, physicians are obliged to promote the well-being of their patients by relieving pain and suffering, even when health cannot be restored.

As indicated in the above quotations, physicians are fundamentally concerned with the health and well-being of their patients. In order to cure illness and heal injury, physicians must understand the etiology of these phenomena, as well as the underlying human physiology. As seen in Cassell's view, which was discussed earlier in the context of gestalts, it is also essential that patients be treated - medically and morally - as persons, since the health and well-being

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[12] "Mental Illness," The Bantam Medical Dictionary.

[13] One is James Griffin, Well-Being: Its Meaning, Measurement, and Moral Importance.

[14] Daniel J. Callahan, "The WHO Definition of 'Health'."

of persons depends significantly on their maintaining a balance of those contributing characteristics which constitute their personhood. This suggests that physicians ought to treat patients as individual persons, not as human organisms, and should be concerned with more than biological disorders.

Clearly, then, a conception of person has relevance for medicine and thus for medical ethics. Knowing that her or his patient is a person, a physician will also know some other things. First, as Cassell notes, "the disease that causes an illness cannot be truly understood without the physician's understanding of the person in whom the disease occurs."[15] And some medical sociologists see the increased use of technology as leading to more and more specialization, ironically threatening the wellness of patients because it tends to ignore their personhood:

> [s]uch segmentation of care may inhibit the patient from raising questions or expressing fears and anxieties, and often results in failures to clarify mistaken perceptions and understandings. It may also strip the patient of a sense of personal dignity and worth, and indirectly may retard his capacity to overcome his problem.[16]

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[15] Eric J. Cassell, "Therapeutic Relationship: Contemporary Medical Perspective," p. 1673.

[16] David Mechanic, "Therapeutic Relationship: Contemporary Sociological Analysis," p. 1671.

Since it seems essential to the effective practice of medicine to understand patients and their diseases, and it is essential for this understanding for the physician to relate with those patients as persons, and discover how they view themselves as persons, the notion of personhood is clearly significant.

Through sensitive history-taking, discussions with family members, and developing to some extent an empathic relationship with patients, a responsive physician will be able to judge when a patient's personhood, or personal gestalt, is compromised. (Obviously this will be more difficult if the patient is unable or unwilling to communicate with the physician. As Cassell notes,[17] one cannot anticipate what a patient will describe as a source of suffering. One has to ask.) The physician may then do what she or he can to relieve the suffering. This may be accomplished either by restoring the patient to the state of health experienced before illness, or by strengthening other less compromised areas so that the patient may cope with the illness without excessive suffering. As in the rope analogy, the strengths and weaknesses of what constitutes an individual's personhood may vary over time.

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[17] Eric J. Cassell, "The Nature of Suffering and the Goals of Medicine," p. 639.

Let me illustrate this point with an example. It is not unusual for a patient with Acquired Immune Deficiency Syndrome (AIDS) to suffer from a related dementia. Imagine that one such patient is an attorney, famous for his knowledge of case law and his ability to produce just the right argument in court. Having several friends who had died from AIDS, when the first symptoms of dementia presented themselves to the patient, he knows very well what is in store. Given his brilliant memory and reliance for his reputation on the use of reason, the knowledge of his inevitable mental deterioration is devastating to him - more so even than the knowledge that he would die. To put it in familiar terms, what to him constituted his personhood was in danger of a slow and humiliating disintegration.

This man's physician recognized the signs of dementia even before being told about the symptoms by her patient. She was puzzled, however, by the extent of his depression, which seemed to her to be out of character. She discussed her concerns with his parents, who were cautiously supportive of their son although they did not approve of his homosexuality. The physician learned of her patient's pride in his legal skills, and realized that the AIDS-related dementia must be a devastating blow for him to bear.

The first step the physician took was to prescribe a mild anti-depressant. This would in no way delay the progression of the dementia, but she knew that this would help to relieve his depression. This would buy her some time to counsel her patient (reason with this still reasonable man), and convince him that he still had a very important role to fulfil, even as his rationality dwindled. This would involve rebuilding his family relationship, and ultimately allowing his parents to care for him despite his homosexuality. The patient's fear of the future, despair about impending mental deterioration, and shaken self-concept were somewhat relieved.

This example shows how a physician may relieve suffering though unable to restore health. This meets the obligation to "consider first the well-being" of the patient. It also shows how the notion of gestalt is important to fulfilling this obligation. As Cassell remarks, "[r]ecovery from suffering often involves help, as though people who have lost parts of themselves can be sustained by the personhood of others until their own recovers."[18]

b) Life and Death

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[18] E. J. Cassell, "The Nature of Suffering and the Goals of Medicine," p. 644.

The following principles, endorsed by the C.M.A., show that its members consider human life to be of great value.

> "I will maintain the utmost respect for human life from the time of conception." (D.G.)

> "A doctor must always bear in mind the obligation of preserving human life." (I.C.M.E.)

These principles, however, are endorsed as a general guide, and there are indications that human vitalism, or a belief in the sanctity of human life (keeping in mind that the C.M.A. is only concerned with humans) is not an absolute value. The pledge to respect life from conception derives from the H.O.:[19]

> "Neither will I give a woman any Physick to make her miscarry of her birth." (H.O.)

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[19] One source claims that Hippocrates in fact taught methods of performing abortions, and that the anti-abortion portion of H.O. was added by revisionists after his death. See Abortion: Stories From North and South. Dir. Gail Singer. National Film Board of Canada, 1984.

