

Is a Fetus a Human Person?: Thinking Deeply on a Complex and Politically Charged Question

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Abstract:

This article will address the question, is a human being a human person? Many modern bioethics professors and philosophers have adopted a new view of human personhood that makes allowances and justifications for embryonic stem cell research and abortion. I will address this issue by arguing that the human being is a human person. I will attempt to do this by stating that 1) Claiming that an adult human person is different in kind from a fetus or embryo is a category mistake between actuality and potentiality. 2) I will argue that the difference between the adult human and the human embryo is a difference in degree, not kind. 3) I will argue that claiming that an embryo is not a human person will lead to an absurd result using *reductio ad absurdum*. 4) I will propose an argument showing that a human being must be a human person.

Keywords: fetus, human person, abortion, embryo

My only biological son died on November 20, 2006. His lungs were too small to allow air into his chest. Six months before his birth,

our doctor recommended abortion because he was developmentally disabled and incompatible with life. Later I will outline the importance such terminology makes on our psyche and what we did with him. Our view of human personhood determined our actions that day. The fundamental question we needed to address was “Is an embryo a human being?” There are many policy and political decisions made based on how one answers this question. Given the advancement of medical science, the womb and the cell in particular are no longer black boxes of esoteric nature. We can now not only see what is in that box, but we have even diagramed the very DNA within it to the program for each stage of development of the human person.

There are estimated to be 50 trillion cells that make up the human body.¹ A fertilized human egg contains essentially all the characteristics of human life: it has 46 chromosomes, reacts to stimuli, and is capable of metabolism and cell reproduction. A single human zygote has enough information (chemical instructions) that can be transferred into 5000 printed pages. These instructions are the architectural blueprint of its entire existence from hair to height.² This includes over 2 billion brain cells and other information that would lead me into another paper alone. A zygote is one of the most complex structures in the known universe. It is an established fact that all life begins at conception whether it is a reptile, bovine or homo sapiens. That is not the debate I will address

¹ Asimov, Isaac, *The Human Body*, New rev. ed., p. 79; *New Encyclopaedia Britannica*, vol. 6, p. 134; Van Amerogen, C. *The Way Things Work Book of the Body*, p. 13.

² Special thanks for Hank Hanegraaf for some tips here.

here. In the last decade, the deeper debate has been whether this embryo is a human person—not if it is a human being.

In their controversial article called “After-birth abortion: why should the baby live?” in the *Journal of Medical Ethics*, Alberto Giubilini and Francesca Minerva wrote the following:

Both a fetus and a newborn certainly are human beings and potential persons, but neither is a ‘person’ in the sense of ‘subject of a moral right to life’. We take ‘person’ to mean an individual who is capable of attributing to her own existence some (at least) basic value such that being deprived of this existence represents a loss to her. This means that many non-human animals and mentally retarded human individuals are persons, but that all the individuals who are not in the condition of attributing any value to their own existence are not persons. Merely being human is not in itself a reason for ascribing someone a right to life. Indeed, many humans are not considered subjects of a right to life: spare embryos where research on embryo stem cells is permitted, fetuses where abortion is permitted, criminals where capital punishment is legal.³

This line of thinking is popular amongst progressives who wish to give legitimacy to abortion and still retain the right to call the fetus “human”, but not designate it a “person.” This argument I have found in the philosophical arenas is what I call the “Acorn Argument.” It is best expressed in the *New England Journal of Medicine* by Michael J. Sandel, who teaches political philosophy at Harvard:

“The fact that every person began life as an embryo does not prove that embryos are persons. Consider an analogy: although every oak tree was once an acorn, it does not

³. *Journal of Medical Ethics*, February 23, 2012. “After-birth abortion: why should the baby live?” by Alberto Giubilini and Francesca Minerva.

follow that acorns are oak trees, or that I should treat the loss of an acorn eaten by a squirrel in my front yard as the same kind of loss as the death of an oak tree felled by a storm. Despite their developmental continuity, acorns and oak trees are different kinds of things. So are human embryos and human beings. Sentient creatures make claims on us that nonsentient ones do not; beings capable of experience and consciousness make higher claims still. Human life develops by degrees"⁴

President Obama would agree with Sandel because he has lifted federal funding restrictions on embryonic stem cell research and fully reinforced pro-choice legislation, which supports the destruction of these embryos for scientific medical research. However, the problem with this is that no cures of any kind have been made from the destroyed embryo's stem cells to date, while there is much help gained from adult-stem cell lines.

