

# The Politics of Personhood

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RECENT THEORETICAL AND TECHNICAL ADVANCES in the biological sciences have made possible clinical applications and research procedures that are the source of a remarkable number of legal and policy disputes. Practices such as fetal research, *in vitro* fertilization, human experimentation, organ transplants, genetic manipulation, and resuscitation of terminally ill patients have undermined age-old understandings about life, birth, and death. They have forced us to reevaluate our beliefs about fundamental moral concepts and to reconsider in technical, philosophical, and legal terms what it means to be a human being. Indeed, today we talk about the concept of personhood as a "problem"—an issue that needs to be resolved. But the struggle to find acceptable definitions of personhood has brought about value conflicts that are extremely difficult to deal with through traditional avenues of mediation.

The persistence of such conflicts does not reflect a lack of effort to find solutions. We have developed institutions to mediate disputes and to define an acceptable concept of "personhood." We have engaged the courts as various groups concerned about threats to their rights as "persons" seek judicial support for their moral, religious, or political views. We have created a new profession of "bioethicism" to deal with

the enigmatic conceptual and philosophical problems of personhood, and to make medical professionals more aware of the complexities of practices which lead to disputes. We have a remarkable number of commissions and committees, review and advisory boards, panels and programs, to respond to the moral dilemmas raised by controversial clinical and research procedures. But in the absence of consensus about what it is to be a human being, disputes persist.

Why have questions of personhood assumed such controversial dimensions in American society at this time? Why are such questions so elusive—so difficult to resolve? What are the characteristics of our culture that obstruct the resolution of disputes whenever the concept of personhood is at stake? Using familiar examples, I will briefly review some conceptual problems underlying such disputes, suggesting the political and cultural context in which they are embedded and the difficulties of finding acceptable resolutions.

### The Nature of Personhood Disputes

In the mid-1970s a series of controversies erupted over research on the human fetus when people with religious and moral scruples about abortion objected to research practices associated with it. The legal and administrative discourse during the fetal research controversy turned on three questions: Is a fetus to be defined as a living subject or an inert object? How is one to balance the individual risks against the social benefits to be gained by this research procedure? What is the appropriate locus for decision-making authority when such important values are at stake?

The first question set the tone of the dispute. Is a fetus, however rudimentary, a human subject or merely a mass of tissue? When in fact does life begin? Those opposing fetal research argued that it would be arbitrary to make any distinction between prehuman and human development, and that to do so would erode society's commitment to the rights of individuals. Basic respect for human dignity must extend to every stage of biological development. However, others asserted that a fetus which could not independently survive is but a biological extension of the mother with no separate moral standing as a person. Personhood, therefore, begins at the moment of independent existence—that is, at birth. According to this view, distinctions between

a premature infant and a nonviable fetus can be made on the basis of medical criteria, and so the status of the fetus as a person became defined as a technical judgment based on such criteria as heartbeat, respiration, and nervous system activity. This logic was followed by the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research. Called upon to resolve the dispute by recommending guidelines that would govern all fetal research funded by the federal government, the commission defined the viability of a fetus by using technical criteria based on the gestational age (20 weeks) and weight (500 grams) (Maynard-Moody 1979).

The case of fetal research illustrates the metaphysical questions underlying many personhood disputes. What is a person as distinct from an object or a thing? In this instance, when does a fetus become a person—that is, a conscious, feeling agent? Similar questions are the source of the growing number of disputes associated with reproductive techniques, abortion, and genetic manipulation—practices that are frequently attacked on moral and religious grounds because they challenge accepted definitions of what it means to be a person.

A related conceptual problem has given rise to a quite different kind of dispute. The persistent controversy over the teaching of evolution theory in the public schools raises the question of distinguishing a person from an animal. Creationists reject the theory of evolution and, with some success, are demanding that “creation theory” be taught in the public schools (Nelkin 1982). Creationists and their followers are bent on maintaining distinct divisions between animal and human life. Such distinctions, they believe, are the basis for moral behavior. The recent political salience of their demands reflects the distress of fundamentalist religious groups over what they perceive as an unconscionable blurring of moral categories.

While some controversies turn on defining a person as distinct from an animal or thing, others reflect an even more elusive ambiguity in the concept of personhood. What is an accountable, competent, or rational human being, deserving of constitutional rights and able to assume the responsibility to make independent decisions? This question suggests that personhood is a social as well as a moral and metaphysical concept, that a “person” is an agent who is free and accountable and therefore able to assume both rights and responsibilities. Personhood in this instance is defined with reference to social, political, or legal relationships. This aspect of personhood underlies a number of disputes

over human experimentation, over certain therapeutic procedures, and over patients' rights to determine their own treatment.