The change in the D.G. allows the physician more flexibility with regards to abortion, since one might interpret 'respect for life' to mean something other than 'preserving life'. For example, the Medical Research Council of Canada states that while "[t]he human embryo is no less a unique human life form than a fetus and warrants a high order of respect,"[20] it considers it morally permissible to use embryos for research provided they are destroyed after approximately fourteen days from their creation. Since human beings in utero are not considered legal persons, and since there is no explicit prohibition of abortion within the Code - indicating it does not consider fetuses to be $persons_M$ - it seems that personhood is not an issue for the C.M.A. at the beginning of life.

It does seem likely, however, that the notion of personhood might be a consideration in cases of anencephaly, which is the absence of the cerebral hemispheres of the brain. It seems extremely unlikely (although this remains a task for the scientists to determine) that a human infant with this condition could ever be a person. The only possible functions are reflexive ones directed by the brain stem - no

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20 Medical Research Council of Canada. Discussion Draft of Revised Guidelines on Research Involving Human Subjects of the Medical Research Council of Canada, p. 27.

thought, consciousness, or communication is possible. Here we might make a distinction, as Engelhardt does, "between human biological life and human personal life."[21] The following excerpts from the Code suggest that it also differentiates between the death of the body and the death of the person.

> An ethical physician "will allow death to occur with dignity and comfort when death of the body appears to be inevitable." (Code, #18)

> An ethical physician "may support the body when clinical death of the brain has occurred, but need not prolong life by unusual or heroic means." (Code, #19)

> An ethical physician "may, when death of the brain has occurred, support cellular life in the body when some parts of the body might be used to prolong the life or improve the health of others." (Code, #20)

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[21] H. T. Engelhardt, Jr., "Medicine and the Concept of Person," p. 94.

I interpret these passages as follows. When death is imminent, physicians ought not to aggressively attempt to prolong life, but rather concentrate their efforts on relieving suffering. And, if the life of the person has ended, leaving only biological life remaining, the physician is not obliged to prolong it. This does not say, however, that the physician is obliged to end such a life.

These passages also indicate that the C.M.A. considers a functioning brain to be essential to a life which one is obliged to prolong, suggesting that they distinguish between personal life and mere biological life. This is entirely consistent with the notion of personhood I have developed here, although the Code is not specific about 'death of the brain' and whether this means the whole brain, including the stem which controls basic functions such as breathing, or just the upper brain which permits cognition.

It seems, then, that biological humanity has some importance for the C.M.A., since they say it must be respected from conception, and a newly fertilized ovum is clearly not a person. It also seems that mere biological humanity is of less value than having what Fletcher calls "a full and authentic human life,"[22]

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[22] J. F. Fletcher, "Four Indicators of Humanhood - The Enquiry Matures," p. 7.

since the C.M.A. does not require that life be extended beyond that time when the person can no longer exist.

c) Non-discrimination

> An ethical physician "will recognize the responsibility of a physician to render medical service to any person regardless of colour, religion or political belief." (Code, #11)

> "In what house soever I come, it shall be for the good of the sick, and will abstain from offering any voluntary injury, especially in any venereal way to any such as I shall have to cure, men or women, bond or free." (H.O.)

> "I will not permit considerations of religion, nationality, race, party politics or social standing to intervene between my duty and my patients." (D.G.)

In addition to the explicit mention of person in the first passage, the belief that all human persons are in some basic sense equal and entitled to fair and equal treatment is implicit in all three passages.

The ethical principle prescribing non-discrimination seems likely to be relevant only to persons. The ability to distinguish between oneself and others, as well as the ability to make comparisons and form beliefs about equality and moral status, stems from those characteristics of self-consciousness, rationality and moral agency which are typical of persons. A person might suffer harm simply from the act of discrimination itself, in addition to the consequences of the act of discrimination. For example, an individual who fails to be hired for a certain job may lose self-esteem and even some necessities of life - hunger and homelessness may result. If this individual is denied employment for what the individual perceives to be unjust reasons, however, he or she may also suffer from the belief that he or she has been unfairly treated. This is only possible because persons perceive themselves as selves, understand that other persons are selves as well, and can understand the notion of moral equality. This understanding relates to the ability to reason and to moral consciousness.

Persons may also suffer when injustices occur to others; they may believe that this is an indication that their own rights and security are in jeopardy as well. That most persons are able to be harmed in this

way (i.e. by the violation of their rights as well as by the knowledge of the violation), with the possible exception of the sociopath, is undoubtedly related to their being moral agents.

Those persons who possess moral consciousness believe that there are right and wrong ways to treat others. For members of a group to treat others in ways which the group has judged to be wrong would result in those members causing harm in some way. To relate this to the medical setting, imagine a case where an emergency room physician refused to treat an accident victim because of the victim's race. Clearly the victim may be harmed physically - if the injuries are life-threatening and no other physician is available he may even die. But he is harmed as well by being wrongfully denied something to which he is entitled. The denial is wrongful because there are no morally justifiable grounds for discrimination merely on the basis of race.

So far, in this particular example, I have shown ways in which a person would be harmed by a discriminatory act. But non-persons might also be harmed in this way. Consider if our accident victim was a newborn infant (assuming for the sake of this argument that a newborn infant is not a person). The way in which a person would be harmed and a newborn

infant would not is in the additional suffering that would only be experienced by a person - suffering caused by the knowledge that his rights had been violated. Our understanding of persons leads us to believe that they can be harmed in this way, and can experience this form of suffering, and the prohibition of unjust discrimination in the Code reflects this understanding.

d) Autonomy and Privacy

As they relate to persons, these notions are interrelated, since they both involve control over one's self and one's body. I will first consider the relationship between autonomy and personhood, then move on to examine privacy in this context.