What is the problem with destroying a potential human being? At least we are not hurting actual persons. Is it not the same thing as destroying an acorn? An oak tree is not an acorn, right? I will argue this line of thinking is illogical.

It is wise to always define one's terms when addressing issues of such a controversial nature. I don't want to be accused of equivocating.

An embryo is "an organism in its early stages of development, especially before it has reached a distinctively recognizable form."⁵ Ba-

⁴ "Embryo Ethics — The Moral Logic of Stem-Cell Research," by Michael J. Sandel, in *New England Journal of Medicine*, , Number 3, July 15, 2004, Volume 351:207-209. This was also recently reprinted in the *Boston Globe*, April 8, 2007.

⁵ Embryo. The American Heritage® Medical Dictionary Copyright © 2007, 2004 by Houghton Mifflin Company. Published by Houghton Mifflin Company

sically it is an animal in its earliest stage of development, before all the major body structures are represented. In humans, the embryonic stage lasts through the first eight weeks of pregnancy.

An acorn is the fruit of the oak, being an oval nut growing in a woody cup or cupule. Basically if you want to know if the tree you are looking at is an oak tree, see if it has acorns as its fruits. Only oaks have acorns as their fruit.⁶

With that said, there are four major philosophical problems with the acorn argument.

As an acorn is different in degree not in kind from an oak tree, in the same way a human embryo is different in degree not in kind from an adult human.

Notice in the above quote, Sandal argues that an oak tree is to an acorn as an adult human is to an embryo. He says they are different in kind. That is not the case. I don't know what he intended to mean when he said "kind", but the definition of "kind" is a particular thing with different variations within limits. For example ,an English Setter, Irish Setter and Shih Tzu are all of the same kind of dog. They all come from the canine family. An oak tree and an acorn are of the same kind, different in degree but not in kind. But, an embryo is not a completely different kind of thing from a toddler as a frog is different in kind from a butter-

(accessed: December 20, 2008).

⁶. Acorn. Biology online available at <http://www.biology-online.org/dictionary/Acorn> (accessed: December 20, 2008).

fly. To be more specific, a human embryo and a human adult are of the same species or kind. Taxonomists would call a human embryo a genus of human as they would of an embryo of a canine or of a bovine. A botanist would call an acorn of the same single genus or kind as an oak tree. An Anaconda snake and an African elephant are completely different kinds. But an oak tree and an acorn are the same kind. There is no qualitative difference. They are just different levels of development of the same kind of thing. The same applies to the human embryo and the human adult.

There is a key difference between potentiality and actuality

Sam Harris in his *Letter to a Christian Nation* asserts: “But almost every cell in your body is a potential human being, given our recent advances in genetic engineering. Every time you scratch your nose, you have committed a Holocaust of potential human beings. This is a fact.”⁷

Let us do some philosophical surgery on Harris’ claim. An empty page has the potential to become a love letter, but on its own, it will never do that. My DNA on its own cannot become anything. Now, an acorn and an embryo have different types of potentials than those listed above. The acorn has the potential to become an oak tree *because* it has the natural inherit capacity to do that within itself. Now in regard to the embryo, it does not only have the potential to become a toddler and an adult but it also has *ceteris paribus*, the inherit natural capacity to do so, if it is left alone in its natural environment—the womb. The DNA of the

⁷ Sam Harris, *Letter to a Christian Nation* (Vintage, 2008), 11.

embryo is situated in such a way that eventually the child or adult will emerge, given it is in its natural environment. This is not the case with an egg or a sperm or the cells that fall from my nose when I scratch it.

Furthermore, Harris' argument is *reduction ad absurdum*; that is, it leads to absurdity. If I am an employee at a rock quarry, then I am daily destroying millions of Michelangelo's David's every time I break a marble or limestone. I am a precious art destroyer and should be arrested. Every time we put a convicted felon in prison we are taking away the rights of a potential new Ghandi or Martin Luther King—does that mean we should not arrest these felons? If we punish a child, someone may say "he is the potential next president of the USA, don't do that." However, it would be absurd to say that because he has potential that he is the same thing as the next president. Otherwise, the secret service should be called into arrest every parent for assaulting every president! Absurd. So, acorns and embryos do have that natural inherent capacities to emerge into oak trees and teenagers. But they are not just "potential oak trees or potential human adults."

I would argue based on the above, that an acorn is not a potential oak tree; rather it is an oak tree with a great deal of potential.

Of course, at the early stage of its development it is called an acorn, like an adolescent is called a toddler or fetus at early stages of his development.