For example, in July 1980, the inmates at the state prison of southern Michigan filed suit against the federal government, claiming the right to voluntarily participate in human experiments and clinical trials of new drugs (Sun 1981). They were challenging proposed federal regulations that would ban all biomedical research in prisons, regulations designed to protect research subjects in situations where lack of freedom could constrain the voluntary nature of consent. While the regulations were intended to protect vulnerable groups such as prisoners or the mentally ill, they also raised social and legal questions about who should have the rights and responsibilities of a "person." The Michigan prisoners argued that the government was making judgments for individuals who were in fact capable of making rational decisions on their own behalf. To do so was to further deny their status as persons, that is, to question their competence as rational human beings.

When is a person "himself," that is, sufficiently free to make rational personal choices? This question also turns up in disputes over the rights of terminally ill people to refuse life-prolonging procedures, or the rights of cancer patients to select their own therapy even when medical professionals disagree (Markle and Petersen 1980). It arises with respect to the treatment of the mentally ill and the retarded when either their institutional environment or their mental condition leads people to question their ability to make rational decisions (Annas 1978). Such disputes challenge the prevailing moral assumption in American society that freedom is a necessary precondition for personal responsibility. Those who argue the reverse—that personal freedom may derive from social responsibility and commitment—appear marginal or even slightly perverse. We assume that the definition of personhood somehow depends on the ability to exercise free choice (Watson 1975).

## The Social Context of Disputes

Concepts of personhood are embedded in a political and cultural context. The persistence of moral conflicts and the difficulties of resolving them reflect certain features of our political culture. First, our preoccupation with concepts of personhood reflects the cultural obsession with the individual in American society and the extraordinary

tension between individual and public life. Second, in the context of this relationship between the individual and society, controlling the definition of what it is to be a human being becomes a fundamental basis of social and political power. A great deal is at stake in personhood disputes, and this makes them especially difficult to resolve.

### *Personhood and Individualism*

Disputes over personhood can be attributed partly to the emphasis on individualism in our society and the inevitable problems this poses for social or collective decisions. Our very concern about personhood reflects the deeply rooted belief that a person is an individual psyche that exists in contrast to, indeed in struggle against, the demands of public life. Richard Sennett, in a book called *The Fall of Public Man* (1977), talks of the “war between psyche and society,” the struggle between our belief that we develop as persons only through psychic individual experience and the essential demands of social existence.

Each person’s self has become his principal burden; to know oneself has become an end, instead of a means through which one knows the world. And precisely because we are so self-absorbed, it is extremely difficult for us to arrive at a private principle, to give any clear account of what our personalities are. . . . The obsession with persons at the expense of more impersonal social relations is like a filter which discolors our rational understanding of society (Sennett 1977, 4).

Similarly, Christopher Lasch (1979) talks of the “culture of narcissism,” the self-absorption that is increasingly prevalent in our society.

Our emphasis on individual personality has many manifestations: the search for self-identification through experiential radicalism and religious mysticism, the preoccupation with “roots” and biological origins, the broad acceptance of individualized biological explanations of human behavior, and the popularity of religions that promise personal immortality (Lifton 1979). It is evident in the worries we express about anonymity and depersonalization in the face of relentless bureaucratization. And it is especially evident in our mistrust of politics and our preoccupation with freedom of individual choice.

Concerns about biomedical research are part of this syndrome. Perceiving the “person” in struggle against society skews public opinion

against any research procedure that would force us to balance individual cost against social benefit. The individual who serves as research subject is often portrayed as victimized or sacrificed to the public good. For example, when proponents of fetal research argued that the courts should consider the collective social benefits of this research, critics insisted that the value of individual life must outweigh any promise of social gain. There are ironies in such views. Our laws preventing research on incompetent patients who are unable to provide informed consent also prevent the development of knowledge about problems such as Alzheimer's disease where research would not be of direct therapeutic benefit to the research subject. A member of the President's Commission for the Study of Ethical Problems in Medicine and Biomedical Research described the dilemma: "What you are asking is for American society to please acknowledge that we want to use people in research for the benefit of others. Our society has had a great deal of trouble accepting that" (Kolata 1982, 48).

Our tendency to distinguish between the individual and society is by no means universal. In every society personal identity gains meaning through social interaction, but many societies place far greater emphasis on ceremonies or ritual exchanges that integrate the individual into social life (Cohen 1979). Naming a child is often an enterprise that establishes a social identity, incorporating the child into the society. In some cultures *rites-de-passage*, as "rites which accompany every change of place, state, social position and age," are important precisely because they serve to integrate the individual into the customary norms and ethical standards of the culture (Van Gennep 1960). Victor Turner talks of the myths, symbols, rituals, and other cultural forms that "provide men with a set of templates or models that are . . . periodical reclassifications of reality and man's relationship to society, nature and culture." He describes the structures through which "the free relationships among individuals become concerted into norm-governed relationships between social personae" (Turner 1969, 128-29).