> An ethical physician "will recognize that a patient has the right to accept or reject any physician and any medical care recommended. The patient having chosen a physician has the right to request of that physician opinions from other physicians of the patient's choice." (Code, #5)
>
> "The physician will recognize a responsibility in advising the patient of the

> findings and recommendations and will exchange such information with the patient as is necessary for the patient to reach a decision." (Code, #8)
>
> "Before proceeding [with clinical research involving humans] the physician will obtain the consent of all involved persons or their agents, and will proceed only after explaining the purpose of the clinical investigation and any possible health hazard that can be reasonably foreseen." (Code, #17)[23]

Implicit references to a respect for autonomy are found throughout the C.M.A. Code. This suggests a belief that patients are entitled to participate in decisions about their own treatment. I believe this may be traced to the recognition of the value and importance of autonomy by physicians. This recognition seems to have only come recently, which is why we do not find mention of it in the other codes to which I have referred. The Kantian correlation between persons and autonomy has influenced ethical theory and personal morality, and its influence is surely discernible here.

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[23] Sections #3, 7, 9 and 21 of the Code are also relevant.

Let us return to Cassell, and his observations about a particular patient:

> At every stage, the treatment as well as the disease was a source of suffering to her. She was uncertain and frightened about her future, but she could get little information from her physicians, and what she was told was not always the truth.[24]

This woman's self-concept was severely shaken by her illness, and her perception of herself as a person was as well. According to Cassell, her illness was not the only contributing factor. Her physician's insensitivity left her insecure and feeling out of control, and was thus a significant source of her suffering.

The ability to make, or at least contribute significantly to, decisions which will have serious effects on the course one's life will take is one highly valued by persons. Clearly important areas of life are those concerned with one's health and body. It is from respect for individuals' needs to participate in decisions about their future that the C.M.A. emphasizes physicians' obligations to provide information and allow choices.

It is important for persons to control the course their lives will take. It is also important that they

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[24] E. J. Cassell, "The Nature of Suffering and the Goals of Medicine," p. 639.

are able to control access to information about themselves and to their own bodies, preserving privacy.

"Protect the patient's secrets." (Code, IV)

An ethical physician "will keep in confidence information derived from a patient or from a colleague regarding a patient, and divulge it only with the permission of the patient except when otherwise required by law." (Code, #6)

"Whatsoever I shall see or hear during my cure, yea though I were not called to give physick, but as it were being in a common conversation of life, if they be not things fitting to be revealed, I will conceal and keep them secret to my self." (H.O.)

"I will respect the secrets which are confided in me, even after the patient has died." (D.G.)

"A doctor shall preserve absolute secrecy on all he knows about his patients because of the confidence entrusted in him." (I.C.M.E.)

Jeffrey Reiman develops a suggestion that is consistent with the conception of person developed in this thesis.[25] He argues that persons have a fundamental interest in, and right to, privacy because it is instrumental in the development and preservation of their self-consciousness. The social ritual of privacy, he says, allows children to confront their unique relationships with their bodies. This helps them to develop a self-concept, and leads to the recognition that they have certain basic moral rights (thus perhaps also contributing to the development of moral consciousness). Second, he claims, the social ritual of privacy confirms, and demonstrates respect for, the personhood of existing, developed persons.[26] The right to privacy, he believes, "protects the individual's interest in coming, being, and remaining a person."[27]

Just as persons may be harmed, and may suffer, from being prevented from participating in decisions which will significantly affect their future, so they may be harmed and suffer from the intrusion of others

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25 Jeffrey H. Reiman, "Privacy, Intimacy, and Personhood."

26 Ibid., p. 39.

27 Ibid., p. 44.

into private areas of their lives. Other animals may be said to have secrets, if we consider things such as hidden caches of food and concealed nesting places as secrets. Revealing these secret places may endanger the physical well-being of these animals, and may cause them to suffer in many ways, such as from fear and hunger, but they would not suffer from the act of betrayal itself.

Similarly, persons might suffer direct consequences of the disclosure of information by their physician to those not authorized to receive it. For example, a physician who revealed details of an individual's medical condition to an employer might be responsible for that individual losing her or his job. But, again, a distinction must be made. In addition to suffering consequences specifically related to the nature of the confidence were it to be revealed, persons may suffer in other ways as well. For example, because they may form special kinds of relationships, persons can suffer from the violation of the trust which is considered by some, and clearly by the C.M.A., to be essential to a good physician-patient relationship.

Given our understanding of persons, then, it seems reasonable that they have a strong interest in controlling which aspects of their lives they wish to

expose to others. The parts of the Code, and of those others endorsed within the Code, which are quoted above, reflect the C.M.A.'s recognition of and respect for this interest.

IV. Issues

a) Abortion

A concept of person is frequently an element of the debate on the morality of abortion. Attempts have been made to use the concept to support various claims. Warren's argument, for example, is that only persons have a serious right to life. Fetuses, who in her view do not possess any of the characteristics central to personhood, are not persons. Therefore they do not have a serious right to life. Kluge believes that at some point in their development fetuses do become persons and thus have a serious right to life.

