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Restoring the Balance: Setting Aside Naturalism in Favor of Personhood in Extreme Cases

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LOYOLA UNIVERSITY CHICAGO

RESTORING THE BALANCE: SETTING ASIDE NATURALISM IN FAVOR OF PERSONHOOD IN EXTREME CASES

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CHAPTER ONE
INTRODUCTION

Imagine that you pick up a newspaper and there is a story about an accident involving an ambulance. The story headline is, “Four People Die in Ambulance Crash on Hwy 152.” Interested because you live nearby, you read on about how the road was slick from summer rains and that that vehicle lost control, went over an embankment, and crashed 30 feet below in a wooded ravine. The article says that “John Sanchez, 32 of San Jose, Michael James, 23, of Gilroy, Virginia Medding, newborn, of San Martin, and Samuel Vierra, 28, of Morgan Hill were among those killed in the accident. Sanchez was driving while James, the EMT, assisted Vierra, the critical care nurse, in attending to the patient Medding.” As you read on, the story tells you that Virginia was being transported from a local hospital to a hospice 15 miles away. Virginia, it turns out, was born with a case of anencephaly 10 days before and, despite predictions from her doctors, had survived beyond the normal range for such a severe neurological disorder. The doctors at this point felt that palliative care was best for her because the hospital knew that she would eventually succumb to the malady afflicting her. Putting the newspaper down, a few questions occur to you: Was it a mistake to count Virginia among the “people” who died in the accident? Was Virginia a person in name only? Would there be a funeral for Virginia? Would her family mourn her? Would they talk about her presence in their
lives? Would she be buried? Would there be a gravestone with her name and dates? Why was she named in the first place? Does her family have pictures of her? Did her family enjoy buying clothes for her? Did her parents hold her and kiss her goodbye when they put her in the ambulance? Would her siblings in years to come speak of “my sister who died in the car accident”? Why should such resources be spent on such an extreme case? What is the proper way to address humans with such severe damage? Could anyone learn anything from her life, from her presence in their lives?

This dissertation will attempt to answer these questions in such a way that a reader may reasonably conclude that Virginia, a child with only a brain stem, is indeed a person, where “person” is understood as having a special status, worthy of moral recognition, that attaches to the individual. To do this, I will provide a philosophically sophisticated account that withdraws from the usual naturalistic considerations of personhood, with their accompanying checklists, requirements, etc., and instead asks the reader to look toward a human sciences model of personhood, with relationships, narrativity, embodiedness, historicity, and meaning. I will argue that these and these alone may possibly address who can count as a person. The objectivistic data of the natural sciences tradition will be set aside here as inadequate. No EEG, reflexivity test, or MRI, for example, can take the place of embeddedness, encounters with other persons, and relational interpretations, to determine whether or not Virginia is a person. In claiming this, I will concentrate heavily on the anencephalic child as the paradigm case for personhood, but will feel comfortable analogizing to other extreme cases, such as those in a persistent vegetative state or those who otherwise lack a higher consciousness.
Chapter Two will initiate the dissertation by addressing in significant detail the prevailing naturalistic tendencies today. These will be shown to rely heavily on the use of certain, empirically verified data as a firm basis for truth. The naturalistic tendencies will be found not only in the natural sciences but also in the work of philosophers impressed with their precision. Of course, having naturalistic paradigms, protocols, and algorithms in the natural sciences is not problematic when the subject of those inquiries is a rock, light waves, or even the human heart itself. And it is certainly apparent after several centuries that natural science has indeed many achievements that render it a powerful paradigm for progress. The constant growth in pharmaceutical options, the prevalence of breakthroughs in surgical techniques, the fruits in cancer research, the increasing understanding of the brain for psychology—these all are immediately understood as helpful to the longevity of human lives and to the relief of certain maladies or the symptoms thereof. This can certainly be extended into fields outside medicine, such as renewable resource technologies, space travel, and use of building materials to shore up buildings in an earthquake. In its domain, natural science is without question an extraordinary achievement and ought to be praised. The problem, however, is that those same methods and models that are so successful when in a particular field of endeavor, with a particular subject and particular questions, are applied in other areas where they are inapt.

Chapter Two addresses this naturalistic tendency by exploring in detail the work of Charles Taylor, Jurgen Habermas, and Axel Honneth. These three philosophers will take on the scientistic tendency to take a successful protocol or matrix, with its high levels of precision, and apply it to the human subject. The human individual is someone
with a history, with an embedded nature in a time, in a place, in a narrative of his or her own. To such a person, life is not merely absorbed; it is lived in a trajectory, in a series of questions that provoke and that matter to that person. Such a life is a tapestry of interpretations, where what matters to the individual is essential to understanding what he or she sees or knows or even what is best for them. For example, two people can enter into a large room at a garage sale or flea market and, in essence, “see” different things. The one, the dog lover, sees pictures of dogs and the owner’s dog sitting up front by the cash register. The other can leave having no memory of the dog pictures or dog up front (although all of them did in fact run over his optic nerve) because he concentrated on the old model cars. These two persons were in the same room at the same time and even came and left together. But, as distinct individuals, they did not interact with the room in even remotely the same manner. Such subjective accounts, accounts that explain why this person said this or did that, are lost on the naturalistic sciences. In this scenario, naturalistic methods might include monitoring brain waves or doing a study afterwards of the external data (what the parties touched or the words they said), but it is highly questionable whether such exterior data can ever capture the individual’s thoughts and interpretations. To obtain knowledge from these two people requires addressing them, intersecting with them, engaging them with questions and evaluations. Taylor especially, using Heideggerian and Gadamerian language, will address the naturalistic sciences here as in essence out of their league. They hit wide of the mark and demand conformity to their own strictures. They are in essence guilty of acting out the aphorism “He who is good with a hammer thinks that everything is a nail.”
In addition to Taylor, Habermas and Honneth address the rise of naturalistic tendencies in technology and how they may be applied in such a way as to render the human person essentially something to be disposed over or something that may be improved by libertarian desires to adjust genetic makeups. Habermas will draw attention to the use of preimplantation genetic diagnosis and screening, coupled with parents’ desires to have a certain child. This will be shown to have a fundamental interference with the human desire to be one’s self—because the one screened for is not the chooser; the latter is merely the product of that choice. Habermas will argue that the use of natural science breakthroughs to address horrible diseases by preventing such embryos from being implanted is fundamentally different than using such science to boost particular parental desires to overcome so-called genetic imperfections. Honneth will supplement this by noting that persons are initially recognized in their ineffable integrity, only later to lose such uniqueness in a conforming and thus depersonalizing reification. Both Habermas and Honneth thus question the insipid nature of natural sciences methods and technologies when applied to the deep, historical, integrated human existence.

Chapter Two then is meant to set the issue of naturalism on the table and note that it cannot properly be said to provide a realistic model when addressing personhood issues because it misses so much that is integral to personal existence.

The paradigm case of personhood in this dissertation is, of course, the anencephalic as an extreme circumstance, and Chapter Three will address those children as emphatically persons. But, while not falling prey to the naturalistic tendencies outlined in Chapter Two, the view of personhood considered in Chapter Three will also be shown to miss its mark. These theories will not supply any particularly viable bases to
recognize personhood in an anencephalic child. It will simply be held here that membership in the species homo sapiens is sufficient for personhood.

The assertion of anencephalic personhood will be raised in 4 sections, each of which will not prove satisfactory. First, the law and its ironclad attribution of personhood to any child, and thus any anencephalic child, who is born will be addressed. It will be shown that the courts have uniformly held that birth itself is a marker of personhood under the 14th amendment—to be born is to be a person. Second, some political theories, most specifically from Robert Goodin, Eva Kittay, and Alasdair MacIntyre, will argue strongly toward protection of the most vulnerable or most dependent in a society. I will address in pertinent part their writings to demonstrate that they do assume without argument that the most severely mentally impaired are persons. Nowhere in their writings will arguments be made for why such damaged children are persons. It therefore will appear that they, like the legal theories, associate birth within the human species as sufficient for personhood. Section three will address the question of personhood and extreme cases with regard to traditional and new natural law theories. Aquinas, then Grisez, Finnis, and George all will state that humans are in fact persons and carry with them, for that reason alone, a special status. This will include anencephalic children. In the last section, I will place Leon Kass and Hans Jonas together under a category of prudence and argue that Kass and Jonas either explicitly or implicitly argue that an anencephalic child is a person because it is simply too scary not to do so. It will be an act of prudence to state that such a child is a person.

It will be claimed that none of the cases and theories in Chapter Three seem to provide a firm, philosophically sturdy basis for why such a severely damaged child meets
the moral standard that personhood implies. It will be noted that all of the theories fail to stand up to the simple but nevertheless salient criticism of speciesism. That is, whether it be the law, political theories, natural law, or prudential personhood, not one of them can claim that the anencephalic child is a person for any other reason than birth. Being born and being a member of the human species is sufficient for such a status. This not only gives the special status as a matter of birth, but also seems to exclude animals for no other reason than a bias toward humans and against non-humans.

Chapter Four begins the process of moving beyond the insufficient answers given in Chapter Three and toward a philosophically acceptable ground for anencephalic personhood. This chapter includes a turn to the writings of Emmanuel Levinas. This complex philosophy will not be addressed in anything like the depth that is possible. Instead, I will merely flesh out his ideas of alterity and sameness, the face, infinity and transcendence, and why the face is often not recognized in anticipation of using these ideas in Chapter Five. Here, it will be shown that Levinas articulates a human sciences account of personhood by describing in philosophical detail the immediate, pre-theoretical, pre-perceptual encounter with the face of the other.

This chapter begins with alterity, a discussion of the other, as reliant upon an initial recognition of that other. With this recognition comes an understanding that the other, in his radical alterity, cannot be assimilated to me. He cannot be known by me or made same by me. The way that I may first grasp the other will be shown to be by his or her face. This is a sign, a non-anatomical, non-perceptive one of the transcendent infinity of the other. This alterity of the other is so utterly not my own that it cannot be grasped by me. Rather, it can only be encountered as a mysterious infinite presence that is
ineffable but nevertheless acknowledgeable. It will be argued that this presence is in all encounters with the other, but may be forgotten due to prejudice. The initial apprehension can thereby be forgotten and left aside in favor of acculturating factors, etc. But it is nevertheless always there to be awakened, and it does always place upon us an asymmetrical responsibility of giving without expecting remuneration, acknowledgement, etc.

The delineation of Levinas’ philosophy of alterity will now supply in Chapter Five the bases for a discussion of anencephalic personhood as an extreme case in medical ethics. To put this into effect, I will first address five philosophers whom I see as describing an anencephalic child in naturalistic terms, with their varying tests, protocols, or scientific data. Richard McCormick, Mary Anne Warren, Michael Tooley, Jeff McMahon, and Peter Singer all use natural science in order to argue that the child or by extension anyone who lacks the requisite hardware or abilities to engage in certain practices cannot be rendered a person. This will be found to include all anencephalic children, those who lack a higher brain function, those who lack desires for a continued existence, and in many cases all newborns. These five philosophers and their reliance on non-human-sciences accounts for what counts as a person will then provide the launching point to discuss the anencephalic child. In essence, I will argue that, by looking at the wrong data and using the wrong methods, these thinkers “miss” what is immediately before them and what is palpably known by caregivers—that the child is an other, a person with whom I may enter into a relationship.

To do this, Levinas’ philosophy will first address all children, including the anencephalic child, as persons. The anencephalic child will be found, as with non-
damaged children, to have an infinite presence that is not reliant on my acknowledgement. The child’s infinity exists, regardless of its tragic physical impairments. To supplement that, there will be human-sciences proof that the child is a person by looking to the treatment of the child by caregivers who interact with the child. That is, I will try to answer here the question of whether or not the Levinasian philosophy jibes with real circumstances—is it borne out in behavior, etc. I will likewise address other severely damaged persons and their treatment to draw a parallel. These accounts of the treatment of severely damaged patients by family members and caregivers will give evidence that the Levinasian claims have some purchase. Furthermore, I will argue that the relationships that these accounts reveal are indicia of an underlying personhood—that the relationships disclose the personhood that is already somehow grasped by the person encountering a severely damaged person. The relationships in fact are only possible because they piggyback on an often unarticulated, but nevertheless present foundation of personhood.

Finally, Chapter Five and this dissertation will draw to a close with the notion of disengagement. This will require a return to the naturalistic tendencies outlined in Chapter Two in order to explain why certain people who, according to Levinas, once knew the anencephalic child was a person now actually forget it. A disengaged stance, reliant upon naturalistic and not human science data, will be offered as a plausible reason for such distancing from the child. In addition, disengagement will explain overall why there is a tendency in medical ethics (even with non-damaged persons) to ignore embedded and particular natures. Here, the disengagement will be evidenced by caregivers and others who marginalize the textured nature of a person’s life—a life of
narratives, history, embeddedness—in favor of clean, lawlike generalizations about their treatment. Both disengagements indicate an overarching tendency to favor the natural sciences (in checklists as well as lawlike generalizations) over the contexts in which persons live.

The goal here then is to write a dissertation that uses a particularly difficult case in order to highlight the competing claims of naturalism and the human sciences about personhood. If the discussion of the anencephalic child within the competing contexts of the two sciences is effective, it will show that personhood can reasonably be granted to the child because the human sciences more clearly adhere to our narratives, actions, and interpretations. And that the natural sciences, although powerful in their own domain, fail to address adequately basic human relationships.
CHAPTER TWO
TAYLOR AND HABERMAS ON NATURALISM AND THE IMPORTANCE OF THE HUMAN SCIENCES

Is the naturalist affirmation conditional on a vision of human nature in the fullness of its health and strength? Does it move us to extend help to the irremediably broken, such as the mentally handicapped, those dying without dignity, fetuses with genetic defects? Perhaps one might judge that it doesn’t and that this is a point in favour of naturalism; perhaps effort shouldn’t be wasted on these unpromising cases.¹

This unbridgeable semantic chasm between the normatively charged vocabulary of everyday languages in which first and second persons communicate with one another about something and the nominalistic orientation of the languages of science specialized in descriptive statements is grounded in the profound difference between the observer and participant perspectives. These two perspectives are complementary in the sense that not everything that is accessible from the one perspective can be encompassed by the other. This complementarity can be underpinned, in turn, by an epistemological argument that undermines scientistic naturalism’s basic faith in the primacy of the observer perspective.²

Introduction

Personhood more often than not is absent in scientific discussions of humans. To many in the scientific community personhood is a peripheral topic, an insignificant, extraneous concern. In the use of the newer technologies, for example, it is often treated


as at best an oblique, philosophical curiosity. It is never the point of contention. Nevertheless, this chapter will highlight the fact that personhood does exist in the background, the scientific indifference notwithstanding. Personhood waits in the wings, provoking meaningful questions: What does this particular mechanism or procedure mean vis-à-vis human beings; What will the future hold for that human; Is something overlooked in this protocol; Is something forgotten in this proposal; Who is looking after this entity? Personhood questions are embodied in that quiet nudge, that pregnant pause when addressing potential experiments on fetuses, genetic screening for desired traits, or the possibility of eugenic manipulations pre- or post-implantation, etc. These questions are not merely about the biological status of the patient, as a human, having Homo sapiens DNA. No one questions that the material to be addressed is human. Beyond that, however, there is the nagging presence of an “extra” something, an incalculable attribute beyond the DNA, beyond the material—this is more than just matter, more than just stuff, more than just a category member of a biological species.

Articulating this extra something is frankly quite difficult. One possible way to get at it is to note its prevalence among various philosophers, despite their differing assumptions, backgrounds, and schools of thought. For example, there may be a significant difference regarding the thickness of an ontological foundation when addressing “human nature” or “human needs” and yet still involve personal concerns. To this effect, Charles Taylor grounds his view of humanity and personhood in philosophical anthropology and a certain, articulable metaphysical foundation, but Jurgen Habermas speaks of “postmetaphysical” discussions of humanity. Both philosophers nevertheless
have some concern over the use of only scientific mindsets, objective criteria, and third-person vocabulary when human life is addressed. Both Taylor and Habermas are concerned about the loss of something when humanity is addressed without a personal component. (This move—the importation of scientific understandings, goals, assumptions, precision, and measurements of success—will be called “naturalism” in this chapter.) It is this naturalism that “misses” personhood as a human quality because it never even looks for it.

In short, a naturalist temperament or attitude is one that provokes tension between what it sees as (a) the less-acceptable-and-thus-peripheral literary, sociological, anthropological, and philosophical measurements of humanity and (b) the more precise, more quantifiable, more acceptable scientific parameters. A naturalistic preference argues against the less sophisticated-because-less-precise discussions of human nature in the social sciences or humanities. The naturalistic tendency is thus to view the human sciences as clumsy or at best imprecise when addressing human existence. Naturalists hold a premium on precision, certainty, modeling, and quantification. And, as noted, there is no room here for personhood.

This chapter will demonstrate through a detailed description of Taylor and Habermas’ writings (and, briefly, Axel Honneth’s to supplement Habermas’) that personhood simply cannot be ignored. These philosophers are emblematic of the claim that personhood is an issue—even if the writers/thinkers differ in metaphysics, ethics, political theories, etc. That is, I will show that even through differences in philosophy and assumptions, when addressing the role of scientific measures, scientific methods, and
scientific preferences in the analysis of and application to humans, the idea of personhood is always present for a philosopher. It is ineluctable to the philosopher because the philosopher is concerned with both the natural sciences and the human sciences. The philosopher does not cleave off one in favor of the other. Specifically, the widely divergent work of Taylor and Habermas display why naturalistic parameters are so inadequate, and why they are so ethically problematical. At the end of the day, for these philosophers that inadequacy and ethically troubling nature will simply be because personhood is never taken into account.

**Charles Taylor and Naturalism**

I

Taylor has been quite consistent in his view that naturalistic descriptions of human nature are inadequate. He is and has always been opposed to the creeping expectation that the human sciences be more like the neutral, verifiable natural sciences. “One of the defining characteristics of naturalism, as I am using the term is the belief that we ought to understand human beings in terms continuous with the sciences of extra-human nature…so human affairs ought to be maximally described in external non-culture-bound terms.”

The naturalistic penchant is to see the human sciences and humanities as less rigorous, less certain, less acceptable than the more quantitative natural sciences—*unless and until* the former become more like the latter. In no small part, it is

3 Taylor, *Sources of the Self*, 80-81.

4 “He uses the term ‘naturalism’ to denote the belief that because humans are a part of nature, the ways of knowing used in the natural science can and should be transported into the human sciences.” Ruth Abbey, *Charles Taylor* (Princeton: Princeton University Press, 2000), 153.
the battle to maintain these two disciplines, with their attendant methods, as separate that has kept Taylor writing so prolifically for more than 40 years. This work has the detail of an historical exegesis that displays an underlying philosophical anthropology and personhood.\textsuperscript{5}

Taylor describes himself as a “monomaniac,” writing in opposition to “the understanding of human life and action implicit in an influential family of theories in the sciences of man. The common feature of this family is the ambition to model the study of man on the natural sciences.”\textsuperscript{6} Taylor began his post-doctoral career taking on the behaviorism of Skinner and others with their attempts to use scientific methods to understand and translate human behavior. As with all modeling, wherever the differences in the models are serious, then viable comparisons are weak. For Taylor, that is precisely the problem with naturalism’s assumptions about humanity.

Humans, most notably, are not solely objects, but are subjects (or both subjects and objects). Subjects, however, are not amenable to scientific reductions. The naturalist bent does not recognize this.

The philosophy of disengagement and objectification has helped to create a picture of man, at its most extreme in certain forms of materialism, from which the last vestiges of subjectivity seem to have been expelled. It is a

\textsuperscript{5} “Taylor’s philosophical anthropology in hermeneutic terms may be read as an attempt to answer the very basic question, what does it mean to be a person, and secondly, to explicate the peculiarities of being a person in our modern times.” Jussi Kotkavirta, “Charles Taylor and the Concept of a Person,” *Acta Philosophica Fennica*, vol 71, (2002): 68.

picture of man from a completely third-person perspective. The paradox is that this severe outlook is connected with, indeed, based on giving a central place to the first-person stance. Radical objectivity is only intelligible and accessible through radical subjectivity. This paradox has, of course, been much commented on by Heidegger, for instance, in his critique of subjectivism, and by Merleau-Ponty. Modern naturalism can never be the same once one sees this connection, as both these philosophers argue. But for those who have not seen it, the problem of the “I” returns, like a repressed thought, as a seemingly insoluble puzzle…

Thus, according to Taylor, these attempts to isolate the self from the world in order to describe more accurately both the self and the world begin with two false premises—that such an objective detachment is possible, and that it may be achieved in part by means of an atomistic, hyper-reflection. Such endeavors act to deter us from grasping the person himself or herself because they so fundamentally misconstrue human nature: It is not possible to suspend human connectedness with the world in order to examine ourselves; nor is it possible to understand the world by some sort of disengaged inner-discovered certainty. “[O]ur first self-understanding was deeply embedded in society. Our essential identity was as father, son, and so on, and as a member of this tribe. Only later did we come to conceive of ourselves as free individuals first.”

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8 I will address engaged, party-dependent, and self-interpreting aspects of human subjectivity below. For now, note that the detachment and reflection Taylor refers to is a form of disengagement. “‘Disengagement’ here is a term of art, meaning a stance towards something which might otherwise serve to define our identity or purposes, whereby we separate ourselves from it by defining it as at best of instrumental significance.” Charles Taylor, “Inwardness and the Culture of Modernity” in *Philosophical Interventions in the Unfinished Project of Enlightenment*, Axel Honneth, et al., eds. (Cambridge: MIT Press, 1992), 98.

9 Charles Taylor, *Modern Social Imaginaries* (Durham: Duke University Press, 2004), 64-65. There is also much to be mined here from Feminist literature. Some Feminists have described for us a relational ontology wherein the person can only learn about himself or herself through others. In this sense, “I” is a correlative of “you.” “I” may never be understood in isolation. “The ‘I’ cannot think, or even exist, unless
not available to embedded persons. Fundamentally, the subject that the naturalist attempts to study via scientific methods is *already* a context-laden life with a fundamental “relation between the self and morals” of background pictures.\(^{10}\) That symbiosis cannot be breached. The two “turn out to be inextricably intertwined.”\(^{11}\)

Boiled down, naturalism relies upon an analogy between Discipline(s) A, with its attendant emphases, problems, protocols, procedures, texts, questions, methods, proofs, verification, etc., and Discipline(s) B, having its own set of these things. The analogy made between A and B then is an attempt to state that B (here the social sciences and humanities) is sufficiently enough like A (here the natural sciences) that B therefore *ought* to act in a way similar to A. That is, the argument either explicitly or implicitly

\(^{10}\) Taylor, *Sources of the Self*, x.

\(^{11}\) Taylor, *Sources of the Self*, 3. The moral life for Taylor is basically the life that is oriented toward goods. As noted, this ontology is a major difference between his critique of naturalism and Habermas’ philosophy. Parenthetically, one possible way to bridge the gap between Taylor and Habermas may be to adopt what Stephen K. White termed a “weak ontology” regarding human nature. See his *Sustaining Affirmation: The Strengths of Weak Ontology in Political Theory* (Princeton: Princeton University Press, 2000), 8: “Weak ontologies respond to two pressing concerns. First there is the acceptance of the idea that all fundamental conceptions of the self, other, and world are contestable. Second, there is the sense that such conceptualizations are nevertheless necessary or unavoidable for an adequately reflective ethical and political life. The latter insight demands from us the affirmative gesture of constructing foundations, the former prevents us from carrying out this task in a traditional fashion.” Specifically, a weak ontology would be the history of language, mortality and birth, and backgrounds or embeddedness accompanying a person. White makes specific reference here to the work of Taylor and its articulation of sources and reliance on Heidegger’s discussions of embeddedness.
holds that A’s is a better way (if not the only real one) of doing things than the one B uses.

For naturalism, the meaning-dimension of human existence is ultimately a realm of subjective illusion. It assumes that the layers of pragmatic, linguistic, moral, social and religious meaning that appear to constitute human agency are really something else, something that is only properly understood when considered from the point of view developed by modern natural science.  

Taylor rejects this naturalistic reduction of B’s rich tapestry into A’s strictures. Taylor, in insisting “on the development of different ways of understanding the social world from those deployed for the natural world…is following Aristotle’s point about the need to adapt one’s expectations to the object or area of study.” This is particularly true with numbers, as Arendt reminds us. “For the sciences today have been forced to adopt a ‘language’ of mathematical symbols…[Scientists] move in a world where speech has lost its power.” Because B is not like A, however, it is inappropriate if not prejudicial to

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12 Nicholas K. Smith, *Charles Taylor: Meaning, Morals, and Modernity* (Cambridge: Polity Press, 2002), 6-7. One reason that natural science privileges itself over the human sciences and humanities is its use of technology and instrumental reason and their attendant precision, efficiency, and predictability. I will address these topics below in Section V.

13 Abbey, Charles Taylor, 153. One such place (there are others) where Aristotle states this is *Nicomachean Ethics* I.iii: “For it is the mark of the trained mind never to expect more precision in the treatment of any subject than the nature of that subject permits; for demanding logical demonstrations from a teacher of rhetoric is clearly about as reasonable as accepting mere plausibility from a mathematician” (Trans. J.A.K. Thompson, revised by Hugh Treddenick, [London: Penguin Books, 2004], 5). Abbey explains this well: “Taylor proposes that the final goal of knowledge in the human sciences differs from that in the natural sciences. In the former, inquirers should realize that ultimate, definitive knowledge of their subject is impossible, whereas natural scientists aspire with more justification to develop a theory that is adequate for explaining the object in all its future states…In the social sciences, by contrast, one’s understanding of a society or group depend on who is being interpreted, and different members of society will bring different perspectives to bear on their social reality, thus changing the inquirer’s understanding of that society.” Charles Taylor, 159. For the retreat to “reductive explanation” within naturalism, see Taylor’s “Reply and re-articulation” in *Philosophy in an Age of Pluralism*, 235-236. Examples he gives there of reductive endeavors include behaviorism and artificial intelligence.

make B’s ways conform to A’s. In addition, it also misses what B has to offer *qua* B. In addition, B, with its connections to the fundamental moral orders that Taylor argues humans do not create but rather adhere to, is an essential element to human flourishing. Naturalism nevertheless attempts to squeeze out such orders as mere speculations at best. Personhood as some sort of occult, non-verifiable, non-objective concept can therefore not be part of the discussion. Taylor, however, embraces personhood as part of his overall metaphysical ethics.

II

The naturalist has a serious distrust of ontology, including in his ethics. Ethics within the naturalistic framework is likely then to have a radically subjective view. One such attempt to explain morality and human nature without ontology is John Mackie’s error theory. Mackie views moral values from a biological and sociological viewpoint “in which one acknowledges that certain moral reactions had (and have) obvious survival value…”¹⁵ Moral values do not inhere in the world. They are non-demonstrable human constructs necessary for survival—in essence, they allow humans to get along. They do not “match up” with any permanent or abiding superhuman natures, etc. Instead, the proper way to view ethics is by making use of the rigors of science and of empirical explications we may glean from biology and psychology. This counters the adherents of subjective values who cling to non-empirical entities.

Mackie answers such a thesis with his “error theory”—noting that “although most people in making moral judgments implicitly claim, among other things, to be pointing to

something objectively prescriptive, these claims are all false.”\(^{16}\) Nor is Mackie willing to address some sort of intuitionism to avoid ontology. Unlike others before him, Mackie is not satisfied with an intuitional grasp of moral truths. Contrary to any appeal to a moral ontology or the intuition of moral first principles, he instead asserts his more fundamental, empirical understanding of our normative ethics. Consistent with his disdain for ontology and his incredulity regarding intuitionism, he offers a moral skepticism, where he argues that values are neither objectively true nor intuited—they are, upon reflection, more likely the values of the person holding them.\(^{17}\) That is, the only scientifically rigorous way to address ethics is to apply the rigors of scientific methods to pare away discussions of indemonstrable entities or non-empirical intuitions and instead argue that ethics is malleable, based on subjective preferences that we must accept in the end as workable. Through this negative theory, where Mackie tells us what ethics is not, he leaves us with a remainder: ethics is thus reduced to a pragmatism of

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\(^{16}\) J. L. Mackie, *Ethics: Inventing Right and Wrong* (London: Penguin Books, 1977), 35. For completeness sake, I will just briefly mention that Mackie anchors his error theory by using arguments from relativity and queerness. The former notes that moral practices and moral codes vary widely geographically and historically and are better explained by assuming non-objective moralities that conform to local needs and circumstances than that so many were wide of an objective mark (See Mackie, *Ethics*, 37). The latter argument relies upon the strangeness of moral values as objective. If a value is objective, is an entity, but is nevertheless incapable of being empirically known in the manner say of physical objects, how can it be grasped except by means of some special non-empirical intuition? This would make them queer entities, and attributing objectivity to them would require supposition of their existence beyond any factual evidence in support of that claim. That is, the claim for objectivity here requires a few steps beyond empirical data and facts. For Mackie, the simplest theory is preferred, and that is that such non-empirically grasped entities are not amenable to the senses as part of the world because they simply are not part of the world (See Mackie, *Ethics*, 38-41).

\(^{17}\) Mackie makes clear that his moral scepticism does not automatically render him a subjectivist. “The denial that there are objective values does not commit one to any particular view about what moral statements mean, and certainly not to the view that they are equivalent to subjective reports.” Mackie, *Ethics*, 18. That is, moral statements *may* be merely subjective, but denying them an objective status doesn’t mean that they are *necessarily* so. His view says what there isn’t, not what there is.
sorts. At this point, we are able to “justify some rules as more conducive to survival and
general happiness…Hence in some sense, these rules are ‘a good thing.’”

Against this position, Taylor holds that the entire way of thinking, reasoning, and
arguing offered by us

about morality supposes that our moral reactions have these two sides: that
they are not only ‘gut’ feelings but are also implicit acknowledgments of
claims concerning their objects. The temptations to deny this, which arise
from modern epistemology, are strengthened by the widespread
acceptance of a deeply wrong model of practical reasoning, one based on
an illegitimate extrapolation from reasoning in natural science.

There are no guideposts in a world without richer, deeper ontological moorings. Taylor
sees Mackie’s views as of a piece with versions of the Humean is/ought dichotomy. The
naturalism in Mackie is emblematic of a “modern naturalism and subjectivism” where
“[g]oods or ‘values’ were understood as projections of ours onto a world which in itself
was neutral…” That is, with Mackie, values, ethical guideposts, etc., are not part of the
furniture of the world. They are not entities to be addressed in the indicative, but are
rather better, more properly understood as prescriptive and normative claims. At best,
they are helpful projections from us.

As Mackie clearly states, his is a negative theory. Taylor offers instead a
qualified positive theory: values are more than some socio-biological heritage or some

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18 Taylor, *Sources of the Self*, 60.


20 Taylor, *Sources of the Self*, 53. He continues: “This projection could be seen in two ways. It could be
something we did or, ideally, something we could bring under voluntary control.” *Sources of the Self*, 53.
arbitrary construct of preferences. Ethics adheres to objective ideals and foundations that correspond to shared understandings.

Moral argument and exploration go on only within a world shaped by our deepest moral responses…just as natural science supposes that we focus on a world where all our responses have been neutralized. If you want to discriminate more finely what it is about human beings that makes them worthy of respect, you have to call to mind what it is to feel the claim of human suffering, or what is repugnant about injustice, or the awe you feel at the fact of human life. No argument can take someone from a neutral stance towards the world, either adopted from the demands of ‘science’ or fallen into as a consequence of pathology, to insight into moral ontology. But it doesn’t follow from this that moral ontology is a pure fiction, as naturalists often assume. Rather we should treat our deepest moral instincts, our ineradicable sense that human life is to be respected, as our mode of access to the world in which ontological claims are discernible and can be rationally argued about and sifted.21

The naturalist’s aversion to ontology, as Taylor understands it, is thus one further indication of their emphasis on the measurement of the humanities and social sciences with the “yardstick” of the natural sciences. The modern penchant in science has “left us a universe of whose qualities we know no more than the way they affect our measuring instruments…”22 This person espousing scientific structures and protocols and methods will therefore look upon any morality based on or in correspondence with even thin theories of the good as likely suspect.23

21 Taylor, Sources of the Self, 8.

22 Arendt, The Human Condition, 261.

23 I do not have the space here to address Taylor’s exceedingly rich discussions of constitutive goods, hypergoods, transcendent goods, and strong evaluations. These certainly will intersect with the context-laden discussions in the sections below, but they also indicate a moral realism of a kind repugnant or inconvenient to the naturalist: “[W]e acknowledge second-order qualitative distinctions which define higher goods, on the basis of which we discriminate among other goods, attribute differential worth or importance to them, or determine when and if to follow them. [These are “hypergoods”], i.e., goods which not only are incomparably more important than others but provide the standpoint from which these must be
What Mackie displays is what a naturalistic ethics would give us. First, the human is reduced to that which is measurable and observable. Ethics and values then are not observable, except in behavior and human rankings ("I choose to help A or do A over B..."), so finally any discussion of ethics relegates it to a form of subjectivism (pace Mackie’s claims that his is not a subjectivist ethics). This resultant ethics is thus in a way incommunicable in the way that all subjectivist ethics are incommunicable. The individual person is in a way walled off, left in his or her own subjective universe/microcosm.

III

Part of the ontology that Taylor relies upon includes frameworks that act to orient individuals in moral space. Taylor holds that contemporary moral philosophies and philosophies of action deny the person the ability to articulate and choose in any reasonable way. With their single criteria or their emotivist bases, for example, such theories make choices either formulaic or arbitrary. The person in such an environment is disoriented—they have lost their way. What he or she lacks is the basic human need of moral maps and their attendant evaluations. “What we are constantly losing from sight here is that being a self is inseparable from existing in a space of moral issues, to do with identity, and how one ought to be. It is being able to find one’s standpoint in this space, being able to occupy, to be a perspective in it.”

24 Our understandings of self are always weighed, judged, decided about” (Sources of the Self, 63); “[W]e are only selves insofar as we move in a certain space of questions, as we seek to find an orientation to the good” (Sources of the Self, 34).

24 Taylor, Sources of the Self, 111.
in a context, in a time, within an understood history. We see ourselves with a before and an after, with a projected future and a determining past. Our moral spaces are full of the places where we have been and with the persons and groups who have shaped us. “Values are fixed in the face of the desires of individuals as individuals; but they do depend on the desires that derive from the fundamental orientation of individuals as members of social groups.”

Moral space is like physical space. “We know where we are through a mixture of recognition of landmarks before us and a sense of how we have traveled to get here…”

Humans do not create themselves, but instead are properly understood as embedded in certain webs of significant relationships, languages, and cultures that make each one a self, a person.

To ignore this, as, say, a quantitative or biological discussion of human beings does, imperils any hope of an expressive moral articulation and thus an authenticity. “[T]he naturalist supposition that we might be able to do without frameworks altogether is wildly wrong…On this picture, frameworks are things we invent, not answers to questions which inescapably pre-exist for us, independent of our answer or inability to

25 Taylor tends to use the terms self, person, subject, and identity, and those of selfhood and personhood, interchangeably…” Ruth Abbey, “Charles Taylor—Sources of the Self: The Making of the Modern Identity,” in Central Works of Philosophy, vol 5: The Twentieth Century: Quine and After, ed. John Strand (Montreal: McGill University Press, 2006), 272. It makes sense for Taylor not to be overly picky about these terms because they all cohere with his philosophical anthropology—viz. the human is a self-interpreting animal, only properly understood as a subject within an embedded world, not of his making, that orients him, and give him a sense of his identity by meaningful relationships. All of this is what a person is. All of this is what naturalists like Mackie miss.

26 Gary Gutting, Pragmatic Liberalism and the Critique of Modernity (Cambridge: Cambridge University Press, 1999), 141.

27 Taylor, Sources of the Self, 48.
answer.” While the naturalist may attempt, like Mackie, to pare away such frameworks and orientations as non-empirical and non-neutral, Taylor notes that such an external view misconstrues the very orienting nature of moral decisionmaking. Ethical boundaries and spaces are not invented; they are discovered and lived within. Taylor makes the point with regard to religion in his new book, *A Secular Age*.

> [B]elief in God isn’t quite the same thing in 1500 and 2000…This emerges as soon as we take account of the fact that all beliefs are held within a context or framework of the taken-for-granted, which usually remains tacit, and may even be as yet unacknowledged by the agent, because never formulated. This is what philosophers, influenced by Wittgenstein, Heidegger or Polanyi, have called the “background.”

Such backgrounds are not the product of choices, but are the milieux in which the person finds himself or herself. To lose them is to lose one’s very self. The naturalist completely misses this. “If any view takes us right across the boundary and defines as normal or possible a human life which we would find incomprehensible and pathological, it can’t be right. It is on these grounds that I oppose the naturalist thesis…”

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28 Taylor, *Sources of the Self*, 30. “[Taylor] presents a description of how our lives would be if there were not organized by some sense of moral orientation or strong value. To be without any sense of strong value, as Taylor depicts it, is to suffer a painful and frightening emptiness.” Smith, *Charles Taylor*. 93.

29 Nor can we attempt to analyze the backgrounds neutrally: “We cannot turn the background from which we think into an object for us. The task of reason has to be conceived quite differently: as that of articulating this background, ‘disclosing’ what it involves.” Smith, *Charles Taylor*, 477-478. The Heideggerian notion of disclosure is obvious here and Smith notes it. I will address it briefly in Section IV.


31 Taylor, *Sources of the Self*, 32. See also p. 41: “As long as the naturalist picture, by which having a moral outlook is an optional extra, continues as plausible, the place of these frameworks in our lives will be obscured. Seeing these qualitative distinctions as defining orientations has altered all this.”
From these observations, the very question of what constitutes a person or self is raised. “A human being exists inescapably in a space of ethical questions; she or he cannot avoid assessing himself or herself in relation to some standards. To escape all standards would not be a liberation, but a terrifying lapse into total disorientation. It would be to suffer the ultimate crisis of identity.”32 That is, having a self, a life with a trajectory is a question of orientation within understood spaces. Personal life is internally understood—that is, a subjective orientation vis-à-vis an external, non-created, non-subjective horizon. Ignoring this, the modern tradition defines the self “in neutral terms, outside of any essential framework of questions.”33 It is, as it were, an act of disengagement to take the self to be some sort of “point” on a grid that may be examined and understood as separate and neutral (Taylor calls this a “punctual self”). The separability, however, divests the self of the very aspects that indeed make it a self or person—relationships, values, a moral orientation, a place within a value structure, a directedness.

Taylor sees the work of Derek Parfit’s *Reasons and Persons* as indicative of such understandings. “Parfit defends some version of the view that a human life is not an apriori unity or that personal identity doesn’t have to be defined in terms of a whole life.”34 That is, his view holds that the human is amenable to a disengagement whereby

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33 Taylor, *Sources of the Self*, 49.

34 Taylor, *Sources of the Self*, 49. In his work on personhood, John Kavanaugh also singles out Parfit’s ideas of the self as problematic for a personal understanding: Parfit’s book is “bereft of any sense of personal, lived experience. He’s most comfortable and reassured with thought experiments—machine
one may look at one’s self and analyze the self apart from webs of meaning and
relationships, apart from a world already there. Not only does this miss the communal
aspects to a self that Taylor has argued for for years, but it completely misconstrues
human identity as divisible from internal self-interpreting aspects. Taylor makes the
forceful claim that doing without self-orienting frameworks is impossible. He asserts that

living within such strongly qualified horizons is constitutive of human agency, that stepping outside these limits would be tantamount to stepping outside what we would recognize as integral, that is, undamaged human personhood. Perhaps the best way to see this is to focus on the issue that we usually describe today as the question of identity. We speak of it in these terms because the question is often spontaneously phrased by people in the form: Who am I? But this can’t necessarily be answered by giving name and genealogy. What does answer this question for us is an understanding of what is of crucial importance to us. To know who I am is a species of knowing where I stand. My identity is defined by the commitments and identifications which provide the frame or horizon within which I can try to determine from case to case what is good, or valuable, or what ought to be done, or what I endorse or oppose.\(^{35}\)

Simply stated, the expressive nature of the human person, the self, living within the rich
texture of a horizon, is non-negotiable to human self-understandings. This is not the
optional extra that some might claim. Instead, to attempt to study the human as some
point on a graph, as some psyche separable from the very communal world that teaches
him or her what life is about and how it’s measured in terms of high or lows—to make
such a study is to be fundamentally flawed at the outset. “As persons we live…in a world
filled with personal meanings and values that cannot be conceived from a disengaged

\(^{35}\) Taylor, *Sources of the Self*, 27.
view…Only by sharing and interpreting one’s meanings with other persons may one learn to recognize, understand, and interpret one’s own emotions, volitions, beliefs…”

An elemental aspect to such a rich, embedded and communal nature of persons is a shared language. Languages are the product of public communities, with words connected in particular phrases and usages that are simply not interchangeable. The language used and the conversations engaged in are constituting in a way of the relational self. “This has become an important point to make, because not only the philosophic-scientific tradition but also a powerful modern aspiration to freedom and individuality have conspired to produce an identity which seems to be a negation of this.”

Taylor calls these “webs of interlocution” and they constitute in a sense a transcendental condition for selfhood. All together, the possible experience of selfhood is reliant upon language, which further is reliant upon communities, common understandings, common practices, common contexts. “As men we are self-defining beings, and we are partly what we are in virtue of the self-definitions which we have accepted, however we have

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36 Kotkavirta, “Charles Taylor and the Concept of a Person,” 69. Stephen White has a nice phrase for this phenomenon: the Teflon subject. “At issue is the assertive, disengaged self who generates distance from its background (tradition, embodiment) and foreground (external nature, other subjects) in the name of an accelerating mastery of them. This Teflon subject has had a leading role on the modern stage” (Sustaining Affirmation, 4).

37 Taylor, Sources, 35. Language is necessary for personhood. “There is no way we could be inducted into personhood except by being initiated into a language. We first learn our languages of moral and spiritual discernment by being brought into an ongoing conversation by those who bring us up. The meanings that the key words first had for me are the meanings they have for us, that is, for me and my conversation partners together” (35).

38 See Taylor, Sources 36-39. “In speaking of a ‘transcendental’ condition here, I am pointing to the way in which the very confidence that we know what we mean, and hence our having our own original language, depends on this relating. The original and (ontogenetically) inescapable context of such relating is the face-to-face one in which we actually agree. We are inducted into language by being brought to see things as our tutors do” (Sources, 38).
come by them.”³⁹ Within such a framework, the arid, neutral, quantitative, naturalistic claims seem inapt. What possible naturalistic means are available to discern what certain words like “justice” or “fair” or “valuable” hold within a person’s framework? The words, rather, give the person an ability to interpret his or her life subjectively within embedded frameworks, within the “backgrounds” Heidegger and Wittgenstein assume.⁴⁰

Humans are fundamentally self-interpreting. Picking up the point from Gadamer’s hermeneutics, Taylor argues that the internal attributes of selves not only are essential to the orientation of that self, but are not amenable to scientific measurements or inside/outside disengagements. “[T]hings in the personal world are always filled with significances that cannot be analyzed merely in terms of representative consciousness.”⁴¹

As noted above, his first book was a response to behaviorist assumptions about humans, who draw their data from purely external phenomena. Such data ignore the interpretive aspects to humanity. (They also ignore the expressive nature of the self I will explore in more detail below). Unlike the natural sciences, Taylor argues that human sciences are

³⁹ Charles Taylor, “Interpretation and the Sciences of Man,” in Philosophical Papers 2: Philosophy and the Human Sciences, 54. See also Sources of the Self, 99: “It is a form of self-delusion to think that we do not speak from a moral orientation which we take to be right.” He brings in Wittgenstein’s discussions of private and public languages here as well.