There are degrees of difference between an embryo and an adult but they are not different in kind per se. There is a difference in kind between a canine and a frog or a lizard. But there is not a difference in

kind between one stage of development and another stage of development of the same basic thing.

If the acorn argument is true, it would lead us to an absurd conclusion: human persons were never conceived.

If the argument is true that an embryo and even the earlier stages of a fetus are not persons, then it would lead to the conclusion that you and I were never conceived. If an embryo is not a human person, then when did you, the human person, begin to exist? Did it occur during a later stage of pregnancy? If thinking (in the sense of higher order or self-reflecting thoughts) is the essence of a person, as René Descartes and John Locke argued, than an embryo, fetus, and a newborn are not persons, and thus we are lead to the bizarre conclusion that Descartes (who argued that he is in his essence is a thinking, self-reflecting thing) was never a fetus or an infant! When I say “person”, I am not equivocating between a human being and a human person. Descartes did not make a distinction between the two and I am making a distinction, only for the purpose of argument. For Descartes, a human person was identical to a human being. However, if the essence of a human being (person) is thinking, then an embryo, fetus, and an early infant are not human persons.

Consider the work of Lynn Rudder Baker, Distinguished Professor at the University of Massachusetts Amherst, who holds a similar position to the acorn argument. She writes:

I need not—and do not—conclude that I was ever identical to an early-term fetus. Indeed, on [my view] if my mother

had miscarried when she was five months pregnant with the fetus that came to constitute me, I would never have existed. It's not that I would have had a very brief life; rather, there would have been no me at all.⁸

She argues that there is no person at all in the embryo or even the fetus at five months. Thus, to repeat, if Baker, Descartes, and people like Peter Singer are right, then I, the person, was never conceived. This is clearly anti-intuitive and absurd.

A Human Being is a Human Person

Many philosophers today have argued that there is a difference between a human person and a human being.⁹ This line between the

⁸ L. R. Baker, *Persons and Bodies: A Constitution View* (Cambridge: Cambridge University Press, 2000), 204.

⁹ For a few of these among many, see M. Tooley, *Abortion and Infanticide* (Oxford: Calarendon Press, 1983) M. A. Warren, "On the Moral and Legal Status of Abortion," in *Biomedical Ethics*, 417-23, and J. Rachels, *The End of Life* (Oxford: Oxford University Press, 1986); cited in F. J. Beckwith, *Politically Correct Death: Answering the Arguments for Abortion Rights* (Grand Rapids, MI: Baker Books, 1993), 105; and D. Dennett, "Conditions of Personhood" in *The Identities of Persons* ed. by A. O. Rorty (Berkely, CA: University of California Press, 1976), 175-196. Also, Kuhse and Singer, *Should the Baby Live?; Earl E. Shelp, Born to Die? Deciding the Fate of Critically Ill Newborns* (New York: Free Press, 1986); H. T. Engelhardt, *The Foundations of Bioethics* (New York: Oxford University Press, 1986); "The Problem of Personhood: Biomedical, Social, Legal, and Policy Views," special issue of *Milbank Memorial Fund Quarterly: Health and Society* 61 (1983); C. A. Tauer, "Personhood and Human Embryos and Fetuses," *Journal of Medicine and Philosophy* 10 (1985): 253-66. Early exponents of personhood criteria were Joseph Fletcher, *Humanhood: Essays in Biomedical Ethics* (New York: Prometheus Books, 1979) and R. A. McCormick, "To Save or Let Die," *Journal of the American Medical Association* 229 (1974): 172-76. (Cited in J. W. Walters, and L. J. Schneiderman, *What Is a Person? An Ethical Exploration* [Urbana, IL: University of Illinois Press, 1997], 164).

two is contrived, for the most part, to suit certain ideological agendas. They claim that a human person is one that has psychological functioning abilities such as but limited to rationalizing, emotions and volitional abilities. There are many traits or attributes created by modern philosophers to classify what a human person is, such as but not limited to “a living being with feelings, awareness and interactive experiences,” etc. I can safely say what all of them have in common: function. If a human entity does not meet certain functional, developmental criteria, it is disqualified from joining the human person community, according to these functionalists. For some philosophers, if we cease to function as we are supposed to, we are given a lesser significance of value to our life—thus, the distinction between human being and human person.

