

**What am I? A philosophical account of personhood and its applications to
people with brain injury**

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Abstract

This paper identifies the dilemma faced by clinical staff when asked to support the withdrawal of clinical assisted nutrition and hydration in a patient with a vegetative state. On the one hand, they are expected to treat the patient as a person in their daily interactions, on the other, they are asked to withdraw treatment on the grounds it is futile, which may seem to run counter to treating people as persons. The paper highlights that similar debates exist within the philosophical community about the nature of personhood and describes two philosophical accounts of personhood. The aim is to help clinicians articulate the reasons for their intuitions more clearly, and thus justify their beliefs.

Introduction

The United Nations Convention on the Rights of Persons with Disabilities (United Nations, 2006) identifies Persons with disabilities as ‘those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others’ and promotes, protects and ensures ‘the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and promotes respect for their inherent dignity’.

This approach to human rights is embedded in our society and our health care systems. After severe brain injury, health care staff are expected to treat the individual with respect and dignity while delivering care, making sure that they use the patient’s name, ensuring the patient is kept clean, washed, have their hair brushed, and are dressed appropriately, and talking to them, rather than talking over them. In treating them in this way, they are treating the individual as a person.

After severe brain injury resulting in a permanent vegetative state, application can be made to the courts for the withdrawal of clinically assisted nutrition and hydration on the basis that continued treatment is futile. The same clinical staff who have been expected to treat the individual as a person are now expected to care for the individual as treatment is withdrawn. Some staff may intuitively feel that withdrawal of CANH runs counter to the way we should treat persons, and this may manifest as a conscious objection to participating in such approaches. This leads to questions about the nature of humanity and personhood. Is a patient in a vegetative state still a person? Further, more painfully, is a patient who, whilst not being in a vegetative state, has severe cognitive impairment still the same sort of entity that they were before the accident? These sorts of questions are questions about personhood which is a subject of debate both clinically and within philosophy.

In this paper we will sketch out two preliminary answers to the problem of personhood and will argue for one of them. This will allow clinicians to have a better understanding of the philosophical debates that are going on, to better articulate their intuitions, and, when making difficult decisions, to better ethically and philosophically justify their beliefs.

The Problem

Most of us have the belief that there is something special or different about us as human beings which separates us from plants, inanimate objects and (slightly more contentiously) animals. This is particularly pronounced when it comes to moral matters. We might articulate this difference by saying that human beings, unlike plants and (potentially) animals, are people and that we have personhood, or something to this effect. We may feel that because

we are persons we have rights, greater moral worth and are deserving of a higher level of respect than non-persons.

This belief, however, is increasingly being challenged by certain philosophers when considering those with severe cognitive impairments, perhaps due to brain injury or some similar mishap. McMahan has argued that “How a being ought to be treated depends, to some significant extent, on its intrinsic properties – in particular, its psychological properties and capacities. With respect to this dimension of morality, there is nothing to distinguish the cognitively impaired from comparably endowed nonhuman animals” (McMahan, 1996, pp. 31 – 32).¹

The question now becomes what do we mean by personhood and what is it that gives us this special status? If we can answer this question, then perhaps we will be in a better position to judge the moral status and personhood of those with severe cognitive impairments. The literature in philosophy on this topic is large and complex, so here we will only be able to focus on two positions but there are many others. The first position we will explore is known as personism. The second position is an Aristotelian position which has its intellectual origins in Aristotle, a fifth century BCE Greek philosopher, but which still has many adherents today.

Personism

Personism holds that our personhood is separate to our humanity and is something that develops at a particular stage in our existence and which we can quite possibly lose in certain situations. As Oderberg explains personists “separate humanity from personhood, treating the latter as a phase of human existence, much like being an adolescent or middle-aged”

¹ For some potential responses and alternatives to McMahan’s position see Kittay (2005) and Smith (1990).

(Oderberg, 2007, pp. 249-250). What this means, put simply, is that although we are humans from the moment of our conception our personhood is something we acquire at a particular stage of our physical, psychological, and social development. The precise stage at which a personist would say that personhood is acquired would vary from thinker to thinker.

The question now becomes what do they need to develop in order to become a person? Once again, the precise answer will vary from thinker to thinker, but a standard answer would be a bundle of properties and abilities such as the ability to engage in abstract thought, have a sense of self, experience pain and pleasure, and to have goals and plans. When a human develops enough to have these abilities then that human becomes a person. Similarly, any creature which possesses these abilities will be a person. One implication of this would be that a severely brain damaged human being would have lost their personhood, even if they were still biologically alive and capable of some basic interactions. Thus, personhood and humanity can be separated both conceptually and practically in that you can lose one and keep the other. As Oderberg points out a personist is committed to saying that “a pre-existing human being takes on rationality [and thus personhood] at a certain stage of, say, brain development. This view is in conflict with the idea that personhood and humanity cannot come apart vis-à-vis the human person” (Oderberg, 2007, p. 250).