⁴⁰ I will revisit languages below in Section IV. I raise them here to place them within the communal, background aspects of personhood and the self. Below, they will be linked with the expressive self and his/her voice. As typical with Taylor’s work, all of this is of a piece and it is more profitable to look at emphases rather than divisions or boundaries.

⁴¹ Kotkavirta, “Charles Taylor and the Concept of a Person,” 74. Taylor states this clearly in his introduction to Philosophical Papers I: “A being who exists only in self-interpretation cannot be understood absolutely; and one who can only be understood against the background of distinctions of worth cannot be captured by a scientific language which essentially aspires to neutrality. Our personhood cannot be treated scientifically in exactly the same way we approach our organic being. What it is to possess a liver or a heart is something I can define quite independently of the space of questions in which I exist for myself, but not what it is to have a self or be a person” (3-4).
party dependent, where subjective biases will affect interpretations. “[T]he knowledge gained in the human sciences is ‘party dependent’: Taylor accepts Gadamer’s point that the inquirer’s own knowledge, beliefs, and values cannot but shape his or her interpretation of a particular society, group, or event.”

There is always a “view from somewhere” that affects work there. The natural sciences assert, on the other hand, that they may obtain some neutral measurements, etc. in a way simply impossible in the human sciences. Naturalism “does not allow any account at all in terms of identity and self-interpretation, and it deems its epistemological grounds sufficient.”

Even if the Aristotelian admonition is correct here and the natural sciences can and should call for more precision than the human sciences, it does not follow that such precision also means that one ought also to translate the humane into the natural. To do so would “miss” the essential, party dependent part of the human sciences.

To drive the point home, self-interpretation should not only be seen as orienting and elemental, but as inescapable. That is, the human animal is not a passive recipient of mores and contexts and practices; the human self is itself a relation—relating the self within the practices and the correspondence of the practices to the self’s expressions and identity. “This is an animal whose emotional life incorporates a sense of what is really important to him, of the shape of his aspirations, which asks to be understood, and which is never adequately understood. His understanding is explicated at any time in the

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42 Abbey, Charles Taylor, 160.

43 Taylor, Philosophical Papers I, 6.
language he uses to speak about himself, his goals, what he feels and so on…”

All told, the person understands his self, his identity, his emotional commitments by languages within already-present contexts against which he interprets his expressive self.

**IV**

Language both displays and acclimates the expressivist nature of persons mentioned above. That is, to be a self is to be a self *expressing* that self.

[M]y discovering my own identity doesn’t mean that I work it out in isolation, but that I negotiate it through dialogue, partly overt, partly internal, with others. That is why the development of an ideal of inwardly generated identity gives a new importance to recognition. My own identity crucially depends on my dialogical relations with others.

Taylor sees the post-Cartesian scientific investigations as giving us an idea of a self that had precision and certainty, apart from concrete relationships or varying contexts. These investigations prized objectivity in the quest for viable science and self-knowledge. This is manifest, for instance, in the Cartesian desire for clear and distinct ideas upon which a pure science may be based. With Descartes and his followers, to understand things “in the absolute perspective is to understand them in abstraction from their significance for you. To be able to look on everything, world and society, in this perspective would be to neutralize its significance…”

The Archimedean point that Descartes was after is a firm,

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45 Charles Taylor, *Multiculturalism* (Princeton: Princeton University Press, 1994), 34. For a similar view, see Seyla Benhabib, “The Utopian Dimension,” 396: “Our relations to the other are governed by the norm of complementary reciprocity: each is entitled to expect and to assume from the other forms of behavior through which the other feels recognized and confirmed as a concrete, individual being with specific needs, talents, and capacities.”

46 Charles Taylor, “The Concept of a Person,” in *Philosophical Papers I: Human Agency and Language*, (Cambridge: Cambridge University Press, 1985), 112. I will revisit this question of disengagement below
unshakable ground upon which certainty might be grasped for the sciences. As such, this
ground cannot accommodate the crooked timber of humanity. It cannot display or reveal
or manage the various personal aspects of, say, human narratives that are elemental to an
expressive, identity-laden self. It bleaches those out in order to arrive at certainty. The
variations of human needs and human viewpoints are factored out in proper science: “The
content of knowledge should not vary with the person who is seeking it; it can’t be party-
dependent.”47

After Descartes, this neutrality was carried up by Locke’s discussion of a punctual
self, who guides himself seemingly without criterion from a tabula rasa to a unique
human. For such a self “[t]here are no innate ideas, not even an innate reality sense or
tendency to assent to reality as truth…. [The Lockean subject] is essentially none of his
properties. What defines him is the abstract power to remake those properties.”48 This
self believes that it can disengage from an embeddedness, from a world with which it has
great interest, and examine itself coldly, detachedly, neutrally. “What is new in the
modern sense of the self is the faith that I can properly understand and define myself in
the absence of any attachment to this wider and more ultimate reality that surrounds me.

when I address hermeneutics and self-interpreting animals. In addition, following this passage, Taylor
addresses the freedom that such non-connectedness allows for that intersects with instrumental views of
human nature and nature in general. I will address those below as well. See also his “Justice After Virtue”
in After MacIntyre: Critical Perspectives on the Work of Alasdair MacIntyre, John Horton and Susan
Mendus, eds. (Notre Dame: Notre Dame Press, 1994), 19; and his A Secular Age, 283-286.

47 Charles Taylor, “Understanding the Other: A Gadamerian View on Conceptual Schemes,” in Gadamer’s
Century: Essays in Honor of Hans-Georg Gadamer, Jeff Malpas, Ulrich Arnswald, and Jens Kertscher,

Hence the image of the modern self as disengaged. The modern disengaged self is in line with the Cartesian dichotomy in human metaphysics and with the modern preoccupation with certainty in science. It is manifest in the mathematical attachment to science, in the assertion of primary qualities over secondary qualities, in the mechanization and quantification of nature, and in the assertions made within the representational theory of perception. Taylor rejects any such precision and objectivity in the human sciences. In fact, he believes that such quests cloud any real self-understanding.

In contrast to this Cartesian/Lockean disengagement, Taylor references Heidegger’s treatments of embeddedness, the language arguments of Wittgenstein, and the discussions of the body in Merleau-Ponty. All three of these reject any at-a-remove views espoused by modern epistemology and assert instead one form or another of an “already-there” aspect to human beings.

They all start from the intuition that this central phenomenon of experience, or the clearing, is not made intelligible on the epistemological construal, in either its empiricist or rationalist variants. That construal offers an account of stages of the knower consisting of an ultimately incoherent amalgam of two features: (a) these states (the ideas) are self-enclosed, in the sense that they can be accurately identified and described in abstraction from the “outside” world (this is, of course, essential to the whole rationalist thrust of reflexive testing on the grounds of knowledge); and (b) they nevertheless point toward and represent things in that outside world.  

49 Ruth Abbey, Charles Taylor, 81.

50 Charles Taylor, “Overcoming Epistemology,” in Philosophical Arguments (Cambridge: Harvard University Press, 1995), 9. For Taylor, there is no “private access to their inner world by introspection. In order to have an access to the ‘inner’ world a person has to express herself by using language. There is no private but only more or less ‘public’ access to one’s mental reality. Only by sharing and interpreting one’s meanings with other persons may one learn to recognize, understand and interpret one’s own emotions,
And just as the notion of the agent underpinning the idea of disengagement is rendered impossible, so is the punctual notion of the self. Heidegger and Merleau-Ponty both show how the inescapability of the background involves an understanding of the depth of the agent...

Thus, according to Taylor, these attempts to isolate the self from the world in order to describe more accurately both the self and the world begin with a false premise—that such an objective detachment is even possible. Such attempts act in a way to deter us from grasping the person because they so fundamentally misunderstand human nature. It is not possible to suspend our connectedness with the world in order to examine ourselves. There is no second order stance we may purchase in order to observe our first order selves—to give us an objective take on our embeddedness within a culture, or our languages, or our embodied nature. Human persons cannot disengage from living in order to observe detached internal representations of “outside” entities. Instead, humans live within horizons of significance, which even move with them, like languages:

“[H]orizon” functions somewhat like “language.” One can talk about “language of modern liberalism,” or the “language of nationalism,” and point out the things they cannot comprehend. But these are abstractions, freeze frames of a continuing film. If we talk about the language of Americans or Frenchmen, we can no longer draw their limits apriori; for the language is identified by the agents who can evolve.

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volitions, beliefs, and other mental phenomena.” Kotkavirta, “Charles Taylor and the Concept of a Person,” 69. See also Taylor, A Secular Age 558-559.


52 See Taylor’s “Lichtung or Lebensform: Parellels between Heidegger and Wittgenstein,” in Philosophical Arguments, 61-78.

53 Taylor, “Understanding the Other,” 290.
To understand a self is to understand the background against which and within which they express themselves.

This expressive self answers a unique calling but must do so within a web of relations. The true expression of the expressive person is indeed possible only by engaging in significant commitments with others. The expressive self that Taylor describes is not some type of personal ejaculation of ideas and opinions, but is a self whose texture is modified by and only properly developed and understood within a community.

This is all ultimately linked with the idea of each person having a voice uniquely their own. Our inner voice defines us, separates us from anyone else in the world. Lost in the crowd of others, in a mere category of other humans, that voice may diminish and die. The moral ideal of elaborating on and developing a personal voice accords crucial moral importance to a kind of contact with myself, with my own inner nature, which it sees as in danger of being lost, partly through the pressures toward outward conformity, but also because in taking an instrumental stance to myself, I may have lost the capacity to

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54 Taylor draws the expression “expressive self” from Robert Bellah’s Habits of the Heart: Individualism and Commitment in American Life (Berkeley: University of California Press, 1996). “The expressive culture, now deeply allied with the utilitarian [analytical], reveals its differences from earlier patterns by its readiness to treat normative commitments as so many alternative strategies of self-fulfillment. What has dropped out are the old normative expectations of what makes life worth living. With the freedom to define oneself anew in a plethora of identities has also come an attenuation of those common understandings that enable us to recognize the virtues of the other.” Bellah, Habits of the Heart, 48. Bellah draws a distinction between The Manager, who seeks to analyze everything and The Therapist, who seeks a radical self-expression. See also Taylor, Sources, 508-510. (The Manager and Therapist are also archetypes in MacIntyre’s After Virtue, 2d ed. [Notre Dame: Notre Dame Press, 1984], 26-32.) While Bellah addresses the non-communal self’s “utilitarian” understandings, Taylor will describe the same phenomenon and use the Weberian term “instrumental” and its various forms. In The Ethics of Authenticity (Cambridge: Harvard University Press, 1991), Instrumental Reason is the second of his three modern malaises. Taylor’s expressive self, unlike Bellah’s, is also the product of the Romantic emphasis on voice and unique calling. Bellah’s expressive self does not seem to have the internal unique potential that Taylor relies upon for his ethics. At times, Bellah’s self comes across as self-absorbed. For Taylor, this is not the logical manifestation of attributing such an expressive self to people.
listen to this inner voice. And then it greatly increases the importance of this self-contact by introducing the principle of originality: each of our voices has something of its own to say. Not only should I not fit my life to demands of external conformity; I can’t even find the model to live by outside myself. I can find it only within.  

Any meaningful understanding of an individual means in some way tapping into the area reserved to his or her unique personhood. There the individual perfects himself through shared interpretations with others, not in some alienated self-fulfillment.

Authentic selves are a flowering, are an opening up of an incipient voice. That voice and the self-knowledge necessary for the perfection of that voice is greatly advanced by sharing interpretative schemes with another person. To do this is to share horizons.

We learn to move in a broader horizon, within which what we have formerly taken for granted as the background to valuation can be situated as one possibility alongside the different background of the formerly unfamiliar culture. The ‘fusion of horizons’ operates through our developing new vocabularies of comparison, by means of which we can articulate these contrasts. So that if and when we ultimately find substantive support for our initial presumption, it is on the basis of an understanding of what constitutes worth that we couldn’t have possibly had at the beginning. We have reached the judgment partly through transforming our standards.

As I have been using Taylor to say so far, each person has a bundle of interlocking aspects—self, identity, embeddedness, moral topography, language, voice, expressivism, etc.—that constitutes an “already-there” quality to their lives that orients them and

55 Taylor, Ethics of Authenticity, 29.

56 Taylor, Multiculturalism, 67. Again, Taylor is addressing group recognition and the fusing of horizons between an individual and another culture, but I am here referring to it as between individuals. “When a person encounters another in a face-to-face conversation or reads from a text for the first time or studies an historical era or event or engages with people of another culture, different horizon is encountered” Abbey, Charles Taylor, 161-162.
against which they, as self-interpreting animals, measure and know themselves. In a sense, this is clearly like the Gadamerian notion of horizons Taylor relies on. “[T]he horizon refers to the zone of meaning in which a person operates…[T]his is heavily influenced by the individual’s culture and comprises many beliefs that are simply taken for granted and considered natural or incontrovertible.” The subjectivity of the individual puts him within a structure, a viewpoint, a landscape that gives his life a direction.

V

A final element of naturalism that Taylor address is instrumental reason. “[I]n the natural sciences the aim of understanding is instrumental; scientists believe that understanding the natural world better will help them to control it.” By instrumental reasoning, Taylor understands means-toward-ends reasoning that privileges economical modeling, quantifiable analyses, and efficiency. Here, there is an emphasis on cost/benefit modeling that takes components, proposed procedures, or certain investments of time and/or money and requires a quantifiable justification for the endeavor or equipment. Like the proverbial machine with a crank, here the proposed expenditures of time or money are put through a certain algorithm or placed on some discernible matrix and the numbers are allowed to speak for themselves (set it up, pull the crank, and the clean/clean/non-debatable answer comes out). Depending on the outcome sought, the

57 Abbey, Charles Taylor, 161.

58 Abbey, Charles Taylor, 160.
highest or lowest number wins out. The benefit of course is the clarity in the procedure and in the efficiency and certainty imparted to the answer.

Beyond the quantitative limitations, there is a danger that occurs when that type of reasoning is directed at ourselves, at how we view our own lives. In desires to remake ourselves we may “take an instrumental stance at [our] given properties, desires, inclinations, tendencies, habits of thought and feeling, so that they can be worked on, doing away with some and strengthening others, until one meets the desired specifications.”

The human animal, self-interpreting and with an expressive voice unique to himself or herself, nevertheless may attempt to ignore that textured self in favor of the neutrality that instrumental reason offers.

The life of instrumental reason lacks the force, the depth, the vibrancy, the joy which comes from being connected to the élan of nature. But there is worse. It doesn’t just lack this. The instrumental stance towards nature constitutes a bar to our ever attaining it. The instrumental stance involves our objectifying nature, which means…that we see it as a neutral order of things…In objectifying or neutralizing something, we declare our separation from it, our moral independence. Naturalism neutralizes nature, both without us, and in ourselves.

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59 Taylor, “Inwardness and the Culture of Modernity,” 99-100. See also Ethics of Authenticity, where Taylor discusses how the moral idea of developing a personal voice “accords crucial moral importance to a kind of contact with myself, with my own inner nature, which it sees as in danger of being lost, partly through the pressures toward outward conformity, but also because in taking an instrumental stance to myself, I may have lost the capacity to listen to this inner voice. And then it greatly increases the importance of this self-contact by introducing the principle of originality: each of our voices has something of its own to say. Not only should I not fit my life to demands of external conformity; I can’t even find the model to live by outside myself. I can find it only within” (29).

60 Taylor, Sources of the Self, 383. In the conclusion to this, his magnum opus, he takes up again instrumental reason in our lives and our self-understandings: “To take an instrumental stance to nature is to cut us off from the sources of meaning in it. An instrumental stance to our own feelings divides us within, splits reason from sense. And the atomistic focus on our individual goals dissolves community and divides us from each other.” Taylor, Sources of the Self, 500-501.
To Taylor, this is worrisome because efficiency is often in tandem with technology. When that occurs, the question then is what technology best squares with efficient methods regarding desired goals. As noted above with the post-Cartesian penchant for disengaged reason and the punctual self, to isolate a human from his or her embeddedness is to lose that self. Instrumental reasoning augments this. “Instrumental reason …offers an ideal picture of a human thinking that has disengaged from its messy embedding in our bodily constitution, our dialogical situation, our emotions, and our traditional life forms…Arguments, considerations, counsels that can claim to be based on this kind of calculation have great persuasive power in our society, even when this kind of reasoning is not really suited to the subject matter…”

In this way, then the technology that we lionize becomes the instrumental means for us to exercise an atomistic, unembedded freedom, akin to Bacon’s conquest of nature to relieve man’s estate. Technology becomes the means by which domination of nature becomes possible. The problem occurs, especially in medical ethics, when the object dominated is ourselves.

There is often a penchant to give priority to the use of what seems the most effective technology…the priority is on reducing to a minimum the risk of failure through not having used the best technology available. This can be intrusive, alienating, even inhuman and therapeutically self-defeating…Even those whose spontaneous response is to scale back the intrusive technology can be made to feel that their standpoint is somehow inferior, less skilled or ‘scientific.’

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62 Taylor, “Reply and re-articulation,” 244. Taylor here is replying to the work of Patricia Benner. As a nurse, she specifically addresses identity, recognition, phenomenology and hermeneutics, and other aspects of Taylor’s work in a bioethics setting. I will rely on her work in later chapters. Taylor makes the same point in *Ethics of Authenticity* (wherein he also references Benner’s work and credits the later Heidegger for his views on Technology): “Runaway extensions of instrumental reason, such as the medical practice
That is, if two people address a situation and one has a textured, rich, historically-laden answer, but the other has numbers, backed up with technological know-how and proficiency, Taylor fears that the post-Cartesian, post-Galilean desire for greater certainty via numbers will be that suggestion which wins out. In this way, the non-apprehensible-by-naturalistic-science person remains unaddressed. As stated at the beginning of this chapter, such a person is relegated to a philosophical speculation or metaphysical nicety that a naturalistic science cannot countenance.

**Scenarios**

To flesh out how Taylor’s philosophy engages and raises the question of personhood, I will briefly paint two scenarios, both dealing with questions of health and the problems of naturalistic tendencies in medicine.

Bob: Bob worked at the Southern Pacific Railroad for 45 years, working his way up from a person handling luggage and being a “go-fer,” to being an assistant to the engineer. The youngest of 8 kids, he always prized his independence, his tough nature, his individualism, and his “smarts.” He said over and over again to his wife and kids that a person could get ahead in life, even with cuts and bruises, if they worked hard enough and “played by the rules.” Bob is now 82 and suffering from dementia. He barely recognizes his family, a large one, who all love him greatly. In terms of his medical bills, what his insurance doesn’t cover, Medicare pays for. There is a new procedure to help Bob recover some of his memory and thereafter slow the pace of any further memory loss, but the proposed procedure would cost tax payers via Medicare approximately $35,000. The prognosis for significant recovery is likely.

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that forgets the patient as a person, that takes no account of how the treatment relates to his or her story and thus of the determinants of hope and despair, that neglects the essential rapport between care-giver and patient—all these have to be resisted in the name of the moral background in benevolence that justifies these applications of instrumental reason themselves. If we come to understand why technology is important in the first place, then it will of itself be limited and enframed by an ethic of caring. What we are looking for here is an alternative enframing of technology.” Taylor, *Ethics of Authenticity*, 106.
Sadie: Sadie suffers from clinical depression. Her doctors have put her on a drug regimen to help her. The depression, which had not manifested itself in such an extreme manner before, has become severe since the death of Sadie’s 30-year-old daughter Anne last year. Sadie and her daughter were “friends” as they saw it and talked nearly every day. After her divorce 6 years ago from Anne’s father, Sadie moved on with her life and dated occasionally, even though no one really fit. It was her daughter Anne whom Sadie cherished and who grounded her. Sadie often said to herself, “This is not what I pictured my life to be,” but kept moving forward, with Anne’s encouragement. Besides dating, Sadie had been trying to do things that might give her new friendships and new hobbies. Too much of her life had been TV and work (as a paralegal in a law firm). After Anne’s death, it has certainly been lots of TV and work, but few friends. The drugs give her a little anxiety and affect her sleep.

As we have seen thus far, Taylor would take issue with any sort of naturalistic discussions of Bob and Sadie that attempt to leave out their rich, embedded histories. Events and self-evaluations come laden with personal significances. They are both persons for Taylor, and, as persons, are not amenable to universalist, neutral statements that ignore their interior life, their self-interpretive nature, or their embedded worldliness.

At the very beginning of the scientific revolution, in the seventeenth century, the attempt was made to overcome the purely anthropocentric, and to understand the world in terms which were not relative to our subjectivity. Properties can be said to be anthropocentric or relative, if they are properties that things can only have insofar as they are objects in the experience of subjects, or human subjects….A science which uses the language of the human significances is one which is involved in evaluating different ways of living…But science in our dominant tradition sees itself as value free, as capable of inter-subjective validation and agreement regardless of value differences…Of course, it is part of the data of a human science that people feel this way about things, for they feel guilty, ashamed, see their dignity as consisting of X or Y. But this must be capable of redescription in order to fit into a science.\(^63\)

It is this *redescription* where the danger lay. A simple question arises: How does one look at their situations, analyze them objectively and yet not lose them, not lose Bob and Sadie? That is, if redescribing is some sort of translation of B into the language of A, does something fall out? For example, if we were to begin to look at Bob’s life and the proposed treatment, a subjective question might be, “What does Bob want now” or in the subjunctive, “What would Bob choose if he could?” However, if Bob’s own trajectory, his personal story, laden with background assumptions, is not somehow translatable to someone deciding if Medicare should pay for his treatment, then it is not clear what the basis of the decision would be. Medicare undoubtedly has an algorithm and schedules of possible procedures and payouts based on objective criteria such as age, likelihood of survival, etc. Those, however, do not “see” Bob or even know whether or not they “got” Bob and are doing right by him and his life story.

Taylor, in his “monomaniac” aversion to naturalism, sees a natural movement away from personal interactions toward a more universal, less contextual, less embedded analysis of what Medicare should pay for. So, because Bob’s personal story may be (1) unknown, (2) unknowable, (3) contested, or (4) the product of hard work or (5) require an interpretation by another person meeting him in his narrative, the redescription would require analyzing the situation based on a cost/benefit analysis or some efficient matrix, bleached of Bob’s personal interests.64

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64 "The instrumental stance involves our objectifying nature, which means…that we see it as a neutral order of things. That is, not facts about how things stand in this order amount to a consideration by itself in favour of one or other definition of the good life, but only, if at all, in combination with some value premise drawn from elsewhere. In objectifying or neutralizing something, we declare our separation from it, our
In Sadie’s case, redescription means a translation (collapsing) of Sadie’s personal-and-chemical problems into the more easily remediable chemical problems. That is, if Sadie’s problems are a combination of a true, natural depression in concert with stress and loneliness as part of an historical narrative, a translation would include a reduction of the more-complex-and-yet-more-intractable into the simpler-and-more-tractable (translating B again into A). “It is just evident that it is hopeless to try to offer necessary and sufficient conditions in physical/physiological terms for a situation’s being shameful or guilt-provoking, or an insult to dignity…”

Our selfhood is not a possessed thing like an internal organ or a hair color. It is not an accompaniment, an accident or property that is peripheral. Instead, the self is the person, the who, the narrative-bearing-and-significance-laden subject who is not amenable to naturalistic protocols. “[T]here is a set of features of human beings which makes it so, that being illuminating and insightful about them involves something rather different than being illuminating and insightful about, say, stars and even amoebas.”

Finally, with a post-Cartesian representative view of Bob or Sadie the viewer/decision-maker/evaluator must withdraw Bob and Sadie from certain milieux in order to understand them. But Taylor questions whether or not Bob or Sadie are ever knowable moral independence. Naturalism neutralizes nature, both without us, and in ourselves.” Taylor, Sources of the Self, 383.

Taylor, “The Person,” 269. For Sadie, as with Bob, “There is something irredeemably opaque about any range of significances for those who don’t share them.” Taylor, “The Person,” 269. Such significances are not known and therefore not translatable to the natural sciences—that is, to translate them is per force to miss them.

Taylor, “Reply and re-articulation,” 234.
this way. It seems reasonable to wonder if a viewer who wants to know Bob or Sadie or somehow connect with their “who” or meet that “who,” must not be in some sort of meeting of one embedded person with another. That is, if a decision-maker ever will know the proper analysis of, say, Sadie’s condition, wouldn’t that mean that he or she must confront Sadie *herself* and not some sort of insipid simulacrum of Sadie qua representation? If Taylor is right that persons are self-interpreting, then the attempt to transport/redescribe that subjective “world” to the other qua representation is an enterprise doomed to failure. It is impossible. How then does one reach the other person? It is done through dialogue and communication—that is, through your selfhood and identity you encounter the other qua self and identity-holding entity. It is done when one “thick,” self-interpreting, embedded, already-in-a-world, language-steeped animal addresses another in dialogue. That is, it is when one person talks to another person.

**Habermas and the Concerns for The Future of Human Nature**

As noted above, Jurgen Habermas uses a different philosophical foundation than Taylor when addressing personhood and human nature. Unlike Taylor, Habermas is not going to lean on a developed philosophical anthropology, with a meaningful conception of the good, against which a fulfilling life is measured. Instead, Habermas adopts the post-metaphysical weak ontology that White described, having a “minimal ethical self-understanding of the species.”\(^{67}\) He therefore moves into an analysis of human nature in a political state reliant upon subjectivity, human freedom, intersubjective modes of

\(^{67}\) Habermas, *Future of Human Nature*, 40.
consensus building, and a reliance upon human consent and dignity. He does this in detail in his discussions of bioethics procedures in *The Future of Human Nature*.

The main procedure that Habermas addresses in bioethics is preimplantation genetic diagnosis and screening (PGS). In this procedure, fertilized embryos at the 8-cell stage may be screened (1) to avoid certain detrimental qualities, such as hereditary diseases, or (2) to promote certain desired traits. The former is called negative eugenics; the later positive eugenics. Habermas attempts to delineate between the two, but admits openly that the enterprise is difficult. And because the line between the two “is not sharp—both on conceptual and practical grounds—our intention of making genetic interventions stop at the threshold of enhancing human beings confronts us with a paradoxical challenge: in the very dimensions where boundaries are fluid, we are supposed to draw and to enforce particularly clear-cut lines.”

A liberal eugenics policy would not attempt to work off of this distinction but would allow the market and those involved to decide whether or not the former or the latter should be adopted. Habermas, however, is not willing to allow any party to decide the fate of what he sees to be a future person. He is wary of this new use of technology; he knows that the methods themselves

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68 PGS is a “first step toward giving parents greater control over the genetic makeup of their children…Geneticist Lee Silver paints a future scenario in which a woman produces a hundred or so embryos, has them automatically analyzed for a ‘genetic profile,’ and then with a few clicks of a mouse selects the one that not only lacks alleles for single-gene disorders like cystic fibrosis, but also has enhanced characteristics, such as height, hair color, and intelligence.” Francis Fukuyama, *Our Posthuman Future: Consequences of the Biotechnology Revolution* (New York: Picador, 2002), 75, referring to Lee Silver, *Remaking Eden: Cloning and Beyond in a Brave New World* (New York: Avon, 1998), pp. 233-247.

are neutral, but the use of them, as with their invention by a naturalistic science, subverts
the personal aspects of human life in favor of interested, biased parties.

I

Habermas begins his discussion of human bioethics with Kierkegaardian
subjectivity. This Kierkegaardian element relies on the Danish thinker’s incisive look
into human decision-making and experience-laden ethical lives. There is within
Kierkegaard’s work a tension between Ethical State A and Ethical State B, where the
actor may move from the former to the latter based on personal decisions. That is, the
movement from A to B is an internally driven, subjective movement. Habermas
addresses this as a being-able-to-be-onceself. This connotes a fluid, tensioned nature to
human existence—where life as a project is lived out in accord with personal values,
personal drives, personal experiences. Such a tension is indicated when Kierkegaard
himself referred to the maieutic nature of Either/Or. As Socrates noted in the
Theatetus, the idea of “giving birth” in philosophy is a movement from Point A to Point
B where the latter point is in some way present in the former, albeit in an inarticulate
state. As Socrates tells us, the philosopher does not give birth; the philosopher through
inquiry induces the other to give birth.  

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71 See Plato, Theaetetus 150b5-c2 : “Well, my midwifery has all the standard features, except that I practice it on men instead of women, and supervise the labor of their minds, not their bodies. And the most important aspect of my skill is the ability to apply every conceivable test to see whether the young man’s mental offspring is illusory and false or viable and true.” Trans. Robin A. H. Waterfield (London: Penguin, 1987).
Habermas’ reliance on Kierkegaardian thought is in line with this movement, this personal evolution. To be oneself is to grow into oneself from oneself—to give birth to a new you from an old you. Kierkegaard has “all his attention…on the structure of the ability to be oneself, that is, on the form of an ethical self-reflection and self-choice that is determined by the infinite interest in the success of one’s own life-project.”\footnote{Habermas, \textit{Future of Human Nature}, 6.} The human is able to make himself or herself into what they choose, consonant with life plans, life projects. There is thus a future-directed orientation to human existence that unifies human lives—lives are lived forwardly. Life is a project to be worked on. It is this future orientation that makes sense of a living trajectory and growth.\footnote{There could easily be a correlation here with the quest and the narrative life that Alasdair MacIntyre delineates in \textit{After Virtue} (but absent their philosophical anthropology). “Thus making sense of my present action, when we are not dealing with such trivial questions as where I shall go in the next five minutes but with the issue of my place relative to the good, requires a narrative understanding of my life, a sense of what I have become which can only be given in a story. And as I project my life forward and endorse the existing direction or give it a new one, I project a future story, not just a state of the momentary future but a bent for my whole life to come. This sense of my life as having a direction towards what I am not yet is what Alasdair MacIntyre captures in his notion…that life is seen as a ‘quest.’” Taylor, \textit{Sources of the Self}, 48.} With an understanding of myself and my life, I can then gather myself and move into myself with continuity.

The projective aspects to human life are therefore what make each entity his or her own. It is what allows for integration. “In this way, he articulates the self-understanding of the person he would like others to know and acknowledge. Through a morally scrupulous evaluation and critically probing appropriation of his factually given life history, he constitutes himself as the person he both is and would like to be.”\footnote{Habermas, \textit{Future of Human Nature}, 7.}
Clearly, Habermas draws a connection between the Kierkegaardian emphasis on individual growth/freedom and personhood. That is, to be a person is to be an owner of one’s life project, one’s trajectory, one’s story. Persons are understood by their ability to become themselves. To reiterate: for Habermas, it is persons who become, persons who grow, persons who have projects that they work out by means of willing.

It is this purposefulness and consonance with a life project indicative of human personhood that is directly in question when parents may screen human embryos and/or promote subjective projects of their own on their yet-to-be-born children. It will be the parents’ will and not the child’s will that will consummate in certain projects. Such a procedure will certainly implicate the very core of an independent being-able-to-be-oneself. This is assisted by an objectivity-oriented, objectivity-prejudiced naturalistic science.

The natural sciences have their own procedures that they employ when looking at the natural world—including analyzing the human person qua natural object. Modern science excels at combining “the objectivating attitude of the disinterested observer with the technical attitude of an intervening actor producing experimental effects.” In addition, there is an accompanying desire to make use of such science to ameliorate the lot of humans on earth. As such, the role of modern science has not only made use of the ancient ideas of a growing body of knowledge and truth, but the complementary

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75 Habermas, *Future of Human Nature*, 45.

76 I will address this in Chapter Three when I describe Leon Kass’s response to the Baconian desire to use science to relieve man’s estate.
claims that such a body of knowledge in effect reaches its summation in use. With the specific application to humans of such objectifying parameters and the accompanying emphasis on control in order to improve human existence, an instrumental view toward human existence naturally arises. That is, the combination of (1) the objectifying mode of modern science, (2) the need for certainty in application, and (3) the ameliorating effects sought through application of such precision to human persons all indicate a means/ends perspective regarding human persons. An objective science will thus be used to make human lives better without ever abandoning naturalistic methods, etc. when addressing humans.

With the advent of the newer genomic technologies, this means that humans may possibly be relegated to things. For example, the future human subject becomes a present object for another presently-alive, presently-a-person human. Such a future subject for Habermas, however, is a person. There’s the rub. “This kind of intervention should be exercised over things, not persons.”

Even though such a discussion includes an embryo, in a stage which Habermas classifies as “prepersonal,” it nevertheless is neither now nor in the future simply a thing. It is not nothing; it is not to be disposed over. “A previously unheard-of interpersonal relationship arises when a person makes an irreversible decision about the natural traits of another person.”

77 Habermas, Future of Human Nature, 13. Further on the same page, he makes the same distinction: “This new structure of attribution results from obliterating the boundary between persons and things.”

78 I will amplify this thing-like status when I address Axel Honneth and his latest work on reification in Part III. below.

to attribute here the status of personhood to an embryo or a fetus, Habermas nevertheless, in concert with the Kierkegaardian notions of projection, addresses the future position for such an embryo. It is that individual, that future human who will live out his or her genetic existence in accordance with the wishes/will of those tinkering in the Petri dish before he was born instead of his own being-able-to-be-onself. For Habermas, this action implicates personhood. Simply stated, there is a connection here between the prepersonal embryo in the dish and the future person who is the product of that technological manipulation. Because of the ineluctable connection between the prepersonal and the future person, for Habermas neither entity can be relegated into the role of a thing—neither is merely an object. Unfortunately, the strength of the natural sciences derives precisely from its ability to objectify the natural world in pursuit of certainty and to ignore such imprecise notions as personhood.  

Modern natural sciences give decisionmakers (1) the objective ability to seek out genomic aspects of embryos, (2) in order negatively or positively to screen for certain traits. This combination of know-how and instrumentalism, where the embryo and its future self are relegated to the subjective interests of the decisionmaker at that time, indicates that the future person will always be in some way tied to the subjective at-that-
time interests of those who had the power. “In making their choice, the parents were only looking to their own preferences, as if disposing over an object.” Modern natural science is neutral in this decision—it gives the decisionmaker the tools by means of which to enact his or her current, subjective will. This, however, flies in the face of the Kierkegaardian subject who maieutically gives birth to himself and may become who he or she is. This is not the normal, eternally discussed idea of parental control, parental domination, parental abuse. This is different.

Unlike the typical teenager who, for example, rebels against the strictures of his parents and determines to live out his own existence, this future person will be in some way restricted. Like the *Boys from Brazil*, such future persons will have certain parameters of freedom, but they will always be circumscribed by another—in the film, the boys may always determine how they will live out their lives and make their own choices, but they cannot change the fact that their genome is the purposeful creation of a subjective voice before their birth. Their very DNA is the product of another’s will, of another’s stamp, of another’s intention. This movie portrays something different from, say, a movie like *Dead Poets’ Society* where the overbearing father tells the teenage boy that when he is a doctor and done with school he can do what he pleases. That movie takes its tragic qualities from this boy’s own choice not to follow his father’s dictates. That boy bucks the father’s intentions and struggles mightily to be who he is. There is a difference between socialization and nature. A socialized child, no matter how onerous and detailed the socialization, can later adopt, reject, integrate, or otherwise account for

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such a socialization from his or her parents. The socialization is amenable to his ability to be himself. It does not fundamentally alter that. A change in the child’s nature, adopted in a pre-natal decision and apparatus, is a different matter altogether.

Imagine that, like *The Boys from Brazil*, the father in *Dead Poets’ Society* could somehow have *screened* his future son for certain traits. In the original case, freedom was discouraged; in the new case it is in some way *prevented*. “Suppose you’ve been genetically engineered by your parents to have what they consider enhanced reasoning ability and other cognitive skills. How could you evaluate whether or not what was done to you was a good thing? How could you think about what it would be like *not* to have genetically engineered thoughts?”82 This means that parents might exercise some type of puppet-like control over their future children to the extent that that future person has attributes (1) he himself has no control over and (2) those attributes are the product of another’s direct intent. This is too much for Habermas. “No dependence on another person must be irreversible. With genetic programming, however, a relationship emerges that is asymmetrical in more than one respect—a specific type of paternalism.”83


83 Habermas, *Future of Human Nature*, 63-64. He reiterates this nicely on p. 84: “To the degree that parents are rebuked for imposing specific pedagogical practices on their children (because they are prejudicing capabilities that can have *ambivalent* consequences within the unpredictable context of their child’s future life), the designer of genetic programs is all the more reproachable for usurping the responsibility of the future person, a responsibility that has to be reserved for this person herself, if her consciousness of autonomy is to remain intact.” I will address Levinasian asymmetry in Chapters Four and Five. It is interesting to note here, however, that Levinas has the power relationship run in the opposite direction than the one Habermas describes— with Levinas, once I determine that the other has a face, indicative of an infinite other, it is I who am responsible to him or her asymmetrically. That is, I am responsible to the other regardless of their stance on me. I defer to them.
As noted, this form of coercion is not the duress of even a threatened abusive beating or a weaning from family funds; this coercion is the type that may possibly preclude any discussion or debate or argument over the matter because the child either (a) cannot change a fait accompli or (b) is precluded from even entertaining the very thoughts/desires that would evoke such an argument. The latter certainly has a sinister lobotomy-like quality to it, where the patient (the one acted upon as passive entity) simply is arranged not to be able to see things in a manner parents do not want or otherwise experience things in ways parents do not desire. Habermas’ aim is to encourage reflection on such abuses: “Once the species reflects on what makes it possible to live as we do now—the freedom and autonomy to develop our own life histories—it will understand that radical genetic technologies are inconsistent with this basic aspect of being human, and it will therefore reject them.”

II

Although I will not address here Habermas’ political philosophy and his connections to democratic will formation, there is a will formation question with regard to the individual involved in implantation. Specifically, the question arises whether or not all such positive eugenic screening at the time of implantation is ethically

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84 Elizabeth Fenton, “Liberal Eugenics and Human Nature: Against Habermas,” Hastings Center Report 36, no. 6 (2006): 35-42. If the fears of parents’ desires to manipulate their children for their own interest seem alarmist, consider this: “Of eight thousand abortions performed in one Bombay clinic after parents knew the sex of the child, 7,999 were of female fetuses.” McKibben, Enough, 22. Could any reasonable argument be made that those procedures were done for the benefit of the females, that is, for the benefit of the offspring and not for the parents? It is a highly unlikely assumption that parents always have their children’s best interests at heart. The medical ethics literature is replete with cases where parents do not put their children first. It is all too common for parents to treat their children like trophies that reflect back on them. If that is even remotely true, the ability of the parents to make the child (through positive eugenics) into what he or she wants may prove too tempting and will not be for the child’s interest, but for the parents’.
problematic. Within the framework of honoring the future present of the prepersonal embryo, Habermas, however, believes that there may be a viable ethical approach. This approach, however, must assume consent in the future. That is, would the person then affirm the choice you make on their behalf now?85

The presumption of informed consent transforms egocentric action into communicative action. As long as the geneticist intervening in a human being conceives of himself as a doctor, there is no need for him to approach the embryo in the objectivating attitude of the technician, that is, as an object which is manufactured or repaired or channeled into a desired direction. He may, in the performative attitude of a participant in interaction, anticipate the future person’s consent to an essentially contestable goal of the treatment.86

The move Habermas makes here is interesting in a couple of ways. First, he leans on a doctor-patient analysis in order to inform what the geneticist does. The geneticist, possibly a non-physician, with a non-relational status to the embryo, is nevertheless required to adopt a professional attitude toward that embryo. Second, in suggesting such an analysis, I think it’s fair to say that Habermas imports a quasi-autonomy into the prepersonal embryo insofar as it will someday be a person. With this attitude, he respects

85 This question seems to me not unlike an evaluation in medical ethics where the decision maker asks what would clearly be in the other’s best interests. See Bernard Lo’s Resolving Ethical Dilemmas: A Guide for Clinicians, 2d ed. (Philadelphia: Lippincott Williams & Wilkins, 2000) on the complexity of best interests evaluations and their link to the principles of beneficence and nonmaleficence.

86 Habermas, Future of Human Nature, 52. Fukuyama is wary of consent as a possible avenue. “Children who are the subjects of genetic manipulation, obviously without consent, are the most clear case of potentially injured third parties. Contemporary family law assumes a community of interest between parents and children and therefore gives parents considerable leeway in the raising and educating of their offspring. Libertarians argue that since the vast majority of parents would want only what is best for their children, there is a king of implied consent on the part of the children who are the beneficiaries of greater intelligence, good looks, or other desirable genetic characteristics. It is possible, however, to think of any number of instances in which certain reproductive choices would appear advantageous to parents but would inflict harm on their children.” Habermas, Future of Human Nature, 93. This would especially include the question of fads or social prejudices toward, say, weight, skin color, height, or hair color. It is not hard to imagine, for example, the mother who is affected by a weightist culture using positive eugenics to screen for a thin daughter.
the embryo for what it will be—specifically inquiring whether what it will become will be someone who could approve of the proposed action. In other words, will that future autonomous person agree with the steps taken now on his or her behalf?87

After adopting this approach to the questions of the screening of embryos, Habermas concludes that only “in the negative case of the prevention of extreme and highly generalized evils may we have good reasons to assume that the person concerned would consent to the eugenic goal.”88 This form of negative eugenics is morally permissible when the other would likely assume a position of “Go ahead and do it” in essence.89 The same sort of evaluation may be made regarding, say, the amputation of a 2-year-old’s arm. There, the question could be: When he is 18, will he agree with what we did for him now?90

87 Throughout The Future of Human Nature Habermas uses intuitions to argue like this. He uses intuitions, for instance, against disposing over the embryo and equating the embryo’s non-personal status with an ethical worthlessness. He addresses “intuitive self-descriptions that guide our own identification as human beings—that is, our self-understanding as members of the species.” He even addresses this as an “anthropological universality” (39).

88 Habermas, Future of Human Nature, 63. He reiterates this in the Postscript: “Attributing such consent can only be justified in cases where there is a certain prognosis of extreme suffering. We can only expect a consensus among otherwise highly divergent value orientations in the face of the challenge to prevent extreme evils rejected by everybody”(91).

89 With positive eugenics, however, “I imagine a bricoleur who combines the classical goal of the breeder and aims at improving the genetic potential of a species, with the operational mode of an instrumentally acting engineer, who implements his own design and thus works on the embryonic cells as material.” Habermas, Future of Human Nature, 97. Unlike a decision made on behalf of a future person that may be articulated and defended in the public domain, positive eugenics takes on the role of particular desires, with particular parents. It emphasizes less what a consensus could hold was best for the child and more what is possible here and now to these decisionmakers in concert with the available technologies.

90 I do not think Habermas addresses in sufficient depth the absurdity of a future child saying to his or her parents, “Thank you for not giving birth to me.” Philosophically, there are many questions that arise there. One major one will suffice—how can a person who has never been born consent to the fact that they will never have the right to consent to anything? This non-existential type of consent is vastly different than an adult telling their parents that the decision to amputate was OK.
Consent and the respect of persons within a community are elemental to Habermas’ discursive structures. “In Habermas’ theory, a norm has validity from a moral point of view, it can be said to be just, if it meets with the agreement of all those affected by it in a practical discourse. Agreement in a practical discourse is reached on the basis of arguments rather than coercion.”\(^91\) While with implantation the question involves a more basic genetic level than the 2-year-old, the attitude of the decision-maker could be the same—the emphasis would be on what is best for \textit{the other}, not on what he, the decisionmaker, wants. Those two perspectives often correspond, but not necessarily, as I’ve noted. For Habermas, the screening has to adopt a sort of moral imagination, whereby the screener “converses” with a future person and imagines whether or not she could consent to a prevention of some malady, etc. Only then, only when it could be said to be in the future person’s interest, could the proposed action be consonant with the “logic of healing.”\(^92\)

As I tried to emphasize above when I referred to \textit{The Boys from Brazil}, what matters here is that the decision made on behalf of the future person is irreversible. Selective implantation is a one-directional, non-reversible decision of a parent (by means of a geneticist) to alter a future person. Such an irreversible move involves questions of relationships and recognition and status: “The conviction that all actors, as persons,

\(^{91}\) Smith, \textit{Charles Taylor}, 108.