In determining the morality of abortion, my view corresponds to that of Lomasky, who points out that the notion of personhood in this context is superfluous, since the more important question is not whether something is a person, but when a serious right to life exists.[28] Even if we knew that a fetus is not a

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[28] L. E. Lomasky, "Being a Person - Does it Matter?" p. 143.

person, we must then also know that only persons have a serious right to life. In addition, if we were to grant that fetuses are not persons, and that they do not have a serious right to life, we do not necessarily have a right to destroy them. Weiss violently rejects attempts to resolve the abortion issue by relying on the personhood of the fetus. About Warren and Tooley she says that "in their hands, the criteria for personhood are primarily weapons in the fight to legalize and vindicate voluntary abortion . . . all they wish to do is disqualify fetuses as persons."[29] Bok suggests that instead of deciding who has a right to life, we determine reasons for protecting life.[30] Only if one holds the position that persons alone have moral status, or that only persons have a right to life, might the notion of person become relevant to a discussion of abortion in the ways articulated above. The fact that most fetuses will become persons is an extremely important one, but is also outside of the scope of this discussion, as is a determination of the moral status of human fetuses.

Without pretending to offer a solution to the abortion question, I will make some observations of how

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[29] Roslyn Weiss, "The Perils of Personhood," p. 69.

[30] S. Bok, "Who Shall Count as a Human Being? A Treacherous Question in the Abortion Discussion," p. 97.

a notion of person is relevant to this issue. In the sense that adult humans are persons and are moral agents, they may have obligations towards fetuses which may include refraining from harming them in various ways, and which may include not killing them. The fact that most human fetuses will ultimately develop into persons may also create certain obligations based on the principle of beneficence - i.e. something like an obligation to help others fulfil their potential. None of the obligations we as persons may have towards fetuses, however, is based upon the personhood of the fetus.

The notion of the wholeness, or integrity, of a person being at risk is also relevant to the abortion issue, but this relates to the personhood of the pregnant woman. I have already argued a physician has an obligation to a patient to recognize and attempt to alleviate the suffering that may accompany a perceived threat to that patient's personhood. It is possible that in some cases an unwanted pregnancy might present such a threat to a woman. The mental health of a victim of rape or incest, for example, might be severely affected. (Another possibility is that the denial of an abortion might present such a threat, but addressing this possibility would take us too far afield.) If the physician's obligation is to help the

patient preserve her personhood, and maintaining a pregnancy would be a threat to that personhood, then physicians may be obliged to offer to perform abortions, or to refer patients to those who will. I believe this is the view of many physicians. (Of course the moral status of the fetus would be a factor in this context.)

The most important point to be made, however, is that basing the permissibility of abortion on the non-personhood of the fetus is a mistake. It has led to the ill-fated attempts to specify essential characteristics and criteria of persons, and to the obsession with the right to life. This has deflected attention from the more meaningful sense of person, from which more positive and productive accounts of our obligations may be drawn.

b) Euthanasia

A concept of person is also brought into issues about ending life aside from induced abortion. Some clarification of the various ways euthanasia may be classified can help us see how 'person' is relevant.

Active voluntary euthanasia is ending the life of an individual at that individual's request in order to put an end to the individual's suffering from illness or injury. In general, it is considered by the medical

profession to be immoral, and is certainly illegal.[2] A physician might believe that she has the obligation to preserve her patients' lives, as specified in the I.C.M.E., but also to relieve their suffering. It might be consistent with the second of these obligations, and not seriously violate the first, to end a patient's life at her or his request when death is imminent and unavoidable, and suffering is intolerable.

While many, probably most, physicians would consider the active taking of life to be inconsistent with their role, some might consider it morally permissible as consistent with an ethic of respect for persons - i.e. an acknowledgement of the importance of autonomy to the individual, even at the end of life.[3] As we have seen, the C.M.A. Code of Ethics places a high value on autonomy. If an individual is threatened with the irreversible destruction of his personhood - as in my example of an AIDS patient beginning the slide into dementia - it may in fact be the obligation of the physician to accede to the patient's request for

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[2] Attitudes may be changing towards the morality of active voluntary euthanasia. See, for example, Sidney H. Wanzer, et al, "The Physician's Responsibility Toward Hopelessly Ill Patients," 848f. The Canadian law prohibiting active euthanasia may be found in the Criminal Code, R.S.C. 1985, c.C-46, s.8(226).

[3] John E. Thomas and Wilfrid J. Waluchow, Well and Good: Case Studies in Biomedical Ethics, p. 176.

assistance in ending his (the patient's) life. In cases such as these, however, great care must be taken to ensure that neither the nature of the illness, nor the extent of the suffering, has impaired the patient's judgement.

Similarly, as J. K. Mason points out, passive voluntary euthanasia "does no more than express the autonomous right of the patient to refuse treatment," and might therefore depend on a concept of person in the same way as active voluntary euthanasia.[33] In other words, the physician's obligation to respect the patient's autonomy may require refraining from acting, at the patient's request.

A concept of person might be considered relevant to both active and passive involuntary euthanasia as well, although not in a way which I judge to be morally sound. Involuntary euthanasia means that patients are not involved in decision-making, usually because they are incapacitated in some way (e.g. newborns, the comatose, and the significantly demented). Passive involuntary euthanasia is also called selective non-treatment, and is the action of withholding treatment of a treatable condition, leading to the patient's death. Active involuntary euthanasia, as above, is

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[33] J. K. Mason, Human Life and Medical Practice, p. 22.

direct killing. One might attempt to justify these practices on the basis of the non-personhood of the individual involved.

An example of passive involuntary euthanasia, or selective non-treatment, is that of an infant born with a duodenal atresia, which is lethal if not corrected surgically, and Down's syndrome, which is neither lethal nor correctable. In the past some parents of such children have refused permission for the surgery and the infants have soon died. This has usually been considered acceptable, or at least has been overlooked, because it was believed that parents would act in the best interests of their children.