There is much to be said for personism. At first glance, it appears intuitive. After all, we unlike plants and most animals have a sense of self, the ability to engage in abstract thought and have emotionally rich and complicated lives (granted the gap between some animals and humans may be less clear here). Thus, a natural conclusion might be that what makes us special, i.e. persons, is having these abilities. It also allows us to easily articulate how intelligent aliens would be persons. After all, they too might have these abilities even though physically they might be very different to us. This theory seems to match our

intuitions when it comes to the claim that humans (and potentially intelligent aliens) are special and different to non-rational animals and plants.

However, there are a great many problem with this theory that become readily apparent when we examine it and apply it more closely. Let's begin by applying it to new born babies. New born babies possess less developed cognitive abilities than adult chimpanzees (Premack, 2007). Therefore, they lack the various properties and capacities necessary in order to be persons. It would follow from this that from a moral perspective they are intrinsically worth no more than an animal, and this seems counter-intuitive. After all, even the most committed vegan, who believes it is immoral to kill animals, still thinks that babies are deserving of respect and care above and beyond that which we owe to animals (although in the contemporary world there are some exceptions). Therefore, even these individuals still have the intuition that babies are morally on a par with adults and deserve treatment above and beyond that of animals.

Another implication of personism would be that those suffering from conditions which result in severe learning disability, or severe cognitive impairment such as traumatic brain injury or dementia, would have lost their personhood. This, again, seems troubling.

A potential response that a personist might make would be to relax the requirements for personhood so that babies would count as persons in the same way that adults do. They could claim only very minimal criteria such as the ability to feel pleasure or pain makes one a person, and since babies can do this they are people and entitled to the moral treatment and status that goes with this. The problem with this response is that it would mean that a great many animals that we do not normally consider persons would be persons and entitled to all the same rights and moral respect that we are. A dog, under this schema, would have the same moral status as you and me, and this is a troubling conclusion. A thought experiment demonstrates why this is troubling. Imagine a house is on fire and that it possible to enter

one room and save two dogs, or to enter a different room and save one baby. It is not, however, possible to save all of them. If they are all of equal worth, then the two dogs should be saved over the one baby because two is greater than one. This seems incorrect. Therefore, if personism is (potentially) recommending this then personism is wrong in some way.

It seems that personism is correct in that it identifies the importance of rationality but because it yields answers that seem troubling and counterintuitive it should be treated with suspicion. Perhaps, then, a more nuanced view is needed. Perhaps what is important is not so much the actual exercise of our rational faculties but instead the potential to be rational which we all share as human beings. This observation is key for the next view we shall discuss.

An Aristotelian Solution

The next view we shall discuss is an Aristotelian view. This view differs from the personist view in that it says that both our bodies and our rationality are necessary and integral parts of our identity. For an Aristotelian there are two key parts to our identity. The first is our physical body. This is what makes us Homo sapiens in particular and animals more generally. The second is our rationality or intellect. The concept of having a physical body is uncontroversial for most clinicians. However, the idea of rationality needs further explication, and this is where it gets more conceptually complicated within an Aristotelian schema.

To have rationality under an Aristotelian schema is to have the intrinsic potential to engage in rational thought. This potential does not then need to be exercised in order for the subject to have rationality. It simply needs to be a potential. Therefore, from the moment of conception we would all have rationality in that from the moment of conception we have the potential, one day, to engage in rational thought. We simply need a certain amount of time to pass so that we can develop sufficiently in order for us to exercise it. A tree, on the other

hand, no matter how long it is left and allowed to develop will never have the ability to think. Thus, a tree does not possess rationality.

At the same time a subject who has had his or her ability to engage in rational thought destroyed by a brain injury has not lost their rationality. Instead their rationality (a potential to engage in rational thought) is still there. It is simply being blocked by the brain injury. They cannot manifest their ability to think because of their brain injury, but it is still there as an intrinsic, albeit blocked, potential. This may at first seem strange. After all, if they cannot engage in rational thought after a brain injury then surely it is no longer an intrinsic potential? We would argue in response that it is, in fact, still there. It is simply that they cannot actualise it. If we could simply repair the brain damage then they would be able to think, and given the advances in neuroscience, this may be the case in the future (Portis and Sandberg, 2017). On the other hand a tree no matter how much you ‘repair’ it will never be able to think. As such, a patient with severe brain damage still has rationality in a way that the tree does not i.e. as an intrinsic potential to engage in rational thought even if this cannot be exercised at a particular moment in time.

A potential objection might be raised here.² It might be argued that, given our current state of knowledge, there are no ‘repairs’ that would restore rationality to someone with extensive and permanent damage to the brain. As a result, in current circumstances, there is no sense in which the capacity for rationality is still there for that individual. It could be argued that, with greater knowledge and technological advances, the damage would be repairable. However, with such knowledge and technology at our disposal, we could probably enable many animals to engage in rational thought. Thus, this argument fails to accord any special moral status to humans.

² Our thanks go to an anonymous reviewer for raising this objection.