\(^{92}\) Habermas, \textit{Future of Human Nature}, 52. At times, the law in other areas will step in to make sure that the parents’ choices are consistent with the future freedom of the individual. The classic case is that the parents must give their children at least some education. Education is not merely within the choices of the parents because it will affect the future child’s autonomy, as well as participation in liberal democracy. See \textit{Wisconsin v. Yoder}, 406 U.S. 205.
obtain the same normative status and are held to deal with one another in mutual and symmetrical recognition rests on the assumption that there is, in principle, a reversibility to interpersonal relationships.”

Referring to his political philosophy and the role of self-understanding in communicative action and authenticity, it is not peripheral to the question of the modern person how he or she might view themselves. One of the most important modern ethical breakthroughs has been to understand the damage that negative self-definition can have. Here that may be a big problem: “Offspring are thus related to their parents as products to producers, and so are never able to enter into a relationship of moral equality with them. Since recognition of moral equality is the backbone of the moral community and human rights, any process that prevents this recognition will undermine the foundations of the moral community.”

When the offspring is the purposeful product of a parent who creates irreversible attributes, relationship and recognition questions are quite possible strained.

Consonant with his political philosophy of the 70’s and 80’s Habermas here emphasizes the interpersonal component to ethics and to morality. “The social world is not an object or a collection of objects, and is not strictly speaking something outside us. Rather, it is a medium that we inhabit. It is ‘in’ us, in the way we think and feel and act, as much as we are ‘in’ it.”

Relationships not only reveal understandings of a person’s place in the community but are likewise in turn constitutive of personhood insofar as

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93 Habermas, *Future of Human Nature*, 63.


“place” is understood. “The individual self will only emerge through the course of social externalization, and can only be stabilized within the network of undamaged relations of mutual recognition.” So, while Habermas does not enter fully into the question of embryonic personhood, he is concerned over the future present situation where the adult, reflective individual knows himself or herself vis-à-vis other, non-screened peers and vis-à-vis a previous non-screened generation. Relational understandings are essential to his will formation and intersubjectively mediated rules applied equally. “‘Human dignity’ as I would like to show, is in a strict moral and legal sense connected with this relational symmetry…[Human dignity] indicates the kind of ‘inviolability’ which comes to have a significance only in interpersonal relations of mutual respect, in the egalitarian dealings among persons.” There is a dependency that persons have on each other that is elemental to self-definitions, to identity formation. It is apparent here that there is a possibility of a crippling effect when persons are understood as products of irreversible pre-birth intentions. “The consequences are irreversible because the paternalistic intention is laid down in a disarming genetic program instead of being communicatively mediated by a socializing practice which can be subjected to reappraisal by the person

96 Habermas, *Future of Human Nature*, 34. This can be read in concert with Habermas’ discussion of the lifeworld and its “transcending” linguistic component earlier on: “The logos of language embodies the powers of the intersubjective, which precedes and grounds the subjectivity of speakers…The logos of language escapes our control, and yet we are the ones, the subjects capable of speech and action, who reach an understanding with one another in this medium. It remains ‘our’ language.” Habermas, *Future of Human Nature*, 11.

97 Habermas, *Future of Human Nature*, 33. This intersects with the point David Luban makes in *Legal Ethics and Human Dignity*: “I suspect that human dignity is not a metaphysical property of individual humans, but rather a property of relationships between humans—between, so to speak, the dignifier and the dignified. To put it another way, ‘human dignity’ designates a way of being human, not a property of being human” (Cambridge: Cambridge University Press, 2007), 66.
‘raised.’" In such a situation, where one party was specifically screened by the other, it is hard to imagine any normal relational recognition by means of dialogue and a place in the community. “Eugenic programming establishes a permanent dependence between persons who know that one of them is principally barred from changing social places with the other.”

This for Habermas “is foreign to the reciprocal and symmetrical relations of mutual recognition proper to a moral and legal community of free and equal persons.”

Simply stated, it is not clear how such a screened human, unavoidably formed and influenced by his environment and relationships, can participate fully in the will formation that is an integral part of Habermas’ political theory. That community is made up of individuals who engage in dialogue and grow in self-understanding by means of that dialogue and language. With a screened person however, the previous generation in effect may in part dictate to the next generation its choices, and furthermore the screened person may know that but feel somewhat at a loss on how to deal with it.

When one person makes an irreversible decision that deeply intervenes in another’s organic disposition, the fundamental symmetry of responsibility that exists among free and equal persons is restricted. We have a fundamentally different kind of freedom toward the fate produced through the contingencies of our socialization than we would have toward the prenatal production of our genome. The developing adolescent will one day be able to take responsibility for her own life history; she will be able

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98 Habermas, *Future of Human Nature*, 64.


100 Habermas, *Future of Human Nature*, 65. “If genetic technology threatens human dignity, Habermas argues, then what it really threatens is the foundation of the moral community in which individuals’ relationships to each other are governed by intersubjectively accepted rules.” Fenton, “Liberal Eugenics and Human Nature,” 38.
to take possession of what she is. That is, she can relate to her process of
development reflectively, work out a revisionary self-understanding, and
in a probing manner retrospectively restore the balance to the
asymmetrical responsibility that parents have for their children’s
upbringing. This possibility of a self-critical appropriation of one’s own
developmental history is not available in regard to genetically manipulated
dispositions. ¹⁰¹

There may thus be double damage—to the future community dialogue and to the
individual’s self-formation within such a dialogue.

The process of their birth, with its pre-birth, positive eugenic decisionmaking
taints the situation. How does such a person view their life, their continued existence?
“If there is a mystery at the heart of the human condition, it is otherness: the otherness
that makes love something other than narcissism.” ¹⁰² Here, for example, the child would
have to strive to look beyond any questions that he was loved because he either had
desirable attributes or at least did not have undesirable attributes. This could quite
plausibly be seen as a form of conditional love that has not only a personal effect, but
consequently then brings in a political effect. “For the person expressing a moral
judgment…her own capacity of being herself is as important as is the fact for the person
engaging in the moral action that that other is being herself.” ¹⁰³ All told, then the
community misses out on the contributions of an original (not pre-generationally

¹⁰¹ Habermas, Future of Human Nature, 14. This is basically the distinction made above between a parental
socialization (no matter how onerous) and a permanent manipulation of the child’s nature.

¹⁰² Rabbi Jonathan Sacks, quoted in “British Chief Rabbi Denounces Cloning,” Jerusalem Post, August 12,

¹⁰³ Habermas, Future of Human Nature, 57. Reiterating this in the Postscript, Habermas notes that such a
future person may “experience difficulties in understanding herself as an autonomous and equal member of
an association of free and equal persons”(78). Similarly, they may no longer view themselves as “sole
authors of their own life history”(79). They may experience a “self-devaluation”(81).
screened) person and does not get to hear from a person who understands his or her existence as part of the mystery of an embodied whole. The person may not be able to participate in a vibrant democracy as a person with an undamaged ability to be one’s self. Instead, the person may see himself or herself as a technologically-assisted choice—as made, not grown.

III

Within this framework of personhood and the irreversible vulnerability of the child toward the parent, there is the question of the instrumental use of the one as a means to a desired end of the other. As noted with Taylor, in instrumentalism, there is the purposeful use of a person more as a means than an end—the person is relegated to an instrument. “This type of deliberate quality control brings in a new aspect—the instrumentalization of conditionally created human life according to the preferences and value orientations of third parties.”104 Specifically, this danger conjures the specter of a means/end analysis combined with technology’s latest abilities. It is one thing to adopt an instrumental attitude; it is altogether different when that attitude is assisted by new technologies. “What hitherto was ‘given’ as organic nature, and could at most be ‘bred,’ now shifts to the realm of artifacts and their production.”105 There is an important phenomenological shift with regard to breeding humans based upon desired results (bad as that is), to the manufacture of such a result. If it were possible to map these on a spectrum, it seems appropriate to map manufacturing at the greater end from breeding.


105 Habermas, Future of Human Nature, 12.
Both are clearly instrumental, but the technological component increases both the efficacy of the desired end being met and intensifies the non-personal recognition of the embryo. “For as soon as adults treat the desirable genetic traits of their descendents as a product they can shape according to a design of their liking, they are exercising a control over their genetically manipulated offspring” that damages the Kierkegaardian call to being-able-to-be-oneself mentioned above.

There are certainly scenarios right out of science fiction novels that indicate the possible levels to which technology in concert with instrumental reason might go. Nevertheless, it is only a fiction in its degree, not in its inception. Specifically, Habermas worries about the way humans will come to view themselves, in light of “an instrumentalization of human nature initiating a change in the ethical self-understanding of the species—a self-understanding of persons who live in the mode of self-determination and responsible action.” Along these lines, Habermas refers to a distinction made by Hans Jonas—the grown versus the made.

106 What I have not mentioned here and what Habermas does not address in detail is the combination of such instrumental reason with capitalism. It is not hard to imagine the marketing by certain companies to provide “guaranteed results” for a certain price. Parental desires being what they traditionally are, there would no doubt be a marketplace for companies to provide the latest screening techniques in order to produce in the future a product the desired ends that the parents now seek. Habermas did state the following, however: “As biotechnological research is by now bound up with investors’ interests as well as with the pressure for success felt by national governments, the development of genetic engineering has acquired a dynamic which threatens to steamroll the inherently slow-paced processes of an ethicopolitical opinion and will formation in the public sphere.” Habermas, Future of Human Nature, 18.

107 Habermas, Future of Human Nature, 13. “Every attempt to instrumentalize the other denies him the status of an irreplaceable person who, with his ‘yes’ or ‘no,’ take a critical stance on the basis of his own judgment and accordingly acts on his own will. The autonomous positions of the other cannot be choreographed.” Jurgen Habermas, Between Naturalism and Religion trans. Ciaran Cronin (Cambridge: Polity, 2008), 204-205.

108 Habermas, Future of Human Nature, 42. Fukuyama makes this point too when he notes that the “widespread and rapidly growing use of drugs like Ritalin and Prozac demonstrates just how eager we are
With the genetic programming of human beings, domination of nature turns into an act of self-empowering of man, thus changing our self-understanding as members of the species—and perhaps touching upon a necessary condition for an autonomous conduct of life and a universalistic understanding of morality. Hans Jonas addresses this concern by asking: “But whose power is this—and over whom or what? Obviously the power of those living today over those coming after them, who will be the defenseless objects of prior choices made by the planners of today. The other side of the power of today is the future bondage of the living to the dead.” 109

The technology available to the geneticist allows him or her to intervene in the life of another—to make them rather than to assist their growth—in order to effect the understood and desired goals of the person petitioning the action. This lines up with the Aristotelian understanding of the soul, where there had been a clear distinction between things that did and did not have potential. If a thing had potential, that potential could be actualized with the supply of necessary elements—such as a tree, internally driven to bear fruit, etc., nevertheless needing water and air and nutrients from the roots. To supply these things is to assist the tree to grow. What Jonas indicates is that modern interventions are not assisting of growth; they are remaking the potential of the other, and doing so within the desires of the geneticist/parent. This is new and does go beyond the

109 Habermas, Future of Human Nature, 47-48, quoting in part Hans Jonas, “Lasst uns einen Menschen klonieren,” in Jonas, Technik, Medizin und Eugenik. Zur Praxis des Prinzips Verantwortung (Frankfurt am Main: Suhrkamp, 1985), 165. “[G]enetic technologies threaten [the distinction between natural and artificial, subject and object] because they enable manipulation of one subject by another and thereby blur the line between what is grown (the natural) and what is made (the artificial).” Fenton, “Liberal Eugenics and Human Nature,” 38. Fenton criticizes Habermas’ reliance upon such taxonomies later in the article—see specifically p. 40. I will address Jonas in later chapters, where I will draw a link between his work and that of Leon Kass, at least insofar as they fear the impending technologies vis-à-vis personhood.
breeding mentioned already.\textsuperscript{110} Assisting in growth is a stance toward the other as already-important, already-integral, and only in need of a few things to help that other grow into what it already is (not unlike the Kierkegaardian project). With making or manufacturing, on the other hand, the other is viewed as now-incomplete, now-insufficient, now-lacking. It is a thing that should be tweaked to be better. It does not have an inviolability to it; its worth is in what it may be when another reconditions it.

This stance is an instrumental one. And, as Jonas well knew, it became possible with the advent of an untethered technology. “[T]here is such a thing as ‘too far.’ It begins where the integrity of the human image is concerned, which we should regard as inviolable.”\textsuperscript{111}

This intersects with the serious concerns Jonas had over the role of germline versus somatic effects on the future person. That is, whether it be a therapy or a eugenic procedure, does the choice of one generation affect only that one future person or does it affect countless future generations because it picks out, screens for, or otherwise affects some attribute that will replicate in generation after generation? “But what if we move in an action context where every major use of the capacity be it ever so well-intentioned carries with it a growth vector of eventually bad effects, inseparably bound up with the intended and proximate ‘good’ effects and in the end perhaps outdistancing them?”\textsuperscript{112}

Now the destruction is more menacing than just the one person involved. It may not even

\textsuperscript{110} Habermas does not accept this ancient metaphysics, but nevertheless it does help point out the change in intent with regard to the person doing the manipulations.


\textsuperscript{112} Jonas, “Technology, Ethics, and Biogenic Art,” 92.
be felt for centuries; actually it may not be felt at all because the change manifests itself as an opportunity cost in evolution. That is, the change in DNA would make the race unable to adapt to some new environment. In this way one generation can affect ALL subsequent generations. This is something Habermas is well aware of. “Today, we must ask ourselves whether later generations will eventually come to terms with the fact that they may no longer see themselves as undivided authors of their life…”

The recent work of Axel Honneth on reification augments the points that Habermas makes here in concert with Jonas concerning instrumentalization. Honneth had addressed recognition in his previous writings and in a new book links that recognition with reification. Honneth draws a distinction between reification as it has been traditionally understood and his own take on it. It is not simply a question of instrumentalization, but it does connect with it. Honneth argues first for a recognition that is “nonepistemic,”

“precognitively take[n] up,”

“antecedent,”

“pre-predicatively” occurring, and “a kind of transcendental condition” essential to

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113 Habermas, *Future of Human Nature*, 67. Habermas links the blending (dedifferentiation) of the grown and the made with the blending of the subjective and the objective. In positive eugenics, with its lack of anticipated consent of a second person, there is an unavoidable treatment of the future person as an object, not a subject. Consistent with the political discussions above, the existence of such a blending may cause the person to see himself or herself as an object, not a subject. “The ‘self’ of this end in itself we are obliged to respect in the other person is primarily expressed in the authorship of a life guided by his own aspirations. Everybody interprets the world from his point of view, acts according to his own motives, is the source of authentic aspirations.” *Future of Human Nature*, 55. Habermas states that this aspirational aspect requires an integrated life of one’s own, not of another’s choosing.


115 Honneth, *Reification*, 152.


morality. Recognition *precedes* cognition, understanding, observation, categorization, etc. Then the forgetting of this already-known recognition is what constitutes reification. “[W]e only reify other persons if we lose sight of our antecedent recognition of their existence as persons…” Honneth is careful, however, not to say that it is some sort of radical oblivion of forgetfulness, but is instead a loss of “attentiveness to the fact that cognition owes its existence to an antecedent act of recognition.” It is a turning away. It is in the forgetfulness that we can see a link to instrumentalization. “To the extent to which in our acts of cognition we lose sight of the fact these acts owe their existence to our having taken up an antecedent recognitional stance, we develop a tendency to perceive other persons as mere insensate objects.” The recognition is already there, is already a part of human interaction with other humans and it is activity and culture that causes the forgetfulness. In this way, instrumentalization occurs for no other reason that what was already known was forgotten. In this way, instrumental

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118 Honneth, *Reification*, 152. “To reify other persons is not merely to violate a norm, but to commit a fundamental error, because one thereby violates the elementary conditions that underlie all our talk of morality.” *Reification*, 149; “The spontaneous nonrational recognition of others as fellow human beings thus forms a necessary condition for appropriating moral values in the light of which we recognize the other in a certain normative manner.” *Reification*, 152-153.

119 Honneth, *Reification*, 75. Honneth backs up his claim about pre-cognitive recognition in a discussion of developmental psychology that I do not address here. See pages 40-46.


121 Honneth, *Reification*, 57.

122 Although I won’t develop it here, there is also a strong link to naturalistic tendencies toward objectivity here as well. Because recognition is precognitive, then objective categorizations are automatically secondary. The secondary use or look at the other qua human or qua matter, etc., in manner then requires looking *beyond* the other qua person evident in the primary act of recognition. Honneth specifically draws a link to bioethics in this regard. “Wherever practices of pure observation, assessment, and calculation toward the lifeworld escape the established framework of legal relations and become independent, the kind of ignorance of antecedent recognition arises that we have described as the core of all intersubjective
reason is and must perforce be secondary to recognition. Instrumentalization, according to Honneth’s description, may never be more than a secondary stance, after the primary one goes away. Praxis thus affects this primordial non-rational recognition of others and may cause the noted loss of attentiveness. Honneth specifically notes pornography, racism, and the Holocaust here as examples of such denials of “personal characteristics.”

The social practices of distanced observation and the instrumental treatment of other individuals are thus sustained to the same extent that these practices find cognitive reinforcement in reifying stereotypes, just as these typifying descriptions conversely receive motivational nourishment by serving as a suitable interpretive framework for a given kind of one-dimensional praxis. A system of behavior develops in which the members of particular groups of individuals come to be treated as things because their antecedent recognition is retroactively denied.123

This sort of distancing was mentioned by Primo Levi in his work in a concentration camp. Levi gives us a glimpse about what it feels like to be reduced to a material thing. He was in Auschwitz as a prisoner and was working with a Nazi doctor. Levi comments that he would have liked to meet the doctor after the war to satisfy my curiosity about the human soul. Because the look he gave me was not the way one man looks at another. If I could fully explain the nature of that look—it was as if through the walls of an aquarium directed at some creature belonging to a different world—I would be able to explain the great madness of the Third Reich, down to its very core. Everything we thought and said about the Germans took shape in that one moment. The brain commanding those blue eyes and manicured hands

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123 Honneth, *Reification*, 81. “[R]eification denotes a rather improbable social case in which a subject violates not only existing norms of recognition, but the antecedent condition itself, but not even perceiving or treating the other as a ‘fellow human being.’ Reification annuls the form of elementary recognition that ensures that we existentially experience other humans as the other of our self.” *Reification*, 154.
clearly said: “This thing standing before me obviously belongs to a species that must be eliminated. But with this particular example, it is worth making sure that he has nothing we can use before we get rid of him.”\textsuperscript{124}

I think it likely that Honneth would see Levi’s words as part of a forgetfulness because the German doctor had in essence to unlearn a pre-rational truth he knew about others and had known since childhood. “Subjects can forget or learn later to deny the elementary recognition that they generally grant to every other human being…”\textsuperscript{125} The doctor had to forget that Levi was a person in order to use him as a thing. That is the connection between recognition, reification, and instrumentalization that is the basis of Honneth’s understanding of instrumentalization regarding human persons.

Honneth thus adds a nuance to Habermas and Jonas in this regard, but nevertheless the same message comes through: a practice of science in concert with instrumental reasoning can easily relegate the person to the merely human, the personal to the merely material.

IV

All told, the prepersonal work on a future person implicates core questions about human dignity, choice, and moral reasoning. Habermas, like Taylor, thinks that science and its naturalist predilections are not equipped to answer these questions. The natural sciences simply are not amenable to these vital practical questions. For example, it is not clear how science can demonstrate the correct answer to the means/ends fears of Honneth, Jonas and Habermas. Furthermore, because science may lean on the

\textsuperscript{124} Primo Levi, \textit{Survival at Auschwitz} (Louisville: Touchstone, 1995), 105-106.

\textsuperscript{125} Honneth, \textit{Reification}, 155.
demonstrable and quantifiable over the qualitative and internal, the naturalistic answer may be the only one that refers to discernable data. With PGS, that could mean addressing the prepersonal manipulations by extrapolating how much income could be raised by such a practice, by reviewing the social benefit of raised IQ scores of those screened, by addressing any sort of future psychological problems that such people would have in terms of medication intake or numbers of psychological stresses, and by looking at any other empirical data or models for how such manipulations could affect future evolutionary trajectories (to the extent they are presently understood). Clearly, in such a discussion the person is left out. The subjective, narrative-bearing, language-steeped, relationship-holding, communicating, being-able-to-be-oneself individual is lost because it is not counted whatsoever. And yet it is precisely these internal, non-scientifically-accessible attributes that constitute a general understanding of the inimitable individual. The person is what inhabits the scientifically measurable body. “A person can regard his actions as accountable only when he identifies with his body as his own lived body. Otherwise he would not have any basis for an original awareness of himself as the responsible author of his actions.”126 With such naturalist tendencies (most of which Habermas calls “strong naturalism”), all “cognition is ultimately to be reducible to empirical processes.”127

126 Habermas, Between Naturalism and Religion, 202 (emphasis mine).

127 Jurgen Habermas, Truth and Justification (Cambridge: MIT Press, 2003), 23. “A ‘strongly’ naturalistic explanatory strategy aims to replace the conceptual analysis of practices of the lifeworld with a scientific neurological or biogenetic explanation of the achievements of the human brain. In contrast, weak naturalism contents itself with the basic background assumption that the biological endowment and the cultural way of life of Homo sapiens have a ‘natural’ origin and can in principle be explained in terms of evolutionary theory.” Truth and Justification, 27-28.
The personhood questions raised above about will formation, moral intuitions, relationships, community, consent, and instrumental reasoning all are somewhat lost within the naturalistic mechanisms. As noted in my discussion of Taylor, if naturalism basically relies upon empirical data, then any of the above list would survive an analysis only by being “translated” from personal questions into empirical ones. But this comes at a price:

It requires an objectivist assimilation of our normative practices to observable events in the world. For a philosophy that relies exclusively on the means of conceptual analysis, this approach gives rise to the problem of translating the intuitive knowledge of subjects capable of speech and action into an idiom that is continuous with the theoretical idiom of the nomological empirical sciences.\textsuperscript{128}

If I am correct in interpreting “nomological” above as “law-like,” then Habermas’ point here ties in very well with what he and Taylor have said elsewhere about the natural sciences—that they too easily “fold” the aspects of humanity’s crooked timber into lawlike generalizations in order to make pronouncements that are rigid and/or verifiable. “Habituation to forms of self-objectification that reduce all meaning and experience to what can be observed would also dispose individuals to corresponding forms of self-instrumentalization. For philosophy, this trend is associated with the challenge of scientistic naturalism.”\textsuperscript{129} The person, however, is not categorizable in such a manner. He or she is not reducible or shapeable in order to conform to “objectifying

\textsuperscript{128} Habermas, \textit{Truth and Justification}, 23.

\textsuperscript{129} Habermas, \textit{Between Naturalism and Religion}, 1.
descriptions.”\textsuperscript{130} Nevertheless, that is the normal recourse of scientific analyses and discussions.

Scientism often misleads us into blurring the boundary between natural scientific knowledge which is relevant for understanding ourselves and our place in nature as a whole, on the one hand, and a synthetic, naturalistic worldview constructed on this basis, on the other. This form of radical naturalism devalues all types of statements that cannot be traced back to empirical observations, statements of laws, or causal explanations, hence moral, legal, and evaluative statements no less than religious ones.\textsuperscript{131}

As noted above, persons do not conform to universal data, to categories because that in a way is to lose the status of persons. “The integrity of others makes itself felt...as the individuality of a unique person who eludes the grasp of universal determinations.”\textsuperscript{132}

Simply stated, there is a non-identical quality to a person which science misses. It is almost as though science were at a symphony using instruments to measure the music and could graph precisely the peaks and valleys of the scales and intensity of the various volumes, but never in fact hears the “music.” It grasps sounds and vibrations, not melodies and/or tone poems. At the end of the day, it requires a person to recognize a person. “Only an intact intersubjectivity can preserve the non-identical from annexation to the identical.”\textsuperscript{133} Science has its realm of expertise; that expertise however is a blind

\textsuperscript{130} Habermas, \textit{Truth and Justification}, 24. “Nature as an object of science is not longer part of the social frame of reference of persons who communicate and interact with one another and mutually ascribe intentions and motives. What, then, will become of these persons if they progressively subsume themselves under scientific descriptions? Will common sense, in the end, consent to being not only instructed, but completely absorbed by counterintuitive scientific knowledge?” Habermas, \textit{Future of Human Nature}, 106.

\textsuperscript{131} Habermas, \textit{Between Naturalism and Religion}, 141.

\textsuperscript{132} Habermas, \textit{Between Naturalism and Religion}, 204.

\textsuperscript{133} Habermas, \textit{Between Naturalism and Religion}, 204.
instrument when dealing with personhood. It fumbles in the dark where personhood is concerned.

**Conclusion**

As Taylor addressed and is reiterated in Habermas, the place that the person inherits is an already-present world of meaning and language and place. It is a lifeworld, with already-there understandings against which he or she, as a self-interpreting animal may learn and grow. The two philosophers do not agree on all these particulars, and they certainly have strong differences regarding metaphysics, but they do both note that a person has an interior life, forms his or her identity against an already-there background, and is in danger when analyzed by the cold hand of a naturalistic science.

It should be apparent at this point that Taylor and Habermas approach their philosophical writing and research quite differently. Taylor has a historical density to his writings, always attempting to display historical cultures and movements in order to display his trans-cultural claims about conceptions of the good, the self, the human person, etc. He is mostly driven by saving a place for an ethical understanding of the human self against modern atomistic and disengaged analyses. Habermas, on the other hand makes use of weak ontologies, linguistics, sociopolitical structures and analyses to address specific problems in bioethical technologies. In the few readings I presented, we saw that his claims are more focused and nuanced and more pragmatically driven than Taylor’s. He does not seek overarching ontologies that explain fundamental human orientations. Nevertheless, he and Taylor are one when it comes to problems with naturalism. Although different philosophers with different styles, with different
suppositions and assumptions, both agree that something is lost when natural science addresses humans.

The overall basis of their agreement is best articulated by a person they both admired and wrote about: Hans-Georg Gadamer.

Not only in the professional sphere but also in everyone’s private and personal existence the experience that people develop out of the encounter with themselves and their fellow human beings continually grows. Beyond the domain of this experience, furthermore, there is that vast wealth of knowledge which flows toward each and every human being in the transmission of human culture—poetry, the arts as a whole, philosophy, historiography and the other historical sciences. To be sure, knowledge is “subjective,” that is, largely unverifiable and unstable. It is, nevertheless, knowledge that science cannot ignore. As such, a rich tradition of this knowledge exists from time immemorial, from the days of Aristotle’s “practical philosophy” to the Romantic and post-Romantic age of the so-called Geisteswissenschaften or human sciences. In contrast to the natural sciences, however, all these other sources of experience have a common quality: what we learn from them becomes experience only when actually integrated into the consciousness of acting human beings…The experience that can be validated as certain by the scientific method has the distinction of being in principle absolutely independent of any situation of action and of every integration into the context of action.  

I believe that this long quotation pulls together the import of the entire chapter and Habermas and Taylor’s questions regarding the role of the natural sciences with regard to a reading of human existence. Whether the question be subjectivity, voice, interiority, identity, party dependency, self-interpretation, moral horizons, language, the question of future consent, will formation, relationships, self-definition, or being authors of our lives, the unique individual, as a cultured, language-laden, historically-immersed, internally-driven, narrative person is simply not knowable to the natural sciences. The natural sciences miss this entire aspect to human existence. It is lost to them because it is

not perceived; it is lost because it is held to be unimportant; it is lost because it is not measurable; it is lost because it is never sought.

Having explained in detail their approaches toward science and personhood, and having shown some commonality among these different philosophers on this concern, it is fair to say then that personhood is an issue when newer technologies and newer proposals are introduced to deal with human existence. Personhood is thus always a question with any human technologies. It is a question because, as I have attempted to show, dealing with humans means naturally dealing with persons. And only the human sciences can know persons.
CHAPTER THREE

VARIOUS DISCUSSIONS CONCERNING ANENCEPHALIC CHILDREN AND PERSONHOOD, WITH SPECIESIST CRITIQUES

Introduction

The previous chapter explored the relevance of an articulation of personhood within the contemporary philosophical climate. If successful, that discussion demonstrated how personhood automatically arises wherever the effects of naturalism and modern scientific procedures (such as PGS) occur. This was because such methods impinge upon the freedom and integrity of another human by reducing him or her to terms of quantity, chemistry, physics, or biology. Such descriptions were held to be incomplete because the other party’s identity, voice, freedom, language, and overall embeddedness were not included. Personhood was not counted or acknowledged—it was an extra component not considered germane to the question at hand.

In this review of scientistic tendencies and evolving technologies, we therefore saw that personhood is an issue worth addressing because, philosophically speaking, to miss personhood aspects of human existence is to miss the complete truth. Naturalism and modern science did not grasp the overall humanity of the other and were therefore considered unreliable means to address full human existence.

Now that personhood was shown to be important and relevant, this chapter will narrow questions of personhood to a single exemplary case. As noted in the Introduction,
this dissertation explores the question of personhood through the paradigm of an anencephalic child. This is in a sense a foundational case because it abstracts from so many commonly understood personhood attributes to display in relief a core of human personhood—that even such a severely mentally disabled child is a person. To address that case and to buttress the argument I will make later in the dissertation, I will first look at other unsatisfactory claims that also hold that an anencephalic child is a person. In saying this, however, I will argue briefly they do not stand up to basic philosophical scrutiny.

The avenue I chose to highlight the deficiency of these candidates for anencephalic personhood is speciesism. To do this, at the beginning of this chapter I will lay out a brief description of speciesism and the standard type of criticism it levels at those who mark ethical differences between species. I will then describe the various personhood philosophies, beginning with the law and legal definitions of personhood, then moving on to a few political theories, then natural law theories (both traditional and new), and finishing with the rather distinctive theories of Kass and Jonas (which I label “prudential”). In articulating these philosophies, I will first describe the condition of anencephaly and the medical condition the child is inflicted with, then describe each position as cleanly as possible, arguing that it would grant personhood status to anencephalic children. (In doing so, I will not define personhood with precision because some thinkers address a unique moral status without using the term “person,” some use “human” in a way that is tantamount to person, and some are never particularly definite about personhood. I nevertheless will mean by “person” a distinct moral status that
connotes a special presence, a certain something that invokes dignity and inviolability and respect in another.) At the end of each section, I will argue that that discussion of personhood lacks a sufficient articulation to grant personhood to anencephalic children because it falls to basic speciesist challenges that render it merely another form of prejudice. I will finish with a brief conclusion.

To remind the reader, the trajectory of the dissertation is eventually to give an answer that the others in this chapter lack—a philosophically discernible foundation of personhood that may apply to all post-natal children, including those most severely disabled, the anencephalic child—but without their attendant problems.

**Brief Definition of Speciesism**

In the early 1970’s Richard Ryder coined the term “speciesism” to describe an ethical distinction humans have classically defended between themselves qua humans and other species qua non-humans.¹ Traditionally, membership within a species was both a necessary and sufficient condition for the conferral of a special moral status.

1 See Ryder’s *Victims of Science: The Use of Animals in Research* (London: Davis-Poynter, 1975) for a deeper discussion of the term he first used in a leaflet about animal experimentation. Since that time, Ryder has abandoned the term and has reached for another with greater precision: “painism” (See, for example, his “All beings that feel pain deserve human rights,” *The Guardian*, August 6, 2005: “Our concern for the pain and distress of others should be extended to any “painient”—pain-feeling—being regardless of his or her sex, class, race, religion, nationality or species. Indeed, if aliens from outer space turn out to be painient, or if we ever manufacture machines who are painient, then we must widen the moral circle to include them. Painience is the only convincing basis for attributing rights or, indeed, interests to others. Many other qualities, such as ‘inherent value,’ have been suggested. But value cannot exist in the absence of consciousness or potential consciousness. Thus, rocks and rivers and houses have no interests and no rights of their own.”) Regardless of the nomenclature, the idea remains essentially the same—distinctions made between entities cannot philosophically be based solely upon membership or lack of membership within a given species. Overall, I understand Ryder’s painism to be akin to Peter Singer’s emphasis on suffering, without the latter’s attendant utilitarianism. (See, for example, Singer’s *Animal Liberation* [New York: Ecco, 2002], 21).
Specifically, this relegation of all non-humans to a different moral category seemed arbitrary to Ryder, especially where pain was involved. “Our moral argument is that species alone is not a valid criterion for cruel discrimination. Like race or sex, species denotes some physical and other differences, but in no way does it nullify the great similarity among all sentients—our capacity for suffering.”2 This segregation of humans and animals into distinct and unbridgeable moral camps based solely upon a “like us” and “not like us” criterion smacked of prejudice. It was like racism or sexism, so “speciesism” was an apt description.

The philosophical point Ryder and others make is that mere category membership is not rigorous enough to ground such an impactful distinction. Much rides on this distinction. For example, if a one-day old child is not self-aware, but a higher primate may indeed be at least partially self-aware, what could be the basis for determining that the former cannot be painfully experimented on but the latter can? If the answer relies on species membership without any further explanation, that seems arbitrary. The traditional philosophical reasoning behind special treatment to humans alone has most often been rationality or potential for rationality—that is, that a connection to rationality always somehow indicated a difference in kind, not just degree from other animals.3 In


3 For a contemporary account of such reasoning, see Bonnie Steinbock’s “Speciesism and the Idea of Equality” in Morality and Moral Controversies: Readings in Moral, Social, and Political Philosophy, 8th ed., John Arthur, ed. (Upper Saddle River: Prentice Hall, 2009), excerpted from Philosophy, Vol. 53 [April 1978].” In a refreshing, intellectually honest way, Steinbock relies on capacities to mark a difference between humans and animals, but admits to difficult cases. “I doubt that anyone will be able to come up with a concrete and morally relevant difference that would justify, say, using a chimpanzee in an experiment rather than a human being with less capacity for reasoning, moral responsibility, etc….We feel a special obligation to care for the handicapped members of our own species, who cannot survive in this world without such care…[T]o subject to experimentation those people who depend on us seems even
the case just cited, however, the primate has an incipient (but actual) self-awareness or rationality, but the infant has none at all. The child’s is at best a pure potential. It is not clear, therefore, why a limited actual self-awareness should be calculated as so morally inferior to a potentially significant yet totally unactualized one that brutal experimentation is permissible on the animal, but held as barbaric on the baby.

There is no credible evidence that the child feels pain more acutely than the primate. If that assumption is true, then allowing for experimentation on the primate but not on the child based on mere tradition indicates a clannish predilection seen in the prejudice of, say, Caucasians against non-Caucasian. Where prejudice occurs among humans, the complaint by those who suffer such prejudice would be not that the racial taxonomy was incorrect; the complaint would be that the taxonomy was not relevant to having or not having the same moral worth throughout. Speciesism reminds us of this—if there is to be a distinction made between humans and non-animals to the extent that worse than subjecting members of other species to it. In addition, when we consider the severely retarded, we think, ‘That could be me.’ It makes sense to think that one might have been born retarded but not to think that one might have been born a monkey.” Steinbock, “Speciesism and the Idea of Equality,” 172

4 “Abundant scientific evidence, based on neurological, behavioral, biological and biochemical data, supports the view that many nonhumans can suffer pain and distress in the same sort of way that humans do. Considerations of intelligence, sophistication, autonomy, or species difference are morally irrelevant. What matters morally...is the other’s distress and pain, regardless of species. If nonhuman animals are sufficiently similar to humans for them to be used as scientific models in research, then they are sufficiently similar to be accorded a similar moral status.” Richard Ryder, “Speciesism in the Laboratory” in In Defense of Animals: The Second Wave, Peter Singer, ed., (Malden: Blackwell, 2006), 89. Tom Regan makes the point that the same assumptions animal advocates make between humans and animals is what nearly all humans assume between animal species: “No one, presumably, believes that because dogs and cats belong to different species that they therefore share no common experience—for example, that canine and feline pain, or canine and feline sexual desires are entirely different phenomena. Granted, it is logically possible that, though these animals exhibit similar pain and sexual behavior, they nonetheless have entirely different accompanying mental states. Both our common practice and respect for parsimony, however, are against regarding this possibility as true.” The Case for Animal Rights, (Berkeley: University of California, 2004), 64-65.
non-humans can be slaughtered for food and humans cannot, non-humans can be tortured in experiments for the sake of humans but humans cannot, and non-humans can be killed for human consumption but humans cannot, then such a significant moral divide needs *justification*. Clearly, this moral hierarchy makes so large a difference in terms of actions such as torture and slaughter that it needs significant philosophical explication. Once the arguments for sufficient similarity had been made regarding things like pain and self-awareness, the onus shifts to the party arguing for such distinctions. In the absence of justification, all that is left to support such behavior is a form of bigotry.

Nor it is helpful to rest the distinction on rights. Many assume that all humans have rights. But for that to be so, such rights must *first* rely on an underlying basis, a foundation that such rights are parasitic on. That grounding is humanity—to have rights, the rights bearer must *first* be human. A question arises, however, concerning rights-holders and non-rights-holders: Why should it be a necessary condition for rights-holding that the holder be human? Without justification, the rights language then in effect collapses merely into a question of speciesism. Tom Regan, of course, remedies this by arguing that *any* subject-of-a-life has inherent value,⁵ and rights.⁶ But that is clearly not a speciesist claim because Regan (1) extends the subject-of-a-life status to all humans and some animals,⁷ and thus (2) no longer views membership in the category Homo Sapiens as a necessary condition (although it is a sufficient one) for special status.

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⁵ Tom Regan, *The Case for Animal Rights*, 244.


Fundamentally, for Regan this is an equality claim—if you are the same in all essential characteristics, then you should be treated the same. This includes the duties we have toward all subjects-of-a-life. “We have a duty to intervene on their behalf, a duty to stand up and speak out in their defense.”

Speciesism claims then can include arbitrary grants of rights to humans, but it is the arbitrariness of the grant, not the rights status itself that connotes racism. The same is true of the equal recognition of inherent value—where the relevant characteristics have been observed and an inherent value has been justified as attaching to such characteristics, then protection commensurate where all such characteristics occur is warranted. While it is not speciesist per se to claim that “there are other characteristics about human beings that justify placing greater moral significance on what happens to them than on what happens to nonhuman animals,” it still requires a justification beyond mere prejudice. Without that justification, there would not be much daylight between such claims of human difference vis-à-vis animals and other forms of prejudice.

Speciesism then can be said to have at least five attributes:

(a) distinctions made

(b) between humans and non-humans

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8 Regan, Empty Cages, 62. Regan on p.61 specifically starts with what is owed to human victims in order to draw later an exact parallel with animals. Simply stated, both parties have rights and both impinge on our consciences to help. That is, we have a duty to help. He states this ideal of equality strongly in The Case for Animal Rights, 240: “Morality will not tolerate the use of double standards when cases are relevantly similar...All who have inherent value...have it equally, whether they be moral agents or moral patients.” He reiterates the question of relevance on p. 245: “[T]he subject-of-a-life criterion can be defended as citing a relevant similarity between moral agents and patients, one that makes the attribution of equal inherent value to them both intelligible and nonarbitrary.”

9 Peter Singer, In Defense of Animals, 3.
(c) based solely on species membership (i.e., no other form of justification offered)
(d) with an accompanying moral evaluation attaching to that membership
(e) that grants the highest moral status to humans alone

I will argue that all the descriptions of personhood below fall prey to speciesist attacks. They all, either explicitly or implicitly grant a special moral status to the anencephalic child based upon membership in the human species alone. Letter (e) above is the one that is most often left unarticulated. I will endeavor to show, however, that it is implied if not stated explicitly. Overall, I will show that moral distinctions were made without sufficient justification to warrant differential treatment between humans and all animals.

**Legal Personhood**

In October of 1992 Theresa, a baby girl with anencephaly was born in a hospital in Florida. As a severe congenital defect, anencephaly precludes a normal existence. “In babies with this condition, the top of the skull may be missing, above the eyebrows. In its place there is merely a layer of skin. In other cases the skull is malformed, and filled with fluid. If a torch is held to one side of the skull, the light can be seen on the other.”

It is the most severe abnormality of the central nervous system a newborn might suffer.

The eyeballs bulge from defective sockets, and the ears are usually malformed. Although anencephalic infants do not have higher-brain functions, their brain stems allow for some typical newborn activity. Most important, circulatory and respiratory functions are performed naturally.

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10 Peter Singer, *Rethinking Life and Death: The Collapse of Our Traditional Ethics* (New York: St. Martin’s, 1994), 38. The National Institute of Neurological Disorders and Stroke website is also quite helpful in its description: “Although some individuals with anencephaly may be born with a rudimentary brain stem, the lack of a functioning cerebrum permanently rules out the possibility of ever gaining consciousness. Reflex actions such as breathing and responses to sound or touch may occur.” http://www.ninds.nih.gov/disorders/anencephaly/anencephaly.htm.
Crying and swallowing occur. Some infants with anencephaly may have the mobility of a four-month-old fetus. These infants respond to vestibular stimuli and some to sound. Reflexes are usually strong, particularly their response to painful stimuli. The reflex grasp is easily initiated. Such infants are not dead according to currently accepted standards...Approximately 40 percent of those born alive survive at least twenty-four hours. Of these survivors, one out of three will be living at the end of the third day and 5 percent will live to at least seven days. Rarely have anencephalic infants lived to several months.11

The life of such a child is missing any sense of subjectivity, any interiority that may mark out the common human existence. “Such an infant can experience nothing—not even the most rudimentary sensations. Its condition is, in this respect, analogous to that of a person who has been rendered permanently unconscious by catastrophic injury. Such a child can derive no experiential benefit from continued life.”12 Beyond the immediate defects in the head, the condition can be accompanied with problems in body organs and systems. It is always fatal. This is the affliction Theresa was born with.

Before she was born, Theresa’s parents were informed of her severe deformities. Upon the advice of physicians and after their own reflections, the parents decided to bring their little girl to term so that her organs might be given to other healthy children. “Although [Theresa] had no hope of life herself, the parents both testified in court that they wanted to use this opportunity to give life to others.”13 The parents asked that the

11 James Walters, *What is a Person: An Ethical Exploration* (Urbana: University of Illinois, 1997), 116. The question of the extent of pain an anencephalic child may feel is debatable—especially when “pain” is held to include reflexes. The reflex, for example, to pull one’s hand away from a fire is distinct from the concomitant pain. That a child with no cerebral cortex can feel pain seems dubious.


13 *In re T.A.C.P.* 609 So. 2d 588, 589.
child be declared dead in order to effect organ harvesting, and the Supreme Court of Florida on appeal entertained that precise question: Under the law is an anencephalic baby born “dead”? The tradition, long held, is that an already-born child is a “person” under the Fourteenth Amendment, a position reaffirmed in Roe v. Wade. “The use of the word (person) is such that it has application only post-natally. None [of the other constitutional provisions] indicates, with any assurance, that it has any possible pre-natal application. All this… persuades us that the word ‘person,’ as used in the Fourteenth Amendment, does not include the unborn.”14 The Florida court reaffirmed this tradition and denied the parents’ assertion that the child, although a legal person, is still legally dead. The Court refused to state that a child could be both a (1) live person under the law and (2) dead for medical purposes. “[W]e find no basis to expand the common law to equate anencephaly with death…We hold that Florida common law recognizes the cardiopulmonary definition of death…”15 The analysis of Theresa’s death status was therefore the same used with any post-natal human. To be born is to be person.