It may have been believed that the surgery and life with an unknown degree of mental retardation would be a life of suffering for the child, but this is not a legitimate belief. There is no reason to believe that individuals with Down's syndrome suffer, and the surgery would not be withheld from a 'normal' baby. It might be suggested that there is no obligation to preserve these lives because it is unlikely that these infants will ever be persons, or that, since they are not yet persons, they do not have the same right to life as a normal adult human being. I would make the same observation here that I made about the abortion question. Such a denial of obligation to an

individual, or group of individuals should be based on what they are, not on what they are not (in this case they are not persons). There might be an argument which would support selective non-treatment of infants with this condition, but it should be based on something like their best interests, not on their being non-persons. Or it might be based on the best interests of all those affected by the decision, provided that no interest of the child is wrongfully set back. 'Person' has no useful role here.

Another example is that of a machine-dependent, irreversibly comatose individual who is not brain dead. This individual was a person, though no longer is one, and there is no reason to believe he or she will die soon. Should such a patient develop pneumonia, would the issue of personhood be relevant to a decision to withhold antibiotics?

Yes and no. There is no more reason here than in our other example for withholding treatment merely because our patient is not, and never again will be, a person. In this case the illness is easily curable, although deadly if not treated. The notion of person may arise, however, if it is argued that it offends the patient's 'dignity as a person' to be allowed to live on indefinitely in such a debilitated condition. This kind of claim is usually based on information known

about the person as he or she was before becoming comatose. Since the patient is no longer a person, however, personal dignity cannot be violated.[34] Members of a family may themselves suffer vicariously for their relative, or might have an obligation to act according to wishes expressed by him earlier. This obligation may be judged to be based on the principle of preventing harm to persons in a utilitarian sense of providing security to those of us who are actual persons, not to those who have lost their personhood. It is important to us, as persons, that if and when we lose our personhood we not be permitted to exist in a condition which seems intolerable (although obviously those in that condition do not care).

Another possible relevant consideration of persons in this example might be in decisions about resource allocations. For example, it might be argued that if medical resources were needed for persons, non-persons might be sacrificed. This might be based on a claim that persons have rights and non-persons do not, or that the rights of persons outweigh those of non-persons. Or, it might be argued that, since persons

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[34] It might be countered that although the person in this case is dead, before death the person was in a harmed condition because of what would happen after their death. See J. Feinberg, The Moral Limits of the Criminal Law, 79ff, for this argument, and W. Waluchow, "Feinberg's Theory of 'Preposthumous' Harm," which rejects it.

can suffer in ways that non-persons cannot (perhaps, for example, from the knowledge of their imminent death), the stronger obligation is to persons. As stated earlier, I will not pursue this issue, other than to acknowledge that a case might be made for the relevance of personhood to such a decision. This would necessitate a complex analysis of competing moral claims of various groups.

c) Consent

We might remember Donnie Self's comment that personhood is not an important concern in medical ethics, while other issues, such as informed consent, are. In fact, obtaining consent is a concern <u>because</u> patients are often persons.

In general, the conditions for valid consent are related to several characteristics that are typical of persons - self-consciousness, rationality, and the ability to be influenced by moral considerations. It is because of these characteristics that persons are able to value self-determination so highly. Since these characteristics are integral to their perception of their own personhood, the obtaining of valid consent must be a requirement of good medical practice.

If we consider harm to be the wrongful setting back of interests (as defined by Feinberg[35]), and recognize that persons have a significant interest in self-determination, then failure to allow an individual to participate fully in decisions about her or his treatment can clearly cause great harm. (Some patients, of course, prefer to let the physician decide and may even not want to know what is wrong with them.) The ability to make, or at least contribute significantly to, decisions which will have serious effects on the course one's life will take is one highly valued by persons alone. It is from their duty to respect patients' needs to participate in decisions about their own future - a duty because it respects their personhood - that physicians have an obligation to provide information and allow choices.

Obtaining valid consent is more than a recognition by physicians of their patients' rights, however. It is a process of communication by which the physician also becomes informed. As we learned from Cassell, physicians must learn about the various physical and psychological components of each patient, and the value that patients place on the various aspects of their lives, bodies, and health - i.e. what is necessary for

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35 Joel Feinberg, The Moral Limits of the Criminal Law.

them to be 'well'. But, as Cassell also notes, "[a]ttempts to understand all the known dimensions of personhood and their relations to illness and suffering present problems of staggering complexity."[5] If obtaining consent is viewed as a significant process rather than just one among many routines, caregivers are more likely to view patients as individual persons, and thus gain some insight into the reasons for their suffering. If Cassell is correct in his claim that illness threatens one's personhood, it is essential for physicians to know enough about their patients in order to prevent, or at least postpone, the loss of personhood, as well as to help their patients' deal with the impending loss. They need to find out what 'holds a particular individual together', or in terms we used earlier, what characteristics are important to preserving the integrity, or wholeness - i.e. the gestalt - of the person.

IV. Conclusions

A concept of person is often encountered in discussions of abortion, and also euthanasia. I have shown it to be relevant to these issues in other than the usual ways. The non-personhood of a fetus, or

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[5] E. J. Cassell, "The Nature of Suffering and the Goals of Medicine," p. 644.

anything else for that matter, is not sufficient reason for permitting it to be killed.

A concept of person is important to the successful practice of medicine, and therefore is relevant to medical ethics. In this chapter I have shown how a concept of person is indeed relevant to a particular ethical framework. The ethical principles of beneficence and non-maleficence play an important role in helping physicians determine their obligations to their patients. Some ways in which persons might be harmed have been articulated in the Code.

We would benefit from remembering Max Wertheimer's claim that the meaning of a part is derived from the intrinsic structure of the whole, and Cassell's warning that "persons cannot be reduced to their parts in order to be better understood. Reductionist scientific methods, so successful in human biology, do not help us to comprehend whole persons."[37] Physicians must understand that their patients are persons, and get to know them as individual persons in order to promote their health and well-being. For this reason, good communication between physician and patient, including the process of obtaining valid consent, is essential.