In contemporary China the individual is expected to be totally "in harmony with society" so that social needs necessarily dominate personal wants. Indeed, personal desires are themselves defined in terms of social needs. A striking example can be found in China's successful campaign to reverse population growth. In this agricultural society, tradition has long favored large numbers of children, but the government has effectively convinced its people to limit the size of their families

to one child—that is, to integrate their personal desires with the social goals of the state. Public opinion, peer pressure, and economic incentives are systematically brought to bear on the individual to reinforce the harmony of interests between personal and social goals. It is thus widely accepted that an individual's preference for several children (or at least one son, as desirable in the traditional culture) must be subordinate to the collective needs of the society.

In our more individualized society, personal preferences and the principle of self-interest prevail. However, the concept of the individual as distinct from, rather than integrated into, public life is often problematic. It leads to a loss of public perspective and to a passivity in social and political relationships that often blinds us to the realities of power and control. It leads to contradictions as social demands inevitably conflict with personal autonomy. And, in the cases described above, it leads to confrontation whenever social or political decisions challenge accepted notions of what it is to be a human being.

### *Personhood and Power*

Much is at stake in controlling the concept of personhood, for the definition that prevails in any political context serves as a basis for moral categories and as a justification for the structure of social control. Ideas about what it is to be a human being, for example, inform judgments about the reasonableness of social policy. To deny the personhood of an individual is to deny his or her capacity to make meaningful choices, that is, to subject an individual to the interests and objectives of those in dominant positions.

We often use labels to depersonalize people in situations where maintaining power and social control are seen as important. Some glaring examples occur in hospitals; Schwartz describes how interns describe patients using acronyms such as SHPOS (subhuman piece of shit) as a means to depersonalize relationships and maintain control (Schwartz 1980).

A neuropsychologist, Steven Chorover (1979, 13,28), suggests how theories of human nature become instruments of social control:

Of all the ideas by which human behavior can be shaped, by far the most important and most persuasive (if not always the most credible) are the ones that purport to define what it means to be

a human being. . . . The traditional presumption that biological characteristics of the human species determine the nature of social institutions means that those who have the power to define human nature command a most powerful instrument of social control.

The struggle for control is evident in the acrimony of personhood disputes and the issues that provoke the greatest tension. While the controversy over fetal research turned on the medical definition of a fetus, critics repeatedly challenged the authority of scientific expertise, asking: "Who should determine the legitimacy of this kind of research?" New constituencies such as right-to-life groups emerged to demand that their definitions of life must determine decisions about research practices involving the fetus. They challenged the judgment of scientists and the adequacy of institutional review boards as forums for introducing moral judgments about research.

Critics of *in vitro* fertilization, amniocentesis, and other techniques associated with reproduction worry about the possibility of using such techniques for eugenic purposes (Nelkin and Raymond 1980). They fear that doctors are in a position to exercise "human quality control"—to make subjective decisions about life and death. Their concerns come to focus on the question of professional control.

Similarly, creationists refer repeatedly to the "arrogant authoritarianism required by evolutionists to sustain what they cannot prove" (quoted in Nelkin 1982). They see themselves engaged in a power struggle with "an elite corps of unelected professional academics and their government friends who run things in the schools" (Conlon 1975).

The power relationships at stake in controlling the definition of personhood are even more explicit in political disputes over who is able to function as a rational human being capable of independent choice. The laetrile dispute revolved on technical arguments about the efficacy of apricot pits, but underlying the dispute was the freedom of cancer patients to choose their own treatment—that is, their freedom from professional control. In hearings before the Food and Drug Administration, a psychiatrist testified that laetrile users are like children, not to be trusted with freedom. Laetrile proponents angrily responded: "You people in authority consider all the rest of us a bundle of dummies. . . . You set yourself up as God and Jesus Christ all rolled up into one. And we don't have any rights" (Food and Drug Administration 1977, 62). A judge supported their claims to be responsible persons by ruling that restrictions on their freedom of choice

"deprived them of life, liberty or property without due process of law" (Bohanon 1975).

Defining cancer patients, prisoners, or mental patients as incompetent or incapable of independent choice has immediate pragmatic implications, implying the need of control by others. Thus, such questions of personhood often translate directly into battles over "rights." What is the right of a patient to decide about therapeutic or clinical procedures? Do prisoners have the right as individuals to choose whether or not to submit to human experiments? What are the rights of children to make choices about their medical treatment? These questions involve classical political issues of citizenship, of due process and equal protection under the law. The challenges to existing forms of authority and control so intrinsic to such disputes contribute to the difficulty of finding acceptable solutions.