Interestingly, the court did not address personhood in any depth at all. In fact, the word only occurs a few times in the entire decision. What the court assumes throughout is that as an already-born human, the baby is a legal person. The court saw as its charge only the question of what constitutes death (and not personhood) and whether or not such a child may be considered dead under the law. For example, in distinguishing the case at hand from pre-natal wrongful death suits where the destroyed fetus was not considered a

14 Roe v. Wade 410 U.S. 113, 157-158, footnotes deleted.

15 In re T.A.C.P., at 595.
legal person or “alive,” the court said: “We believe the weight of the evidence supports the conclusion that T.A.C.P. (Theresa) was ‘alive’ in this sense because she was separated from the womb, and was capable of breathing and maintaining a heartbeat independently of her mother's body for some duration of time thereafter.”¹⁶ For the court, the child was always a legal person—with the legal question only being whether that person was “dead” or “alive.” In many ways, however, the entire legal dispute can be understood as reliant upon the child’s unstated personhood. Were such a child treated like a rock or a dog, the court would not have had to render a decision prior to the death of the baby. But, the presence of another attribute (her legal personhood) required a legal procedure commensurate with such a unique and important status—only persons have trials.

This post-natal legal personhood was reiterated in In the Matter of BABY "K", 16 F.3d 590 (1994). This Virginia case centered on a disagreement between the hospital and the mother of an anencephalic girl over whether or not the hospital was forced to give emergency medical treatment after the child had left the hospital and been moved to a nursing home. The child occasionally needed the emergency use of a hospital ventilator, and the doctors felt morally that such care to an anencephalic child constituted futility. The court, however, disagreed with the hospital’s claims that such care was futile. While the case dealt specifically with questions of futility and judicial interpretations of legislation (here the Emergency Medical Treatment and Active Labor Act, or EMTALA) and not personhood or death status, it was nevertheless clearly understood in the court’s

¹⁶ In re T.A.C.P., at 593.
analysis that the child involved had personhood status under the law. Nowhere, for example, was it argued that the care was unwarranted because the child was not a legal person. In addition, here, as with Theresa, there was never any discussion of the legal standing of Baby K.

“Standing” is a legal term denoting ability to get into court. “The requirement of ‘standing’ is satisfied if it can be said that the plaintiff has a legally protectable and tangible interest at stake in the litigation.”17 In short, standing analysis ensures that (1) the party has a *claim* the court will recognize, and (2) the party is an *entity* whose claims the court will entertain. Rocks and plants, for instance, lack standing—others therefore cannot even sue on their behalf because they cannot have claims.18 Baby K’s mother did sue on her behalf and the court never contemplated the question of standing, nor did the attorneys argue standing, nor was the case addressed solely on the mother’s interest as a parent. Instead, the argument was over futility and statutory interpretation; it was never over the legal personhood status of Baby K. To the court, Baby K was a person.

It is worth noting in the Baby K decision that the court drew a distinction between an occasional emergency need for a ventilator and the child’s underlying medical

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17 *Black’s Law Dictionary*, 6th ed. (St. Paul: West Publishing, 1990), 1405, quoting *Guidry v. Roberts*, La.App., 331 So.2d 44, 50. See also *Allen v. Wright*, 468 U.S. 737, 751: “In essence, the question of standing is whether the litigant is entitled to have the court decide the merits of the dispute or of particular issues.”

18 The standing issue is complex and arguably may even extend pre-natally to viable fetuses and duties owed to them by their mothers not to use drugs, etc. In such a case the state may sue on behalf of the injured fetus. See e.g. *Whitner v. State of South Carolina*, 328 S.C. 1, 492 S.E.2d 777 (1997): “This case concerns the scope of the child abuse and endangerment statute in the South Carolina Children's Code…We hold the word ‘child’ as used in that statute includes viable fetuses.” For an argument that non-human objects such as rocks and trees have standing, see the dissent of Justice Douglas in *Sierra Club v. Morton*, 405 U.S. 727 (1972).
condition of anencephaly. To the doctors, that condition itself constituted futile care—that is, to be an anencephalic child simply is to be terminal, and any care beyond simple warmth, nutrition, and hydration constituted futile care. The court (albeit bound by the statute) declined to make that connection. The court treated the child like a patient with cancer who occasionally needs to come to the hospital for a respirator. In that case, the cancer itself would not render the use of a respirator futile, especially since most of the time the patient would not even need it.

_T.A.C.P_. and _Baby K_ indicate that anencephalic children are not relegated to a non-person status in the law because of their severe deformities, but are, as already-born humans, understood as “persons” under the law. The Florida and Virginia courts indicate that any dispute over the medical treatment or non-treatment of anencephalic children must therefore be litigated—a decision mechanism required for all other persons, abled or disabled.

In these cases, the child clearly lacks autonomy, a significant element of discussion in medical ethics cases. But because anencephalic children (a) lack autonomy, and (b) lack the ability ever to have autonomy, it follows that that law does not view either (a) or (b) as necessary conditions for personhood: that is, a human is not _ever_ required to be autonomous to register as a legal person. Furthermore, if we can draw a legal precedent from these cases, the law is willing to step in and use the resources of the

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19 The lower court’s reasoning here is relevant to the issue as well. “The hospital’s reasoning would lead to the denial of medical services to anencephalic babies as a class of disabled individuals. Such discrimination against a vulnerable population class is exactly what the Americans with Disabilities Act was enacted to prohibit” (832 F. Supp. 1022, 1029 [E.D. VA 1993]). See also Philip G. Peters, “When Physicians Balk at Futile Care: Implications of the Disability Rights Laws,” 91 _Northwestern University Law Review_, 815-816 on _Baby K_.

court to protect the safety of these vulnerable children. The anencephalic child, qua legal person, is not relegated to the desires of others (parents or doctors). It is simply enough to be a born human to be a legal person, with your own standing before the court, your own interests, and your own rights, including basic care.

Neither case answers the fundamental speciesist challenge to justify human/non-human distinctions in the law. The law clearly argues that a child, without autonomy or the potential for autonomy, without self-awareness or the potential for it, and without any form of consciousness or the potential for it, is a person under the Fourteenth Amendment. Simply stated: the Fourteenth Amendment grants rights to all persons and only to persons; all humans who are born are persons; an anencephalic child was born; so an anencephalic child is a person under the law.

What the law also does is exclude any non-humans from legal personhood and therefore denies any Fourteenth Amendment protections, standing, or other claims that the court must recognize. To be precise, the courts nowhere deny personhood to animals, but they do deny personhood to pre-natal humans and state that it is birth that marks passage into the realm of rights. Obviously, animals are not what Roe and other cases contemplated when it made birth the status of personhood. It is the birth of humans that regulates legal personhood—human birth is both necessary and sufficient for legal personhood. The result of all this is that only post-natal humans qua humans have claims the court must recognize. This, I believe, fails a basic speciesist challenge because no justification was ever articulated why the law includes as persons all children who, for
example, have no consciousness (and never will), but excludes all animals that do have consciousness (such as a dog or cat). The result appears to be a “like us” versus “not like us” grouping that cannot but implicate the law in a bigoted codification.

**Political Personhood**

International political statements as well as several authors of political philosophy imply a unique moral status owed to post-natal humans merely as already-born humans.\(^\text{20}\) This is certainly not universal among political philosophers. Nevertheless, there are many serious discussions of the special treatment accorded to all post-natal humans qua humans, which of course includes anencephalic children. I will address a few of those below.

The most powerful international statement regarding the inimitable status of human beings surely is in the United Nations’ *Universal Declaration of Human Rights*. Article I states: “All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.”\(^\text{21}\) Birth is held sufficient for a special status that includes dignity and rights. While Article I does mention “reason and conscience,” that is not argued as a limit on the first clause. Were that the case, then newborns, who all lack reason and conscience (except in potential), would not own these rights, and the use of the words “born” with “free” and “equal” would be rendered meaningless.

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\(^{20}\) The literature here occasionally refers to such things as civil rights, human rights, political rights, etc., but I will not dwell on the terms. My emphasis instead will be the preexisting special status such rights recognize.

In addition to the *Universal Declaration*, the United Nations’ *International Covenant on Civil and Political Rights* addresses in its Preamble “the recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family” as being elemental to justice. Furthermore, Article 6 therein notes, “Every human being has the inherent right to life. This right shall be protected by law.”

These proclamations do not offer explanations or foundations beyond birth into the human family as sufficient reason for a special status: the rights simply attach and are connected to humans insofar as they are human and insofar as they are born.

This post-natal dignity is embodied as well in the attempts of Eva Kittay in *Love’s Labor, Essays on Women, Equality, and Dependency* to provide a philosophical ground for requiring the political community to care for the severely disabled. To argue for such a foundation, she first distinguishes the Rawlsian notions of personhood as free, independent, and equal as well as the Kantian exclusions of non-rational humans as persons from her own political theory. “Although Rawls believes that the conception of the person he employs is itself an idea of practical reason, it is an idea inadequate to the fact of a human vulnerability to dependency.”

Kittay disputes the political

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23 Eva Kittay, *Love’s Labor: Essays on Women, Equality, and Dependency* (New York: Routledge, 1999), 147. Martha Nussbaum describes this Rawlsian notion well in *Frontiers of Justice: Disability, Nationality, Species Membership* (Cambridge: Harvard University Press, 2006) at 29-30: “Social contract doctrines hold that their parties begin the bargain in a situation of rough equality…[T]here are no great differences among human beings in basic powers, capacities, and needs.” See also her p. 14: “The classical theorists all assumed that their contracting agents were men who were roughly equal in capacity, and capable of productive economic activity.” See John Locke, *Second Treatise of Government*, Paragraph 2.6 for the basis of these social contract assumptions: “The state of nature has a law of nature to govern it, which obliges every one: and reason, which is that law, teaches all mankind, who will but consult it, that being all equal and independent, no one ought to harm another in his life, health, liberty, or possessions.” *Two
differentiations (particularly in the social contract tradition) between the abled and disabled, the independent and the dependent.

[W]e cannot limit our understanding of social cooperation to interactions between independent and fully functioning persons because it obscures or minimizes the social contributions of dependents—who, even in their neediness, contribute to the ongoing nature of human relationships—and of those who care for dependents. 24

There must instead be a political commitment to the interests of the disabled themselves qua disabled persons, not as either Rawlsian independent individuals or Kantian rational lawgivers. “Autonomy in the sense of self-governance is surely of special importance, but these Kantian considerations must find their way into a more adequate representation of persons, one capable of acknowledging dependency as an obligatory limitation to self-governance.” 25 Kittay is wary of setting up a standard of what may be considered typical. The profoundly injured, mentally or physically, who are dependent on others and thus not within the Kantian-Rawlsian moral parameters, nevertheless deserve recognition of their own particular ranges and interests. 26

In contrast to these, Kittay argues for a “care-based theory [that] would support a type of politics that provides comprehensive support for need throughout all citizens”

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26 See Kittay, *Love’s Labor*, 92-93: “Neither the condition of the self-governing adult—the liberal Kantian model—nor the condition of a minor—the secular and religious authoritarian model—ought to serve as the ‘normal’ condition of persons when choosing the design of a social order. Instead the full range of human functioning is the ‘normal’ condition.”
lives, as in some familiar ideals of the welfare state—but a welfare state in which liberty is far less important than security and well-being.”  

Kittay is moving beyond an individualistic, interdependence-based-upon-independence ethic to make a more serious claim—that interdependence of the kind the social contract theorists often advocate relies upon once-dependent and possibly-dependent-again persons. “[A]t some point there is a dependency that is not yet or no longer an interdependency…The argument of this book is that our mutual dependence cannot be bracketed without excluding both significant parts of our lives and large portions of the population from the domain of equality.”

Most specifically, adult equality, an essential tenet of the social contract tradition, is parasitic upon an individual being assisted when dependent, as in infancy, sickness, or old age. Interdependency among equals is therefore most properly understood as the coming together of dependent people, some of whom are now temporarily independent. “Not a single citizen approaches the ideal of full functioning throughout a lifetime.”

Among those dependent people are the disabled, many of whom are even incapable of simple reciprocity. Acknowledging our mutual dependency, welfare state assistance should include caring for the profoundly disabled, such as her own daughter Sesha, who has “no measurable IQ.” This leads to an ideal equality based not on “normal” parameters, often defined by traditional and dominant groups, but one from

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An inclusive community is one that allows for difference; it seeks win-win cooperation, not win-lose competition or zero sum games where each side keeps score and there are always losers. In the politics Kittay envisions, persons would interact in “connections of care and concern,” indicated in communities that characterize this relatedness. These would form the basis of a connection-based equality rather than an individual-based equality more familiar to us. The question for a connection-based equality is not: What rights are due me by virtue of my status as an equal, such that these rights are consistent with those of all other individuals who have the status of an equal? Instead, the question is: What are my responsibilities to others with whom I stand in specific relations and what are the responsibilities of others to me, so that I can be well cared for and have my needs addressed even as I care for and respond to the needs of those who depend on me?\(^\text{32}\)

Kittay is thus attempting to dispose of the traditional tensions within equality discussions and instead transform them. She sees her work as “intended to clear the way for an understanding of equality that is compatible with dependency concerns, that understands not only the demands of fairness, but the demands of connection.”\(^\text{33}\) The political slogan here could be, “We are all some mother’s child,” including those who do the difficult work of caring for the disabled.

\(^{31}\) Kittay offers a nice example of inclusion from Carol Gilligan’s work. “The girl wants to play neighbor; the boy wants to play pirates. A fair solution would be to play pirates for a certain amount of time and then switch to playing neighbors for an equal amount of time. But the young girl has another solution. She suggests that they play a game in which the neighbor is a pirate...In the fair solution, both games remain in their original conception. In the inclusive solution a new game emerges. There is a transformative potential here.” Kittay, \textit{Love’s Labor}, 19.

\(^{32}\) \textit{Love’s Labor}, 28. “I claim that grasping the moral nature of the relation between unequals in a dependency relation will bring us closer to a new assessment of equality itself. The proposal is that rather than an equality based on properties that adhere to individuals, we develop an equality wherein the condition of its possibility is the inevitability of human interdependence: The interdependence which is featured both literally and metaphorically in the aphorism that we are all some mother’s child.” Kittay, \textit{Love’s Labor}, 50.

\(^{33}\) \textit{Love’s Labor}, 18.
Care of the severely disabled includes the political support and recognition of the caregiver who struggles as well to be able to provide for the needs of their patient.

Without an understanding that the dependent person is connected to everyone, the work of the dependency worker will be seen as extraneous, as somehow not really benefitting the community. It will be considered a waste of resources by some. “For the dependency worker to meet her responsibilities to another, it must be the responsibility of the larger social order to provide a structure whereby she, too, may be treated as a mother’s child.”

It is clear to Kittay that the interests and vulnerability of the disabled demand much from society. “The dependency of disability needs to be joined to the dependency of infancy and early childhood and to a healthy but frail old age.” Nowhere in her discussion does Kittay entertain or even intimate a division to be drawn based on the severity of the disability. Nowhere does she address lines that might exclude some in favor of others. I believe it is a fair implication from her work, extending from Sesha, with no measurable IQ, to the political requirements of the caregiver who helps such severely disabled people, that the personhood of the disabled is simply a post-natal one, including anencephalic children. To be born, even with severe deformities, is to be part of the political community—it is to be a dependent person to whom care is owed and a

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34 Love’s Labor, 70.

political response is merited.  

Robert Goodin’s work on vulnerability is specifically mentioned by Kittay. In *Protecting the Vulnerable: A Reanalysis of Our Social Responsibilities*, he argues for a vulnerability model that meets with our moral intuitions of who deserves our help in society. It is these intuitions that guide us, that steer us toward others in need, regardless of their proximity or relational status to us. These intuitions impinge on our assessment of others, coloring the needful as requiring action on our part. These intuitions imply a loss, a mistake, if the person who can act does not act. “Vulnerability implies that there is some agent (actual or metaphorical) capable of exercising some effective choice…over whether to cause or to avert the threatened harm.” Goodin argues that the moral status of the vulnerable cannot therefore be ignored by us without some sort of distortion of our basic human reflections. “The simple fact that a person is so very vulnerable to you imposes upon you special responsibilities in respect of him.”

This is an intuitional moral claim that extends beyond commonly understood parameters. The Vulnerability Model supersedes any requirements from concentric

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36 This conclusion is well supported by statements in her later article “At the Margins of Moral Personhood”: “I shall argue against the view that such intrinsic psychological capacities as rationality and autonomy are requisites for claims of justice, a good quality of life, and the moral consideration of personhood—that is, that these capacities are the principal qualifications for membership in a moral community of individuals deserving equal respect and dignity. In arguing thus, I recognize that I swim against the philosophical tide. But to argue otherwise is to exclude those with severe cognitive disabilities from the moral consideration of persons, and I believe this exclusion to be as morally repugnant as earlier exclusions based on sex, race, and physical ability have been.” Kittay, *Ethics* 116 [October 2005]: 100–131. Later in the article, Kittay specifically addresses relationships and anencephalic children. In subsequent chapters, I will cite these instances in support of my personhood claims and relationships, but will argue that they are incomplete.


38 Goodin, *Protecting the Vulnerable*, 38.
circles of relation, contractual relationships, implied promises, etc. It is meant to explode the conventional wisdom about duties to assist, but strangely to do so in a way that clarifies what people in a sense already know. “The basic argument of this book…is that our social responsibilities are broader than we might ordinarily be inclined to suppose.”

Commonly, moral adherence is directed to those within our circle of influence or those we have promised to help. The Vulnerability Model nevertheless highlights the simple fact that others, even those who are very rarely in need, sometimes do depend on us, and from their dependent status, from their naked reliance on us (no matter how brief), they deserve our attention. This is true even if they are outside our proximate circle or we have never made any assumption of duties toward them. If we can help, we are morally obliged to help. “What the vulnerability model emphasizes is not just their special need…but also your special ability to help.”

Because our call to help others extends beyond commitments purposefully

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39 Goodin, Protecting the Vulnerable, 12. “Leading people to acknowledge broader commitments is the goal of this book” (10).

40 This is not unlike the Christian notion of agape or Stoic commitments to the entire cosmopolis. See Goodin, footnote 12, p. 11. In fact, Goodin argues that the traditional Humean claim, where we understand justice merely as an ever growing distance from ourselves and our needs, rings true because those closest to us are more directly understood as vulnerable. He thus attempts to meld what are held to be general social responsibilities toward “undifferentiated others” with those “special responsibilities” of our intimates. Protecting the Vulnerable, 12. “[Y]our special responsibilities derive from the fact that other people are dependent upon you and are particularly vulnerable to your actions and choices. What seems true for children in particular also seems to be true for other kin, neighbors, countrymen, and contractors. To some greater or lesser extent, they are all especially dependent upon you to do something for them; and your varying responsibilities toward each of them seem roughly proportional to the degree to which they are in fact, dependent upon you (and you alone) to perform certain services.” Protecting the Vulnerable, 33-34. As I will address below, for Goodin the same parallel (undifferentiated versus special) will occur between those who are vulnerable and those you have promised to help (contracted with).

41 Goodin, Protecting the Vulnerable, 34. Immediately before this sentence, Goodin gives “pride of place” to those whose special needs include children, those with mental and physical handicaps, the poor, and the elderly (34). They are the persons we should help.
undertaken, Goodin’s model differs fundamentally from the traditional social contract model. Traditionally, the presence of a promise indicates from one party a statement of commitment that the other may then rely on. This open statement therefore creates the promise with an accompanying commitment and reliance. It is this requirement that there be a promise to create a commitment that Goodin questions. Unlike Rawls and others within that post-Hobbesian tradition, the Vulnerability Model imposes a duty to assist that is not contingent on an existing political agreement or assent. “[A]ccording to the conventional wisdom…special rights, duties and responsibilities are thought to be incurred in consequence of some voluntary commitment of the person involved.” The vulnerable, however, address us morally not because we have voluntarily undertaken some responsibility for them, etc.; they address us simply because they are presently vulnerable. The paradigm case given by Goodin is the child.

Consider carefully the plight of the infant. ‘Is there anything,’ Rousseau asks, ‘so weak and wretched as a child, anything so utterly at the mercy of those about it, so dependent on their pity, their care, and their affection?’ …All this points to the more general proposition that your special responsibilities derive from the fact that other people are dependent upon you and are particularly vulnerable to your actions and choices.”

The infant is an exemplar of weakness because it cannot do for itself what we can: it cannot feed itself or clothe itself, or even instruct itself. Its vulnerability is a cry to others to intercede and offer assistance. What we owe the infant extends beyond any specific

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42 Goodin, Protecting the Vulnerable, 32.

43 Goodin, 33. This is similar to Henry Shue’s Basic Rights: “The infant and the aged do not need to be assaulted in order to be deprived of health, life, or the capacity to enjoy active rights…To be helpless they need only to be left alone.” 2nd ed., (Princeton: Princeton University Press, 1996), 19.
commitments made to the infant or any contractual relationships we have assumed. The fact is that the infant needs our present help and presently we can help. We therefore should help.

As noted, social contract theories emphasize that a purposeful assumption of duties creates moral expectations. Although disagreeing that such assumptions are first necessary to create duties to the vulnerable, Goodin attempts to show that even in cases of affirmative debts and commitments, we have duties not because such duties were formally assumed by us, but because the parties are presently vulnerable to us. That is, it is the vulnerability of the parties that fits with our basic moral intuitions about contracts rather than the affirmative commitments. He uses examples to show that all vulnerable parties rely on us in the same way that contractually dependent parties rely on us to perform. “Goodin argues that all special relations, business relations, relations between a professional and a client or patient, family relations, friendships, benefactor-beneficiary relations…are better described on the Vulnerability Model.”44 From contract law, for instance, he notes that certain parties (including those not within an agreed-upon contract) are stopped from claiming that they are not liable to another party who has relied upon them to that other party’s detriment. “Damages are calculated…on the basis of the extent to which others are depending upon your performance…The law of contract mirrors the Vulnerability Model in assessing the strength of the contractual tie…”45

Were a party to rely on another’s anticipated behavior in such a way that she was unjustly

44 Kittay, Love’s Labor, 55.

45 Goodin, Protecting the Vulnerable, 50-51.
harmed, the law steps in to make sure that such vulnerable persons are not exploited (both where there is and where there is not a contract). Unlike the question of mere self-assumed obligations, contract law shows “that obligations are generated by reliance as well as promises.” A systematic or formal assumption of duties within a set contract is not a prerequisite to the law acknowledging one party’s debt to a vulnerable party who has been harmed, especially from reliance. What is important in Goodin’s eyes is not the formality of the contract, but the vulnerability of the party whose fortunes so clearly rely on the other.

All told, Goodin holds that our responsibilities to others thus extend well beyond promises we have made or the special responsibilities to our inner circle—friends, family, etc. “[Y]our special responsibilities derive from the fact that other people are dependent upon you and are particularly vulnerable to your actions and choices.” It is more appropriate to understand that others relying on us is “the true source of all the standard special responsibilities that we so readily acknowledge.” Our basic moral intuitions, when unpacked, reveal that our circles of concern and our promises to others call to us morally because the persons in those circles and those whom we have promised are

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46 Goodin, *Protecting the Vulnerable*, 49. “The whole point of the ritual of offer and acceptance, consideration and bargaining is merely to ensure that each party knows that the other is relying on him, and what precisely each is expecting of the other…The solemn ritual attending contract formation is basically just a device for making sure each party knows of the other’s expectations” (47–48).


48 Goodin, *Protecting the Vulnerable*, 11. He continues, “The same considerations of vulnerability that make our obligations to our families, friends, clients, and compatriots especially strong can also give rise to similar responsibilities toward a much larger group of people who stand in none of the standard special relationships to us.” See also p. 42: “It is my thesis that all of these special responsibilities are best analyzed through a model that derives one party’s responsibilities from the other party’s vulnerabilities.”
presently dependent on us. We can then extrapolate from those in special relationships to all others in general who are vulnerable to us. To those undifferentiated others, if we can act, we should act.

Because vulnerability is at the center of Goodin’s work, it is not hard to understand why Kittay relies upon parts of it. “The needs of another call forth a moral obligation on our part when we are in a special position vis-à-vis that other to meet those needs.”

Goodin, like Kittay, links the vulnerable with the dependent. “It is dependency and vulnerability rather than voluntary acts of will which give rise to these, our most fundamental moral duties.” For completeness here, I will note, however, that she distances herself from Goodin’s Vulnerability Model for many reasons, not least of which are that it may lead to an endless need to help distant persons and because it may end up turning the person depended on (caregiver) herself into a vulnerable person.

Kittay likes the overall discussion of vulnerability, but fears it may simply reinforce social facts that place women in situations of exploitation. In the end, she attempts to thread the needle between, on the one hand, voluntaristic models that rely on simple views of equality and formal assumptions of obligations, and, on the other, vulnerability models that ignore the historical basis for the other’s vulnerability (for example, poor

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49 Kittay, Love’s Labor, 55, addressing Goodin. See also Kittay, “At Home with My Daughter,” 78: “I venture that those most vulnerable are justified in having first call to resources. They are least able to go out and get what they need or to demand a share in the benefits of social cooperation. They depend on others’ moral sensibility.”

50 Goodin, Protecting the Vulnerable, 34. “The simple fact that a person is so very vulnerable to you imposes upon you special responsibilities in respect of him.” Protecting the Vulnerable, 38.
choices) and the vulnerability of the caregiver to keep giving.\textsuperscript{51}

Throughout his discussion of the vulnerable and those who most need the community’s help, Goodin fails to draw a line among those who are vulnerable. In fact, the paradigmatic quote from Rousseau mentions babies, but not merely abled or healthy babies. That makes sense because deformed babies are even more vulnerable, more “weak and wretched.” It is not clear, however, if he ever articulates sufficient reasons why all post-natal humans would deserve our care.\textsuperscript{52} Instead, post-natal humans, all of whom are vulnerable, seem to be implicated in his theory. I do not see, however, a firm philosophical foundation (beyond intuitions) to justify a special status to all post-natal humans in the political community. It appears for Goodin (and Kittay) that to be born is to be vulnerable, and to be vulnerable is to be owed care by the community.\textsuperscript{53}

\textsuperscript{51} Kittay comes up with a connection-based equality here that precludes the coercive tendencies she sees in Goodin. “We can have a vulnerability model without giving a moral warrant to a coercive allocation of responsibilities... But we need the vulnerability model to be situated in a moral, social, and political theory that repudiates the notion that the founding obligations of a social order are derived from the voluntary association of equally situated and empowered individuals.” \textit{Love’s Labor}, 73.

\textsuperscript{52} Kittay supplies this for Goodin when she notes the relational quality to the vulnerability model: “What is striking about this model is that the moral claim arises not by virtue of the properties of an individual— construed as rights, needs, or interests— but out of a \textit{relationship} between one in need and one who is situated to meet the need,” \textit{Love’s Labor}, 55. Goodin seems to concur: “The implication that an agent exists, in turn, implies that ‘vulnerability’ is essentially a relational notion.” \textit{Protecting the Vulnerable} 112. This relational component of Kittay and Goodin is different, however, than the one I will argue for in this dissertation. The relationships that they address seem to be merely post-natal and \textit{positionally} associated—that is, after the children are born, a relationship exists with the child as a vulnerable or disabled individual. It is not at all clear however that they would define \textit{relationships} phenomenologically as I intend to do, instead of \textit{positionally} (where this child is in front of me, presented to me, vulnerable to me, involved in my practice, needs state assistance, etc). I will argue that all post-natal children are \textit{persons phenomenologically speaking}. As persons, I may enter into a relationship with them. In this case (unlike the positional), their personhood is \textit{revealed} in the possibility of my having a relationship with them, not out of custom, job status as caregiver, etc. (Of course, there’s nothing to preclude a move from a \textit{positional} relationship to a \textit{phenomenologically-manifest} relationship—I will call this reengaging).

\textsuperscript{53} Goodin sidesteps the question of speciesism in his wide claim regarding human vulnerability. As I will argue below, the discussions of personhood in this chapter fail against a basic speciesist challenge. In his conclusion, Goodin reiterates that “we are still giving equal weight to everyone’s interests... Where human
Alasdair MacIntyre’s discussions of dependency in many ways amplify the work of Kittay and Goodin. As they addressed the role of the dependent or vulnerable within a political community, so too will MacIntyre. What he will add is a detailed discussion of human nature. In *Dependent Rational Animals* MacIntyre deepens his previous work by moving closer to philosophical anthropology. Placing himself within the Aristotelian tradition, he understands a complete human life to be one well versed in the virtues. Overall, this exercising of the virtues is what will ensure a life well lived because it is practical wisdom and because it respects the corporality of human existence—that is, human virtues are going to combine human rationality and human animality. Both are what constitute “human nature.” Unlike Aristotle himself and the dominant tradition in virtues, however, the rational animality that MacIntyre describes also includes some dependency.

From Plato to Moore and since there are usually, with some rare exceptions, only passing references to human vulnerability and affliction and to the connections between them and our dependence on others. Some of the facts of human limitation and of our consequent need of cooperation with others are more generally acknowledged, but for the most part only then to be put on one side. And when the ill, the injured and the otherwise disabled are presented in the pages of moral philosophy books, it is almost always exclusively as possible subjects of benevolence by moral agents who are themselves presented as though they were continuously rational, healthy and untroubled. So we are invited, when we do think of disability, to think of “the disabled” as “them,” as other than “us,” as a separate class, not as ourselves as we have been, sometimes are now and may well be in beings—present or future, near or far—are concerned, the proper principle is indeed ‘each counts for one, none for more than one.’” *Protecting the Vulnerable*, 187. (quoting his *Political Theory and Public Policy* [Chicago: 1982]). He then acknowledges the problem of animals, stating that he is not confident that all animals count the same—for example, the woodlouse he steps on. He balks at making calculations regarding animals and humans: “Since I can offer no mechanism to help us decide how much more heavily their (humans) interests should weigh, I shall simply leave the matter there.” *Protecting the Vulnerable*, 187.
the future.\textsuperscript{54}

Notably, there is a twofold aspect to his philosophy here. First, human nature, properly understood, must be the guide for a virtuous life, and second, that human nature includes periods of dependence. Successful lives, lived consistently within the virtues, are therefore reliant upon a correct interpretation of human nature, and that correct interpretation includes an affirmative acknowledgement of dependence.

While MacIntyre at times does have problems with some Aristotelian principles (chiefly how Aristotle denigrates dependence), he nevertheless holds that Aristotle (and Aquinas) would not get us into current confusions about ethics. Several modern commentators “have underestimated the importance of the fact that our bodies are animal bodies with the identity and continuities of animal bodies…[and] it is true of us that we do not merely have, but are our bodies.”\textsuperscript{55} We act toward the world, respond to the world, and project into the world as animals do; we just do so as rational animals who are sometimes dependent.\textsuperscript{56} A successful discussion of the virtues (and thereby a sustainable ethical theory) then must be broad enough to address on the one hand human rational animality, and on the other, human dependence on others. MacIntyre argues that modern moral philosophy has specifically forgotten the former, if not also the latter.

The connection of this ethical foundation to his overall political philosophy is the

\textsuperscript{54} Alasdair MacIntyre, \textit{Dependent Rational Animals: Why Human Beings Need the Virtues} (Chicago: Open Court, 1999), 1-2.

\textsuperscript{55} MacIntyre, \textit{Dependent Rational Animals}, 6.

\textsuperscript{56} MacIntyre addresses virtues both of becoming independent and of acknowledging dependence. I will only address the latter virtue here.
point of his book. While it is certainly based on a philosophical anthropology exploring a rich, nuanced life well lived, the ethical discussions (as with Aristotle) are in service to the overall political foundations. That connection involves describing and arguing for the proper political foundations necessary to uphold and promote the flourishing of dependent rational animals. Furthermore, the achievements of an individual ethical existence are reliant upon others, thus reflective of political/communal relationships he will highlight in local communities. “We become independent practical reasoners through participation in a set of relationships to certain particular others who are able to give us what we need.”

The first, most central problem with the political paradigms today is an incorrect understanding of the human individual, as noted above. Because MacIntyre argues that all humans are at times dependent, he too is going to dispute Rawlsian/social contract assumptions of free and independent persons as foundational and essential to a modern polity. In opposition to Rawls et al., MacIntyre wants to address the

57 Beyond this brief introduction to his ethics, I have limited myself to the political components of his theory regarding human persons. In addition, I addressed his theory as a political one here rather than a natural law one in the next section. Certainly it is not a stretch to consider his theory consonant with natural law, but, in comparison with Grisez or Finnis, I see MacIntyre as more politically centered (and thus in league with Goodin and Kittay regarding disability questions) rather than natural law centered. The tenor of his other work has been, for example, discussion of practices within communities. There is always in MacIntyre’s post-After Virtue work a strong link to politics, law, justice, etc., and to my mind that places him more appropriately alongside Goodin and Kittay than the natural lawyers.

58 MacIntyre, Dependent Rational Animals, 99. This intersects with Charles Taylor’s discussions of identity formation, where he often relies on George Herbert Mead’s notions of “significant others.” See, e.g., Charles Taylor, The Ethics of Authenticity (Cambridge: Harvard University Press, 1991), 33, referring to George Herbert Mead, Mind, Self, and Society (Chicago: Chicago University Press, 1934). MacIntyre argues for vibrant local communities, who are in-between a large, distant state on one side, and a resourceless, limited family on the other. “The relatively small-scale character and the face-to-face encounters and conversations of the local community are necessary for the shared achievement of the common goods of those who participate…” MacIntyre, Dependent Rational Animals, 142. This is not unlike the taxonomy discussed in Aristotle’s Politics I.
more extreme forms of disability and dependence, such as those in which the physically and mentally incapacitated are incapable of all or all but the most minimal responses to others, human beings who do not or no longer achieve the status of Lockean persons, human beings whose potentialities for rationality or affective response have been permanently frustrated. 59

Instead of an emphasis on the fundamental independence of the individual, the political discussions center on the strictures and goals and benefits of the entire community, of which such (currently) independent individuals are but a part. MacIntyre argues “the political structures must make it possible both for those capable of independent practical reason and for those whose exercise of reasoning is limited or nonexistent to have a voice in communal deliberation…” 60

MacIntyre specifically claims that, as conceived in the social contract theories, the modern state is inadequate to the needs of those radically dependent on others. The assumption of autonomy in contemporary social, economic, and political participation not only ignores others or relegates them to a “them” status, but it ignores the person who must take care of them, as Kittay reminds us. 61 Instead, the normal case, the political,

59 MacIntyre, Dependent Rational Animals, 138.

60 MacIntyre, Dependent Rational Animals, 130, emphasis mine. In a section immediately following this, MacIntyre, like Kittay, argues for proxies for those who cannot take part in political reasoning. Michael Sandel notes that it might be a bit simplistic to see Rawls as opposed to communitarian ideals: “Communitarian values, like any other values individuals might choose to pursue, would likely exist, and possibly even flourish in a society governed by the two principles of justice.” Michael Sandel, Liberalism and the Limits of Justice, 2d ed., (Cambridge: Cambridge University Press, 1982), 61.

61 See MacIntyre, Dependent Rational Animals, 75: “For it is and perhaps always has been a common assumption that blindness, deafness, deformed or injured limbs, and the like exclude the sufferer from more than a very, very limited set of possibilities. And this has often been treated as if it were a fact of nature. What is thereby obscured is the extent to which whether and how far the obstacles presented by those afflictions can be overcome or circumvented depends not only on the resources of the disabled…but on what others contribute, others whose failures may be failures of imagination with respect to future possibilities. What disability amounts to, that is, depends not just on the disabled individual, but on the groups of which the individual is a member.” Obviously, the role of a serious, loving caregiver here cannot be denied.
social, or economic norm, is held to be that individual who is rational and/or self-sufficient. A simple look at human existence, however, shows that that simply is not the case. Not one of us lives a completely self-sufficient life, and the community must embrace that fact.

The virtues of acknowledged dependence and the virtues of independence require for their practice a very different kind of shared pursuit of a common good. Where the virtues of acknowledged dependence are practices, there will have to be a common mind as to how responsibilities for and to dependent others are allocated and what standards of success or failure in discharging these responsibilities are appropriate. 62

For MacIntyre, this vibrant community exists when each individual member contributes toward the whole and yet flowers and is supported by that whole. 63 He argues that to achieve a common good “the prerequisites for a political community” require “social networks of giving and receiving…” 64 Such networks are elemental to the care of the dependent (which all of us are at times) and stretch all the way down even to those most profoundly disabled. The profoundly disabled are capable of being part of our community, even of being our teachers—“What they give us is the possibility of learning something essential, what it is to be someone else to be wholly entrusted to our care, so

62 MacIntyre, Dependent Rational Animals, 133.

63 Specifically, MacIntyre notes that “each of us achieves our good only if and insofar as others make our good their good by helping us though periods of disability to become ourselves the kind of human being—through acquisition and exercise of the virtues—who makes the good of others her or his good…” Dependent Rational Animals, 108. This view of the common good is reminiscent of Jacques Maritain’s famous statement: “To say, then, that society is a whole composed of persons is to say that society is a whole composed of wholes.” Maritain, The Person and the Common Good (Notre Dame: Notre Dame Press, 1966), 56-57. For both men, the community consists of each person, no matter how disadvantaged or disempowered, being a part. The whole then thrives because each part is taken care of—and taken care of because she or he is understood as part of the whole.

64 MacIntyre, Dependent Rational Animals, 141.
that we are answerable for their well-being.”

Those who are entrusted to our care include the “brain-damaged suffered at birth,” those with “severe autism,” and “those almost incapable of movement.” This is care that is owed to these others “whatever the outcome.”

The common good is a different outcome sought than the more contemporary greater good, wherein a calculus prior to decisionmaking is called for. The common good understands the community as elemental to human existence—it is where each individual in essence becomes whole. The individual “even to define her or his good in concrete terms has first to recognize the goods of the community as goods that he or she must make her own.” That community includes the severely disabled “whose extreme disablement is such that they can never be more than passive members of the community, not recognizing, not speaking or not speaking intelligibly, suffering, but not acting.”

Nevertheless, that individual has an impact on us. “The demented, helpless individual lying in a bed, might still be capable of feeling, but perhaps more important, that person

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65 MacIntyre, Dependent Rational Animals, 138-139.

66 MacIntyre, Dependent Rational Animals, 100. “I have to understand that what I am called upon to give may be quite disproportionate to what I have received and that those to whom I am called upon to give may well be those from whom I shall receive nothing. And I also have to understand that the care I give to others has to be in an important way unconditional, since the measure of what is required of me is determined in key part, even if not only, by their needs” Dependent Rational Animals, 108.

67 MacIntyre, Dependent Rational Animals, 109.

68 MacIntyre, Dependent Rational Animals, 127-128. MacIntyre finishes the thought here by specifically saying that we must give regardless of reciprocity. That’s what it is to be in a community. “The care that we ourselves need from others and the care that they need from us require a commitment and a regard that is not conditional upon the contingencies of injury, disease, or other afflictions...[If my regard for another] is diminished or abolished by what happens to the other, by her or his afflictions, then it is not the kind of regard necessary for those communal relationships—including relationships outside the community—though which our common good can be achieved” Dependent Rational Animals, 128.
is capable of making us feel.”

This is embodied closely in MacIntyre’s proposed virtue of just generosity. Of the two main virtues that MacIntyre outlined in the book (independent and dependent), just generosity politically complements the virtue of acknowledged dependence. To describe this, MacIntyre favors the untranslated Latin term “misericordia” instead of “pity” because of the negative connotations of the latter. “Misericordia is grief or sorrow over someone else’s distress…just insofar as one understands the other’s distress as one’s own.” The virtue acts, as MacIntyre argues all virtues act, as constitutive of the community. It does so by cementing the bonds of all dependent individuals (in other words, all individuals) with proper affection and service. “And what each of us needs to know in our communal relationships is that the attention given to our urgent and extreme needs, the needs characteristic of disablement, will be proportional to the need and not to the relationship.”

Nowhere in his writing does MacIntyre draw a line or make a distinction between lesser and greater disabilities in terms of personhood or membership within the community. The common good includes all members of a community, and that community acts virtuously when it acknowledges their dependence and gives them aid whenever needed—whether it be to get them back up on their feet, to give them a foundation for adulthood, to look after them when sick or feeble, or to care for them until

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70 MacIntyre, Dependent Rational Animals, 125.

71 MacIntyre, Dependent Rational Animals, 124.
they leave the community in death. Each person, qua dependent rational animal, then is
called to live a virtuous existence by doing his or her part to create and sustain a vibrant
local community, with “networks of giving and receiving.” This includes taking care of
those who cannot take care of themselves or even ever show gratitude.

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It is clear that, from the UN declarations, through Kittay, Goodin, and MacIntyre,
the most severely disabled children are granted personhood. The UN swept broadly in its
pronouncements to include all humans, and Kittay in footnote 36 above specifically
refused to draw lines between humans or acknowledge that “psychological capacities as
rationality and autonomy” are required for considerations of personhood. As she
specifically noted, her daughter Sesha has no measurable IQ, but is still a person. All
humans, dependent or otherwise, are equally a part of the connected (not by social
contract or reciprocity but by care), inclusive, secure, political community she envisions.
Goodin throughout his discussions of vulnerability addresses children as the paradigm
case, even giving “pride of place” to those individuals with special needs, as he states in
footnote 41. All of these humans are vulnerable and thus address us morally, qua
vulnerable humans. Lastly, MacIntyre in arguing for a virtue of acknowledged
independence within a common good-oriented community that meets our needs, makes
sure to include all humans, including the “brain-damaged” and “those almost incapable
of movement,” who are merely “passive members.” As I noted throughout the section, I
do not see anywhere where an anencephalic child would be excluded from their political
considerations.
The standard that the political thinkers appear to adopt to explain why such anencephalic or otherwise severely damaged humans would be acknowledged within the moral community seems to be that such children are human. While Goodin alone does address speciesist claims, as I note in footnote 53, he specifically states that animals may count but that humans will weigh more heavily. This possibly could inoculate him against those elements of specieism that claim that moral status is predicated solely upon species membership. He would have to articulate, however, why it is that he could give “pride of place” to a severely mentally deformed child qua vulnerable entity and not address, say, the vulnerable animal in the lab or the vulnerable pig ready for slaughter or the vulnerable laying hen living in a shoebox-sized pen. Kittay and MacIntyre though appear to ignore animals altogether. Their claim seems to be that because one is human, one deserves a special recognition that requires certain needs be met. Nowhere in MacIntyre or Kittay is there even an inkling of reference or contemplation about the dependent or vulnerable animals who do suffer in a way that a brain-damaged child or a child with no measurable IQ likely cannot. While it is arguable, for example, whether or not Sesha can be lonely or depressed, it is less arguable for an abandoned, chained dog. And yet the dog is never acknowledged, even in an oblique way, as being part of the political community by either party. As such, I believe it is fair to say that the political considerations I outlined here basically concern themselves with all humans, but only humans, and that they draw a moral distinction between human members and animal non-members. To the extent that they do this and do not address similar animal situations when relevant, I think it is fair to call them speciesist.
Religious/Natural Law Views of the Person

Personhood is addressed in terms of a unique human status by the religious/natural law perspective. Here the thinkers rely on an explicit metaphysics, a religious claim, or both to extend a special status to anencephalic children. To address this point of view, I will first look at what I call religious/natural law bases of personhood, drawing primarily from Thomistic philosophy. Following that, I will describe the work of the new natural law thinkers who attempt a purer, less religious natural law basis to moral philosophy.