The Judeo-Christian, and in particular the orthodox Christian¹⁰ position for the past 2000 years would condemn this diction between human and human person for a number of reasons. There are plenty of human persons who have lost their ability to function, yet we would still want to include them in the human personhood community with all its privileges. These privileges include but are not limited to the simple right to not be killed. Some of these human persons who have lost the ability to function as a human person, as in the case of the comatose, may awaken to return to their normal lives.¹¹ This distinction may have

¹⁰. American Baptist Churches in the U.S.A., Catholicism, Episcopal Church, Evangelical Lutheran Church in America, Lutheran Church-Missouri Synod, National Association of Evangelicals, Presbyterian Church (U.S.A.), Southern Baptist Convention and a host of others. See <http://www.pewforum.org/2013/01/16/religious-groups-official-positions-on-abortion/>

¹¹. An example of this is from The International Coma Recovery Institute (ICRI). Sandra DeYoung, RN EdD; Robin B. Grass, RN BSN, “The Coma

begun with John Locke, although I strongly doubt Locke would have accepted the ethical implications of it.

The arguments for this view claim that a human being is not a person if it does not function as one. In other words, possessing a human genetic code is a “necessary but not sufficient condition for human personhood.”¹² I argue that all feminists, mothers, presidents, kings and politicians were at one time in their development an unborn human person because a human person cannot arise from a human being unless a human being has within it the inherent natural capacities for human personhood itself.

At the early stages of the development of the human person, or in cases where (s)he loses the functional abilities as a person, (s)he is not a moral agent, but a moral patient. (S)he has the same rights to health care and life as she would if she was a moral agent. All moral agents (healthy adults) are also potentially moral patients (unhealthy adults or adults in PVS), but not all moral patients (severely mentally retarded) are moral agents, but some moral patients (embryos, fetuses) are potentially moral agents.

In his book, *Defending Life*, Francis Beckwith offers a defense of fetal personhood, which he calls the *substance view*:

According to the substance view, the human being is a particular type of living organism—a rational moral agent—that remains identical to herself as long as she exists, even if she is not presently exhibiting the functions, behaviors, or

Recovery Program”

¹² Beckwith, F.J. *Politically Correct Death: Answering the Arguments for Abortion Rights* (Grand Rapids, MI: Baker Books, 1993), 106.

current ability to immediately engage the activities that we typically attribute to active and mature rational moral agents. Because the human being is a rational moral agent, she is a person of intrinsic moral value as long as she exists.¹³

So I can thus add a more comprehensive definition to Beckwith's helpful substance view:

A human person is at least a biological entity with the DNA of homo sapiens which, in order to flourish, it subsists in human community which creates an environment for the manifestation of the intrinsic dormant capacity for development of complex and logically ordered thoughts. This logically entails that the person has a complex language and an awareness of a personal unity or coherence of themselves. The human person also has a distinctively private, subjective point of view in addition to the ability to make free decisions and thus be morally responsible for those choices. A human person has a multifaceted emotional life that enables communion and relationship with other persons. A human person is the same numerical entity from embryo to grave—even when he is not presently exhibiting the properties of personhood. The best explanation of this diverse and remarkable array of properties and states is that the human person is composed of a harmony and interconnectedness of two distinct substances: body and soul.

Yes, I have shown my cards, as a substance dualist, I will need to defend this against some common objections raised against it, but that will have to wait for another paper. But for now allow me to state that not all substance dualists are of the Cartesian sort.¹⁴

¹³. Beckwith, F. J. *Defending life: A moral and legal case against abortion choice*. (New York, NY: Cambridge University Press, 2007). Chaps 4 and 5.

¹⁴. For further reading on modern defences of substance dualism, different than that proposed by Descartes, see the following: R. Swinburne, *The Evolution of the Soul*, (Oxford University Press, 1997).

For now, I believe the confusion of human being and human person, is a confusion of being a person with acting as a person. We must go back to the basics. A person is a noun; acting as a person is a verb. A noun is not a verb and a verb is not a noun. One can be something and not function as it (for example, President Obama as President of the USA—but when he is sleeping, he is not acting as the President).

Professor Peter Kreeft, Professor of Philosophy at Boston College put it this way:

Because common sense distinguishes between what one is and what one does, between being and [sic] functioning, thus between “being a person” and “functioning as a person.” One cannot function as a person without being a person, but one can surely be a person without functioning as a person. In deep sleep, in coma, and in early infancy, nearly everyone [except some philosophers] will admit there are persons, but there are no specifically human functions such as reasoning, choice, or language. Functioning as a person is a sign and an effect of being a person. It is because of what we are, because of our nature or essence or being, that we can and do function in these ways.