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[37] M. Wertheimer, "Gestalt Theory," p. 93; E. J. Cassell, "The Nature of Suffering and the Goals of Medicine," p. 643.

Chapter 8

Conclusions

In this thesis I have established that a particular conception of person is relevant for medical ethics. The fact that many of their patients are persons creates special obligations for physicians, since knowing someone is a person alerts us to the fact that there are special ways she or he may be harmed and may suffer.

It has been the goal of some personhood theorists to define the moral community as consisting of $persons_M$, and then establish which characteristics an individual must possess in order to be a $person_M$. I have shown these theories to be unsuccessful for the following reasons.

First, there are problems with using 'person' to define the moral community. One is that the concept of person is not appropriate for defining the moral community because, as I have shown, being a person is neither a sufficient condition of being a moral agent nor a necessary condition for being a moral patient. In other words, considering that the moral community might be defined as consisting of those who have rights

and those who have obligations, not all persons may have obligations to others - e.g. those persons who are not moral agents. Also, it is reasonable to believe that some non-persons may have rights, or be a moral patient in some other way.

Another is that personhood can be intermittent, and so there are some individuals who may lapse in and out of personhood. One example is a very young child who is in the early stages of developing a self-concept, reasoning abilities, and the capacity for language. Another example would be a moderately demented person who is losing these same abilities, and may vary a great deal from day to day. Related to this objection is another - that the open texture of the concept means that there will be some individuals about whose personhood decisions cannot definitively be made, even when all the facts are known.

Second, it is not possible to establish which characteristics an individual must have in order to be a person. The study of persons by scientists and psychologists may allow us to determine the cluster of characteristics which persons typically have. It may even allow us to say which characteristics tend to be theoretically important in contributing to our disinterested knowledge and understanding of persons. But, as I have shown, what is significant for ethical

theory is less what is considered theoretically important to persons in general than what individual persons themselves consider necessary to survive as the persons they are.

Some characteristics which are theoretically important for an understanding of personhood are self-consciousness, rationality, and moral agency. There is evidence that those whose concept of self, and whose perception of themselves as a person, is threatened suffer considerably from this impending loss, as was suggested by the discussion of schizophrenia. It is the ability to reason, combined with our self-consciousness, which allows introspection and the knowledge of ourselves as ourselves - the loss of which can be devastating. The possession of all three characteristics allows us to suffer from moral wrongs against ourselves and others.

Theories about persons therefore do not have the kind of significance for medical ethics as many have hoped. They are extremely important in other ways, however. The conception of person developed in this thesis, combined with knowledge about physical and psychological aspects of personhood, may reveal specific ways in which individual persons may be harmed by actions affecting them. We may also learn from this how they may be helped as persons. This helps define

obligations towards persons - especially for physicians.

Specific obligations related to personhood derive from two sources. The first is that persons may be harmed by and suffer from moral wrongs. For physicians their obligation is to be sensitive to this fact and respect it. The second is that persons may suffer from the perception that their illness or injury is a serious threat to their personhood. In order to help their patients, physicians must realize this and must work to understand their patients and learn what holds them together as persons.

Appendix

I. The Canadian Medical Association Code of Ethics

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Principles of Ethical Behaviour for all physicians, including those who may not be engaged directly in clinical practice.

I

Consider first the well-being of the patient.

II

Honour your profession and its traditions.

III

Recognize your limitations and the special skills of others in the prevention and treatment of disease.

IV

Protect the patient's secrets.

V

Teach and be taught.

VI

Remember that integrity and professional ability should be your best advertisement.

VII

Be responsible in setting a value on your services.

Guide to the Ethical Behaviour of Physicians

A physician should be aware of the standards established by tradition and act within the general principles which have governed professional conduct.

The Oath of Hippocrates represented the desire of the members of that day to establish for themselves standards of conduct in living and in the practice of their art. Since then the principles established have been retained as our basic guidelines for ethical living with the profession of medicine.

The International Code of Ethics and the Declaration of Geneva (1948), developed and approved by The World Medical Association, have modernized the ancient codes. They have been endorsed by each member organization, including The Canadian Medical Association, as a general guide having worldwide application.

The Canadian Medical Association accepts the responsibility of delineating the standard of ethical behaviour expected of Canadian physicians.

An interpretation of these principles is developed in the following pages, as a guide for individual physicians and provincial authorities.

Responsibilities to the Patient

An Ethical Physician:

Standard of Care

1. will practise the art and science of medicine to the best of his/her ability.
2. will continue self education to improve his/her standards of medical care;

Respect for patient

3. will practise in a fashion that is above reproach and will take neither physical, emotional nor financial advantage of the patient;

Patient's rights

4. will recognize his/her professional limitations and, when indicated, recommend to the patient that additional opinions and services be obtained;
5. will recognize that a patient has the right to accept or reject any physician and any medical care recommended. The patient having chosen a physician has the right to request of that physician opinions from other physicians of the patient's choice;

6. will keep in confidence information derived from a patient or from a colleague regarding a patient, and divulge it only with the permission of the patient except when otherwise required by law;

7. when acting on behalf of a third party will ensure that the patient understands the physician's legal responsibility to the third party before proceeding with the examination;

8. will recommend only diagnostic procedures that are believed necessary to assist in the care of the patient, and therapy that is believed necessary for the well-being of the patient. The physician will recognize a responsibility in advising the patient of the findings and recommendations and will exchange such information with the patient as is necessary for the patient to reach a decision;

9. will, upon a patient's request, supply the information that is required to enable the patient to receive any benefits to which the patient may be entitled.