I

Despite its roots in the nomos/phusis debate of fifth century Athens and its use by Hellenistic and Roman philosophers such as Cicero, the natural law tradition today is understood mostly by its connection to Catholicism. Of course, the perennial exemplar of this is the 13th century Italian philosopher and Dominican friar, Thomas Aquinas. In his natural law theory, Aquinas argued for discernible principles about human nature that are discoverable by the proper search of the intellect. Humans are naturally ordained toward ends designed by God, and the attunement of the intellect, consonant with human nature, toward those ends reveals what it is that God wants of humans. “In the case of natural law, Thomas defines the law from the standpoint of its causal origin (that is, what makes it a law), not in terms of a secondary order of causality through which it is discovered (the human intellect).” 72 There are thus laws given by God and the human

may first discover them and then abide by them. Overall, the primary understanding of human nature regarding ethics and law is that humans should seek goodness and avoid evil.

Specifically, with respect to statutory questions, Aquinas compared natural law principles with human law. If the latter did not match up with the former, it was not permissible law. The natural law thus acts as an exterior constraint upon human acts. It may act as this sort of constraint in general, advising and commenting on permissible statutes. Or it may be a constraint to the extent that a certain individual does or does not conform his or her moral life with the external law. In either event, the human statute or the human moral act must be in conformity with certain timeless, unchanging laws about what a proper human nature and a proper human community require.

Aquinas’ practical philosophy focuses on truths inherent in human nature itself—truths that may be articulated by means of human reason. In this broad context, natural law may be considered synonymous with an overarching understanding of human rational animality, as the product of a creator God who ordains what is good. Human nature, with its reason and its biology, then is properly understood as a foundation that may be properly explicated by means of reason. Thus, in part, human nature is properly discovered by an element of its very nature, and thus perfected in that self-explication where reason explores human rational biology.

The upshot of these natural law analyses holds that humans are different from

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73 “As dictates of reason, natural law precepts are rational directives aiming at man’s comprehensive good. The human good, man’s ultimate end, is complex, but the unifying thread is the distinctive mark of the human, namely reason. Law is the work of reason.” Ralph McInerny, *Ethica Thomistica: The Moral Philosophy of Thomas Aquinas* (Washington D.C.: CUA Press, 1997), 46.
other animals and worthy of special recognition simply because of their humanity—that is, to be human is to be special. Aquinas argued that the fundamental element of humanity was that it is “composed of a spiritual and corporeal substance.”

Humans are understood as essentially dual, but not in any Cartesian sense. For Aquinas, the two parts were not mind and body, but soul and body, with soul being the distinctly Aristotelian forbear, pregnant with specifically human attributes of reason and (for Thomas) will. While modern philosophers may address the mind or soul as an entity trapped in a body, Aquinas would have said instead that the soul contains the body—it is the soul that made the body, that sustains the body moment to moment, and that will survive the body. The material of the body comes and goes constantly, but the organizing principle of that body, the soul, perdures. In this way, Thomistic soul takes on the Greek notion of soul/psuche, but is also coupled with Christian spirituality, where soul denotes immortality, identity, uniqueness, etc.

While plants and animals have a soul in Thomistic philosophy, the human soul has greater attributes than they do. Only a human is endowed with the potential for rationality coupled with the ability to survive death. For Aquinas, this human soul is uniquely subsistent: “If the distinctly human, personal aspect of the human animal is something incorporeal and subsistent, biological death need not be the death of the

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74 Thomas Aquinas, S.T. I, q. 75. All references to the Summa Theologica come from the translation of the Fathers of the English Dominican Province (New York: Benziger Bros, 1948).

75 “We must not regard a living being as a machine inert in itself but with a soul as its motor. This is what Descartes wanted to substitute for Aristotle’s notion of living being. For St. Thomas, following Aristotle, the soul does not first make a body move, it first makes it a body.” Etienne Gilson, The Christian Philosophy of St. Thomas Aquinas (Notre Dame: Notre Dame Press, 1956), 187.
person.” As with Aristotelian form, the soul is the defining component of a human’s being (not the matter). “Now it is clear that the first thing by which the body lives is the soul...For the soul is the primary principle of our nourishment, sensation, and local movement; and likewise our understanding.” As noted above, the presence of this type of soul confers a difference upon humans. It was the soul that made our body. In addition, the human soul is understood not only as potentially rational, but as subsistent and immortal as well. The uniquely human parts, the intellect and the will, will “remain in the soul after the destruction of the body.”

All told, the human soul then has three inimitable elements in its nature—creator of the body, existence after death, and potentiality for rationality.

This metaphysical understanding of the soul, coupled with specific Scriptural passages addressing humans, imbues Catholic natural law tradition with a particular moral emphasis concerning the human. This is distinctly apparent, for example, in

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77 S.T. I, q.76, a.1.

78 S.T., I, q.77, a. 8.

79 *The Catechism of the Catholic Church* is quite clear on the uniqueness of humans in Sections 1702-1706: [1702] The divine image is present in every man. It shines forth in the communion of persons, in the likeness of the unity of the divine persons among themselves. [1703] Endowed with ‘a spiritual and immortal’ soul, the human person is ‘the only creature on earth that God has willed for its own sake.’ From his conception, he is destined for eternal beatitude. [1704] The human person participates in the light and power of the divine Spirit. By his reason, he is capable of understanding the order of things established by the Creator. By free will, he is capable of directing himself toward his true good. He finds his perfection ‘in seeking and loving what is true and good.’ [1705] By virtue of his soul and his spiritual powers of intellect and will, man is endowed with freedom, an ‘outstanding manifestation of the divine image.’ [1706] By his reason, man recognizes the voice of God which urges him ‘to do what is good and avoid what is evil.’ Everyone is obliged to follow this law, which makes itself heard in conscience and is fulfilled in the love of God and of neighbor. Living a moral life bears witness to the dignity of the person” *Catechism of the Catholic Church*, 2nd ed. http://www.vatican.va/archive/catechism/ccc_toc.htm.
Aquinas’ treatment of suicide. Life is “God’s gift to man, and is subject to His power, who kills and who makes to live… For it belongs to God alone to pronounce sentence of death and life, according to Deuteronomy 32:39, ‘I will kill and I will make to live.’”80 Life is a gift from God to a human, all of whom are made in the image of God. As such, life is never a mistake. “Based on an utterly gratuitous act, creation itself is the first gift, the framework and foundation for the entirety of his metaphysics and ethics.”81 Subsequent traditional natural law thinkers similarly draw from metaphysical foundations, understood as within God’s design.

Working closely with Aquinas’ natural law philosophy, Jacques Maritain echoed the Thomistic claim that natural law reflects a certain order, with humans given a special place. That order is given by God. “[T]he fact that things participate in an ideal order which transcends their existence…would not be possible if the foundation of this ideal order, like the foundation of essences themselves and eternal truths, did not exist in a separate Spirit, in an Absolute which is superior to the world…”82 To understand unique human nature is to understand the ordering of that nature by a creator God. “The human

80 S.T. II-II, q. 64, a. 5.

81 Thomas Hibbs, Aquinas, Ethics, and Philosophy of Religion: Metaphysics and Practice (Bloomington: Indiana University Press, 2007), 169. “Gazing upon numerous alternatives and sublimely free, God chooses that there will be other beings. That primal choice emerged not from need but from love.” Thomas F. O’Meara, Thomas Aquinas: Theologian (Notre Dame: Notre Dame University, 1997), 97.

82 Jacques Maritain, Man and the State (Washington DC: Catholic University, 1951), 97. See also his The Person and the Common Good, 23-24: “[T]hough God is the ‘separated common good’ of the universe, the intellectual creature is related, primarily as to the object of its beatitude, not to God as the common good of the universe of nature and creation, but to God in the transcendence of his own mystery…It is only consequently, because God is the common good of the multitude of beatified creatures which all communicate with Him, that they communicate His love with one another…”
person is ordained directly to God as to its absolute ultimate end.”  

Maritain held that the special status is realized in communities, all peopled with unique individuals with non-replicable, subsistent souls. God created humans and a place for them in this world. Who they are and how they will flourish are both discernible by means of reason. “This means that there is, by the very virtue of human nature, an order or a disposition which human reason can discover and according to which the human will must act in order to attune itself to the essential and necessary ends of the human being. The unwritten law, or natural law, is nothing more than that.” 

Maritain and Aquinas thus indicate a clear link between the Catholic reliance on the philosophy of natural law reasoning and a belief in God. Yves Simon amplifies the point:

[T]he intelligence of the natural law is a way to God. This means, for one thing, that it normally leads to the knowledge of God’s existence and it means, for another, that if the way to God is blocked, no matter what the obstacle, the intelligence of natural law is itself impaired (this is logically inevitable). The latter seems to be the case in the atheistic forms of existentialism: the postulate that there is no God being given a character of fundamental premise, any proposition which would lead to its rejection is logically unacceptable; there cannot be a natural law because, if there were such a thing, one would be led to assert the existence of God contrary to a fundamental premise of the system. 

Simon is thus arguing that a natural law philosophy apart from basic metaphysical understandings and a belief in God would be a fruitless enterprise. Maritain concurs:

“Only when the Gospel has penetrated to the very depth of human substance will natural

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84 Maritain, *Man and the State*, 86.

law appear in its flower and its perfection.”  It is therefore the understanding of God, His order, and the place of the human’s unique metaphysics within that order that will make the discernment of the natural law possible.

II

One of the essential goals of the new natural law thinkers is to make natural law less vulnerable to the post-Humean claims about metaphysics. While they still emphasize reason and articulation, reason is decoupled from any sort of drawing of values from facts about human nature, and, if possible, God. As such, there is a distancing from philosophical anthropology. It is no longer permissible to look to human nature, with understood teleologies, and express an ethics consistent with that. This new group hopes to “save natural law by reestablishing it on a secular foundation that does not appeal directly to those metaphysical claims that modern science rejects as outdated.”

Specifically, they do this by leaning on “self-evident first principles that are not derived from any factual propositions about human nature.” The leading proponent of the


87 This enterprise is criticized in detail by Henry B. Veatch in “Natural Law and the ‘Is’-‘Ought’ Question: Queries to Finnis and Grisez,” *Swimming Against the Current in Contemporary Philosophy: Occasional Essays and Papers*, ed. Henry B. Veatch (Washington DC: CUA Press, 1990), 293-311. Specifically, Veatch argues that natural law requires that either (1) a natural lawyer accept the idea that norms may be drawn from facts or (2) one is not doing natural law.


89 Johnson, “Metaphysics Matters.” John Finnis, for example, argues that Aquinas “asserts as plainly as possible that the first principles of natural law, which specify the basic forms of good and evil and which can be adequately grasped by anyone of the age of reason (and not just by metaphysicians), are per se nota (self-evident) and indemonstrable. They are not inferred from speculative principles. They are not inferred from facts. They are not inferred from metaphysical propositions about human nature...nor are they inferred from a teleological conception of nature or any other conception of nature...They are underived (though not innate).” John Finnis, *Natural Law and Natural Rights*, (Oxford: Oxford, 1980), 33-34. For more on the
movement is John Finnis. He is joined by Germain Grisez and Robert George, among others.

Finnis sets out to give an account of natural law that “explicitly…undertakes a critique of the practical viewpoint, in order to distinguish the practically unreasonable from the practically reasonable…A theory of natural law claims to be able to identify conditions and principles of practical right-mindedness, of good and proper order among men and in individual conduct.” The new natural law places great emphasis on this ability to find objective, absolute norms in conformity with practical reason. Reason for Finnis leads to the immediate knowledge of several basic goods.

No inference from fact to value is required; the process of thought is not inferential at all. Rather, one proceeds by careful reflection, or meditation, directly to an awareness of self-evident, indemonstrable truths. When we apply the methodological requirements to the basic goods, we discover principles of moral action. Rejecting explicitly any proof for his claims except the self-evident truth of the claims themselves, Finnis argues his case in the only way open to him, by presenting the basic good and methodological requirements and asking his readers to reflect about them.


One of the basic goods that Finnis arrives at is life. Life is thus a truth arrived at by means of practical reasoning. This basic good is reached not by dialectic or by deduction, but by means of self-evidence. Life being a basic good is intuitively true.

The basic goods are not negotiable. Specifically, this means disagreement with consequentialist reasoning concerning human life. “Expected total consequences of one’s action do not provide a sufficient ground for making a choice that cannot but be regarded as itself a choice directly against a basic value...for expected total consequences cannot be given an evaluation sufficiently reasonable and definitive to be the decisive measure of our response to the call of human values...”92 Evil may not be done that good come of it.93 The life that is a basic good for Finnis includes all human life. A basic good cannot ever be gainsaid.

In the discussion of abortion, Finnis assumes “that the unborn child is, from conception, a person and hence not to be discriminated against...” Surprisingly, he justifies such a claim on metaphysics: “with the conception of a child, which is no mere germination of seed.” In that case two cells, “each with only twenty-three chromosomes, unite and more or less immediately fuse to become a new cell...This new cell is the first stage in a dynamic integrated system that has nothing much in common with the individual male and female sex cells...”94 Finnis’ natural law leads him still to give a

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93 Finnis, Moral Absolutes, 54.

94 Finnis, “Rights and Wrongs,” 151. In this long and detailed passage, Finnis notes the difference between an acorn sitting for months in isolation and the same acorn after it’s planted. Once planted, there is a
special status to humans simply because conceived. By implication, that would include all post-natal humans. This is a moral absolute, understood by reason. “[T]o respect the moral absolutes which are made known to us by God through reason and faith is to cooperate with God…”95 Like Aquinas and the traditional natural law thinkers, for Finnis, it appears that metaphysics and religion in the end supplement and complement human reason. And in the end, humans are special simply because they are human: “to be human is to have some share in the dignity of persons.”96

Germain Grisez and Robert George also articulate the new natural law. And, with Finnis, they too end up supporting a blanket religious claim that humans are special qua humans. Grisez spoke out against abortion in his *Abortion: The Myths, the Realities, and the Arguments* and made clear his religious commitments in his three volumes of *The Way of the Lord Jesus*. His point of view is exemplified in the preface to his book on euthanasia, where he hoped that the book “will provide a unified strategy for defending human life as effectively as possible…”97 Like the traditional thinkers in the first section and Finnis, there is a commitment to the life of all humans as products of God’s love and as members of the human race.

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96 John Finnis, “A Reply to John Harris,” in *Euthanasia Examined: Ethical, Clinical and Legal Perspectives*, John Keown and David Callahan, eds. (Cambridge: Cambridge University Press, 1995), p. 48. Finnis further elaborates here that the special status of human personhood exists whether or not the human is “prevented temporarily or permanently” from being intellectual.

Grisez signals unequivocally that he and Finnis are in accord regarding human life: “In the first place we believe that justice requires the clear establishment, as a matter of constitutional principle, of the legal personhood and right to equal protection of the law of homicide of every individual who belongs to the species homo sapiens.”\(^98\) For Grisez, the legal and moral calculus is simple regarding humans—as a human, you wouldn’t wish to be treated that way, so don’t ever treat others with such contempt. Those who respect basic human goods act with respect to all in the species, especially the vulnerable.\(^99\) The death of another human, no matter how damaged, cannot justifiably be willed if one recognizes that human life itself is a good. “[J]ustice demands that no judgment be made on anyone’s behalf that he or she would be better off dead.”\(^100\) The implications then for caregiving are particularly clear: “[W]itholding of all care…to promote quick death must be regarded as prima facie unjust.”\(^101\) In all humans, there is dignity: “life-sustaining care for [persons] severely handicapped does have a human and Christian significance in addition to the one it derives precisely from the inherent

\(^{98}\) Grisez, *Life and Death*, 20. Grisez makes a similar reference to the basic good of life when he addresses possible life and contraception: “The objection that the unconceived child has no actual rights is narrow-minded legalism. [The malice of contraception], like the malice of every intrinsically evil act, is measured by the value which the good it violates would have to the person in who it would be realized. In this case it would be a great value, since it is the very beginning of being” (*Contraception and the Natural Law*, [Milwaukee: Bruce Publishing Company, 1964], 94).

\(^{99}\) “Such attempts to put oneself or those for whom one especially cares in the positions of persons who will be affected by one’s acts will be very important in dealing with the senile, the defective, the insane, the comatose…There is a temptation to separate oneself from those in so different a condition, to begin to think of them as mere objects or organisms, as vegetables or non-persons.” Grisez, *Life and Death*, 370.

\(^{100}\) Grisez, *Life and Death*, 260.

\(^{101}\) Grisez, *Life and Death*, 262.
goodness of their lives.”

Throughout his writings, Grisez is careful to draw as neat a line as possible between faith and reason. This is not tangential to his philosophy, but something he takes seriously. It is this division, something Aquinas would never countenance, that makes Grisez among the new natural law thinkers. Nevertheless, his words do give a glimpse into what it is for him that imbues the human with a special status. Personally, he is driven by the fact that the human is special as a gift from God and as a member of the species homo sapiens.

Robert George has also equated humanity with personhood. He does so according to an adherence to basic human goods. In his “Natural Law and Human Nature,” George defends the natural law theories of Finnis and Grisez against the traditional natural lawyers represented in Section I above. In opposition to those natural lawyers who rely on a philosophical anthropology from which to derive or infer moral truth, George argues that “Grisez and his followers are correct…to conclude that propositions like these logically do not serve as premisses for moral conclusions.”

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103 “As a philosopher, I cannot subordinate my inquiry to theological principles. As a Catholic, however, I propose my philosophic conclusions for consideration in the light of faith. I do not propose philosophy as a substitute for the magisterium of the Church. In my view anyone who genuinely believes that the Catholic Church is what it claims to be would be foolish to adopt in preference to its moral teaching any other practical norm whatsoever. Human reason cannot compare with divine wisdom. Still, human reason must not be despised—I speak still as a believer—for the exemplar is dishonored when the image is despised.” Germain Grisez and Russell Shaw, A Grisez Reader for Beyond the New Morality, ed. Joseph H. Casey, (New York: University Press, 1982), 210..

George’s defense includes disagreeing with those who claim that Finnis and Grisez in their methods have taken the nature out of natural law. There simply is no reason to argue that a philosophical reliance upon self-evident basic goods is somehow not consonant with human anthropology. “Intrinsic goods are basic reasons for action precisely because they are (intrinsic) aspects of human well-being and fulfillment.”

For George, these basic goods indicate that all human beings from the moment of conception are persons.

George argues for the protection of human life from the point of conception based upon a metaphysical reliance upon substance. If he can show that incipient human life is tantamount to personhood, then he can claim that the protection of embryos, for example, attaches logically to the basic, self-evident good of life because they are substantially the same person so clearly recognized later on.

[O]ne basic human right that almost all natural law thinkers, including the authors of this book, would say is of absolute and inviolable sort is the right of an innocent human person not be directly killed or maimed. It is this right that is violated when someone makes the death or injury of another person the precise object of his action. It is the right that grounds...the norms against abortion, euthanasia, the killing (or even taking) of hostages, and so on. In such cases an absolute moral principle is violated, and in the violation, human beings are intentionally harmed and their human rights are violated.

The substance claim he relies upon argues that the fertilized embryo is different in kind from the unfertilized gametes from each parent. So, once fertilized, the embryo exists as

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only different from a baby by a matter of degree, not kind. For George, the embryo has
the same basic capacity or potential toward reason that babies do. “Human embryos and
fetuses cannot…immediately exercise these capacities. But because they are human
beings—not dogs, cats, or squirrels—they will, if not prevented by extrinsic causes, in
due course and by intrinsic self-direction, develop to the point” they may exercise those
capacities.\footnote{Robert George, \textit{Embryo}, 118. George restates quickly thereafter, “no dog, cat, or squirrel has ever or
will ever have” the capacity higher mental functions (118). In addition, it is this ability to reason that also
marks out a basic dignity to human persons. “The dignity of a person is that whereby a person excels other
beings, especially other animals, and merits respect or consideration from other persons…Human beings
are rational creatures by virtue of possessing natural capacities for thought, deliberation, and free choice,
that is, the natural capacity to shape their own lives.” Robert George and Patrick Lee, “The Nature and

And it is this capacity for reason that marks out humans as distinctly
worthy of moral recognition and protection as persons. George does not allow for any
distinctions where a child may not have the capacity for rationality that marks out
personhood. To be a human is to be a person.

Clearly then, the severely disabled (as humans) are persons. Specifically, he has
noted that the disabled are refused the essential moral status that denies the basic good of
life based on an “accidental quality.” Instead he offers a position stating

that human beings possess equally an intrinsic dignity that is the moral
ground of the equal right of life of all. This is a right possessed by every
human being simply by virtue of his or her humanity. It does not depend
on an individual’s age, or size, or stage of development; nor can it be
erased by an individual’s physical or mental infirmity or condition of
dependency. It is what makes the life of even a severely retarded child
equal in fundamental worth to the life of a Nobel prize winning scientist.
It explains why we may not licitly extract transplantable organs from such
a child even to save the life of a brilliant physicist who is afflicted with a
life threatening heart, liver, or kidney ailment.\footnote{Robert George, “Freedom is a Two-Way Street,” Speech given at XIII Vatican General Assembly on
\url{http://www.zenit.org/article-19429?l=english}.}
It is both sufficient and necessary for personhood that the candidate be a human. Once it is fully understood that the biological entity in question is a member of the species homo sapiens in substance, no matter how incipient or damaged in terms of intellect, that human is a person. George is explicit in his incorporation of marginal cases into the sphere of personhood.

[T]he criterion for full moral worth is having a nature that entails the capacity (whether existing in root form or developed to the point at which it is immediately exercisable) for conceptual thought and free choice—not the development of that basic natural capacity to some degree or other. The criterion for full moral worth and possession of basic rights is not the possession of a capacity for conscious thought and choice considered as an accidental attribute that inheres in an entity, but being a certain kind of thing, that is, having a specific type of substantial nature. Thus, possession of full moral worth follows upon being a certain type of entity or substance, namely, a substance with a rational nature, despite the fact that some persons (substances with a rational nature) have a greater intelligence, or are morally superior (exercise their power for free choice in an ethically more excellent way) than others. Since basic rights are grounded in being a certain type of substance, it follows that having such a substantial nature qualifies one as having full moral worth, basic rights, and equal personal dignity.109

In making an explicit distinction between the root form of a capacity and the development of that capacity, George argues that a severely damaged human child is special because it possesses a capacity, albeit undeveloped, for rational thought. The emphasis here is on substance, as noted above. The child has human substance and thus incipient human potential.110 While he doesn’t phrase it in the manner of membership in

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110 Francis Beckwith in Defending Life: A Moral and Legal Case against Abortion Choice, relies on the substance argument as well. “The human being is a particular type of substance—a rational moral agent—that remains identical to itself as long as it exists, even if it is not presently exhibiting the functions,
homo species simpliciter, that is the upshot of his argument.

Although arguing philosophically rather than theologically, George, like Grisez, is motivated by religious views. These hold that human integrity belongs to humans simply as a member of the species created by God. “These traditions proclaim the inherent worth and dignity of every human being as a creature made in the very image of God — \textit{imago dei}.”\footnote{Interview: Robert George, “Always to Care, Never to Kill: Terri Schiavo and the Right to Life,” National Review Online, March 21, 2005, \url{http://www.nationalreview.com/interrogatory/george200503211140.asp}} George, following the new natural law tradition, is in line with Finnis and Grisez in offering to humans a special moral status simply because they are human and are clearly the design of God. “[F]rom a theological vantage point, we could say that [human capacities for deliberation, judgment, and choice] constitute a certain sharing…of divine power. This seems to be what is meant by the otherwise extraordinarily puzzling biblical teaching that man is made in the very image and likeness of God.”\footnote{Robert George, \textit{Embryo}, 106. See also his “Natural Law” article noting that human capacities from a theological standpoint “constitute a certain sharing—limited to be sure, but real—in divine power” (31 \textit{Harvard Journal of Law and Public Policy} [2008] 171-196.)} And this divinity is not contingent upon dependency, mental powers, stage of development, etc. From the moment of conception, where George argues human membership starts, all humans, as humans, are persons.

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The natural law thinkers in Part I use a philosophy imbued with religious foundations to articulate what is special about the human animal (including anencephalic behaving in ways, or currently able to immediately exercise those activities that we typically attribute to active and mature rational moral agents.” (Cambridge: Cambridge University Press, 2008), 132.
children)—that, as “spiritual and corporeal” substances with an immortal soul, we are made in the image of God, and are ordered toward an “absolute ultimate end.” We must live according to the nature God made, using what is best in that nature, reason, to know God’s law. We are imbued with a soul that exists after death, that creates our body, and that has the potential for rationality. Nowhere is any distinction made between fully rational human beings and other mentally damaged humans. To be human is to be special in God’s eyes because that is how He made us—in His image—and creation is his “gift.” Any human that exists then is made in God’s image and the product of Him. As such, he or she is special, and the natural law, ordained by God, gives a standard, discoverable by reason, of how to address moral questions regarding all such humans.

The new natural lawyers in Part II use self-evidence to argue that life, all human life, is a basic good. This not only includes all post-natal humans, but all conceived humans, because “to be human is to have some share in the dignity of persons,” which includes, of course “legal personhood” for anyone who “belongs to the species homo sapiens.” There is still here a link to God, but it is just not through a philosophical anthropology or reflection on human rational animality. God, as lawgiver, has set up strictures, etc., for human existence, but they are known by means of self-evidence. This means, for example, that we cannot ever aver that anyone would “be better off dead” in such a manner as to procure that death because doing so ignores the inherent dignity in all human life, a basic good. Furthermore, there is in human substance a capacity, even among those most damaged, to have something that “dog, cat, or squirrel has ever or ever will have.” Human integrity and uniqueness can never be denied based on “physical or
mental infirmity or condition of dependency.” To make distinctions amongst the various humans based upon mental damage, etc., is to separate persons based on mere “accidental” qualities. This the new natural lawyers will not do. All humans qua humans, including anencephalic children, are special.

In their complete inclusion of all humans within the human community and thus as persons, the natural lawyers (both sets) simultaneously draw a bright line between humans and animals. The traditional natural lawyers seem to assume that God made humans better than animals and that in no way can animals be said to be special—they have different souls, with different attendant natures. As such, an anencephalic child, without any sense of pain or ability to recognize another person is God-like in a way that a dog who can acknowledge the presence of their owner and can feel pain is not. The new natural lawyers specifically address not only human gross infirmities, but the line between animals and humans. In doing so, they do not even seem to feel that speciesism is a criticism worth combating. If one of speciesism’s elements is that distinctions are made solely on the presence of species membership, the new natural lawyer (and the traditional, I believe) would say that it is merely a matter of metaphysical categorization in tandem with the basic good of human life—humans are essentially different and all human life, as essentially different, is good. Animals do not share human nature, so animals cannot count in the same way. The question the natural lawyer would have to answer is: To what extent should a clearly speciesist religious claim color philosophically moral articulations, especially when it leads to such confounding situations as having an anencephalic child with no self-presence or sentience accorded more respect and dignity
and protection than, say, an elephant or bear that may be hunted and incur great pain and trauma merely for sport. The natural lawyers would appeal to metaphysical categories, such as substance and soul for an answer. Speciesists would not accept that categorization.

In addition, the speciesist may indeed grant to the natural lawyers that humans are essentially different. But then they may ask why essential differences should affect moral requirements—for example, whether a dog is or is not essentially the same as a human baby, both the baby and the dog feel pain. That is a fact and not subject to essential predications. And to argue otherwise and/or to refuse to give a stronger basis for such an impactful moral divide seems too much like bigotry to be a firm philosophical basis for morality. It is simply not enough to say that different metaphysical categories mean radically different moral duties. Animals and humans are too alike in pain, in emotion, in anxiety, in basic needs to argue that.

Leon Kass, Hans Jonas, and Prudence

This last group is personified by the work of Leon Kass and Hans Jonas. The thinkers here confer a special status on all humans, including the severely mentally disabled, not because it is warranted by the law, by politics, by metaphysics or theology, but primarily because it is terrifying not to do so.\(^{113}\) That is, not to include certain humans within the spectrum of personhood sets a bad precedent and may in fact encourage an increasing disrespect for human life. The fear is that those deemed

\(^{113}\) I don’t dismiss the fact that thinkers such as Kass may also be influenced by their religious backgrounds and that there will certainly be here some overlap with those who confer a religious/natural law personhood. Instead, I am arguing that that background, while important, is not the driving force for any special status granted to the vulnerable, etc.
undesirable may then lose any protection and may fall prey to certain technical
tbreakthroughs, driven by current fashions/fads. Concerned about slippery slopes, it is

prudential to proceed slowly, with caution, and presume universal human personhood to
avoid any precipitous or otherwise irreversible mistakes.

As early as 1971, Leon Kass had worried about the effects that modernity would
have on the way that humans view themselves. Noting the modern penchant to follow
Francis Bacon’s dictum to use science to relieve man’s estate, Kass chronicles an assault
by science upon the very idea of human nature. “The ancients conceived of science as

the understanding of nature, pursued for its own sake. We moderns view science as

power, as control over nature…” 114 Instead of viewing humans with regard to their
natural ends and traditions, the new biology, in concert with the marketplace, attempts a
revolutionary reshaping of human understandings in pursuit of power. “Genetic
engineering…will be able to make changes that can be transmitted to succeeding
generations and will be able to create new capacities, and hence new norms of health and
fitness.” 115 It is not possible for science to assist humanity if it initially ignores what in
fact it means to live according to human nature, including the limitations of our nature.

These sentiments are indicative of Kass’ work over the years. He always
expresses a certain reticence to go along with newer medical capabilities if there is some

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115 Kass, “The New Biology,” 780. As we saw in Chapter Two, this fear has likewise been addressed by
accompanying chance that such methods may affect how we view human nature. That is, he formulates his medical ethics prescriptions and proscriptions based upon how any particular method or technology may be employed, how such a technology may reshape the way humans see themselves, or, what kind of precedent the use of such technology here and now may set for future cases. In light of his fears, the prudent thing to do is maintain some vigilance over the use of newer technologies.

Because we lack wisdom, caution is our urgent need. Or to put it another way, in the absence of that “ultimate wisdom,” we can be wise enough to know that we are not wise enough. When we lack sufficient wisdom to do, wisdom consists in not doing. Caution, restraint, delay, abstention are what this second-best (and, perhaps, only) wisdom dictates with respect to the technology for human engineering.²⁰²

The potential and unforeseen uses of such breakthroughs warn against cavalier employment of the techniques, especially with regard to the fundamentals of human life. He consistently argues that newer technologies and the rush to use them may gradually devalue human specialness.

Kass sees an eventual decrease in the special status given to humans if science is not checked. “The notion of the distinctively human has been seriously challenged by modern scientists...Man is a collection of molecules, an accident on the stage of evolution, endowed by chance with the power to change himself, but only along

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²⁰² Kass, “The New Biology,” 786. In terms of organ transplantations and the same line of thought, see his “Organs for Sale? Propriety, Property, and Price of Progress” The Public Interest, April 1992, 65-86. In this article he again wonders at the correct place to stop the new technological possibilities as well as the precedent set by using them.
determined lines.”\textsuperscript{117} Without some structure built upon (or boundary built around) human nature, we may “repackage” ourselves into what we presently desire. In doing so, we lose our bearings. “Man is defined partly by his origins and his lineage; to be bound up with parents, siblings, ancestors, and descendents is part of what we mean by human. By tampering with and confounding these origins and linkages, we are involved in nothing less than creating a new conception of what it means to be human.”\textsuperscript{118}

The assault on human integrity by the new technologies may be exemplified by a specific procedure. Abortion, in particular, displays the possible misuse of a particular procedural breakthrough, if it is based on financial interests, such as future burdens, earning potential, perceived worth to society, etc.

The standard of potential social worthiness is little better in deciding about abortion in particular cases than is the standard of economic cost. To drive home the point, each one of us might consider retrospectively whether he would have been willing, when he was a fetus, to stand trial for his life, pleading only his worth to society as he now can evaluate it.\textsuperscript{119}

The evaluation of human life, based upon money, upon particular fads or movements, upon current desires, upon what science and technology may do, etc., best illustrates the abuse of what Kass holds as sacrosanct in humans. The frequent use of abortion underscores his fear of an unchecked science in league with fickle human interests that, all told, denigrate this unique human status. Instead, humans can easily be understood as simply elements folded into a means-end analysis by the decisionmaker.

\textsuperscript{117} Leon Kass, \textit{Toward a More Natural Science: Biology and Human Affairs} (New York: The Free Press, 1985), 37.

\textsuperscript{118} Leon Kass, \textit{Toward a More Natural Science}, 48.

\textsuperscript{119} Lean Kass, \textit{Toward a More Natural Science}, 93.
The practice of abortion of the genetically defective will no doubt affect our view of and our behavior toward those abnormal who escape the net of detection and abortion. A child with Down’s syndrome or hemophilia or muscular dystrophy born at a time when most of his (potential) fellow sufferers were destroyed prenatally is liable to be looked upon by the community as one unfit to be alive, as a second- (or even lower) class human type. He may be seen as a person who need not have been and who would not have been if only someone had gotten to him in time.  

The point, however, should be generalized. How will we come to view and act toward the many abnormal that will remain among us—the retarded, the crippled, the senile, the deformed, and the true mutants—once we embark on a program to root out genetic abnormality?...The idea of “the unwanted because abnormal child” may become a self-fulfilling prophecy whose consequences may be worse than those of the abnormality itself.  

Kass clearly sees the rise of technology as something which Charles Taylor would say must be “enframed.” That is, technology cannot be an untethered complement to instrumental reason that sees humans as malleable material that may be “fixed” in service to another’s choice. But instead, technology must serve properly understood human ends (must be framed properly). And one of the ends that Kass worries over is living a life of human dignity.  

The caution and the special status mentioned above are of a piece with his discussions of dignity. Kass, like Kant, sees human dignity as a feature that is apparent. It is recognizable. Unlike Kant though, Kass extends it to humans qua humans, not humans qua rational law givers. “We must...strive to protect and preserve human dignity

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122 See Charles Taylor’s *The Ethics of Authenticity*, 93-108 and Chapter Two’s discussion.
and the ideas and practices that keep us human.”¹²³ Specifically, Kass uses the special
disdain humans have toward the poor treatment of others or toward certain technological
possibilities to indicate that such procedures or treatment options are problematic. “In
crucial cases…repugnance is the emotional expression of deep wisdom, beyond reason’s
power fully to articulate it.”¹²⁴ As with adult consensual incest or sex with animals, Kass
sees, for example, cloning as thoroughly repugnant and that such repugnance is worthy of
note. Such repugnance occurs in the face of human dignity. It is palpably offensive. It is
therefore not surprising that when addressing the abuses of cloning and human dignity,
Kass foresees a slippery slope where convenience will eventually overcome repugnance.
“We have here a perfect example of the logic of the slippery slope….If reproductive
freedom means the right to have a child of one’s own choosing, by whatever means, it
knows and accepts no limits.”¹²⁵ In line with the concerns Kass spoke of in 1971, cloning
is merely the latest example of a need for prudence in the face of the ever-increasing calls
for medical technologies to serve the latest (often well funded) desires for relieving
man’s estate.

Kass nowhere mentions anencephalic children specifically. I do believe,
however, that it is completely consistent with his philosophy, especially his abortion
language regarding deformed children, to say that he would protect anencephalic children


(especially if they were killed in order to harvest organs). I think this is buttressed by what he wrote about the Maryland baby case where parents of a Down’s Syndrome child refused permission for the child to have an intestinal obstruction fixed. Kass felt that the judge in that case ruled in favor of the parents’ plea because the child was not “normal.” Kass notes that “one could already see through the prism of this case the possibility that the new powers of human genetics would strip the blindfold from the lady of justice and would make official the dangerous doctrine that some men are more equal than others.”  

While I don’t claim that Kass would always employ the same analysis between Down’s Syndrome and anencephalic children, he would nevertheless always have the same fears that a child’s death, effected by technological breakthroughs in service to others’ desires for, say, an organ, somehow cheapens human life. This is doubly true when the child is considered “not normal” by us. For these reasons, I think he would consider an anencephalic child essentially the same as other children—because it would be the prudential thing to do (or because not doing so is too frightening in the current age).

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126 Kass, Toward a More Natural Science, 87.

127 In Life, Liberty, and the Defense of Dignity, Kass tells a frightening story about normality: “Not long ago, at my own university, a physician making rounds with medical students stood over the bed of an intelligent, otherwise normal ten-year-old boy with spina bifida. ‘Were he to have been conceived today,’ the physician casually informed his entourage, ‘he would have been aborted.’ Determining who shall live and who shall die—one the basis of genetic merit—is a godlike power already wielded by genetic medicine. This power will only grown”(130).
II

Like Leon Kass, Hans Jonas views technology with caution because of the double effects it has on us: on how we view ourselves and on how we might use it to alter/abuse ourselves. This plays out in the increasing role that technology has in human lives, particularly creating an insidious effect on research and market-driven products and procedures. “[T]he tyrannical element in contemporary technology, which makes our works our masters, even compelling us to multiply them further, presents an ethical challenge by itself, quite apart from whether those works in particular are good or bad.”

It is not that technology per se is bad, but that the position we have allowed it to gain has given it a transformational foothold in our lives. This grip affects even the view that humans have of themselves and their good. To demonstrate that, Jonas often uses the term “homo faber” (man the maker) that figures so prominently in Hannah Arendt’s *The Human Condition*.

In his isolation, not only undisturbed by others but also not seen and heard and confirmed by them, homo faber is together not only with the product he makes but also with the world of things to which he will add his own products. . . . The impulse that drives the fabricator to the public market place is the desire for products, not for people. . . .

In the new world where instrumental reason reigns, the marketability of a thing is its worth and man the maker is the person sought out. Technology that furthers the personal preferences of societies and individuals will dominate through its success in the

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129 Arendt, *The Human Condition* (Chicago: University of Chicago Press, 1958), 209. “Man, in so far as he is homo faber, instrumentalizes, and his instrumentalization implies a degradation of all things into means…”(156).
marketplace. Humans will subsequently not only pride themselves on what they make and their ability to market it, but view themselves as material capable of a reworking or improvement by the new procedures and products.

The power of technological advances to alter human perception encourages Jonas to call for new emphases in ethics. Following in the post-Aristotelian tradition of ethics as human action—based on philosophical anthropology and about what is proper in a particular situation or context—Jonas emphasizes practical wisdom over speculation. Specifically noting the need he felt to move away from theoretical research and toward praxis, Jonas spoke of his fears about new aspects of scientific achievement producing a new paradigm. “[T]he nature of human action has de facto changed, and . . . an object of an entirely new order—no less than the whole biosphere of the planet—has been added to what we must be responsible for because of our power over it.”

To paraphrase Lincoln, we must think anew because the times are new—we must disenthrall ourselves. Since Fermi split the atom in 1937, for instance, the human race has had to grapple with the fait accompli of atomic possibilities in weapons and energy. And with genetic possibilities, such problems are compounded. “But what if we move in an action context where every major use of the capacity be it ever so well-intentioned carries with it a growth vector of eventually bad effects, inseparably bound up with the intended and proximate ‘good’ effects and in the end perhaps outdistancing them?”

As Habermas noted in Chapter Two, now the destruction is more menacing because it may not even be

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felt for centuries; actually it may not be felt at all because the change manifests itself as an opportunity cost in evolution. Philosophical ethics must meet this new challenge in order to preserve what is special about persons.

Specifically, the new advances coupled with the Baconian drive toward improvement of man’s estate, raise a profound question: Are human genetic advances possible without the simultaneous objectification of humans (let alone the permanent alteration of them)?\textsuperscript{132} Here the emphasis is not the marketability question or fabrication for profit, but the object-like status of humans. “Man becomes the direct object as well as the subject of the engineering art.”\textsuperscript{133} There is no distance between the eyes looking through the lens of the microscope and the cellular architecture being seen. “But man himself has been added to the object of technology.”\textsuperscript{134} Surely, some neutral language is necessary whenever the anatomical elements of a human are looked at. Humans may permissibly look at their own DNA as an object, but do they ever look at it (and themselves) only as an object—as an object in toto? I take this to be the thrust of his worries. Jonas argues along the same lines in terms of human experimentation. “An experiment in education affects the lives of its subjects, perhaps a whole generation of schoolchildren. Human experimentation for whatever purpose is always also a

\textsuperscript{132} Jonas, like Kass, refers to Bacon’s ideal. I will address in a bit more detail below.


responsible, nonexperimental, definitive dealing with the subject himself. “With experiments, regardless of permission or station, the experimenter cannot forget the body before him is a subject not an object.

In her essay, “The Diagnosis Is Anencephaly And The Parents Ask About Organ Donation: Now What? A Guide for Hospital Counsel and Ethics Committees,” Jennifer S. Bard raises the question of technology and the use of humans as objects in a particular case. Bard recommends that hospital committees who want a full exploration of the ethical issues with anencephalic children first read Jonas’ “Philosophical Reflections on Experimenting with Human Subjects” and “Against the Stream: Comments on the Definition and Redefinition of Death.” Jonas’ two essays do not address anencephalic children directly, but do speak to cases where technology allows for experimentation on human subjects and where the subject has been declared brain dead. Bard sees the link with Jonas because those cases likewise involve “the pronouncement of death and the exploitation of the powerless.”

In the first of the two essays referenced by Bard, Jonas argues (1) that while committees may ethically allow or encourage doctors not to keep a declared brain dead person alive by means of artificial manipulations of the lung or heart, they should not provide treatment solely with an eye toward eventual organ donation. Furthermore, (2)


137 Bard, “The Diagnosis is,” 89.
the dividing line between life and death, which is naturally vague, should be treated with
great caution.\textsuperscript{138} Bard argues that both these sentiments would include anencephalic
children.

Given Jonas' definitive views on the inability to know where the line is
between life and death, he probably would have, had he considered the
issue, opposed both the AMA and the legal proposal for harvesting organs
from an anencephalic infant.\textsuperscript{139} Indeed, an anencephalic infant is the
prototype of Jonas' unconscious, but not yet dead person. In responding to
critics who described brain dead organ donors as vegetables, Jonas wrote
"as if 'vegetable' were not an instance of life!" This echoes a recent
comment by a leading ethicist that an anencephalic neonate is at the same
brain level of a fish and therefore is an appropriate source of organs. Many
would question whether a human baby, regardless of her medical
condition, could be compared with a fish. Jonas would not find the
comparison useful. Instead, he would ask whether we have trouble
distinguishing a dead fish from a live one? If the fish is alive, do we not
understand that by depriving it of oxygen we are killing it? A baby, even
one with no higher brain function, is either alive or dead.\textsuperscript{140}

\textsuperscript{138} "Giving intrinsic vagueness its due is not being vague. Aristotle observed that it is the mark of a well-
educated man not to insist on greater precision in knowledge than the subject admits, e.g., the same in
politics as in mathematics. Reality of different kinds—of which the life-death spectrum is perhaps one—
may be imprecise in itself…I am challenging the undue precision of a definition and of its practical
application to an imprecise field." Hans Jonas, “Against the Stream: Comments on the Definition and
Redefinition of Death” in \textit{Philosophical Essays: From Ancient Creeds to Technological Man} (Englewood

\textsuperscript{139} “In December of 1994, the Council on Ethical and Judicial Affairs ("CEJA") reversed their long
standing position that an anencephalic infant must be declared dead in order to be treated as an organ
donor. CEJA is a subdivision of the American Medical Association ("AMA"), which interprets the
principles of medical ethics for the AMA. Rather than require an anencephalic infant to be declared dead
before organ donation, as the AMA had done in the past, CEJA's 1994 opinion provided that organs could
be obtained from a still living anencephalic infant. CEJA supported this position by reasoning that
anencephalies have no consciousness and therefore do not have the rights of human beings. The AMA
adopted the opinion and it was, for a short time, the official position of the AMA that organs could be
harvested from a living anencephalic infant. A public and professional outcry followed this announcement.
Physicians, parents of handicapped infants, and clergymen were all opposed to the new position. Reacting
to the protest, the AMA took the unusual action of having a public hearing on the issue. Based on the
results of that hearing, CEJA suspended its position, thus returning to the position that the AMA had held
since 1982: an anencephalic infant must be declared dead in order to be treated as an organ donor." Bard,
“The Diagnosis is,” 62.