And again:

Is a person one who is consciously performing personal acts? If so, people who are asleep are not people, and we may kill them. Is it one with a present capacity to perform personal acts? That would include sleepers, but not people in coma. How about one with a history of performing personal acts? That would mean that a 17-year-old who was born in a coma 17 years ago and is just now coming out of it is not a person.

J.P. Moreland and Scott N. Ray, *Body & Soul: Human Nature & the Crisis in Ethics* (Inter-varsity Press, 2000). John Cooper, *Body Soul and Life Everlasting*, (Eerdmans Publishing co. 2000), William Hasker, *The Emergent Self* (Cornell University Press, 1999).

Also, by this definition there can be no first personal act, no personal acts without a history of past personal acts. What about one with a future capacity for performing personal acts? That would mean that dying persons are not persons. Surely the correct answer is that a person is one with a natural, inherent capacity for performing personal acts. Why is one able to perform personal acts, under proper conditions? Only because one is a person. One grows into the ability to perform personal acts only because one already is the kind of thing that grows into the ability to perform personal acts, i.e., a person.¹⁵

In the same way a chair's purpose is to seat someone, it has the capacity to seat someone even if no one ever sits on it. Even if this chair is so fragile that it splits when any weight over 5 lbs is placed upon it, or that it is missing two of its legs, it is still a chair. It will remain a chair, though a defective one, even if it cannot function as such. I apply the same criteria to human persons.

The embryo is the nucleus or the earliest stage of human personhood as old age is that last stage (before death) of a human person. The embryo has the inherent capacity, all things being equal, to develop traits that a normal human person would enjoy. Many disagree, but they do not explain on their view how a person (a concrete entity with freewill, rationality, etc.) emerges from a non-person (a three pound brain or 10 pounds of biological flesh), if the inherent capacity was not there in the first place.

¹⁵ P. Kreeft, "Human Personhood Begins at Conception," Catholic Educators Resource Center available at <http://www.catholiceducation.org/articles/abortion/ab0004.html>; last accessed 20 January 2005.

Again I argue that zygotes, embryos, and beginning states of a fetus are not potential persons, but persons with potential.

Conclusion:

In his 1946 article, "Politics and the English Language," George Orwell writes about how language can deceive and destroy us: "Political language -- and with variations this is true of all political parties, from Conservatives to Anarchists -- is designed to make lies sound truthful and murder respectable, and to give an appearance of solidity to pure wind." The same holds true, as many have pointed out, in the case of abortion or life issues. Do a short research project on what a pre-born baby is called on different websites and articles. The results will establish for you that Orwell is absolutely right. Pro-choice website calls the pre-born baby a fetus, then look up fertility clinics or pre natal care centers, which are just as secular in their outlook, and notice the subtle words that are used for a pre-born infant. Is it a child, not a "choice" or a "fetus" or "embryo." It makes it a lot easier to kill when you dehumanize your victim.

We did not abort our son. My wife gave birth to him. He died shortly after. We named him Enoch because his name means something. For "the Lord took Him" Genesis 4:21.

Bibliography

L. R. Baker. *Persons and Bodies: A Constitution View*. Cambridge: Cambridge University Press, 2000.

F. J. Beckwith. *Politically Correct Death: Answering the Arguments for Abortion Rights*. Grand Rapids, MI: Baker Books, 1993.

Beckwith, F. J. *Defending life: A moral and legal case against abortion choice*. New York, NY: Cambridge University Press, 2007.

D. Dennett. "Conditions of Personhood" in *The Identities of Persons* ed. by A. O. Rorty. Berkely, CA: University of California Press, 1976. 175-196.

Embryo. The American Heritage® Medical Dictionary Copyright © 2007, 2004 by Houghton Mifflin Company. Published by Houghton Mifflin Company (accessed: December 20, 2008).

Sam Harris. *Letter to a Christian Nation*. Vintage, 2008.

William Hasker. *The Emergent Self*. Cornell University Press, 1999.

J.P. Moreland and Scott N. Ray. *Body & Soul: Human Nature & the Crisis in Ethics*. Inter-varsity Press, 2000.

<http://www.pewforum.org/2013/01/16/religious-groups-official-positions-on-abortion/>

J. Rachels. *The End of Life*. Oxford: Oxford University Press, 1986.

R. Swinburne. *The Evolution of the Soul*. Oxford University Press, 1997.

M. Tooley, *Abortion and Infanticide* (Oxford: Calarendon Press, 1983).

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M. A. Warren. "On the Moral and Legal Status of Abortion," in *Biomedical Ethics*, 417-23.