10. will be considerate of the anxiety of the patient's next-of-kin and cooperate with them in the patient's interest;

Choice of patient

11. will recognize the responsibility of a physician to render medical service to any person regardless of colour, religion or political belief;

12. shall, except in an emergency, have the right to refuse to accept a patient;

13. will render all possible assistance to any patient, where an urgent need for medical care exists;

14. will, when the patient is unable to give consent and an agent of the patient is unavailable to give consent, render such therapy as the physician believes to be in the patient's interest;

Continuity of care

15. will, if absent, ensure the availability of medical care to his/her patients if possible; will, once having accepted professional responsibility for an acutely ill patient, continue to provide services until they are no longer required, or until arrangements have been made for the services of another suitable physician; may, in any other situation, withdraw from the responsibility for the care of any patient provided that the patient is given adequate notice of that intention;

Personal morality

16. will inform the patient when personal morality or religious conscience prevents the recommendation of some form of therapy;

Clinical research

17. will ensure that, before initiating clinical research involving humans, such research is appraised scientifically and ethically and approved by a responsible committee and is sufficiently planned and supervised that the individuals are unlikely to suffer any harm. The physician will ascertain that previous research and the purpose of the experiment justify this additional method of investigation. Before proceeding, the physician will obtain the consent of all involved persons or their agents, and will proceed only after explaining the purpose of the clinical investigation and any possible health hazard that can be reasonably foreseen;

The dying patient

18. will allow death to occur with dignity and comfort when death of the body appears to be inevitable;

19. may support the body when clinical death of the brain has occurred, but need not prolong life by unusual or heroic means;

Transplantation

20. may, when death of the brain has occurred, support cellular life in the body when some parts of the body might be used to prolong the life or improve the health of others;

21. will recognize a responsibility to a donor of organs to be transplanted and will give to the donor or the donor's relatives full disclosure of the intent and purpose of the procedure; in the case of a living donor, the physician will also explain the risks of the procedure;

22. will refrain from determining the time of death of the donor patient if there is a possibility of being involved as a participant in the transplant procedure, or when his/her association with the proposed recipient might improperly influence professional judgement;

23. may treat the transplant recipient subsequent to the transplant procedure in spite of having determined the time of death of the donor;

Fees to patients

will consider, in determining professional fees, both the nature of the service provided and the ability of the patient to pay and will be prepared to discuss the fee with the patient.

Responsibilities to the Profession

An Ethical Physician:

Personal Conduct

25. will recognize that the profession demands integrity from each physician and dedication to its search for truth and to its service to mankind;

26. will recognize that self discipline of the profession is a privilege and that each physician has a continuing responsibility to merit the retention of this privilege;

27. will behave in a way beyond reproach and will report to the appropriate professional body any conduct by a colleague which might be generally considered as being unbecoming to the profession;

28. will behave in such a manner as to merit the respect of the public for members of the medical profession;

29. will avoid impugning the reputation of any colleague;

Contracts

30. will, when aligned in practice with other physicians, insist that the standards enunciated in this Code of Ethics and the Guide to the Ethical Behaviour of Physicians be maintained;

31. will only enter into a contract regarding professional services which allows fees derived from

physicians' services to be controlled by the physician rendering the services;

32. will enter into a contract with an organization only if it will allow maintenance of professional integrity;

33. will only offer to a colleague a contract which has terms and conditions equitable to both parties;

Reporting medical research

34. will first communicate to colleagues through recognized scientific channels, the results of any medical research, in order that those colleagues may establish an opinion of its merits, before they are presented to the public;

Addressing the public

35. will recognize a responsibility to give the generally held opinions of the profession when interpreting scientific knowledge to the public; when presenting an opinion which is contrary to the generally held opinion of the profession, the physician will so indicate and will avoid any attempt to enhance his/her own personal professional reputation;

Advertising

36. will build a professional reputation based upon ability and integrity, and will only advertise professional services or make professional announcements as regulated by legislation or as

permitted by the provincial medical licensing authority;

37. will avoid advocacy of any product when identified as a member of the medical profession;

38. will avoid the use of secret remedies;

Consultation

39. will request the opinion of an appropriate colleague acceptable to the patient when diagnosis or treatment is difficult or obscure, or when the patient requests it. Having requested the opinion of a colleague, the physician will make available all relevant information and indicate clearly whether the consultant is to assume the continuing care of the patient during this illness;

40. will, when consulted by a colleague, report in detail all pertinent findings and recommendations to the attending physician and may outline an opinion to the patient. The consultant will continue with the care of the patient only at the specific request of the attending physician and with the consent of the patient;

Patient care

41. will cooperate with those individuals who, in the opinion of the physician, may assist in the care of the patient;

42. will make available to another physician, upon the request of the patient, a report of pertinent findings and treatment of that patient;

43. will provide medical services to a colleague and dependent family without fee, unless specifically requested to render an account;

44. will limit self-treatment or treatment of family members to minor or emergency services only; such treatments should be without fee;

Financial arrangements

45. will avoid any personal profit motive in ordering drugs, appliances or diagnostic procedures from any facility in which the physician has a financial interest;

46. will refuse to accept any commission or payment, direct or indirect, for any service rendered to a patient by other persons excepting direct employees and professional partnership or similar agreement.

Responsibilities to Society

Physicians who act under the principles of this Guide to the Ethical Behaviour for Physicians will find that they have fulfilled many of their responsibilities to society.