\textsuperscript{140} Bard, “The Diagnosis is,” 89-90, \textit{quoting} Hans Jonas, “Against the Stream,” 135. It is not perfectly clear
that Jonas would argue that an anencephalic child is a person in the strong sense that I am using in this
dissertation. For Jonas, personhood has some link to being a subject, which an anencephalic child has never
We see in this statement another example of Jonas’ gadfly role vis-à-vis modern science and technology. There is here evidence of his position advocating a deceleration on the use of methods unless there has been a thorough airing of the philosophical questions, and a clear articulation that the proposed action is consistent with our values. This especially involves the problem of precedent: Were we to do this action right now (which is technologically possible) what would it mean and who would want to engage in it in the future? Would the helpless non-normal be rendered no longer valuable by such an action? “Jonas’ strong position against capitalizing on an unconscious being, regardless of the reason for his unconsciousness, weighs toward his opposing the use of anencephalic infants as organ donors. Jonas argues persuasively that the greatest sacrifices should not be exacted from the most vulnerable.”

As Jonas notes, certainly the anencephalic child is alive. This alive child is also in the hospital where doctors may monitor him or her. Would not our values require that such a human be a “patient”? It is hard to imagine that in light of what he has said throughout that Jonas would not see such a child as a “patient” with the requisite professional expectations that any patient is owed experienced. Nevertheless, it what follows in this section, I believe it becomes apparent that Jonas is attributing something special to the child simply because it is a human life. Additionally, as fitting his placement alongside Kass in this section, he worries greatly about the increasing use of technology to define what counts as special in us and/or to use that technology in service to present desires (such as declarations of death in service to organ transplantation).

Bard, 90. As Bard specifically notes, this is in line with his statement in “Philosophical Reflections”: “The poorer in knowledge, motivation, and freedom of decision (and that, alas, means the more readily available in terms of numbers and possible manipulation), the more sparingly and indeed reluctantly should the reservoir be used, and the more compelling must therefore by the countervailing justification” (123). Notice in that statement the Kass-like balancing and fear over exploitation, etc. He does not argue that it can never be done or that it is intrinsically wrong to do it; rather, he worries over setting a bad precedent or not giving sufficiently strong reasons, etc. I take this to be tantamount to a statement of: “It’s not prudent to engage in this material lightly,” etc.
from caregivers. He stated this unequivocally with experimentation: “Drafting [the unconscious patient] for nontherapeutic experiments is simply and unqualifiedly impermissible; progress or not, he must never be used, on the inflexible principle that utter helplessness demands utter protection.”

As with Kass, the claims here that would likely lead to a special status given to anencephalic children are basically a question of prudence. Jonas in the Introduction to a book of his collected essays notes that his optimistic hopes about the lessons learned from the horrors of World War II (which saw his mother sent to the gas chambers of Auschwitz) were dashed in the growing use of technology not for evil, but for progress. Like Kass, he refers to a “Baconian ideal” which eventually leads to genetic engineering and other degradations. And ethics must meet the challenge that such “progress” creates. Clearly, with regard to brain death donors, Jonas, like Kass, is concerned about “the slippery slope effect of using brain dead individuals as organ donors.” That slippery slope is problematic because the individuals involved can so easily be relegated to the status of mean-ends containers.

Instead, as humans, the particular embodied individual is special. “[T]he body of the comatose, so long as—even with the help of art—it still breathes, pulses, and functions otherwise…is still entitled to some of the sacrosanctity accorded to such a

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142 Hans Jonas, “Philosophical Reflections,” 126. Here he adopts a strong rule, more like the writings of Goodin above than his usually prudential self.

143 Jonas, Philosophical Essays, xvi.

144 Bard, “The Diagnosis is,” 91. She continues, noting Jonas’s “fears” about using the brain dead standard regarding organ harvesting have come true (91-92).
subject by the laws of God and men. That sacrosanctity decrees that it must not be used as a mere means.”

John Lizza argues likewise that Jonas refuses to adopt a Cartesian mind/body distinction wherein the human body is peripheral to the essential components of human uniqueness. Jonas “challenges the view that our bodies are not essential to who we are.” Jonas argues for an integrated, non-dualist human metabolism, with mind as an element of that organism. “Life means material life, i.e., living body, i.e., organic being. In the body, the knot of being is tied which dualism does not unravel but cut.”

It is this “knot of being” that is exemplified in the body that makes a human different.

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These prudential thinkers are intent not to draw any facile boundaries between human lives. To attempt to draw moral distinctions based upon current mores or what new technologies make possible is to begin the process of relegating “abnormal” humans to a “collection of molecules, an accident on the stage of evolution,” that are often evaluated only on his or her “worth to society” and questioned as though with better technology they “need not have been.” Part of the fears here included humans becoming abnormal.

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145 Jonas, “Against the Stream” 139. As noted, Jonas does seem to equate personhood with subjectivity, but I do not think he is saying here something like this: “The unconscious patient is special and has some sanctity to him only because he once was a subject.” While it is certainly possible that he meant this, I, like Bard take the overall tenor of his work to argue that any unconscious individual deserves respect. That of course includes anencephalic children, who never were a subject. For an opposing interpretation of this passage, see Bethia Currie, “The Redefinition of Death,” Organism, Medicine, and Metaphysics: Essays in Honor of Hans Jonas on his 75th Birthday, ed. Stuart F. Spicker (Dodrecht: D. Reidel, 1978), 179. In her argument, Currie quotes Williard Gaylin as having the same interpretation that I do—that is, that Jonas in “Against the Stream” defends the sacrosanctity of the human body, not just what he sees as the human person who was once a subject (See his “Harvesting the Dead” Harper’s Monthly (1974) 249: 23-30).


mere instruments, merely a “direct object” or “object of technology.” This is especially the case where patients may be declared brain dead in order for organ transplantation to occur. There, the most vulnerable become fodder (by means of a complicit technology) for human desires. This violates the sacrosanctity of the human body that Jonas referred to and is, I would argue, implicit in Kass’ work. I think it is a fair implication of their work that all humans are held to be special, regardless of mental or physical attributes. Unlike others, this is not done because it was found that all humans (including the deformed) were part of a special genus/species or because they are part of a caring community or because they were found to be subject to the benefits of the Fourteenth Amendment. Here, all humans are treated with dignity because not doing so would set up a slippery slope that could increasingly render humans as mere material to be worked on. Caution here and giving a wide berth (what in law is called a prophylactic rule) will protect human dignity in the long run. It is therefore wise to include anencephalic children in the human circle.

Kass nowhere argues that the contemporary use of animals throughout our society by means of technology is in fact something to worry about. He never uses, for example, slippery slopes to argue that experimenting painfully on mice will lead to painful experimentations on higher primates. Nor do the discussions about genetic engineering, cloning, caution, or social worthiness he makes extend to the technological manipulations of animals in labs or the relegation of animals to human pleasure or fad, as in crush videos. Newer technologies that Kass fears in bioethics also allow for factory farms where pigs (a highly intelligent animal) never see the light of day and are never allowed
to nest and where close to 200,000 chickens can be held in one building, in cramped cages, for eggs. Overall, it seems that the “human dignity” and the calls for “repugnance” at certain actions simply do not apply to animals.

While Jonas at times is quite ambiguous about the special nature of humans, he certainly addresses human death in a way altogether different from, say, the death of animals. “[T]he person in particular [as] a mortal trustee of an immortal cause, has the enjoyment of selfhood for the moment of time as the means by which eternity lays itself open to the decisions of time.”¹⁴⁸ This human person’s death is what makes for inexplicable tragedy.

What about those who never could inscribe themselves in the Book of Life with deeds either good or evil, great or small, because their lives were cut off before they had the chance or their humanity was destroyed in

¹⁴⁸ Hans Jonas, *The Phenomenon of Life*, 278. It is clear in his writings that Jonas did give some dignity to animals, but simply more to humans. “Jonas establishes a hierarchy of being which starts from pure matter, develops through the simplest living organisms through the higher animals up to the human being” (Susanna Lindberg, “Hans Jonas’ Theory of Life in the Face of Responsibility,” *Phänomenologische Forschungen* [2005]: 175-191, as presented at http://www.estig.ipbeja.pt/~ac_direito/Lindberg_HansJonas.pdf. But this placement at the top doesn’t immunize humans from caring for animals. “On the other hand, putting the human being at the summit of the living world and attributing to him a certain ‘nobility’…primarily means that we have an ethical responsibility towards the rest of nature, whereas the inverse is not true. The human being’s ‘nobility’ does not make him the master and commander of nature without engaging a most demanding responsibility that corresponds to the human power of devastation” (Lindberg, 4). Of the philosophers mentioned in this section, he is certainly the least susceptible to the speciesist challenge because he doesn’t seem to ignore animals and does argue that ethics extends to them. Nevertheless, that stance seems to be one of responsibility, not necessarily ethical equality. “Jonas certainly accords a specific value to human life such as we know it. (Man’s) capacity of image, is for Jonas a good in itself. But actually, without really stating it in this way, Jonas shows above all that the human being’s capacity of responsibility, and the ensuing obligation to be responsible, sets him apart from all other living beings. Only the human being, and not the rest of nature, must be responsible. And the human being is also responsible for this possibility of responsibility that one finds nowhere else in nature: he is responsible for himself as the being capable of responsibility” (Lindberg, 16). Animals deserve our care and concern, but not in a way that confuses them with humans. The hierarchy of being seems to include a hierarchy of priority as well. This disposition can be seen in a quote that also shows his reticence about technology: “We must understand that we have ventured very far and we must relearn to understand that there is such a thing as ‘too far.’ It begins were the integrity of the human image is concerned, which we should regard as inviolable.” Jonas, “Technology, Ethics, and Biogenic Art,” 106.
degradations most cruel and most thorough such as no humanity can survive? I am thinking of the gassed and burnt children of Auschwitz, of the defaced, dehumanized phantoms of the camps…

There are no such strong statements, say, about the euthanizing of thousands of cats and dogs or the yearly killing of millions of animals earth-wide for food, leather, etc. It seems fair to say that, while certainly mindful of the ethical inclusion of animals and the environment, Jonas still accords to humans a special status simply because they are human. In this, Jonas and Kass direct their prudential thoughts and their worries distinctly to humans—to how humans might view themselves, to the degradation of human nature, to the use of technology to affect human dignity. In doing so, and in ignoring any animal analogs even when clearly applicable, they seem to grant to humans (even the unconscious and severely brain damaged) a special moral status simply because they are humans. In doing this, they are speciesist, I believe.

**Conclusion**

The goal of Chapter Three was to address various attempts to include anencephalic children within the human community of persons and then show how they are incomplete. To do that, I first described the legal cases involving anencephalic children and the law’s distinction between humans and non-humans, with only the former (including anencephalic children) being granted legal standing or personhood under the Fourteenth Amendment. Then I showed political philosophies that either used broad language to describe rights for all humans, or discussed connections of care, vulnerable persons, and dependent persons within a virtuous society—all eventually making use of

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philosophical underpinnings to include anencephalic children qua humans as members of their political community. The natural law thinkers, both traditional and new, then displayed a clearly articulated metaphysics, showing that the human soul is different from other animals, that human substance is categorically different from other animals, and that all humans (including anencephalic children) are a gift from a God, in whose image they are made. Lastly, I described the prudential theories of Kass and Jonas, arguing that they would both likely include an anencephalic child as part of the human family because of the fear that a rampant technology, unchecked by a rigorous human determination, would soon relegate non-normal humans to the side or as fodder for “normal” humans’ desires such as for organs.

If this chapter has been successful, then the speciesist critique I made at the end of each section has demonstrated that the distinction offered between humans and animals that all the authors seem to make is unwarranted to the extent that they do not answer a basic speciesist challenge. The goal here was to show that the various theories either explicitly or implicitly rely on an unjustified gap between humans and animals. So, if the critique here had some bite, then the various positions in the four sections have been shown to be based in part on nothing more than a bigoted view of humans versus animals, with humans of course being on top. It can then fairly be stated that these positions, supported with no sustained or rigorous articulations of why such mentally damaged humans “count” morally, but animal pains, loneliness, suffering, or anxiety do not, are not philosophically rigorous enough to be the basis for anencephalic personhood.
CHAPTER FOUR
LEVINAS AND THE FACE AS A BASIS FOR DISCUSSIONS OF PERSONHOOD AND RELATIONSHIPS WITH ANENCEPHALIC CHILDREN

Introduction

Thus far in the dissertation, I have established that personhood is a relevant issue in today’s ethical climate. I did that in Chapter Two by addressing the work of Charles Taylor, Jurgen Habermas, and Axel Honneth and their various concerns regarding the way that science and objectivistic modern tendencies relegate personhood to a lost or at best irrelevant status. It was shown there that the quantitative standards used in naturalistic methods bleach from their subjects any thick personal characteristics in pursuit of clean, demonstrable facts about humans.

Having argued that personhood is a pressing issue vis-à-vis naturalism, I then introduced the question of anencephalic children as an exemplary case of personhood recognition and status. Specifically, if an anencephalic child is to be considered a person, what is the reasoning for such a claim? Toward that end, I chronicled several traditional and accepted bases for personhood for anencephalic children and found them all wanting—most notably because they do not stand up to a basic speciesist challenge. I made clear there that the law, certain political theories, natural law theories, and prudential practices recognized anencephalic babies as persons, with the attendant moral status, for no other reason than the children were members of the species homo sapiens.
In this chapter, I will begin to lay a foundation for my assertion that an anencephalic child is indeed a person, but not for the reasons given in Chapter Two. Here the initial source of personhood will be the ethics of Emmanuel Levinas, most notably his discussions of the face, responsibility, and relationships with others. I will not attempt to address in anything other than a cursory manner Levinas’ discussion of alterity and the face. He was a prolific writer over nearly six decades, with a profound influence on first French, then worldwide phenomenology, and philosophy in general, with each main concept or issue meriting detailed discussion. Instead, I offer here a survey brief but hopefully sufficient enough to be a point of departure for Chapter Four’s applied ethical discussions regarding profoundly disabled children as persons and possible relationships with them.

Levinas’ ethics consists of a group of nested issues that I will attempt to delineate separately in what follows. In doing so, there will definitely be some repetition and overlap (responsibility, for example, arises several times), but I hope to keep those to a minimum. First, I will describe the notion of alterity and sameness, a nice starting point for his work. I will introduce there the Levinasian critique of Western philosophy and its impotence in describing the encounter with the other. Next, I will describe in detail his notion of the face as a sign of an infinite otherness. The face will be seen as a sign of an ineffable, transcendent alterity that I may appreciate, but can never know. After describing the face and that infinitude, I will address the relational connection that the observer has when he or she encounters an other. I will show that once we encounter a sign of the infinity and depth of the other, I then may relate asymmetrically to the other.
whom I am responsible for. I will then briefly address the profound question of those who do not “see” or acknowledge an infinity or profundity in the face of the other. The chapter will then finish with a discussion of Levinas’ break with Husserlian and Heideggerian phenomenology and whether or not his ethics may truly be understood as phenomenological.

One last caveat: I will assume that Levinas’ discussions of alterity, the other, the face, etc., below are indicative of “persons” and “personhood.” That is, if personhood can be understood as the marker of a special status in others and as requiring a moral response due to that recognized status over and above, say, mere biology or other category, then Levinas’ work, regardless of the terminology, may be considered a discussion of persons and personhood. To that extent, I will not worry about my use of the terms “person” or “personhood” in this chapter.

**Alterity, Sameness, and Traditional Philosophy**

Alterity may be understood as a regard for the other. I say “regard” for the other rather than “understanding” the other or “feeling” for the other or “replacing yourself in favor of” the other because those things will not be possible in Levinas’ thought. I will explain that in a bit, but for now it is important to see alterity as a fundamental openness and regard for the other qua other. “Whereas the I and the Other, or the Other and the Same, are traditionally thought of as correlates, Levinas attempts to break with this tradition as insufficient to a thinking of ethical transcendence.”

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should therefore not be assumed to be a corresponding placeholder to “me” or “I” or “myself.” That is, “I” and “other” are not correlates. Assuming that they are would make “I” and “other” correlative in the way that “inside” versus “outside” or “convex” versus “concave” are correlative. It is natural to see ourselves, for example, as subjects and others as objects that are themselves subjective—we understand them as correlative to us. Their place, their status, is comprehensible within our understanding of things.

But, as I said above, preserving the other qua other does not allow us to understand them. Understanding the other means making the other same.

Levinas’ terminology and emphases changed in the years he wrote, but the question of alterity remained central to his work. And what is not negotiable to otherness is that it may never be catalogued, cubby-holed into sameness. That is, he argues that the Western tradition since the time of the Greeks has been an attempt to make the other into the same—an attempt to make “not like us” things “like us” in knowing them.² "Instead

² This same/other dichotomy, for example can be seen in Plato’s Timaeus and Sophist. A parallel idea is termed the “Self” and the “not-Self” by Bertrand Russell in his Problems of Philosophy. “All acquisition of knowledge is an enlargement of the Self, but this enlargement is best attained when it is not directly sought. It is obtained when the desire for knowledge is alone operative, by a study which does not wish in advance that its objects should have this or that character, but adapts the Self to the characters which it finds in its objects. This enlargement is not obtained when, taking the Self as it is, we try to show the world is so similar to this Self that knowledge of it is possible without any admission of what seems alien. The desire to prove this is a form of self-assertion and, like all self-assertion, it is an obstacle to the growth of the Self which it desires, and of which the Self knows it is capable. Self-assertion, in philosophic speculation as elsewhere, views the world as a means to its own ends; thus it makes the world of less account than Self, and the Self sets bounds to the greatness of its goods…Knowledge is a form of union of Self and not-Self; like all union, it is impaired by dominion, and therefore by any attempt to force the universe into conformity with what we find in ourselves.” Russell, The Problems of Philosophy (Oxford: Oxford University Press, 1997), 158-159. There are clearly some differences between Levinas and Russell, not
of seeing all realities as unfolding or surrounding elements of one basic and central instance called ‘the Same,’ which realizes itself by appropriating them, the irreducibility of all Otherness must be recognized. This recognition supplants the overt or hidden monism of ontology by pluralism whose basic ground model is the relation of the Same and the Other.”

The essential aspect to note here is irreducibility and the preservation of plurality—two things must occur at the same time: (1) the other remains an other I encounter, and (2) the other not ever being known by me. This clearly leads to an intractable problem because the other will remain something then of an enigma or a mystery.

In chapter Two, we saw in detail the call for objectivity and knowledge. There it was noted that the observer was interchangeable because the data would be objectively

least of which is that the other in Levinas always maintains its infinity and intractability to assimilation or union. Nevertheless, the stances are similar to the extent that they chronicle a philosophical impulse to “know” or “catalogue” or “categorize” the other so that it is part of me. In doing so, I intrude into the other’s domain, “translating” it into my projects. This was manifestly a theme in Chapter Two’s discussion of naturalism.

Adriaan Peperzak, *To the Other: An Introduction to the Philosophy of Emmanuel Levinas* (West Lafayette: Purdue University Press, 1993), 19. When we attempt to categorize or know persons, it can be argued that we do so from a non-personal stance. When this occurs, there is a decoupling from humanity that views persons as objects. Drawing from Hannah Arendt’s *Eichmann in Jerusalem*, James Mensch argues that the horrors of the Nazis exemplify this. “This standpoint necessarily stands outside of humanity, even though the people who occupy it are members of some human group….Ethically speaking, the contradiction involves the fact that moral justification draws its sense from the human framework. To leave this framework is, essentially, to leave ethics behind.” *Ethics and Selfhood: Altenity and the Phenomenology of Obligation* (Albany: SUNY, 2003), 3–40. A crime against humanity occurs only because the perpetrators have removed themselves from humanity, in a sense. It is like opting out of the human family—a crime against humanity can only be effected from outside humanity. Stepping out, we evaluate from a second order stance who should live and who should die. While Levinas will not agree completely with this idea that ethical decisions must be made from an embedded human framework, there is nevertheless an emphasis in his work that maintaining and living up to the responsibility for the other requires a relationship with and a non-categorization of the other. “To describe the self as different from the Other implies that there is some grand, objective perspective from which qualities can be viewed and compared; it also implies a knowledge of the Other which would deny its position as Other.” Colin Davis, *Levinas: An Introduction* (Notre Dame: University of Notre Dame Press, 1996), 42.
derived and therefore not susceptible to subjective preferences, etc. What was sought by
science was a non-particularized, disembodied observer. We saw this lionized as a
surpassing achievement in the progress of reason—the so-called primary qualities could
allow for anyone to observe the data. In addition, the quantitative data itself were
amenable to objective methods, with carefully articulated algorithms and parameters, to
ensure the reliability of such data. In this way, subjectivity was bleached from the
observer status (anyone can do it) and the data was rendered objective and universal.
From a Levinasian perspective, otherness was lost on both ends—in the subjectivity of
the observer vis-à-vis the world and his/her colleagues, and, if humans were what was
studied or tested, the ineffable uniqueness of the human person now weakly articulated in
objective language.

Beyond the scientific ideals exemplified in naturalism, the same/other dichotomy
is manifest more widely than anticipated. If the self, as in the Russell quote above,
endeavors to apprehend the other, there is an ineluctable self-centeredness present. In
such cases, the self relegates the other to my categories, my preferences, my agendas. At
times, Levinas will refer to such a move as egology. In egological tendencies, it is not
possible for the other to appear as intrinsically other. “Another comes to the fore as
other if and only if his or her ‘appearance’ breaks, pierces, destroys the horizon of my
egocentric monism, that is, when the other’s invasion of my world destroys the empire in
which all phenomena are, from the outset, a priori, condemned to function as moments of
my universe.”4 Without such a break, an egological tendency continues apace as though

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4 Peperzak, *To the Other*, 20.
the other were not truly an other, a world I may acknowledge (but not know) in my own world. On the other hand, the whole Levinasian project is an ethics that is not egological, that cannot ever be egological. “The term ‘ethics’...for Levinas has a special and unique meaning. For him, ethics is never an egocentric mode of behaving, nor the construction of theories, but involves the effort to constrain one’s freedom and spontaneity in order to be open to the other person, or more precisely to allow oneself to be constrained by the other.”⁵ We can see, then, in the discussion of same and other something of a prescriptive quality—the self in an egoistic stance may forget or ignore the other’s alterity by ignoring it or by seeking to understand it. In either case, the world of the other is lost. There is a desire for “a totality wherein consciousness embraces the world, leaves nothing other outside of itself, and thus becomes absolute thought. The consciousness of self is at the same time the consciousness of the whole.”⁶ The totalizing tendencies that have been at play for centuries are disrupted by the same/other dichotomy that Levinas proposes.⁷

A last concept that folds nicely into the same/other paradigm is the corresponding call to hospitality and welcoming that becomes incumbent on those who allow the other to remain other. This asymmetry is captured in the Jewish proverb, “The other’s material

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⁷ I will address totality and totalizing tendencies below, with infinity.
needs are my spiritual needs.”

The alterity present speaks to me in a non-relativized way—I am related fundamentally to this person now. “I am responsible for the Other without waiting for reciprocity, were I to die for it. Reciprocity is his affair. It is precisely insofar as the relationship between the Other and me is not reciprocal that I am in subjection to the Other…” This has essential links to justice in some of Levinas’ later works, such as Otherwise than Being. What is important to note here, however, is not merely the links to justice, but the underlying asymmetrical relationship that not conforming the other to self opens up. “It is the other who is first, and there the question of my sovereign consciousness is no longer the first question…In this whole priority of the relationship to the other, there is a break with a great traditional idea of the excellence of unity.”

Ethically speaking, I can demand certain things of myself, but not likewise demand those of the Other. I must simply give.

We can say overall that the other is (1) not knowable to me, (2) not in a correlative relationship with me, (3) not important only insofar as he or she intersects with my egological tendencies, and (4) not in a relationship of symmetry where what I owe him/her is reliant upon what she has done for me. The next question is: How do we know that we are in the presence of an other? What is it about that other that reveals a

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9 Levinas, Ethics and Infinity, 98.

10 Emmanuel Levinas, Entre Nous: Thinking-of-the-Other, translated by Michael B. Smith and Barbara Harshav (New York: Columbia University Press, 1998), 112. Immediately after this paragraph, Levinas specifically links this up with his claim that Western philosophy is fundamentally egological.
fundamental alterity? The answer will be the face.

**Face**

The most essential aspect about the face to clarify from the beginning is that it is not always a face. In fact, more often than not it is NOT a face. The face is a marker, a sign, that reveals the infinity of the other. (I will address infinity below.) The face ("visage" in French) may be the nape of the neck or a person’s back. Michael Morgan tells us that Levinas was greatly influenced by Vasily Grossman’s *Life and Fate* in this regard.

Levinas calls upon Grossman’s image of “human beings who glue their eyes to the nape of the neck of the person in front of them and read on that nape all the anxiety in the world”….These words seem to have led Levinas to envision this line of people, to visualize in his mind’s eye what it was like to stand in such a line, to focus on the person before you, and to see his or her pain and suffering in the posture of his back or the curve of his neck.11

One might think here of the novel *Johnny Got His Gun* where the protagonist, Joe Bonham, in essence doesn’t have an anatomical face because it has been destroyed by the carnage of war. This “faceless” person would nevertheless undoubtedly have a face for Levinas. In fact, the power of the novel is that this person who has lost his arms, legs, and face is indeed a world unto himself. The nurses who talk to him, etc., may misconstrue his intentions, etc., but they know that he is there.12

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12 There is much to be mined here, I believe, in addressing Dalton Trumbo’s work and Levinas’ philosophy. One of the frustrating aspects of the novel and Joe’s predicament is that he cannot communicate his world, his infinity, to others, not because they have forgotten, etc., but because of his condition. As noted, he nevertheless does have something to say and it is in actually saying something that the other denotes a
In seeing the face of the other, there can never be a totalizing, a categorizing, a systematizing of the radical alterity present. The other is viewed as inalterably other—recognized as fundamentally non-knowable, but concretely present. Any idea I have of the other is incomplete. What is encountered is not the skin color, the height, the eye color, or the weight of the other. Those descriptions are certainly anatomically correct, but not revelatory of alterity and infinity. In essence, those things are looked through—they may fall away as non-essential to the face, as Levinas means it.

When Levinas meditates on the significance of the face, he does not describe the complex figure that could be portrayed by a picture of painting; rather he tries to make us “experience” or “realize” what we see, feel, “know” when another, by looking at me, “touches” me: *autrui me vise*; the other’s visage looks at me, “regards” me. Similarly, the word “language,” often used in this context, evokes the speech addressed to me by some living man or woman and not the linguistic structures or anonymous meanings that can be studied objectively or practiced by a style-conscious author.\(^\text{13}\)

The face of the other is not repeatable, not grasped by me as “any old person.” It is rather, *this* person who touched me, leaned on me, addressed me. It is a particular person, an individual “who.”

I mentioned above the call to hospitality that accompanies any relationship with an other. The face in essence makes such hospitality a command. “In order to concentrate on the other’s otherness, Levinas often stresses the nakedness of the other’s face: if I am touched, if I am conscious of being concerned, it is not because of the world that is not categorizable. Joe certainly is speaking; what is tragic is that he cannot always be made comprehensible. I don’t have space to address here Levinas’ Saying versus Said, but suffice it to say, the Saying is what is important because it comes from an infinite other, addressing you from his/her alterity. The Saying is never fully present in the Said.

\(^{13}\) Peperzak, *To the Other*, 20.
other’s beauty, talents, performances, roles, or functions but only by the other’s (human) otherness.”\textsuperscript{14} Mensch uses rescue stories from the Holocaust memorial as exemplary of the power of the face.

\textit{[A]s the accounts stored at Yad Vashem indicate, the circumstance that initiated the act of rescue was generally that of a face-to-face encounter with the victim. The rescuer experienced this as a unique, nontransferable responsibility imposed on him by the other. If the rescuer did not act to save the other, his life would be forfeit. The rescuer’s experience of the appeal of the other as unavoidable and unconditioned stemmed from the recognition of what was at stake. This was the other’s life itself in its irreplaceable, unconditioned quality.}\textsuperscript{15}

This occurs even if the person one sees is not liked, is an inconvenience, is not respected—even if the other is hated. As already noted, the face intrudes into our lives—the “absoluteness revealed by the other’s visage causes an earthquake in my existence.”\textsuperscript{16}

It is altering, is upsetting, is provocative because, as Mensch notes, the face is a \textit{sign} of an absolute, non-relativized other, with his or her underlying infinity. Because of this, there is a non-transferrable recognition and duty to act to this non-transferrable and recognized other.

\textsuperscript{14} Peperzak, \textit{To the Other}, 20.

\textsuperscript{15} Mensch, \textit{Ethics and Selfhood}, 14. Some of the stories included: “A teenager, on the run in Vilnius, gets off the street by going to a doctor’s waiting room. Finally, her turn comes to be examined. The woman doctor, examining her eyes, tells her she can find nothing wrong with her. Her tears well up as she tells the doctor her situation. The doctor continues to examine her, looking into her eyes, all the while saying, ‘Don’t worry child, Everything will be fine. I will take care of you.’…In rural Poland, a man approaches a house hung with a sign, ‘Kill the Jews and save the country.’ Desperate and hoping the sign was there to protect the family, he knocks at the door. The woman of the house, realizing that he has nowhere to go, grabs his hand and leads him to a place of hiding” (99). “The obligation [in these cases] is absolute because it does not express an obligation that is relative to some particular society…It is also absolute because it expresses a nontransferable, nonrelative demand to save a person’s life” (101). It is not an abstract life to be saved, but \textit{this} life. And not anyone can do it, but \textit{I} must do it.

\textsuperscript{16} Peperzak, \textit{To the Other}, 25.
I will address phenomenology in another section, but it might be profitable here specifically to note that the face is not a phenomenon. “I do not know if one can speak of ‘phenomenology’ of the face, since phenomenology describes what appears. So, too, I wonder if one can speak of a look turned toward the face, for the look is knowledge, perception. I think rather that access to the face is straightaway ethical.”¹⁷ This non-phenomenological account intersects well with the enigmatic quality of alterity already noted. There is a strangeness in the relationship to the other not only because the other cannot be made same, be totalized, but also to the extent that the other is understood as other by means of a visage that is not itself a phenomenon. Instead, it is a non-phenomenal sign.

The face is signification, and signification without context. I mean that the Other, in the rectitude of his face, is not a character within a context. Ordinarily one is a “character”: a professor at the Sorbonne, a Supreme Court justice, son of so-and-so, everything that is in one’s passport, the manner of dressing, of presenting oneself. And all signification in the usual sense of the term is relative to such a context: the meaning of something is in its relation to another thing. Here, on the contrary, the face is meaning all by itself. You are you. In this sense one can say that the face is not “seen.” It is what cannot become a content, which your thought would embrace; it is uncontainable, it leads you beyond…But the relation to the face is straightaway ethical. The face is what one cannot kill, or at least it is that whose meaning consists in saying: “thou shalt not kill.” Murder, it is true, is a banal fact: one can kill the Other; the ethical exigency is not an ontological necessity.¹⁸

I will address the “banal fact” shortly, but here the emphasis is on the “straightaway ethical” aspect of the non-phenomenal face. There is presentation of the face (if I can use

¹⁷ Levinas, Ethics and Infinity, 85.

¹⁸ Levinas, Ethics and Infinity, 86-87.
the word “presentation”) that indicates somehow the infinite and transcendent quality of the other. I will now address that infinity and transcendence that the face reveals.

**Infinity**

Infinity is a negated word—that is, it is a word that means “not” something. In this case, the word means “not finite.” Something usually grasped as not finite may be understood as being without boundary, without limit, etc. It is not, however, this usual understanding of infinity that Levinas will draw from. In his *Meditations* Descartes addresses God as infinite, but specifically tells the reader that this infinity cannot be grasped as the mere negation of finite. “I think of Descartes, who said that the cogito can give itself the sun and the sky; the only thing it cannot give itself is the idea of the Infinite.”

Descartes’ God is transcendent in a way that goes beyond a mere grammatical negation, and the transcendence is so great, so otherly, that I cannot be the source of it. Levinas not only will describe the infinity of the other in such terms, he will specifically rely on Descartes’ use of infinity. “Levinas is explicitly interested in the claim that while it is possible that I myself, as a finite substance, might be the cause of all of my ideas of other finite substances, I cannot by myself account for nor be the cause of the idea I have of infinity or God’s perfection.”

Applying this notion specifically to the other and the face, we can see the extrapolation that the other’s infinity, their transcendence cannot be somehow associated with me as a source. Levinas claims that the face manifests the “Other’s inviolability and holiness…The face evoked is...the

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19 Levinas, *Ethics and Infinity*, 60.

concrete appearance of the idea of infinity that exists within me.”21 I recognize the other; I do not create the other. I defer to the other for what he or she already is, not from some sort of cultural etiquette, etc. I can understand in a sense what infinity is, but in understanding it, I know that this other qua infinite is unknown and unknowable to me.

There is here, I believe, a link to traditional Jewish distinctions between the holiness (kadosh) and the glory (kavod) of God. Traditionally, there has been a difficult transition between the imminence and the transcendence of God. The two ideas were “always intermingled, and it was all a question of dominance and emphasis. Holiness tries to lift the God-idea ever above the expanding corporeal universe, and Glory tends to bring the Creator ever nearer to man.” The gulf is sufficiently large enough that a contradiction occurs “that philosophy cannot resolve and therefore cannot name. Only religion can span the gap.”22 This is not limited to Jewish religion or philosophy (the Incarnation of Jesus certainly is mysterious in its juxtaposition of imminence and transcendence), but it is certainly part of a Jewish tradition that Levinas used.23 With holiness and glory, transcendence and imminence, there is always a relationship—without one, religion moves toward the distance of deism; without the other, there is pantheism and a worldly, materialistic paganism. God must somehow be made manifest and be either like us or knowable to us. But were He to be too much like us, he ceases to be God, the Creator of all, existing outside of time and space, dealing with universal

21 Sean Hand, Emmanuel Levinas (London: Routledge, 2009), 42.


23 Levinas wrote several non-philosophical books, dealing mostly with Judaism.
truth. “[T]he Hebraic view is ontologically dualistic: two worlds, the physical and the metaphysical, and in the beginning there was the metaphysical world alone.”

The transcendent precedes the imminent, but somehow is paradoxically revealed in glory, in theophanies like the burning bush, the 10 commandments, angels, etc. This mysterious connection, where philosophy has trouble, as Efros states, is reflected in the infinity and imminence of the other.

Levinas repeatedly addresses the glory of the face and its connection to infinity. “The glory of the Infinite reveals itself through what it is capable of doing in the witness.”

We encounter the imminent qualities or aspects that mark out a transcendent or infinite beyond. “For every man, assuming responsibility for the other is a way of testifying to the glory of the Infinite, and of being inspired.” At times, the link between the relationship with the other and God’s glory/transcendence is explicit.

The word of God speaks through the glory of the face and calls for an ethical conversion, or reversal, of our nature. What we call lay morality, that is, humanistic concern for our fellow human beings, already speaks the voice of God. But the moral priority of the other over myself could not come to be if it were not motivated by something beyond nature. The ethical situation is a human situation, beyond human nature, in which the idea of God comes to mind (Gott faellt mir ein). In this respect, we could say that God is the other who turns our nature inside out, who calls our ontological will-to-be into question. This ethical call of conscience occurs, no doubt, in other religious systems besides the Judeo-Christian, but it remains an essential religious vocation. God does indeed go against nature, for He is not of this world. God is other than being.


27 Kearney, *Dialogues with Contemporary Continental Thinkers*, 60-61.
There is much in this quote to address. First, it’s worth noting that any normative ethics, with its rules and various strictures, is reliant upon a primary, underlying relationship with the other. “The infinite reveals itself neither in philosophical theses nor in dogmatic articles of any faith but rather in concrete hospitality and responsibility with regard to another woman, child, or man.” This is the basis of Levinas’ claim that ethics is first philosophy. Second, we see here the explicit link between the unknowability of an infinite/transcendent God and the unknowability of the infinite/transcendent other—so much so, that he appears to call the other God. Certainly, there is meant to be here a numinous quality to the other, not because he or she is divine, but because he or she, like the divine, is so completely transcendent. And yet, this transcendence/infinity is revealed by the glory/imminence of the face. Taking these two points together, we can see then that the glory of the face reveals an infinity that is not my creation, not part of my agenda, and which also calls on me relationally to recognize the ineffable infinity of the other before anything else (thus making ethics based in something beyond nature, beyond being).

28 Peperzak, *To the Other*, 129. “I am, in a sense, a moral agent before I am a cognitive one; I am responsible before I am an observer or explainer or interpreter” (Morgan, *Discovering Levinas*, 43).

29 The phase “beyond being” that I used here is drawn explicitly from Plato’s *Republic* 509(b) where it describes the Form of the Good. Levinas makes use of this phrase, along with Descartes’ infinity to address the transcendence of the other and to address his hyper-metaphysical claims to ethics. “Being in touch with the genuinely transcendent, with the infinite that is beyond totality, beyond being and essence, beyond thought and comprehension, is to have a desire that reaches out to something that is beyond being thought, being desired in ordinary ways, and so forth. In this desire, this craving or love or striving for the transcendent, the desirable must be both near and far. Levinas calls this ‘Holy.’ He also calls it ‘Good.’ My life has the meaning it does because I encounter other persons as needing me and calling to aid and support them; I want to respond to them, and in my wanting and responding, goodness and sanctity enter my life…In the midst of ordinary experience, our life takes on an ethical character, an ethical orientation or definition. In this way, the Infinite or God ‘refer[s]…to the nondescribable proximity of others.’” Morgan,
There is no way around the mysterious, almost numinous quality of this ethics that (1) describes the other as thoroughly transcendent and unlike me, (2) states I may enter into a relationship with such an ineffable other, (3) argues that the face is a sign, which reveals the eternal depths, the complete world of the other, (4) claims that we orient ourselves by our recognition of the other and the use of language with the other, and (5) and imposes on us a duty in terms of responsibility and care and justice for the other. All told, we may see this mystery encapsulated in the Jewish proverb, “The person who saves a life saves a world.”

As I’ve already stated, Levinas claims that Western philosophy has repeatedly sought to synthesize, to know, to categorize, to systematize, to represent the other. Another word that fits here, specifically against the other’s infinity is “totality.” A totalizing move is an attempt to relegate the other’s infinity to my understanding. It is a form of systemizing. “[W]hen I am fully at home in the world and achieve some understanding of it, I grasp it as a totality—as a systematic, orderly whole—from my point of view as a knowing agent, but in terms of general concepts, ideas, principles, and so forth. I organize and order the world and comprehend it.” The other has been addressed above as an infinity, with a transcendent, ineffable depth uniquely his or her

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31 Morgan, *Discovering Levinas*, 42. “I think in generalities and commonalities, and I grasp the world by incorporating into these concepts as if into a container. In this sense, all knowing is a kind of idealism, of taming the world and domesticating it to my capacities and venue, as if my capacities were wholly general and detached and impersonal. I make everything thinkable and knowable by drawing everything within the borders of these conceptual capacities. This achievement of sameness or homogeneity is one outcome of my inhabiting my world” (42).
own. If this is true, then Levinas can rightly ask: How can such unknowability be put into a matrix, be compartmentalized, be homogenized? In essence, the relationship to the other is a riddle—in trying to know it, we miss it. There is a Heraclitean flavor here—the truth can only be grasped obliquely, if at all. The truth hides, and in seeking it, we lose it. If we can see Parmenides as the opposite of Heraclitus, then the link makes some sense. Parmenides specifically linked being with thought—arguing that the human mind is simply incapable of thinking “what is not.” To think then is always to think of some being—thinking is inextricable with ontology. In reaching “beyond being” and making ethics rather than metaphysics first philosophy, Levinas, however, seems to give us some idea that we can think about the other, can be in a relationship with the other, but that it occurs in a way that is hyper-metaphysical, that is non-totalizing. “[B]ecause the infinite is outside the totality, it is not itself present in life or in thought; it is always beyond, always below, always out of our line of vision.”

Relationships

The face to face encounter with the other addresses me and affects me. The other is not synthesizable or categorical, but beyond that, I am in a relationship with this other. “The irreducible and ultimate experience of relationship appears to me…not in synthesis, but in face to face of humans, in sociality, in its moral signification….The relationship between men is certainly non-synthesizable par excellence…The true union or true togetherness is not a togetherness of synthesis, but a togetherness of face to face.”

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32 Morgan, Discovering Levinas, 131. We again can see the links to Plato’s notion of “beyond being.”

33 Levinas, Ethics and Infinity, 77.
Levinas describes an encounter with the face of the other that affects me in such a profound but nevertheless non-mediated way that I must respond, that I am called to respond to the other ethically before any question of knowledge, etc. The other cannot remain separated from me. This is primordial.

Below the surface of the social, in a sense, hidden from view, is a layer of relationship, a dimension of how we are related to one another, the I and the other person as other...This is not one person being together with or alongside another; it is something else. Moreover, it is unlike Buber’s I-Thou encounter, Levinas says, “where reciprocity remains the tie between two separate freedoms, and the ineluctable character of isolated subjectivity is underestimated…It is a collectivity that is not a communion. It is the face-to-face without intermediary…” Here, then, is Levinas’ starting point, as it were. The self, the I, in normal, everyday life, experiences intimations of otherness, and then in social life I experience “traces” of a primordial relationship between itself and the particular other person.34

This distinction from Buber, I think, is important. Buber’s I-Thou is a relationship of two discrete individuals. It is two freedoms, like a meeting of the minds, etc. It is an intersection of two separate and separated beings. Levinas addresses something that is more elemental than this, that it preexists such an event and even allows for it.

In addition, Levinas describes relationships that are between unknowable and asymmetrical others. “Levinas rejects Buber’s I-Thou relationship because it implies too much familiarity with the Other…”35 The thou seems to be too knowable to me, not asymmetrical enough.

[T]he relationship with the other is not symmetrical, it is not at all as in


Martin Buber. When I say *Thou* to an *I*, to a me, according to Buber I would always have that me before me as the one who says Thou to me. Consequently, there would be a reciprocal relationship. According to my analysis, on the other hand, in the relation to the Face, it is asymmetry that is affirmed; at the outset I hardly care what the other is with respect to me, that is his own business; for me, he is above all the one I am responsible for.  

The distinction here is not small. Buber’s relationships are a thou meeting a thou in equality of recognition. With Buber’s relationship, there cannot be “a life other than friendship: economy, the search for happiness, the representational relation with things.”  

Levinas, however, asserts that symmetry and respect and cordiality have nothing to do with the relationship: I am responsible for the other no matter how poorly she or he treats me, no matter whether or not we are friends, no matter whether or not I understand him or am sympathetic to him. Our relationships with others are unidirectional insofar as responsibility is concerned. 

Buber had asserted a constitution of self by means of the thou. It is similar to “I become who I am through you.” But Levinas rejects this sort of total diminution of the ego in front of the other. Relationships are not constitutive; they are transformative. “I am not ‘constituted’ by the other, for in my joyous existence I was already an independent being; rather I am judged by the other and called to a new existence. The encounter with the other does not mean the limitation of my freedom but an awakening to

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responsibility.” While Buber argued that dialogue was formative of the self, Levinas sees dialogue as secondary to a pre-existing relationship. And beyond that, it is redemptive in a way. “The investiture (in the other) does not deny my freedom but founds and justifies it…The ontological problem, how is it possible for me to be constituted by a thou? is solved practically in every act of hospitality.” This makes sense in light of Levinas’ basic claim that relationships are based on social connections with the faces of others.