Ultimately this objection fails because it misunderstands the Aristotelian schema. This misunderstanding is best highlighted by imagining a technologically and medically more advanced world, perhaps one a few hundred years in the future. According to the Aristotelian if we were to enable an animal to engage in rational thought, perhaps through augmentation with technology or through genetic engineering, then we would have fundamentally changed the nature of the animal itself. The old non-rational animal would have been replaced by a new rational animal i.e. a person.

What about the patient who can't be 'repaired'? If enabling an animal to engage in rational thought makes it a person then surely, by parity of reasoning, a patient whose rationality has been permanently removed due to injury is no longer a person. Shouldn't we say that the old rational animal, i.e. the person, has now been replaced by a new non-rational animal?

The answer is no. This is because the brain *damaged* patient is, in fact, damaged. That means that they are not functioning as they should. They should be able to exercise their rationality. However, in the case of a non-rational animal the animal is in no way damaged. Everything about the animal is functioning exactly as it should, but it still lacks rationality. The fact that the brain damaged patient should be able to exercise their rationality but can't, whereas the non-rational animal can't and shouldn't be able to exercise rationality is a crucial difference.

This crucial difference holds quite regardless of whether or not we are technologically and medically capable of healing the patient. We haven't currently found a 'cure' for the common cold, but it does not follow from this that human beings suffering from colds ought to have runny noses and a persistent cough. In human beings their noses shouldn't run, and they shouldn't have a persistent cough. If this is happening, then something is wrong i.e. they have a cold. The regrettable fact that we do not have a cure for the common cold does

nothing to change this. Likewise, the fact that we cannot cure all brain injuries does nothing to change the fact that brain damaged patients ought to be able to exercise their rationality.

An objection might be raised here. If a brain damaged patient is still a rational animal because they should be able to exercise their rationality, even though they can't, then by parity of reasoning an animal which has been modified so that it can exercise rationality is still a non-rational animal because it shouldn't be able to exercise rationality, even though it can. After all, without the relevant modifications it would be perfectly healthy, but still incapable of exercising rationality.

This objection has some weight. Ultimately the Aristotelian would respond to this by arguing that in the case of the modified newly rational animal a new animal has taken the old non-rational animal's place. There might be some degree of physical and temporal continuity between them (in that they are made out of the same lump of flesh), but ultimately, they are distinct creatures. We can know they are distinct creatures because the modified newly rational animal has capacities and abilities that the old animal lacks.

Shouldn't we then say that in the case of the brain damaged patient a new non-rational animal has taken the place of the old rational animal? Again, this objection has some weight and a full response would take more space than is available here. However, to offer a very brief response, the Aristotelian would argue that we need to carefully attend to how the 'non-rational animal' came about. In the case of the brain damaged human something has gone wrong. The patient has been actively damaged. Whereas the modified animal has not been damaged. They have been changed.

This distinction between being damaged and being changed is of first importance. It must be acknowledged that how to distinguish between them is often difficult and has intellectually taxed Aristotelians throughout their academic history. However, for this paper

perhaps an appeal to intuition will suffice; we intuitively know that that humans shouldn't be brain damaged. As a result, brain damage cannot be seen as a mere change. It is fundamentally a 'going wrong' in a way that (at least some) changes are not.

Conclusion

We have now summarised what it means to have rationality under an Aristotelian schema. Any entity which possesses a physical body (and thus has 'animality' according to Aristotle) and rationality would be a person. As a result, all Homo sapiens would be persons, since we all possess human bodies and rationality (in the Aristotelian sense), and there is also nothing to stop there from being alien or non-human persons. As long as they possessed a body and rationality (in the Aristotelian sense) they would be persons. This analysis also tells us that brain damaged human beings and those suffering from congenital disorders which prevent them from exercising rationality both count as persons. This is because they both have the intrinsic, albeit blocked, potential to engage in rational thought. Therefore, they have the same moral status as a healthy human being and thus are entitled to the same respect and treatment to which a healthy human being is entitled.

Does this Aristotelian view yield the same counter-intuitive answers as personism, to questions about the personhood of new-born babies, animals, and individuals with severe cognitive impairment? The answer is no. As we have seen all humans will be persons. This is because they all have the intrinsic capacity to engage in rational thought. They will have this intrinsic capacity to engage in rational thought even if they are incapable of exercising that capacity, either because they have not yet developed those abilities or because some mishap is preventing them from exercising those abilities at present. On the other hand, a lizard or a tree never has the capacity to engage in rational thought, no matter how mature, healthy or

developed they are, and thus they would not be persons. At the same time, as well as allowing us to distinguish between humans and animals in this manner the Aristotelian position allows for the possibility that there might be non-human persons. This seems intuitively right. Thus, the Aristotelian position has the strengths of personism without the weaknesses. This gives us reason to favour the Aristotelian view with its emphasis on capacities and potentials over personism. This brings our account of personhood to an end. Of course, this is just the view of the authors, and personism, and other accounts we have not discussed here are ably defended by their proponents. If you wish to read a more lengthy defence of the Aristotelian position see Oderberg (2007). For a lengthier discussion of personism and the moral status of animals see Singer (2004).

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