An Ethical Physician:

47. will strive to improve the standards of medical services in the community; will accept a share of the profession's responsibility to society in matters relating to the health and safety of the public, health education, and legislation affecting the health or well-being of the community;

48. will recognize the responsibility as a witness to assist the court in arriving at a just decision;

49. will, in the interest of providing good and adequate medical care, support the opportunity of other physicians to obtain hospital privileges according to individual personal and professional qualifications.

"The complete physician is not a man apart and cannot content himself with the practice of medicine alone, but should make his contribution, as does any other good citizen, towards the well-being and betterment of the community in which he lives."

II. Hippocratic Oath

I swear by Apollo the Physician, Aesculapius, Hygiea, Panacea, and call all the Gods and Goddesses to witness, that I will observe and keep this underwritten oath to the uttermost of my power and judgement. I will reverence my Master who taught me this Art, equally with my Parents, will allow him things necessary for his life, and will esteem his children as brothers, and (do they desire it) will teach them this my Art without any Salary or Covenant. I will participate all my instructions, and Lectures and whatsoever I know else, to all mine own and my Masters children, yea and to all my Scholars, who shall in writing be bound to me, and tied by a Physical oath, and to none else. And as what concerns curing of the sick, I will to the uttermost of my power and judgement prescribe them their diet, and will secure them from all detriment and injury. I will not by any man's entreaties be moved to minister poison to any man, nor give any advice to do it. Neither will I give a woman any Physick to make her miscarry of her birth: but will use mine art and lead my life piously and chastely. I will cut none for the stone, but leave that to skilful surgeons. In what house soever I come, it shall be for the good of the sick, and will abstain

from offering any voluntary injury, especially in any venereal way to any such as I shall have to cure, men or women, bond or free. Whatsoever I shall see or hear during my cure, yea though I were not called to give physick, but as it were being in a common conversation of life, if they be not things fitting to be revealed, I will conceal and keep them secret to my self. If I observe this oath faithfully, may I thrive and prosper in mine Art and living, and grow famous to posterity. Or may the contrary happen to me on the breach of it.

III. INTERNATIONAL CODE OF MEDICAL ETHICS

(reprinted with permission)

Adopted by the 3rd General Assembly of the World Medical Association, London, England, October 1949, amended by the 22nd World Medical Assembly, Sydney, Australia, August 1968, and the 35th World Medical Assembly, Venice, Italy, October 1983.

Duties of Physicians in General

A PHYSICIAN SHALL always maintain the highest standards of professional conduct.

A PHYSICIAN SHALL not permit motives of profit to influence the free and independent exercise of professional judgement on behalf of patients.

A PHYSICIAN SHALL, in all types of medical practice, be dedicated to providing competent medical service in full technical and moral independence, with compassion and respect for human dignity.

A PHYSICIAN SHALL deal honestly with patients and colleagues, and strive to expose those physicians

deficient in character or competence, or who engage in fraud or deception.

The following practices are deemed to be unethical conduct:

a) Self advertising by physicians, unless permitted by the laws of the country and the Code of Ethics of the National Medical Association.

b) Paying or receiving any fee or any other consideration solely to procure the referral of a patient or for prescribing or referring a patient to any source.

A PHYSICIAN SHALL respect the rights of patients, of colleagues, and of other health professionals, and shall safeguard patient confidences.

A PHYSICIAN SHALL act only in the patient's interest when providing medical care which might have the effect of weakening the physical and mental condition of the patient.

A PHYSICIAN SHALL use great caution in divulging discoveries or new techniques or treatment through non-professional channels.

A PHYSICIAN SHALL certify only that which he has personally verified.

Duties of Physicians to the Sick

A PHYSICIAN SHALL always bear in mind the obligation of preserving human life.

A PHYSICIAN SHALL owe his patients complete loyalty and all the resources of his science. Whenever an examination or treatment is beyond the physician's capacity he should summon another physician who has the necessary ability.

A PHYSICIAN SHALL preserve absolute confidentiality on all he knows about his patient even after the patient has died.

A PHYSICIAN SHALL give emergency care as a humanitarian duty unless he is assured that others are willing and able to give such care.

Duties of Physicians to Each Other

A PHYSICIAN SHALL behave towards his colleagues as he would have them behave towards him.

A PHYSICIAN SHALL NOT entice patients from his colleagues.

A PHYSICIAN SHALL observe the principles of the "Declaration of Geneva" approved by the World Medical Association.

IV. DECLARATION OF GENEVA

(reprinted with permission)

Adopted by the 2nd General Assembly of the World Medical Association, Geneva, Switzerland, September 1948, amended by the 22nd World Medical Assembly, Sydney, Australia, August 1968, and the 35th World Medical Assembly, Venice, Italy, October 1983.

AT THE TIME OF BEING ADMITTED AS A MEMBER OF THE MEDICAL PROFESSION:

I SOLEMNLY PLEDGE myself to consecrate my life to the service of humanity;

I WILL GIVE to my teachers the respect and gratitude which is their due;

I WILL PRACTICE my profession with conscience and dignity;

THE HEALTH OF MY PATIENT will be my first consideration;

I WILL RESPECT the secrets which are confided in me, even after the patient has died.

I WILL MAINTAIN by all the means in my power, the honor and the noble traditions of the medical profession;

MY COLLEAGUES will be my brothers;

I WILL NOT PERMIT considerations of religion, nationality, race, party politics or social standing to intervene between my duty and my patient;

I WILL MAINTAIN the utmost respect for human life from its beginning even under threat and I will not use my medical knowledge contrary to the laws of humanity;

I MAKE THESE PROMISES solemnly, freely and upon my honor.

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