## Dilemmas of Conflict Resolution

The controversies generated by biomedical research and clinical practice involve the most fundamental moral and social questions concerning the definition of what it means to be a person. These disputes are embedded in a cultural context that emphasizes the individual over society, a context that often turns definitions of personhood into political confrontations as social actions come into conflict with expectations of personal autonomy and control. What means do we have available to resolve such confrontations? While they generally occur in a public context and therefore call for collective resolution, can they be resolved at a collective public level?

In our search for solutions to such disputes we turn to the state as a mediator, pressing government institutions to develop acceptable moral codes. With no consensus about the definition of personhood, questionable research or clinical practices are challenged on a case by case basis as various groups seek support for their moral and religious views through legislative or administrative appeals, or through litigation. However, advances in science and technology, especially in the biological sciences, often create conceptual problems which cannot be resolved on the basis of legal or administrative precedents.

Most disputes provoked by moral or religious questions of personhood go to the courts, but the technical rules of litigation virtually assure

that these will not themselves become the subject of courtroom debate. Thus, we have also established special committees, ethics advisory boards, and institutional review boards to contemplate the ethical dilemmas of research and clinical practice. As these diverse institutions try to resolve disputes, they invariably look for technical grounds on which to justify their decisions. The courts and the various administrative bodies called upon to develop acceptable principles to resolve moral disputes see in the scientific method a means to find somehow a "truth" among conflicting claims (Jasanoff and Nelkin 1981). Indeed, despite the ethical and social bases of disputes involving questions of personhood, efforts to resolve them often are reduced to technical debates, and the powerful moral, social, or religious scruples that underlie the positions adopted by parties to such disputes are avoided.

Examples of this confusion between scientific and moral categories in personhood disputes are abundant. Decisions about fetal research turned on the technical and medical question of when life begins. The laetrile dispute focused on the therapeutic value of apricot pits. The persistent controversy over the teaching of evolution in public schools has centered on technical arguments such as the validity of the fossil evidence documenting evolutionary hypotheses. In a lawsuit over *in vitro* fertilization, the fundamental legal and ethical questions concerning the creation of life never surfaced at all. Instead, the issue centered on matters of technique, such as the adequacy of the petri dish for fertilizing eggs or the use of temperature charts to determine the time of ovulation (Pawledge 1978). Most right-to-die litigation ignores the social and religious aspects of dying, dwelling instead on the technical definition of death. Indeed, courts, commissions, boards, and panels are often converted into forums of specialists who seek to establish the meaning of personhood in value-free technical terms.

This tendency persists despite the fact that technical arguments seldom change anyone's values. Lacking the evidential basis to create acceptable technical definitions of personhood, and avoiding the fundamental questions at stake, government institutions and commissions usually fail to settle moral disputes in any lasting manner. Uncomfortable with the new demands on the judicial system, judges are disputing the appropriate role of science in the courtroom. Can science assist jurisprudence, for example, by defining the attribute of a viable human life, or is the very use of scientific categories as the basis for moral decisions a travesty of both the scientific and legal tradition?

The tendency to fall back on technical support for political and moral decisions reflects assumptions about the relationship of the individual to the state. In American society our governmental institutions were created on the assumption that the state exists to maintain order and to settle conflicts of interest, not to determine the moral or political values that give meaning to life. In the tradition of liberal democracies, reinforced by our emphasis on the autonomous individual, we maintain the distinction between civil society and the state, believing that moral choices must be left to the individual and that the state must avoid taking an ethical position. Thus, the very institutions that are called upon to resolve conflicts over personhood tend to avoid the social and moral issues that create such conflicts. They do so by reducing such issues to technical categories resolvable through scientific methods. Given the widely held assumption that scientific methods are value-free, this practice helps to maintain the myth that policy choices are neutral, grounded in empirical fact, and that the state is simply resolving a technical conflict without assuming an ethical or political stance. Technical discourse, however, cannot establish principles to resolve either the moral or political issues underlying personhood disputes. As a result, policy decisions in sensitive areas remain vulnerable to the demands of those—the right-to-lifers, the Moral Majority—who insist on debating these issues on moral and political grounds.

A more pragmatic approach must recognize more explicitly the political dimensions of personhood disputes—the questions of power and social control that are involved. Ultimately our categories and classifications concerning the essence of personhood reflect prevailing political and professional relationships. It is these relationships—the authority of professionals, the autonomy of scientists, and even the role of the church—that are at stake in the persistent conflicts over what it means to be a human being.

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