What About Those Who Do Not See?

One of the first questions a reader of Levinas has when he or she finally understands the vocabulary and stance in his writings is: “How can the other be encountered so essentially as infinite and unique and the basis of respect and my entire orientation to the world…and yet be killed by me?” We have seen above that Levinas knows this conundrum. He referred to murder as banal. As a Jew who himself was imprisoned during World War II and who lost family members in the death camps,

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38 Theodore de Boer, “An Ethical Transcendental Philosophy,” in Face to Face with Levinas, edited by Richard Cohen (Albany: SUNY Press, 2007), 110. The relation with and corresponding duty to the other is primordial, is pre-theoretical, pre-intuitive, pre-phenomenological. “The constant, if paradoxical, claim of Levinas is that my being responsible for myself exists through my being responsible for the other, the very other whose otherness in me makes me a self.” Mensch, Ethics and Selfhood, 106. “Alterity constitutes the grounds which make separation possible; the self exists because the Other is irreconcilable with it. Otherwise, both self and Other would be parts of a greater whole or totality which would invade and invalidate their separateness. So, although the self may feel that its separateness ensures both its mastery and freedom in the world, that separateness depends upon the possibility of an encounter which will put both mastery and freedom into question…” Davis, Levinas: An Introduction, 44-45. “[O]ur first experience is not of isolated subjectivity, but of a subjectivity already shot through with the experience of others.” Moran, Introduction to Phenomenology, 342. “[I]t is a matter of saying the very identity of the human I starting from responsibility, that is starting from this position or deposition of the sovereign I in self-consciousness, a deposition which is precisely its responsibility for the Other…I am I in the sole measure that I am responsible, a non-interchangeable I.” Levinas, Ethics and Infinity, 100-101.

39 de Boer, “An Ethical Transcendental Philosophy,” 110.
Levinas was not ignorant of those who do not see the face as a sign of the infinite nature of the other. This fact of human brutality to others, however, does not, for example, affect the orienting nature of the other that he addresses in language elsewhere. The other’s face “makes a hole in [my ego’s world] by disarraying my arrangements without ever permitting me to restore the previous order. For even if I kill the other or chase the other away in order to be safe from the intrusion, nothing will ever be the same as before.”

To look at it another way, the face of the other signifies a non-touchability in a way—I may be killed as a being, but my infinity in essence is untouchable by you.

“Murder still aims at a sensible datum, and yet it finds itself before a datum whose being can not be suspended by an appropriation. It finds itself before a datum absolutely non-neutralizable.” The face simply “is not of the world.” In a way, this makes violence

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40 I don’t have the space here to address language or discourse, although I have referred to it already elsewhere. The role of discourse for Levinas is indicative of the fundamental quality of ethics. The face of the other appears, affects me, and I enter into a relationship with it. From that relationship, I transform my language and I also transform myself: I am now secondary to the other. My responsibility grows from the initial recognition of the other’s profundity, infinity, etc. “[L]anguage requires two elements that are both grounded in the face-to-face: first, the otherness or separateness of a dialogical partner or interlocutor, another person to talk with; and second, universality or commonality. For Levinas, there is no private language, and there is no universality not grounded in the encounter with the other’s plea and demand in virtue of which I make common what is originally only mine…We live in a society and communicate with one another, and the latter is possible only because of the former.” The grounds of social life derive from “a dimension of ordinary life hidden from view but hinted at—the nexus of the other’s ‘supplication and demand’ and my responsibility and generosity. Only because of this nexus or event is the world ours and not mine…. [I am responsible] primordially and fundamentally, in a sense before I am anything else. Hence ethics comes first. My ethical character precedes all else that I am, and ethics is the ground of language and community.” Morgan, Discovering Levinas, 74-75. There is a link between discourse and relationships as well. “Face and discourse are tied. The face speaks. It speaks, it is in this it renders possible and begins all discourse…[I]t is discourse (not vision) and, more exactly, response or responsibility which is this authentic relationship.” Levinas, Ethics and Infinity, 87-88. See also Hand’s Emmanuel Levinas, 43 for the role of the face with language, responsibility, and justice.

41 Peperzak, To the Other, 20.

42 Levinas, Totality and Infinity, 198. “The alterity that is expressed in the face provides the unique ‘matter’ possible for total negation. I can wish to kill only an existent absolutely independent, which exceeds my powers infinitely, and therefore does not oppose them but paralyzes the very power of power (198).
fruitless. “Ethics is, therefore, against nature because it forbids the murderousness of my natural will to put my own existence first.”\textsuperscript{43} I can neither conquer nor incorporate nor otherwise make the other somehow mine. He or she is not available to my agendas, etc.

Mensch specifically tries to address this section’s question as well. While he chronicled the heroic rescues of Jews from World War II, the stark fact is that most people did not respond to their plight. So, why did some respond and not others?\textsuperscript{44} We saw in part above that some responded because the face broke through and addressed them in all its vulnerability, etc. As for those who did not respond, Mensch attributes it to prejudice, plain and simple. “Stereotyping, I will argue, prevented them from recognizing what was at stake. Such stereotyping, which typically positioned the victim as an exploiter of society, as a ‘virus’ or a form of ‘vermin,’ reduced the life at risk to a limited and distasteful set of possibilities. As such, it masked its exceeding quality.”\textsuperscript{45}

\textsuperscript{43} Richard Kearney, \textit{Dialogues with Contemporary Continental Thinkers}, 60. Levinas here also tells Kearney that his ethics is opposed to the Spinozan \textit{conatus essendi} or other biological tendencies.

\textsuperscript{44} There is a story from Grossman’s \textit{Life and Fate} that exemplified this problem. It was a story Levinas knew well. A Russian woman confronts a captured German officer and is ready to bash in his head after a young girl’s body was found in the rubble the Germans had caused. “She…stood up and walked toward the officer, picked up a brick on the way, hatred radiating from her, without the guard feeling that he could stop her. ‘The woman could no longer see anything at all except the face of the German with the handkerchief round his mouth. Not understanding what was happening to her, governed by a power she had just now seemed to control, she felt in the pocket of her jacket for a piece of bread that had been given to her the evening before by a soldier. She held it out to the German officer and said: ‘There, have something to eat.’”…Perhaps, for all its complexity, the episode has at its core the meaning Levinas found in it: There was an act of goodness, and it was wholly senseless and isolated…(It was) an act of grace, of giving, of taking responsibility for the other person’s need and life.” Morgan, \textit{Discovering Levinas}, 6-7, \textit{quoting in part} Vasily Grossman, \textit{Life and Fate}, translated by Robert Chandler (New York: Harper & Row, 1972), 805-6. Certainly, goodness between humans always is possible, even in the worst of circumstance. Viktor Frankl chronicles instances like this in his \textit{Man’s Search for Meaning}. In addition, as mentioned in the section on the face, the call to hospitality includes those we may hate.

\textsuperscript{45} Mensch, 15. It is not clear that Levinas ever states explicitly why those who kill do so. Why do they not see the face that was essential initially for them ever to see themselves as selves? Or that fundamentally gave them language? Furthermore, as Mensch asks, why do some “see” and acknowledge the infinity of
This makes sense and does not diminish Levinas’ claim that the face is always pre-theoretical and pre-reflective. The human can learn about himself or herself (including the very language he or she uses) by the elemental, ethical relations with the other. There is nothing, however, to prevent such bases being forgotten and displaced by the ontological, as Levinas put it. Unfortunately, the stories out of Rwanda in 1994 might be instructive—there, the Tutsis were relegated en masse to an ontological category of being cockroaches. Once that was accomplished, the next step of murder might indeed be rendered “banal.”

Break with Phenomenology and Ontology

In this section, I would like to state briefly that Levinas’ phenomenology (if it is even phenomenology) is a clear and intentional break with the traditional phenomenology of Husserl and Heidegger, both of whom taught him. Husserlian phenomenology

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46 Morgan claims that Levinas’ discussion of the face involves a social understanding that others can remain hidden. “I believe that Levinas takes the encounter with the face of the other person, the face-to-face, to be a dimension of all of our social existence that is largely hidden from view and that needs to be uncovered or disclosed. In this sense, discovery is important to Levinas, although it is not a word he himself uses.” Morgan, Discovering Levinas, xv.

47 I do not have the space here to address Levinas’ phenomenology. Despite his differences with Husserl and Heidegger and the seeming contradiction between his “ethics as first philosophy” and phenomenology, he maintained throughout his life that he was a phenomenologist. See, e.g., Moran’s Introduction to Phenomenology, 327-328 and Hand’s Emmanuel Levinas, 38-39.
emphasizes perception and intentionality. Perception places great weight on descriptions of perceptual consciousness, with the noemata of the object pole. Here, the goal is to bracket metaphysical questions and give an accurate description of how things appear—with presence and absence, identity among manifolds, and with parts and wholes. Intentionality, on the other hand, addresses the noetic, subjective pole of consciousness with its intentional states. The Husserlian enterprise to Levinas falls into the same attempts of other philosophers to categorize or understand the other. “Levinas sees Husserl’s understanding of the basic intentional act of giving meaning as being caught in the paradigm of knowledge as a kind of possession or grasping of the object.” For example, Levinas could never consider the face as a noema. Noemata are linked in consciousness to noeses, which are subjective. In a sense, then, the objects of consciousness are mine. If a face, though, is a sign of an infinite other, as Levinas claims, how could it ever be mine or be linked to my intentional states? Additionally, we might ask: How can there be adumbrations or sketches of a face that itself is not perceptual, as stated above in my section in the face? And yet it is things such as adumbrations that Husserl addresses in such detail. “[T]he others resist a description that would present them as a particular sort of phenomenon among other phenomena within a universal order of beings. Since they ‘show’ and ‘present’ precisely those realities that do not fit into the universal openness of consciousness, they cannot be seized by the usual

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48 I am purposely focusing on and limiting myself to Husserl’s terms and philosophy of the 1913 version of Ideas.

49 Moran, Introduction to Phenomenology, 328. “Following Parmenides and the Eleatic tradition, philosophy has identified being with thought, wherein being is reduced to whatever is thought-of, or represented in thought.” Moran, Introduction to Phenomenology, 341.
categories and models of phenomenology.” 50 The face and the infinitude of the other cannot be thematized. 51

Heidegger famously moved beyond Husserl’s early preoccupation with perception and object description to address in particular human existence. The ontology of Heidegger is then the question of human be-ing, of human exist-ing called Dasein, which includes mit-sein, being with others. Levinas’ phenomenology, however, is not Heideggerian because he saw Heidegger as part of the Western emphasis, if not obsession, with ontology since the time of Parmenides. 52 Levinas’ opposition to ontology “should not be understood as a rejection of all ontology, but rather as its dethronement.” He will propose “his own ontology as a subordinate level of thought, but insists that no ontology can be the all-encompassing, ultimate, or fundamental part or whole of philosophy, because God, the other, and I do not fit in its space and time...The other disrupts and pierces that very idea of a horizon; she transcends all contexts and cannot be reduced to the existence of a being.” 53 Certainly, Heidegger had broken with Husserl’s great emphasis on consciousness and the articulation of intentional states, but he was still

50 Peperzak, To the Other, 20.

51 “The infinite is not the adequate correlate of some intention that—in accordance with the Husserlian conception of intentionality—would connect a noema with a noesis by an adequate correspondence; the infinite surprises, shocks overwhelsms, and blinds by confronting me with another human face.” Peperzak, To the Other, 129.

52 We saw this in the first section of this chapter. “Levinas’ point about Western philosophy is astonishingly simple but it will have major philosophical consequences: philosophy...has been characterized by its failure to think of the Other as Other.” Davis, Levinas an Introduction, 33.

too captive to an articulation (in his own unique way) of Being and beings. This specifically is a problem if it relegates the other to the same again, as had Western philosophy since its inception. Heidegger could maintain that “if everything human is engaged in the comprehension of Being, then the human need to escape must be part of what it is trying to escape from. In this context...Levinas requires a more modest way of talking about Being which disturbs the stranglehold of Heideggerian ontology.”

Dasein with its world and its concerns and its projects is still somehow a relegation of other to self, which was his overall concern with Husserl. “The ultimate failure of phenomenology, for Levinas, lies in its inability to envisage an encounter with the Other which does not return to the self.” Husserl lionizes the non-historical, clear articulation of phenomena and Heidegger addresses the facticity and worldliness of Dasein, but both make the ego in some manner prior to all else.

Opposite of Heidegger and the philosophical tradition, Levinas introduces another term to address or grasp somehow the strangeness of the other: me-ontology. Parmenides had used the phrase “to me on” in Greek to address what in English may be called “nothingness.” The literal Greek, however, is “the not being.” Me-ontology may be understood as the non-beingness of the other, addressed above as “beyond being.” This is “the not being” that Parmenides specifically said was nonsensical because our minds could never think of anything other than being. In the use of me-ontology, we see here

54 Davis, Levinas: An Introduction, 22. For a discussion of Heidegger’s inability to escape the Greek language of intelligibility and presence, see the interview with Levinas in Kearney’s Dialogues with Contemporary Continental Thinkers, 56.

not only then an explicit difference with Heidegger’s ontology (a difference also present in the title of his mature work *Otherwise than Being*), but we see a reiteration of the transcendent qualities of the other already mentioned. Like the Form of the Good, the other is “beyond being.”  

Lastly, we can say that the first-ness of the other and ethics marks a fundamental movement away from phenomenology. The other speaks to me qua infinite, transcendent other in the glory of the face and calls upon me to act and be responsible to him or her. This is all done *before* any phenomenological intuitions may be involved. “The very enigma of the pre-originary is its nonphenomenality interrupting the phenomenal order of appearing…The immediacy of the ethical responsibility for the other…is the pre-original meaning that precedes origin without being in turn origin.” The responsibility I have because I have recognized my relationship to the other is not a result of a phenomenological appearance of the other to me. It is pre-phenomenal. “The appeal of the face is pre-reflective…I am always already ‘beholden’ to the other…[The face] is a kind of moral apriori, a condition for the possibility of ethics…”

**Conclusion**

This chapter has been an attempt to state with clarity the overlapping terms and

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56 See Kearney, *Dialogues with Contemporary Continental Thinkers*, 61, 63.

57 Fabio Ciaramelli, “The Riddle of the Pre-Original,” *Emmanuel Levinas: Critical Assessments of Leading Philosophers, Volume I: Levinas, Phenomenology and His Critics*, ed. Claire Katz and Lara Trout (London: Routledge, 2005), 68. “[T]he enigma of the pre-originary is not a phenomenon, does not occur in a present, is not the activity of a consciousness but insinuates itself within phenomena, as their very condition and their limit. [The pre-originary] is the immediacy of the ethical responsibility before freedom…” (69).

ideas in Levinas’ philosophy. It was meant to be a point of departure for the next chapter, where relationships with profoundly disabled children may be addressed concerning their faces, their personhood, etc. The goal here then was one of a clear exposition of theory that may then be applied and tweaked in Chapter Five. Repetition was meant to be kept to a minimum, but, like Levinas, some things bear repeating with a different examples and different terms.

I began the chapter with sameness and otherness and the fundamental non-incorporability and unknowability of the “other.” This is known as alterity. It was asserted that Western philosophy (including Husserl and Heidegger, as shown at the end of the chapter), with its synthesizing tendencies has consistently attempted to render the intractable somehow tractable in thought. The desire has been to render the other somehow same. We further saw that the face of the other was a sign that indicated a profundity in alterity. In part, the other was unknowable because he or she was an infinite other, but one I nevertheless could encounter as a concrete real, particularized person by means of the face. This face, which is not perceived, reveals an underlying primordial relationship I have with the other. In the face-to-face encounter, I am disrupted by the other and am called to give uni-directionally to him or to her. I have a relationship with the other and a responsibility to act on their behalf. I have this prior to any cognizance of the other. This responsibility may be forgotten, however, or hidden or somehow lost. In doing so, I may forget the original bases for my language and even for my self when I kill or harm that other. I may always forget my duty to the other, but that can never affect the infinity he or she always maintains apart from me or this world. My
destruction of the ontological in no wise affects the transcendent.
CHAPTER FIVE
RELATIONSHIPS, PERSONHOOD, AND PHENOMENOLOGY

Introduction

This chapter is the culmination of the previous three. In it, I will address the inadequacy of the naturalistic models, as critiqued by Taylor, Habermas, and Honneth in Chapter Two, when they are applied to anencephalic children and questions of their personhood. But I will do so in a manner that captures the child’s personhood with greater philosophical specificity than those positions offered in Chapter Three and without their arbitrary distinctions between animals and humans. To achieve this, I will make use of Chapter Four’s explication of Levinasian ethics and the infinity and face of the other. Doing this here will highlight naturalistic tendencies to marginalize human scientific models as unimportant, as somehow not serious academic or scientific paradigms for professional and ethical medical practice. I will confront this disengaged scientistic stance and argue that the move against a rich human narrativity and an interpersonal bond goes awry with anencephalic children and by extension other severely cognitively disabled individuals. In doing all this, I will feel free to analogize between anencephalic children and other severely damaged or otherwise cognitively impaired individuals. I believe that the similarities are sufficiently strong enough to cover any differences.

To do this, I will divide the chapter into three parts. First, I will address quite
briefly five naturalistic philosophers and their views toward anencephalic children. Although some may not be as clearly naturalistic as others (say, Father McCormick versus Mary Anne Warren), they all will have in common a retreat to some sort of discernible natural sciences marker or checklist for what constitutes full personhood. That is, they will rely on objective or quantifiable data at some point as indicia of a lack of personhood in anencephalic children or otherwise severely brain damaged persons.

Second, I will present two sections on the anencephalic child and relationships. First, I will address these philosophers’ claims head on by introducing Levinasian applications with regard to anencephalic children and other cognitively impaired individuals. It will be argued here that Levinasian apprehensions of the other do apply to anencephalic children and other damaged persons. To do this, I will use narrative accounts and scenarios. In the second section, I will then argue that our relationships with the children indicate a connection to an underlying personhood that Levinas articulates. In describing these relationships, they will serve as evidence of an already-existent, already-accepted and already-grasped Levinasian personhood that I tried to give some evidence for in the first section. That is, the relationships will constitute proof that the child whom I may and do relate to is already considered by me to be a person. This may answer some skepticism concerning whether the Levinasian alterity rings true to our interactions with anencephalic children. These two sections are interlocking, so the division is essentially one of emphasis rather than definition. Lastly, I will look at why those five initial philosophers nevertheless refuse to attribute personhood to such children. What I will conclude is that those thinkers have disengaged from a primordial understanding of the
child as person. In the first of two sections here, I will note that they and other naturalists simply cannot recognize either the Levinasian apprehension of the child or the relationships possible with the child as philosophically significant. They do this because they have withdrawn from a previous connection with the child. In the second section, I will see this disengagement as in line with the naturalism addressed in the second chapter and thus bring the dissertation to a close with a return to the naturalism that Taylor, Honneth, and Habermas addressed so clearly. This latter disengagement will be shown to be present in how doctors and some philosophers address certain aspects of the human sciences, such as narrativity or historicity. I will therefore attempt to show that both disengagements (toward the anencephalic child/relationships and toward embedded, narrative, historical interpretations) occur because of an overarching naturalistic tendency to ignore “soft data,” such as those used by interpretive phenomenologists in medicine.

Naturalistic Criteria for Personhood

Chapter Two gave great detail about the question of naturalism and personhood. Specifically, I there described the fundamental disconnect that occurs when human qualities, human attributes, human characteristics are funneled into the strictures demanded by the natural sciences. This may be seen, for example, in the reduction of secondary qualities into primary qualities, but occurs as well in the reductive tendencies in medicine, psychology, and elsewhere. “In this way we shall be able to treat man, like everything else, as an object among other objects, characterizing him purely in terms of
properties which are independent of his experience…”¹ When this move is made, it was argued, not only are individual human personalities lost, but fundamental human elements such as personhood are likewise abandoned. Below are five philosophers who give varying naturalistic criteria for what count as persons.² As such, I believe that they fall prey to the limitations of scientistic models. In essence, the five thinkers say that personhood, to have any rigor as a term, must meet with their objective criteria. To all five, the anencephalic child or any so severely damaged individual clearly fail to meet these criteria and is therefore not a person or doesn’t deserve the moral status normally associated with personhood.³

In 1974, Father Richard McCormick wrote “To Save or Let Die: The Dilemma of Modern Medicine,” addressing the question of meaningful life, specifically with regard to severely damaged human beings. He attempts to demarcate some limits with regard to certain infants, specifically in search of a defensible middle ground. He worries openly about finding a workable criterion for medical treatment between on the one hand an unbridled “vitalism” that works to save any life no matter the cost, the likelihood of success, or the well-being of the individual involved, and on the other hand, a quality of


² I will describe these five as merely exemplary of varying naturalistic stances in medicine. The list is by no means meant to be exhaustive.

³ In addition to the five addressed, James W. Walters in What is a Person: An Ethical Exploration (Urbana: University of Illinois Press, 1997) also gives clear criteria for “minimal personhood”: 1) a certain cognitive potential leading to self-awareness, and 2) a physiological potential that the future person would consider a net benefit. “If self-consciousness and decent physical health are probable, life saving treatment should be provided. But only if those conditions are satisfied should physicians be required to give therapy, regardless of parental wishes” (70).
life principle that merely invokes utilitarian formulae. In other words, he wonders if there might be a tenable compromise between saving any life and putting all lives into a social-worth calculus. To that end, he proposes accepting life as “a basic and precious good, but a good to be preserved precisely as the condition of other values.” Under this standard, life’s worth rests upon the possibility of these other values being possible. “It is these other values and possibilities that found the duty to preserve physical life and also dictate the limits of this duty.” He proposes that human relationships are at the core of those values and that they explain why life should be maintained.

Life takes its very meaning as a foundation for relationships. “[T]he meaning, substance, and consummation of life is found in human relationships, and the qualities of justice, respect, concern, compassion, and support that surround them.” Life then may be understood as a relative value, reliant upon a possibility of entering into future human relationships. If those relationships are not possible, life need not be preserved.

McCormick is attempting to avoid situations where life is preserved as an intrinsic good, rather than what life is for. “One who must support his life with disproportionate effort focuses on time, attention, energy, and resources of himself and others not precisely on

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5 McCormick, “To Save or Let Die,” 44. McCormick doesn’t phrase it this way, but I will put this in the guise of personhood—you are a person and have a sufficient moral status if you meet certain mandatory criteria he proposes. Most essentially, you are a person if you can enter into relationships now or in the future. McCormick is clear that any individual has inherent worth. Nevertheless, minus relational potential, that life need not be sustained. I see this as him denying personhood, with all its attendant moral requirements, to such individuals, regardless of his statement that such lives have worth.

6 McCormick, “To Save or Let Die, 45.
relationships, but on maintaining the condition of relationships.” McCormick specifies an anencephalic child as a life whose potential for human relationships clearly is not present. “[N]early all would likely agree that the anencephalic infant is without relational potential.” Such a child fails to meet the criterion that McCormick has carefully set up in such cases.

If these reflections are valid, they point in the direction of a guideline that may help in decisions about sustaining the lives of grossly deformed and deprived infants. That guideline is the potential for human relationships associated with the infant’s condition. If that potential is simply nonexistent or would be utterly submerged and undeveloped in the mere struggle to survive, that life has achieved its potential.

The child born with such profound disabilities that he or she does not have the potential

7 McCormick, “To Save or Let Die, 45 (emphasis mine).
8 McCormick, “To Save or Let Die, 46.
9 McCormick, “To Save or Let Die, 47. The anencephalic child is the exemplar of McCormick’s claim that “there comes a point where an individual’s condition itself represents the negation of any truly human—i.e., relational—potential” (46).
10 McCormick, “To Save or Let Die, 47.
to engage in relationships is someone whose life loses its relative value. Therefore, the child with anencephaly, as one whose potential for relationships is never present, is a child whose life should not be needlessly sustained. In maintaining this, and in cautioning doctors and others to opt for life where there is uncertainty as to the potential for future relationships, McCormick thinks that he has found a plausible moral middle ground that does not relativize or otherwise quantify human dignity; it instead deals with difficult medical facts. A child may have inestimable value as a human, but still not warrant medical intervention when the facts indicate a clear absence of potential for relationships.

Clearly, Fr. McCormick tries hard for a sensible middle ground in an early stage in the technological revolution. Nevertheless, it appears as though he relies on doctors or psychologists to tell him whether or not the child has the potential to sustain relationships. It is their criteria, their tests, their judgments that will determine personhood or the heightened status that will constitute a viable life. He admits that “this guideline is not a detailed rule that preempts decisions; for relational capacity is not subject to mathematical analysis, but human judgment.” Despite this, he argues for physicians to provide “some more concrete categories or presumptive biological systems for this human judgment.”\(^\text{11}\) Granted, momentous decisions will be left to parents and unclear decisions should always be in favor of life. But what is operative here is that clear decisions are clear because of scientific data. It is the doctors’ tests, etc., that will determine potential and thus the personhood or status of the child.

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\(^{11}\) McCormick, “To Save or Let Die, 47.
Unlike McCormick, Mary Anne Warren is explicit in her reliance on quantitative or other rigorous, discernable data in her personhood checklist. In addressing who might properly be considered members of the moral community, Warren understands personhood to be the central moral question in abortion and addresses it as such. The criteria she sets up, however, are not a matter of abortion; they are a matter of personhood. That is, the criteria include abortion and fetuses, but clearly move beyond them. The point of her article is that abortion is permissible if the fetus is not a person, so that raises the criteria of personhood. These criteria, however, stretch beyond birth to include newborns. She lists as traits “most central to personhood” consciousness and capacity to feel pain, reasoning that is developed, self-motivated activity, the capacity to communicate, and the presence of self-awareness. For Warren, no one particular trait is necessary and many alone are probably sufficient for personhood, but the entity that has none of them, such as a fetus, is not a person. She argues that this checklist is acceptable to all parties “since I think that the concept of a person is one which is very nearly universal (to people) and that it is common to both pro-abortionists and anti-abortionists…” It is upon this overall accepted understanding of personhood that human rights may ride. Conversely, no such rights are available to those who do not reach personhood status.

Some human beings are not people, and there may well be people who are not human beings. A man or woman whose consciousness has been

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permanently obliterated but who remains alive is a human being which is no longer a person; defective human beings, with no appreciable mental capacity, are not and presumably never will be people…\textsuperscript{14}

It is apparent that an anencephalic child is not a person for Warren. It is among those human beings who are not persons. The child has failed to attain any one of her five objective criteria.

In addition to Warren, Michael Tooley also proposes a checklist for personhood. He, however, is more transparent that it applies equally to infants. Simply stated, if a fetus or infant is found not to fulfill the objective criteria Tooley proposes for personhood, that human does not have a right to life. “At what point in the development of a member of the species Homo sapiens does the organism possess the properties that make it a person?”\textsuperscript{15} Clearly, personhood is understood as requiring properties—with those properties, there’s a person, but without those properties, there is not a person. There are two basic properties for Tooley to confer personhood status: “An organism possesses a serious right to life only if it possesses the concept of a self as a continuing subject of experiences and other mental states, and believes that it is itself such a continuing entity.”\textsuperscript{16} The first condition thus is a normal fact about self-concepts and the second is a reflexive fact, reliant on acknowledging the fact that I am such a self.

Furthermore, there is a desire element here that is essential—built into the second prong

\textsuperscript{14} Warren, “Moral and Legal Status,” 222.

\textsuperscript{15} Michael Tooley, “Abortion and Infanticide,” in \textit{The Ethics of Abortion}, Robert Baird and Stuart Rosenbaum, eds., (Buffalo: Promethius Books, 1989), 48 (emphasis mine). Tooley does not draw a distinction between being a person and having a right to life: “Specifically, in my usage the sentence ‘X is a person’ will be synonymous with the sentence ‘X has a (serious) right to life’” (47).

\textsuperscript{16} Tooley, “Abortion and Infanticide,” 57.
of the test is a desire, as that type of entity, to continue in existence.\textsuperscript{17} In putting together this checklist, Tooley fully admits that newborns do not count as persons and killing them would be permissible for a short period after birth. It would be left up to psychologists to determine when the infant possesses the concept of a continuing self—that point “at which a human organism comes to believe that it is a continuing subject of experiences and other mental states.”\textsuperscript{18} Clearly, an anencephalic child does not have a concept of self or a desire to continue as such an entity. An anencephalic child is not a person to Tooley. It doesn’t fit his objective criteria.

Jeff McMahon sets up another series of criteria, but unlike Warren and Tooley, his apply specifically to anencephalic children. He first notes than such children lack the basic neurological capacities for any form of consciousness. Traditionally, such non-conscious children have been treated as inviolable because of their membership in the human species, but McMahon notes the inconsistencies there—especially where chimpanzees, for example, display consciousness, etc., but the anencephalic child cannot.\textsuperscript{19} The child for McMahon is not a bearer of interests. He attempts to avoid terms

\textsuperscript{17} “Since one cannot desire that a certain proposition be true unless one understands it, and since one cannot understand it without possessing the concepts involved in it, it follows that the desires one can have are limited by the concepts one possesses.” Tooley, “Abortion and Infanticide,” 50. A child cannot have a right to life if taking that life doesn’t affect some desire that the life not be taken.

\textsuperscript{18} Tooley, “Abortion and Infanticide,” 59.

\textsuperscript{19} “An anencephalic infant is a mindless biological organism belonging to the human species. A chimpanzee is a conscious being whose organism belongs to a different species. If one is not an organism, but is essentially an embodied mind, one’s relation to the chimpanzee may be closer and more significant than one’s relation to the anencephalic infant…The chimpanzee, in short, is of the same kind that one essentially is, whereas the anencephalic infant is only of the same kind that one’s organism is.” Jeff McMahon, \textit{The Ethics of Killing: Problems at the Margins of Life} (Oxford: Oxford University Press, 2002), 225-226.
such as “person” in the pursuit of neutrality, but nevertheless does remind the reader that by “persons” he means “individuals who are self-conscious, irrespective of species.”

He is much less specific with his checklist here than Warren or Tooley, but a checklist for personhood is nevertheless discernible. McMahon holds that because “an anencephalic infant has neither the capacity nor the potential for consciousness, it is not a bearer of interests.”

Like Warren, McMahon asserts that consciousness is essential to a moral status. Unlike Warren however, he seems to mandate consciousness as a necessary condition. “[I]f the properties that ground the anencephalic’s rather exalted moral status are neither psychological nor specific to the human species, it seems inevitable that they must be possessed by even the most rudimentary forms of animal life, and perhaps by plants as well.”

He also notes that traditional views “commit us to the conclusion that it would be seriously wrong to kill an animal that altogether lacks the capacity for consciousness. And this is unacceptable. Hence it seems that our traditional beliefs about the special sanctity of the lives of the severely retarded human beings will have to yield.”

The anencephalic child is not a bearer of interests, does not have rights, and is not a person. It does not meet his objective criteria for consciousness or self-

20 McMahon, *The Ethics of Killing*, 190. See p. 6 for his desire to avoid the term “person.”

21 McMahon, *The Ethics of Killing*, 451. He continues: “Nothing can matter, or be good or bad, for its sake. Nor can it have rights or be an appropriate object of respect.”


23 McMahon, *The Ethics of Killing*, 230. Throughout, McMahon also addresses and supports a claim of identity as essential to a certain moral status. He argues for something beyond mere self-consciousness: “It is more reasonable to see the human being’s present stake in its own future as increasing gradually over a substantial period of time along with the strength of the psychological connection between itself now and itself later in the future” (353).
consciousness or for identity.

In *Practical Ethics*, Peter Singer addresses personhood as a term of value. He there notes Joseph Fletcher’s five criteria for personhood, but chooses to limit personhood to those humans with rationality and self-consciousness. In a sense, Singer seems to combine McMahon and Tooley’s concepts/requirements of personhood. “A self-conscious being is aware of itself as a distinct entity, with a past and future...A being aware of itself in this way will be capable of having desires about its own future.”24 The inability to fulfill certain desires may reasonably be seen as suffering for a conscious agent and is something a utilitarian must weigh. “If I am a person I have a conception of myself having a future. If I am also mortal, I will probably know that my future existence could be cut short. If I think that this is likely to happen at any moment, my present existence will be less enjoyable that if I do not think it is likely to happen for some time.”25 The upshot of this test becomes apparent when Singer applies it to euthanasia of infants. His logic here is reminiscent of Tooley. “No infant—defective or not—has as strong a claim to life as beings capable of seeing themselves as distinct entities, existing over time.”26 The criteria here are ironclad: either they are met or they are not. Meeting them gives a special status; having them absent deprives one of that

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24 Peter Singer, *Practical Ethics* (Cambridge: Cambridge University Press, 1979), 78. Throughout, Singer gives a sophisticated breakdown between various types of utilitarianism. For the sake of clarity and brevity, I have left that out.

25 Singer, *Practical Ethics*, 79. Singer explicitly mentions the connection here to Tooley and the connection between desires and rights. “[I]t seems plausible that the capacity to envisage one’s own future should be a necessary condition of possessing a serious right to life...I know of no better argument in defence of this alleged right than Tooley’s.” Singer, *Practical Ethics*, 83.

status. Where Singer tends to differ from Tooley is when he addresses the death of children in euthanasia based on utilitarian balancing tests—tests that possibly may override even the wishes of the parents. “When the death of a defective infant will lead to the birth of another infant with better prospects of a happy life, the total amount of happiness will be greater if the defective infant is killed. The loss of a happy life for the first infant is outweighed by the gain of a happier life for the second.”

He says quite clearly: “[K]illing a defective infant is not morally equivalent to killing a person.”

Singer then likens the case of “defective infants” with those in severe comas, accident victims, and those in old age who have lost capacities to choose to live or die. Like infants, they “are not self-conscious, rational or autonomous, and so the intrinsic value of their lives consists only in any pleasant experiences they may have. If they have no experiences at all, their lives have no intrinsic value. They are, in effect, dead.”

Singer echoes this type of equation in addressing the question between defining death by a whole brain definition or a higher brain definition. Here, the crux of the question lies in whether or not certain structures of the brain are necessary to being considered alive.

“[A]s soon as medical opinion accepts that we can reliably establish when consciousness

27 Singer, Practical, Ethics, 134. This for Singer is a better option than amniocentesis followed by abortion because amniocentesis misses some abnormalities. “If defective newborn infants were not regarded as having a right to life until, say, a week or a month after birth it would allow us to choose on the basis of far greater knowledge of the infant’s condition that is possible before birth.” Singer, Practical Ethics, 137.

28 Singer, Practical Ethics, 138.

29 Singer, Practical Ethics, 138-139. In addressing the differences between his view of identity versus Singer’s view of self-consciousness as essential to moral status, McMahon notes that Singer’s view is less gradual than his own: “But he focuses on one feature of psychological life—future directed desire—and claims that it cannot be present before the onset of self-consciousness.” McMahon, The Ethics of Killing, 353. We see therefore a discussion of desire with McMahon, Tooley, and Singer.
has been irreversibly lost, the pressure will become intense for medical practice to move to a definition of death based on the death of the higher brain." It is quite clear that, regardless of this utilitarian calculus, the anencephalic child fails to meet the most basic of Singer’s objective criteria. As such, the child is a “defective infant” and thus not a person in his eyes.

What we can conclude from this brief discussion of five thinkers’ views on moral status and personhood is that they refer to objective data as necessary to determine whether or not a child is a person. That is, whether it be McCormick’s potential for relationships, Warren’s list, Tooley’s psychological desires, McMahon’s identity and consciousness, or Singer’s distinction of the higher brain criteria, there is a sense that, objectively speaking, a discernible criterion of personhood can be grasped and articulated. It is generalizable and lawlike in its criteria, once the physical or psychological attributes of the present case are themselves objectively determined. The quantifiable data, from psychological tests, to brain scans, to discussions with linguists about language formation and earliest cognitive developments in that regard—all of these in a sense do the very thing that Taylor and Habermas and Honneth fear in the second chapter. They force a “translation” of personhood from a human sciences perspective into a natural sciences perspective. The naturalistic tendencies make a contextual, relational, or embedded human existence shallow because these things are not translatable into rigorous tests, etc. They render personhood an ineluctably scientific category to the extent that moral status makes sense only after these various requirements

have been met. Furthermore, they rely on the data as in essence the decisionmaker—
once the tests have been made, the tests themselves are not questioned and the algorithm
substitutes for a contextualized person who evaluates the individual in question. We
might say that they want the tests and their accompanying data to make the decision for
them. They want objective tests, filled with objective data.

I will argue below that these claims, from McCormick to Singer, are in fact
secondary, disengaged views. They are, in effect, post hoc, dispassionate, removed
discussions of human existence. And, as such, they are off base. They forget or conceal
what, as Levinas teaches us, they once knew.

**Levinas, the Anencephalic Child, and Relationships**

I

A general theme of this dissertation is that the human sciences are no less
important or rigorous or truthful than the natural sciences. As noted in Chapter Two,
from the days of Galileo forward, there has been an increasing preference for numbers
and Cartesian certainty in academia and elsewhere. “Rigor,” for example, has been
understood to mean backed by quantifiable data. Data, however, are not all quantifiable.
The strange thing is that we know this in a basic way, but forget that fact. For example,
in a brain surgery, where the patient is kept awake, the neurologist with his or her
knowledge of the brain, must in fact ask the patient at times what is being experienced
internally, in the consciousness not amenable to the EEG, etc. The surgeon touches the
brain here and the patient says, “I smell something,” then the doctor probes elsewhere
and the patient says, “I can see more vividly,” etc. An operation such as this indicates the
imprecision in something as emphatically precise as brain surgery. There is an explanatory gap between the patient’s consciousness and the surgeon’s science. The surgeon does not experience what the patient experiences; the surgeon does not see what the patient sees; the surgeon does not smell what the patient smells; the surgeon’s empirical data are not the patient’s internal, non-empirical data. The opaque nature of the patient’s experience in fact requires the very strange procedure where the patient is kept awake because such personal experiences in fact help the doctor do his or her job. The only way for the doctor to perform well is to connect with the patient’s subjectivity and search for as much precision as that subjectivity can give. The doctor must meet the patient in a way that means understanding things from the patient’s point of view. We might conclude from this that the subjective data are no less reliable than the objective—the surgeon’s success or failure in no small part is essentially linked to the very same subjective data that are all but ignored elsewhere.

In this final chapter, what I want to do is move beyond the naturalistic accounts of personhood with regard to anencephalic children and instead sketch human science accounts, while never admitting that these are any less important, rigorous, truthful, or essential than the naturalistic accounts—as we saw in the case of certain brain surgeries. Human sciences also yield data; these data are qualitative, narrative, embedded, relational, subjective data, but data nonetheless.

To that end, we must bring back Levinas’s discussions of alterity and ask ourselves whether or not an anencephalic child is a person with a face. The idea of infinity that Levinas addresses points out the ineffable otherness of the person that is in
effect never graspable, never predictable, never “plotable” on a graph. To understand the 
other as fully other is to claim that they are never amenable to my plans because they in 
effect transcend my particular desires. They cannot be understood, nor may they exist 
just for my interests. They are not made in the image of quantitative data and never may 
be placed into generalized categories. But could such a thing be said of an anencephalic 
child? Can a child with but a brain stem, with physical data indicating that consciousness 
is permanently unobtainable, be considered a transcendent or infinite other? The 
scientific data tell us that the child is not ineffable in his or her consciousness because we 
know that the necessary bases of consciousness are in fact absent. Scientifically 
speaking, it is not appropriate to attribute, for example, an interiority to the child because 
an interiority requires the development of a higher brain that Singer mentioned. This 
raises an initial question: Did Levinas require the presence of physiological equipment 
for a legitimate discussion of interiority and thus exclude from personhood those 
individuals with catastrophic cognitive disabilities?

As noted in Chapter Four, the face reveals the underlying unknowable alterity of 
the other. The face itself points beyond itself to an other person with an transcendence. 
The face is a sign of a radically other individual. But the face also is not of this world—it 
is not the eyes, etc., but the “appearance” that causes the infinite other to be encountered. 
If, however, that transcendent infinity is held to be synonymous with interiority, then do 
any infants (not just anencephalics) have faces? In my research, I have found nowhere 
where Levinas addresses infants as having or not having a face. It is an open question, I 
believe. The closest I have found are a few passages from Totality and Infinity where he
addresses fecundity. There he notes, for example, “The relation with the child—that is, the relation with the other that is not a power, but fecundity—establishes relationship with the absolute future or infinite time.” \(^{31}\) The child that one confronts is symbolic of one’s self, but is not one’s self. If I understand Levinas correctly, there is a part of the individual that is passed on, but the child is nevertheless an other. “One’s child is an other who is independent and yet who commands responsibility and devotion unqualifiedly.” \(^{32}\) It seems plausible then to extend this alterity found in Levinas to the complementary notions of the face, infinity, and transcendence. So, we can reasonably say that a baby is an other, with a face, and a transcendence that the face indicates. The baby is a person. But what about anencephalic babies in particular? Do they have a face? Can they have an alterity and thus personhood without the possibility of an interiority?

Possibly an excerpt from Peter Singer’s discussions of anencephalic children might help here. It comes from a conference held in Australia dealing with questions of brain death categorization.

During the dinner break, Dr. Campbell invited members of the consensus development panel upstairs to the neonatal intensive care unit he directed. There, in clear plastic cots, surrounded by humming machinery, lay several small babies. Campbell took us to one, a particularly tiny boy, breathing on a respirator and with several other tubes and wires connected

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\(^{31}\) Emmanuel Levinas, *Totality and Infinity: An Essay on Exteriority*, translated by Alphonso Lingis (Pittsburgh: Duquesne University Press, 1969), 268. Likewise, on the previous page he had written, “…the I is, in the child, an other.” These passages intersect heavily with Levinas’s writings on time as well as gender. I, of course, will set those questions aside. What is important to see here is that they concentrate on one’s ability to reproduce and the connection to the alterity of a child that is the product of one’s self.

to his body. He was warm and pink, and looked like other babies. When Campbell picked him up and held him, he even seemed to smile. That was, Campbell told us, certainly some kind of automatic response, for the baby had been born too prematurely, and had suffered a massive bleeding in the brain. He was an example of the kind of baby we were discussing: cortically dead, he had no future. There was no hope, and no real point in further treatment, but the doctors were giving the parents time to adjust and grieve before taking the baby off the respirator. Yet, even knowing this, we could not help responding to him as we would to any other living baby. Could we really think of him as dead?33

Looking at such a child, would Levinas say that there was no apriori alterity there that cannot be made same? This question seems especially pertinent when it is remembered that Levinas’s writings address ethics as first philosophy. That is, the apriori nature of this ethics means that it is pre-theoretical, pre-perceptive, pre-cognitive. If that is so, then the face of the child (or any person) is given to us before we know of its status, before we know that it lacks a higher brain. In fact, it might be argued that attempting to re-view the baby with naturalistic criteria of personhood smacks of the egology I mentioned in Chapter Four—that is, rendering the child knowable or discernible or acceptable to me. This would be an act of making the child fit with my categories, etc. As I will address below, doing that is a post hoc theorizing about the other that makes him same, that overcomes difference in a totalizing tendency.34

To supplement Singer’s portrayal, let’s look at a scenario. Imagine a nurse, John, who has just begun his shift. He is new to this hospital as well as rather new to the nursing profession. Beginning his shift, he is told to report to Room 234 because the

33 Singer, *Rethinking Life and Death*, 45-46.

34 It can also be said that the post hoc theorizing that adjusts my view/response to the other alters and in fact destroys the asymmetrical responsibility I first understand I have to the other. As I said, I will address this below with disengagement.
patient there is ringing his call button. John, an eager beginner, rushes down to Room 234 and enters it. Unfortunately, he has read the sign incorrectly and this is Room 235. Here the room is rather small and quiet and there is a baby alone in the room. The baby looks like any other baby, but is dressed in the blue pajamas parents often give a boy, and has a cute cap on his head. John looks at the baby for an extended second and says, “Hey there, little guy. I hope you’re OK,” then rushes out to Room 234.

During the rest of his shift, John is quite busy, seemingly running from place to place and helping out as best he can. He keeps thinking about that baby and says to himself that he will visit him later on to see how the “little one” is faring. John wonders about the baby’s family, about his name, about how sick he might be, about how terrible it must be to be so little and yet stuck in a hospital, about his doctor’s name, about whether or not he gets visitors.

At the end of his shift, John goes in and sees the child. Now having the time, John goes up and reads that the child, Thomas John Morgan, has anencephaly. “Oh, that’s why he has the hat on,” John says aloud. “Damn, you got everything dumped on you, buddy.” Knowing now the diagnosis of Thomas, John feels a great sadness at what life “throws at us.” He touches the baby’s warm face and walks out. He continues to think about Thomas for some time and vows that he will visit him every shift until the baby dies.

A few questions here are pertinent to my claim: (1) Now that John knows Thomas has anencephaly, would he feel that that his previous thoughts about him were incorrect? Did the child ever have a Levinasian face? And if so, would the child no longer have
such a face? Does it seem “off” or inapt to think such thoughts about a child with only a brain stem—to wonder about his family, about how he’s doing, about his place in the world, to pledge to visit him, to want to talk to him, to think about “him” and not “that anencephalic baby”?” To name him and think of him by his name? (2) If the answer to #1 is no (such thoughts are not inapt), then consider again how John would feel had he walked in at the end of his shift and Thomas were gone, having died immediately before John’s shift started? Would the post hoc knowledge that it was a corpse he had seen before affect his initial apprehension? (3) Would John feel the same way as #1 had he walked in after his shift and realized that Thomas was not in fact a baby but merely a life-like doll? Would the post hoc introduction of that data affect his initial apprehension?

If Levinas is correct that the face reveals a deeper being that we relate to, then John would not feel the same in 1-3 above. The fact that Thomas is severely disabled does not prevent him from being an ineffable other whom John might relate to, as it would with a doll or a corpse. Anencephaly alone would not render Thomas a “human but not a person,” merely a damaged member of the species homo sapiens. If Levinas’ philosophy has some philosophical purchase, then John would feel responsibility toward little Thomas in an asymmetrical way. “I am, in a sense, a moral agent before I am a cognitive one; I am responsible before I am an observer or explainer or interpreter.”

Thomas would be understood as an unrepeatable individual, a transcendent, infinite other whose face speaks.

Remembering my analogy to *Johnny Got His Gun* and the protagonist with no

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35 Morgan, *Discovering Levinas*, 43.
anatomical face nevertheless having a face, it could be argued here that the baby too, with no higher brain also had a face. As the anatomical face is not required for a face, it makes sense to argue that so too a higher brain may not be required for a face. Doesn’t John’s initial actions display this attitude? With 2-3, however, John would likely realize that his thoughts about Thomas had been “off the mark.” Those were based on an incorrect apprehension. People may speak to corpses and dolls, but neither yields an alterity like that immediately grasped in the questions raised in #1. It seems very reasonable to argue that, if this scenario makes sense, that the relationship John began with the child reveals a deeper special status already present. Furthermore, the alteration that John would have in #2-3 above would not be a post hoc disengaged objective analysis concerning the baby. It would be rather an understanding that he did not encounter any baby at all. Subsequent visits to the child would see the face no longer present as a sign.

The face of the child is not understood at a remove. It is present to us; it is immediate—literally, “not mediated” by anything else. There is no in-between ourselves and the child. The child “speaks” as a person across space and time. It has an ineffable presence that is palpable. The Singer quote above as well as the scenario with John displays this. Here is another such quote:

The most moving presentations came from three women who had all been

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36 Below, in the second section of his part of the chapter, I will address relationships in greater depth and how they point to the validity of a Levinasian paradigm in such severely damaged persons. Relationships will nevertheless continue to be addressed in this section. As I noted in the introduction, the two sections of the second part of this chapter are a matter of emphasis, not definition. Here the emphasis is on whether or not a Levinasian paradigm can point to an anencephalic child as an other. The scenarios, etc., are meant to help answer this in the affirmative.
mothers of babies who were patients of the Royal Children’s Hospital. Two of them had had anencephalic babies. For Margaret Pearce, this happened ten years earlier, when parents were not encouraged to see their anencephalic child. Pearce had a difficult time grieving for the loss of a baby she had never been able to cuddle. Judy Silver, whose anencephalic baby—one of twins—had been born more recently, had held her child, had bathed her, and the baby had died peacefully in her arms. ‘It was nice,’ Silver said, and if that sounds banal when written down, no-one who heard her say it thought so at the time. For these two mothers, an anencephalic baby was still their baby, and some kind of person, whether the doctors or philosophers might say about its lack of capacity for consciousness.37

There is a personal anecdote I can relate that is similar to this. From personal experience on the bioethics committee at Santa Clara University, I spoke to a fellow member whose nephew was born with anencephaly. Like the above quotation, the child was a twin and so elective abortion was not an option. In addressing her brother’s response to the birth of his son, she told us of his holding the baby for the few minutes it survived after birth, naming the child, taking pictures with the child. The baby died in his arms. As Singer says, the lack of banality in certain simple statements mark this out as having a fundamental connection to an other.

If an anencephalic child does indeed have a face, revealing or indicative of an infinite transcendence, we can argue that this acknowledgement makes sense in light of our basic narratives. That is, as the scenario and the above quotes from Singer note, an anencephalic or otherwise severely damaged child does “speak” to us and does invite us to address them. “Both anencephalics and cortically dead infants may move their limbs, cough, sneeze, cry, and even appear to smile—all, however, without having any

37 Singer, Rethinking Life and Death, 44.
consciousness.” With such connections, we see that these events do affect us and do reveal to us an underlying pre-theoretical grasp of what is present. As I mentioned in Chapter Four, normative ethics is secondary for Levinas. It is why so many commentators and writers begin discussions about him by noting that he cannot be said to be doing traditional ethics. Instead, his philosophy is the basis for ethics. Here, we see that connections with the child are reliant upon what the cough and sneeze and cry, etc. make manifest to us. It is these very things that make even Singer himself (hardly an overly Romantic person) address as anything but banal. These recognitions of the anencephalic child as an other open up an accompanying aspect of Levinas’ philosophy—our relationships with the encountered other.

I addressed above a new nurse, John, and my fellow bioethics committee member’s nephew. Taking those two cases into account, imagine the family with an anencephalic child. Would the family keep the photos they took of their child on the wall? Would they refer to him as their “son” who died? Would they still celebrate the day of his birth long after he died? Would they note with sadness the anniversary of the day he died? Would they bury their son with a gravestone? Would they name him? Would there be a funeral where they might pray for his soul and family members can address the crowd with stories about touching his warm face or feeling his beating heart as they held him?

These kinds of questions are indicative of a deeper relational bond founded on an underlying encountered personhood. A first person narrative from a nurse might flesh

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38 Singer, *Rethinking Life and Death*, 40.
out here the pre-theoretical connection and how it may compete with a scientific, disengaged attitude. The narrative comes from a new nurse giving care to a man who suffered a cerebral hemorrhage the day before and whom she never knew. Notice here the juxtaposition between her connectedness with him on a personal level and her professional remove as a scientist/nurse.

The mechanical assessment of the man’s body was so like taking apart a dysfunctioning engine piece by piece. Neurological: focal seizures; all signs absent; no reflexes, no responses—no one home. Kelly had termed it “vegetable soufflé.” Cardiovascular: heart rate, 150; blood pressure, 80 palpable. Skin: cool, wet and mottled. Color: bluish gray, dusky. Drugs: procainamide, dopamine, and lidocaine. Pushed through his veins by more pieces of mechanical apparatus, they did their job to keep his heart pumping smoothly…

I went to the bed again and looked at the man’s face. As I leaned close to him, my hand moved to his forehead and slowly wiped away the sweat. I pulled the bloody tape away from his upper lip and was surprised to see the full white mustache. For a time I looked carefully at his face and decided it was a kind one. Pulling back the lids of his eyes, I found large and unresponsive pupils surrounded by a ring of light blue. I moved close to his ear and whispered. “Colonel, I’m here, do you know that? I am right here.”

Down at the end of the bed I massaged his purple feet as they lay still and ice-cold. I thought about his life, his work, and wondered if he’d ever gone fishing. “What kind of man were you really?” I asked aloud. While listening to the answers of silence, I noticed the monitor: heart rate, 70; blood pressure 74. He was slowing down despite the drugs…

(After being told by the family to stop the drugs and let him go). Carefully letting down the side rails, I gently put my hands under the Colonel’s shoulders and spoke to him in a slow, measured whisper. “Did you feel all this love here today? You can leave this behind you now. It’s all right, I promise.” My face touched his. “I’ll stay with you. I’ll be right here.”

There is much that I left out here— with family members visiting and telling the nurse

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something about the Colonel’s life, what kind of man he was, etc. In addition, it is the nurse, Echo Heron, who stops the respirator and is with him when he dies. Just she and he. She ends this story, the story she uses to begin her first book on nursing narratives, by stating, “I carried something with me. He had never spoken to me, there had been no gestures, I’d won no visible battles; but I had touched him, and his spirit…lingered.”

The story is instructive here for several reasons. First, it is clear that she did not ever know him. As she notes, she never heard his voice or saw his gestures. To people like Singer and Warren, this was a non-person human. He met none of their criteria. But even amidst her disengagement, where she saw him from a dispassionate scientific view, she was drawn back to what Levinas would indicate as a primordial stance toward him. It is clear, I would argue, that throughout the narrative, this comatose human had an infinity that she grasped. She looked at his face and saw an other, not a former other, but a present other. He was a person. That’s why she talked to him. Even in one passage I didn’t quote she refers to the fact that the person was gone. However, I think the passage in essence shows that she is not transparent to herself. If he wasn’t a person, then what did she mean about the “spirit” that was there until he died, and why did she talk to him, and why did she look into his face, and why did she care about him? Why did she use his name? Was this tantamount to caring for a dead body or a doll or was there an infinity there?

Clearly, the patient here had nothing going on in terms of consciousness—he was a “vegetable soufflé.” But nevertheless there was a face and an infinity, it could be

40 Heron, *Intensive Care*, 8.
argued. Joanna Zylinska puts it this way:

Levinas’s ethical thought is helpful in providing a framework and a justification for caring about the life, any life, of the other, especially the precarious and destitute lives of all those who lack recognition in the dominant political discourses and policies, and those whose biological and political existence is confined to “zones of exception”: comatose patients, asylum seekers, refugees, people with nonnormative bodies and looks, victims of biotechnological experimentation. It also transforms relationality between sentient beings from an objective material fact perceived as such from any point within the system to a subjective infinite responsibility, directed nonsymmetrically, only at me.⁴¹

In setting up the above paragraph, Zylinska reminds the reader of the simple fact that the other may be killed, but infinity cannot. As I mentioned in Chapter Four, Levinas calls murder banal. It is easy to kill, but killing cannot reach a transcendent other. If that is so, then perhaps I was incorrect to link (as I did above) infinity with interiority.

Above, I had questioned whether there could be an infinity without an interiority. I first answered the question of whether infants, who lack interiority, can be said to be infinite by quoting Levinas himself. But to answer the application of a transcendent infinity to the anencephalic, I produced narratives of anencephalics and other severely damaged individuals to argue that our behavior and thoughts comport there an implicit recognition of the other as infinite other. Zylinska’s reminder here makes sense in light of the notion of “beyond” from Plato’s *Republic* that I addressed in Chapter Four. The Form of the Good is “beyond being.” It itself is not ontological, but the conditions for the possibility of ontology (if I may borrow that phrase). If so, then “infinite” may be appropriately classified as un-reachable, un-categorizable in what it is primordially, not

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in what its possibilities (such as interiority) are. If I make that correction to my thought, then I can see the move Zylinska makes to include a comatose patient. That patient, whether permanently comatose or not, nevertheless has an infinity I may recognize and relate to. He (as with the Colonel, for example) is an other with infinity that may not be killed.  

To close out this section, I will quote one last case from Echo Heron concerning a patient who would be categorized by all five naturalistic philosophers above as a non-person and not deserving of moral status. The Levinasian, however, would find an infinite other there. Here a young woman is being prepared for organ donation.

Mother, father, and little brother were together, in the room for the last time. The mother was calm, businesslike, as she efficiently tended to the small chores she imagined her daughter would have wanted: braiding her hair, rubbing oil into her cuticles, daubing perfume on the pillow. In the future, she would remember doing these things and it would lessen the horror. Her tears seemed to be held back by a fragile veil of determination as she washed her daughter’s face with a warm wash-cloth and confided, in a gossipy, over-coffee tone, about Doreen and Alan’s new house and the walnut armoire down at the Braverman’s that she thought would be perfect for the upstairs master bedroom.

This woman who had lost her higher consciousness would be treated as already dead by Singer et al., but Levinas could explain how her mother could talk to her and comb her

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42 Without allowing for this application of infinity to non-interiority-bearing persons, we would have to interpret Levinas this way—murder may not ever destroy the infinity of the other (as Levinas notes), but a crippling car accident or cerebral hemorrhage might. That would make no sense. Furthermore, unless Levinas were to make a distinction between a PVS coma and a temporary one (based on disengaged, objective, scientific data), and thus call the one of them a person, but not the other one, it would be difficult to imagine how he could deny alterity to an anencephalic child. Both patients in the comas presently are without interiority and without consciousness, as is an anencephalic child. As hard as it is to imagine denying personhood to a person in, say, a 2-day coma, consistency here in terms of interiority means applying that non-denial to anencephalics as well.

hair. She was not combing the hair of a corpse or of a mannequin. This was a person, an infinite other now. The very body language of the mother is the same in terms of placement, distance, and setting had her daughter simply been conscious but profoundly sick. That is, the mother’s stance could be understood as consonant with her daughter’s present personhood in a way that sees her daughter in that context as an infinite, transcendent other, as she would do in any situation where her daughter was so sick.⁴⁴

If all of the above quotes and scenarios accurately met with Levinas’s philosophy and the application of that philosophy, then we may comfortably say that any baby (anencephalic or not) are persons. Specifically, the above explorations indicate by human behavior and reactions to damaged individuals that there is some sort of primal, immediate connection to allow for these reactions. Whether it be John dealing with the baby in the hospital room, the mother holding her anencephalic baby, or the mother combing her brain dead teenage daughter’s hair, none of those actions seemed inapt or somehow inappropriate. In all the cases, there was some sort of connection that could be articulated as in concert with Levinasian interpretations of personhood and the face of the

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⁴⁴It could plausibly be raised here that people talk to dead people at their graves. It is not uncommon to go to the grave of a lost one and talk to them, tell them what you have been up to, etc. Is this, however, the same stance? Clearly, both show the power of discourse when addressing someone close to us. But one main difference might be the person in the cemetery is not in fact addressing the body, is not holding the body, is not touching the body. In the cases mentioned from Heron, both she and the mother actually talk to the person, whisper in their ear, touch their body. The bodies are still warm, still beating hearts, still breathing, even if labored. This is like the sneezing and coughing mentioned above from Singer and the doctor holding the cortically dead baby. There is a one-to-one responsiveness there where arguably the post-perceptive qualities reinforce the pre-theoretical grasping of infinite alterity. That would not be the case with a grave or even an embalmed body, I believe. It would beggar the imagination to hold the hand of a skeleton and believe that one is addressing an infinite other, or see ashes in an urn as anything remotely similar to the mother and Heron herself in these scenarios. Even the cooling of a recently-dead body seems to have a phenomenological impact. There is much here also to be mined from those who experience the death of another and state, as Heron did above with the term “spirit,” a change occurs when the person is no longer alive. There is a phenomenological shift, it could be argued.
II

Implicit (and sometimes explicit) in the discussions and the narratives above was the claim that a relationship with an anencephalic child is possible. This claim puts me in opposition to Father McCormick’s clear statement that anencephaly precludes relationships. But the narratives of severely disabled individuals, where there is recognition of the face of the other and discernable reactions to such recognition, I believe, reveal a relational status from the persons involved with the child. Before going into details, it may be profitable here to address what a relationship is.

Human beings are reciprocal in nature. “Relate” in Latin means “to carry back.” A relationship, whether it be professional or personal, denotes a certain placement of one individual with respect to the other. In such a relationship, dialogue is the attribute of “carrying back” all that the other “says.” This may be the spoken word, but need not be so. Often what is carried back is the import of a gesture, the inflection of the voice, the movement of the eyes. These “dialogues” say “When is she going to stop talking” or “I need to go” or “You do not matter to me right now,” etc. As such, their ethical import is significant. The reciprocal human absorbs these “dialogues,” learns about who he or she is vis-à-vis the interlocutor, and damage may be done. This is very apparent in discussions with children. Their empathic nature often gives them great insight into communication with adults. An adult in silence around a child but who clearly exhibits acceptance “carries back” much more acceptance to the child than any talkative and
friendly adult whose “dialogue” demonstrates disinterest. Such is the power of dialogue in articulation of self.

Charles Taylor’s discussions of dialogical human nature help in this regard. Taylor claims that the embodied and communal ways of understanding, the ways that incorporate human knowledge that involves an other, are often overlooked in our emphasis on empirical data or representational theories of knowledge that do not incorporate our communal nature.

[W]e easily tend to see the human agent as primarily a subject of representations: representations, first about the world outside; and second, depictions of ends desired or feared. This subject is a monological one. She or he is in contact with an “outside” world, including other agents, the objects she or he and they deal with, his or her own and others’ bodies, but this contact is through the representations she or he has “within.” The subject is first of all an “inner” space, a “mind,” to use the old terminology, or a mechanism capable of processing representations…The body, other people may form the content of my representations. They may also be causally responsible for some of these representations. But what “I” am, as a being capable of having such representations, the inner space itself, is definable independently of body or other.45

He believes that this type of monological understanding is incomplete. Taylor argues that humans are fundamentally embodied and as such are more than a receptor of representations; they are instead more fully, completely understood as engaged in practices. “What this kind of consciousness (i.e., representative) leaves out is the body and the other.”46 We act in and on a world that matters to us. Our consciousness is an


46 Taylor, “The Dialogical Self,” 308. “Our understanding itself is embodied. That is, our bodily know-how, and the way we act and move, can encode components of our understanding of self and world…The deference I owe you is carried in the distance I stand from you, in the way I fall silent when you start to speak, in the way I hold myself in your presence.” Taylor, “The Dialogical Self,” 309. This may also be
embodied consciousness, with experiences and interpretations that are bodily and communally oriented.47

Specifically, with regard to the person interacting with an anencephalic child, there is more than a “representational” understanding of the child; there is a phenomenological presence of the child. The child may be touched and held, washed and clothed. These are all intentional components that coincide with meaning. We approach the child beyond a categorization of the child as a member of my species or as a disabled or non-abled entity, but instead see him or her as an irreplaceable other with whom I may interact. “We cannot understand human life merely in terms of individual subjects, who frame representations about and respond to others, because a great deal of human action happens only insofar as the agent understands and constitutes himself or herself as integrally part of a ‘we.’”48 The communal element to human action is present when a person holds an anencephalic baby, talks to him or her, names him or her. “We define ourselves partly in terms of what we come to accept as our appropriate place within dialogical actions.”49 The caregiving by the nurses and by the family members points to a relationship with the child. The child is fed, clothed, diapers changed, heat kept on in room, the child monitored. These actions bespeak of a nurturing connection that is

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phenomenologically rich.\textsuperscript{50} Is it possible, however, to be part of a we, to enter into a dialogue, to have an open stance, with such a non-responsive child?

Understanding that an anencephalic child cannot know that the person holding him or her is even present and similarly cannot even feel pain, it seems problematic ever to use the word “dialogue.” Taylor argues, however, that our dialogical nature is wider than we may even know. He gives two striking examples of where uni-directional dialogue (and thus relationship) may be had—the hermit and the solitary artist. “In the case of the hermit, the interlocutor is God. In the case of the solitary artist, the work itself is addressed to a future audience…”\textsuperscript{51} If Taylor is right, then the hermit may actually learn about himself, grow in his identity by adopting an open stance and relationship toward God. Similarly, the artist may merely imagine his or her future audience and may engage them and be open to their likes and dislikes, praise and disapproval.\textsuperscript{52} Similarly then, the nurse, the doctor, the family member who holds and otherwise interacts with an anencephalic child, may be open to learn what the child has to teach. In addition, a parent may talk to the child about what they had hoped for the child, what their dreams had been, where they saw the child at 10, at 20. The parent may address to the child what the child’s siblings are like, what their faces look like, how he

\textsuperscript{50} This could include cases such as Baby K mentioned in Chapter Two, where the mother takes care of the child at home, but with occasional visits to the hospital. In her trips out to the hospital, etc., would she use a car seat? Would it seem strange or awkward or inappropriate to put the child in a car seat? I think it’s quite plausible to imagine this mother taking her brain-stem-only baby and putting him in a car seat to protect him. In addition, would she take him out in a stroller and show him to the neighbors? Does that seem bizarre? Would she cut his hair if it grew too long or sing to him at home? Isn’t she relating to him?


\textsuperscript{52} This is like the future person that Habermas contemplates in discussions about possible medical interventions.
or she will never hear Suzie’s laugh or see Johnny’s paintings. The caregiver may clean
the child, while being open to feel the child’s heat, listen to the child’s heart, touch the
child’s face, and learn about who they themselves are by an openness to the child’s
simplicity.

We indeed have seen all of this in the narratives given above. Those who interact
with the severely brain damaged or the anencephalic children do indicate an open stance,
not unlike a solitary artist. The mother talking to her daughter and combing her hair, the
mother who held her anencephalic child and bathed her, the nurse feeling the spirit of the
person she never knew, the father holding his anencephalic child while he died and taking
pictures of him—are these not in some way or another like the stance a person might
have in the quiet room of a normal, sleeping child? Imagine that a parent sits by the bed
and watches her healthy child sigh in his sleep or suck his thumb or twitch his toes—is
that parent not “carrying back” something from the child? Does that parent only see that
present child as relatable because he’s “normal,” or because they played earlier in the
day, or because tomorrow he will be conscious? Instead, isn’t there a current relationship
right then and there when the parent views her unconscious son? If so, then a plausible
case could be made that such an open stance, a carrying back, a relational ontology would
be present for not just the sleeping normal child, but the comatose child, the brain dead
child, and the anencephalic child. It is this relationship that is manifest in and reinforced
by the photos, the naming, and later the gravestone and the stories told. Both cases

53 This is not unlike Heron above addressing the Colonel and whether he had felt the love in the room. She
did this all the while knowing that he was “vegetable souffle.”
involve an open stance, a dialogical relationality that goes beyond mere representation, etc.

To conclude this section, it is worth remembering that these relationships are made possible, in a sense piggyback on, the ethics of Levinas. These relationships reveal the fact that that child is already understood as a person. We can look at this in two ways—by causation and by knowledge. First, we can describe the infinite other as the cause or basis for relationships, with the causative order running from the infinite other through the relationships that are made possible by that underlying personhood. On the other hand, the way of knowing runs in the opposite direction—the relationships reveal/disclose the fact that the other is indeed already somehow understood as a person, even if we don’t presently know it because we have forgotten it or become disengaged.54

If the scenarios and quotations above described accounts that ring true, then the two-section division here has illuminated that Levinas’ ethics does apply to anencephalic children and we can know that this is not off the mark by the presence of these discernible relationships that connect to some sort of primordial alterity.55

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54 These were classically known as the ordo essendi and the ordo cognoscendi. I have, however, refrained from using those terms because “essendi” means “of being” and the Infinite, transcendent other, in fact is beyond being, other than being. In addition, caution must be used here in seeing relationships as piggybacking on personhood. Levinas does not hold that the relationships are seen first, then the face is seen. But for the disengaged person, the one who once did see the face, the relationships certainly 1) give evidence of an underlying base from which such relationships are possible, and 2) may be the vehicle that draws the disengaged back into engagement, like the classical ordo cognoscendi.

55 A weakness in my argument here might include the “open stance” I mentioned with the artist and the monk in his cell. Similar to what I described in Footnote 44, there could be the same “open stance” with regard to a dead person whose grave you visit. You might “listen” for what wisdom your deceased mother has to give you. Phenomenologically, these are similar, and yet, as I already noted, it seems as though something is missing in the unembodied cases. It might be profitable to add a few more requirements for relationships to be disclosive of an underlying Levinasian person. These might be a warm body, beating heart, etc. Singer brought up sneezing and coughing and appearing to smile. Those might certainly be
Disengagement

I

In developing a theory about the role of personhood and explicitly applying it to anencephalic children, I can say that it is quite plain that the overwhelming amount of scientific and philosophical literature seems to consider the child a non-person. Attributing personhood characteristics to anencephalic children (and other severely damaged individuals) is treated as tantamount to a category mistake—it is placing the child in an inappropriate category. This is apparent in the five theories that began this chapter. But the human sciences have different criteria for what may be considered rigorous, etc. First-hand experiences, subjective interpretations, practical orientations, relational ontologies, historical bearings, dialogue and listening, etc., are all considered sufficient data for decisionmaking (as we even saw in the brain surgery example).

Consistent with this, Levinas’s philosophy and the narratives and scenarios above could reasonably be held to reveal a truth to us about the anencephalic child and personhood overall. If, as shown by our very behavior, the Levinasian accounts of alterity, the face, infinity, etc., can be demonstrated in the realm of human interaction and can plausibly count as the basis for relationships, then why does arguing for personhood in such

| sufficient in concert with the open stance. Peggy Wros describes a case like this where a mother interacts with her brain dead daughter who had attempted suicide. The words are the nurse’s: “The mother was so distraught that she couldn’t touch her daughter. And she kept telling me, ‘If I can hold her, if I can just hold her one more time.’ So I put the side rail down and she went up and laid her head on her daughter’s chest and just kind of held her, and so then I just scooted her to the side of the bed so her mother could get up and crawl in bed with her and just kind of hold her daughter. And I felt really good about that. Letting the family come in and be with her and her brother was able to come in as well and just kind of hold her and get close to her, while she was still warm.” “The Ethical Context of Nursing Care of Dying Patients in Critical Care,” in Patricia Benner, ed., Interpretive Phenomenology: Embodiment, Caring, and Ethics in Health and Illness (Thousand Oaks: Sage Publications, 1994), 268-269. This was not phenomenologically similar to talking at a grave. The presence of the body cannot be ignored, I would argue. |
difficult circumstances constitute the minority of opinions? My answer is what I call disengagement.

Of course, disengaged reason is one of the problems of modernity that Charles Taylor chronicles. “What is new in the modern sense of the self is the faith that I can properly understand and define myself in the absence of any attachment to this wider and more ultimate reality that surrounds me. Hence the image of the modern self as disengaged.” The type of disengagement I am describing has ties to this phenomenon from the 17th century. Traditionally, that century of science is known for its pursuit of objective stances (Archimedean points, to use Cartesian terminology) from which a removed observer might grasp the truth of things. In discussions of metaethics, this is often called a second order stance. My claim here is that something like that occurs with ethical disengagement.

If the Levinasian picture of pre-theoretical, pre-perceptual otherness is true, then an appearance of the other to me is primordial and exists instantly. Evidence of this was shown, I believe, by the nurse John who walked into the room not knowing a thing about the baby. I think that anyone who walked up to a baby who sneezed or coughed and breathed and was otherwise normal would in fact immediately encounter a person. However, once that caregiver learned some post-apprehension scientific data about the

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56 Ruth Abbey, Charles Taylor, 81.

57 There are strong links here to Honneth’s work on reification. Honneth, like Levinas, had a pre-conceptual, pre-theoretical notion of recognition of persons that may afterwards be forgotten. In this forgetting, persons are reified. When reified, they may then be instrumentalized and be relegated to our tasks. With disengagement, there is not always instrumentalization (although it could be there in harvesting of organs), but if my notion of disengagement is apt, then there is at least a parallel stance to forgetfulness. They both are a turning away from an instant, pre-reflective apprehension.
child, he or she might consider that there had been a mistake. In that case, the person who argues for a category mistake and uses checklists and other criteria, must therefore disengage from the relationship he or she initially had. That is, the judgment about the baby is a different, removed act from the initial apprehending, Levinasian act. It was, I would argue, the movement back and forth between these two acts (the primordial, Levinasian one and the second order, removed one) that was so difficult for Heron and even Singer when he saw the children. It is one thing to look at objective, reductive data about the child or damaged individual; it is another thing to see them in the flesh and touch them.

This idea of disengagement might explain cases where persons in the past have not been appreciated in their full personhood. Like the anencephalic child, Primo Levi gives us a glimpse about what it feels like to be reduced to a material thing. We saw this when I quoted him at length in Chapter Two. I would like to quote this again in brief here. Levi, the Jewish prisoner at Auschwitz, comments that he would have liked to meet the German doctor he worked with after the war “to satisfy my curiosity about the human soul. Because the look he gave me was not the way one man looks at another. If I could fully explain the nature of that look—it was as if through the walls of an aquarium directed at some creature belonging to a different world.”

Stories from war and slavery and the history of otherwise marginalized persons are unfortunately as common and as plentiful as the number of cultures that have ever

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We see this type of thing in Viktor Frankl’s *Man’s Search for Meaning*, where he addresses the anger he experienced when one of his Nazi guards simply threw a rock toward him. This was nowhere near the tortures he had suffered at other times, but this one act specifically rankled.

I worked quite hard at mending the track with gravel, since that was the only way to keep warm. For only one moment I paused to get my breath and to lean on my shovel. Unfortunately the guard turned around just then and thought I was loafing. The pain he caused me was not from any insults or any blows. That guard did not think it worth his while to say anything, not even a swear word, to the ragged, emaciated figure standing before him, which probably reminded him only vaguely of a human form. Instead, he playfully picked up a stone and threw it at me. That, to me, seemed the way to attract the attention of a beast, to call a domestic animal back to its job, a creature you have so little in common that you do not even punish it.

The most painful part of the beatings is the insult they imply. Both Levi and Frankl are cases from World War II involving Jews and might seem to argue that the German soldiers were all callous and permanently insensitive to personhood. But a deeper look might make such claims too simple. For example, did these Germans *always* view Jews as non-persons? Would they always and automatically relegate Jews into the category of non-persons? For example, if someone as despicable as Himmler were to see a German friend of his holding a 5-year-old son by the hand, would he, according to Levinas, see that boy in all his alterity? The answer would be yes. But *after* Himmler found out that the boy was not in fact his friend’s son, but was a Jew,

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59 Of course, the bioethics literature also is rife with complaints about the treatment of patients by caregivers who never seem to “see” them. Personhood in medicine is a popular topic for lectures, books, etc. For a classic discussion, see Paul Ramsey’s *The Patient as Person*. Pertinent also is the newer *Personhood and Healthcare* by David Thomasma, et al, eds.

he would undoubtedly, from a disengaged stance, decouple his relationship with the boy because the boy didn’t meet the objective criteria of personhood that Himmler would propose.

The World War II cases indicate a disengaged stance and how it separates the relational aspect that Levinas brought to light. Those cases, we might say to ourselves, surely differ from an anencephalic child because the Jews were clearly persons. But that of course begs the question. I think I have shown from the narratives and quotations above that a Levinasian can make a strong argument that an anencephalic child is a person. If so, then those five philosophers at the beginning of this chapter are akin to the Germans described by Levi and Frankl. Unfortunately, Nazis are the paradigm case of the evil actor and it is easy to dismiss an appeal to them as philosophical overreaching, but that is emphatically not how I am using them here. It is too neat to dredge up the overused Nazi parallel and paint those Germans as two-dimensional symbols of evil. Instead, I am saying that those Germans did have a relationship with Jews and did see Jews as persons. Rather, it was a post hoc detachment from these primordial relationships that altered that. That was what the example of Himmler was meant to display. It is solely that post hoc reasoning (and not any easy appeals to evil) that I mean to analogize. The five philosophers that began this chapter are not evil or demented like

61 I think the same thing could reasonably be said about slaveholders in America. Jefferson’s own words enshrined at his memorial in Washington, DC, indicate this: “Indeed I tremble for my country when I reflect that God is just, that his justice cannot sleep forever. Commerce between master and slave is despotism. Nothing is more certainly written in the book of fate than that these people are to be free.” For example, having sex with slave women was a common practice throughout the South. Did those slaveholders believe that they were having sex with a non-person? I would argue that *Uncle Tom’s Cabin* was such a piece of powerful propaganda because it made Tom a person, something several slave owners somehow knew to be the case and didn’t want others to understand as well.
those Germans, but they have become detached in their own way. It is this detachment (and this detachment only) that I wish to analogize, not any other sort of moral equivalency.

In his *Birth of the Clinic*, Foucault called this type of mentality in medicine the “medical gaze.” Kay Toombs describes it: “Under the medically trained ‘gaze’ of the healthcare professional, the body assumes the status of a scientific object, i.e. it is construed as an anatomical, neurophysiological organism and, more particularly, as a mass of cells, tissues, organs, and so forth, according to the categories of natural science.”  There is certainly a significant history of discounting persons in medicine and medical experimentation. In addition, as Mensch argued for in Chapter Four and Honneth reminded us of in Chapter Two, prejudices can also cloud what we already know to be the case. We might say then that the reification of stereotypes, the use of the medical gaze, the distancing of the philosophers above—they all are indicative of a type of disengaging action, where what was once and indeed primordially known is now something from which there is a turning away. This disengagement could plausibly be

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62 S. Kay Toombs, ed., *Handbook of Phenomenology and Medicine* (Dordrecht: Kluwer, 2001), 8. In the same book Patricia Benner notes, “The physician must learn to be critically reflective about what a detached concern or clinical gaze discloses, what possibilities it creates, and what it excludes within patients and within the physician’s own emotional engagement and attunement in the world. When the clinical gaze spreads out into all areas of the physician’s life, richness and connectedness are lost” (“The Phenomenon of Care,” 352).

63 In her article “What Child is This,” (*Hastings Center Report* 32, no. 6 [2002] 29-38), Hilde Nelson tries to thread the needle here by using the phrase “holding the individual in personhood.” The idea is that that child itself is not really a person empirically because of objective data, but that the members around the child hold him or her in personhood. This, however, is still an disengagement, I would argue, because of the retreat to the empirical data after the initial encounter with the other. That is, the personhood of the child and the need to hold the child in personhood is only an issue because the child was already apprehended in its alterity. Furthermore, any questioning of that initial link by relying on “minimal
argued to be the case with anencephalics and with the prevalent academic and scientific attitudes toward them as non-persons.

II

In this second section on disengagement, I wish to address human scientific discussions where neither anencephalic children nor severely cognitively damaged humans are involved. The disengagement I will display here (and which is the main discussion of Chapter Two) is related to the same naturalistic tendencies I just outlined above. That is, it seems reasonable to argue that the naturalism of the five philosophers is related to the naturalism that so much of post-Husserlian philosophy decries. In addressing why the five philosophers and others can address the anencephalic child as a non-person, I think it reasonable to bring up the naturalistic climate beyond the case of cognitive disabilities or prejudice. In his concerns about technology, Heidegger describes an instance of this disengagement.

Heidegger sees technology as fundamentally a revealing, a “bringing forth” like poetry or art, but not one that is necessarily good. Technology is indicative of a human desire to mold things in conformity with present wishes.

The revealing that rules throughout modern technology has the character of a setting-upon, in the sense of a challenging-forth. The challenging happens in that the energy concealed in nature is unlocked, what is psychological activity,” as Nelson does to deny personhood to anencephalics, is post hoc and naturalistic, even amidst her detailed discussions of narrativity (See p. 35 in “What Child is This.”).

64 “Husserl’s critical and polemical point (in Crisis of the European Sciences) is that the activity of science has, since Galileo, resulted in what he calls a ‘mathematization of nature,’ that overlooks that necessary dependence of science upon the everyday practices of the life-world. There is a gap between knowledge and wisdom, between science and everyday life.” Simon Critchley, Continental Philosophy: A Very Short Introduction (Oxford: Oxford University Press, 2001), 71.
unlocked is transformed, what is transformed is stored up, what is stored up is, in turn distributed, and what is distributed is switched about, ever anew. Unlocking, transforming, storing, distributing, and switching about are ways of revealing. But the revealing never comes to an end.65

What in fact is revealed is not only the capacities of nature, but the use of nature for specific, desired ends. There is a transformation of nature, where what was once held to have a certain beauty, etc., in itself is set aside as an instrument for human consumption.

“Everywhere everything is ordered to stand by, to be immediately at hand, indeed to stand there just so that it may be on call for a further ordering…We call it the standing-reserve.”66 This natural human desire to transform takes on a more dire character in modern technology, where there is “enframing.”67

The modern use of technology places nature into boxes, into rigid categories that color it insofar as it is useful. It does this with a complement of accuracy from the physical sciences. “Because the essence of modern technology lies in Enframing, modern technology must employ exact physical science. Through its so doing, the


67 This same word is used differently by Charles Taylor in his Ethics of Authenticity to in fact rein in technology. Interestingly enough, he addresses enframing technology to avoid the disengagement from personhood and caring that I am presently addressing. “If we come to understand why technology is important here in the first place, then it will of itself be limited and enframed by an ethic of caring. What we are looking for here is an alternative enframing of technology. Instead of seeing it purely in the context of an enterprise of ever-increasing control, of an ever receding frontier of resistant nature, perhaps animated by a sense of power and freedom, we have to come to understand it as well in the moral frame of the ethic of practical benevolence…But we have to place this benevolence in turn in the framework of a proper understanding of human agency, not in relation to the disembodied ghost of disengaged reason, inhabiting an objectified machine” (106). Taylor’s point is a salient one—there is an ideal to technology that ought to keep it in its place as a means in service to something else, such as ethics of care. Enframing it properly thus always sees it as instrumental not to what he calls libido dominandi, a desire of lording over, but instead somehow to transform it when it’s colored by an ideal, a “richer moral background.” Ethics of Authenticity, 105.
deceptive illusion arises that modern technology is applied physical science.”

Heidegger argues that enframing, the cubby-holing of nature, in conjunction with our setting nature aside for our use, is assisted by the use of the rigorous sciences (those that require disengagement as essential to truth) in order to achieve desired aims. Earlier in the essay he gives a famous example of the actual altering that technology creates in the manner of viewing nature. There he noted that the Rhine River is no longer the river, but in essence is the means to hydroelectricity—“even the Rhine itself appears as something at our command…What the river is now, namely a water power supplier, derives from out of the essence of the power station.” This is no Luddite disposition arguing against modernity; it is instead an argument that the hydroelectric plants and modern technology differ from the older, revealing technologies that also worked to change, but did so in concert with the river—they did not disengage from the river. As an example of this, on the same page, he mentions an old wooden bridge that was built “into the river.”

As we saw, Taylor melds these concerns about technology with an ethics of caring. He brings us back to the point of this section of disengagement in modern medicine.

Runaway extensions of instrumental reason, such as the medical practice that forgets the patient as person, that takes no account of how the

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68 Heidegger, The Question Concerning Technology, 23. This is not unlike the quotation in Chapter One from Gadamer claiming that modern science has moved beyond observation toward know-how, thus collapsing in some way theory into praxis.

69 Heidegger, The Question Concerning Technology, 16. We saw in Chapter One Habermas’ constant reminders as well not to relegate persons into things, not to look past the special quality of persons or future persons in order to instrumentalize them in accordance with personal wishes. There is certainly a link between Heidegger’s enfaming and setting aside and Habermas’ cautions concerning preimplantation genetic screening and the present wishes of the decisionmaker.
treatment relates to his or her story and thus of the determinants of hope and despair, that neglects the essential rapport between cure-giver and patient—all of these have to be resisted in the name of the moral background in benevolence that justifies these applications of instrumental reason themselves.\textsuperscript{70}

What Taylor reminds us of is the embedded nature of our lives. While Levinas’s ethics was argued above as an interesting and provocative aspect of the human sciences regarding personhood, so too can the discussions of human embedding and worldliness help us to re-engage with patients and persons, or better yet, never disengage in the first place. We see this in caregiving and the implementation of what is called interpretive phenomenology.

Drawing explicitly from the Heideggerian and post-Heideggerian discussions of world, these caregiving discussions make a simple, but fundamental claim: the complexity of a person’s world, with its forestructure, historicity, temporality, significance, involvement structures, moods etc., cannot be apprehended by the naturalistic sciences nor the technology it employs. Instead, patients must be addressed and understood by means of dialogue and relationships. They must be interpreted. This has great import in medicine where the very ability to heal the patient may in fact require understanding the patient’s point of view, revealing a hidden world.\textsuperscript{71} I addressed this in

\textsuperscript{70} Taylor, \textit{Ethics of Authenticity}, 106.

\textsuperscript{71} There is a classical distinction from Wilhelm Dilthey that is helpful here. “For Dilthey, the human sciences (Geisteswissenschaften) such as psychology, economics, literary criticism, and jurisprudence, involved with the subject matter of human beings, their activities and creations, employ a methodology distinct from that used in the natural sciences; through a hermeneutical process of ‘understanding’ one enters into and comprehends living human experience, rather than simply ‘explaining’ a scientific object.” Drew Leder, “Toward a Hermeneutical Bioethics,” in \textit{A Matter of Principles? Ferment in U.S. Bioethics}, eds. Edwin R. Dubose et al., (Valley Forge: Trinity Press, 1994), 240-241. The use of these two different verbs for two approaches is helpful. The human sciences “understand” and to understand a person is different than “explaining” a human. Ragnar Fjelland and Eva Gjengedal specifically note this distinction,
Chapter Two with the cases of Bob and Sadie. I claimed then that any sort of sustainable and viable medicine there required engaging the patient as a person embedded in a world, not simply as a patient with a certain heart rate, etc. The hidden world of the other can only be articulated by a phenomenology that in addition doesn’t exclude the role of emotions. Sadie’s problem was an emotional one, predicated on events in her life. She interpreted her life according to her history and relationships. Any credible caregiving had to (1) acknowledge that openly, and (2) rely on that for a workable diagnosis and treatment.

Anshofie Adolfsson chronicles the importance of emotions in her discussion of women in Sweden who have had miscarriages. She notes that between “25% and 50% of the women who have experienced a miscarriage have been determined to have posttraumatic stress symptoms.”

The women in the survey were interviewed at length stating that understanding is used to address the spiritual aspect of human existence. “We understand that wholeness and context are important in hermeneutics, and for understanding in general. From a physical point of view, a patient may be regarded as lying isolated in bed. But if we are to understand the patient as a spiritual being, we have to regard him or her as part of a larger context.” “A Theoretical Foundation for Nursing as a Science,” in Interpretive Phenomenology, 11. I see a link here to the “gap between knowledge and wisdom, between science and everyday life” Critchley used in Footnote 64 when addressing Husserl’s Crisis.

Anshofie Adolfsson “Applying Heidegger’s Interpretive Phenomenology to a Woman’s Miscarriage Experience,” Psychology Research and Behavioral Management 2010:3 75-79. In this chapter, I don’t have the space to go into the extremely rich discussions of Maurice Merleau-Ponty’s phenomenology of the body and its nexus with caregiving. Havi Catel, a philosopher diagnosed with a rare lung disorder, explains how she turned to phenomenology and specifically Merleau-Ponty’s work to help her deal with her disease. She had simply found the naturalistic accounts unhelpful: “If someone suffers from depression, a physiological description of the illness will tell us very little, if anything, about the illness itself…But in order to understand fully what depression is, we must turn to the experience of depression itself: the loss of sleep and appetite, the dark thoughts, the listlessness and sense of doom and so on.” She notes the same with a patient with MS: Unlike the naturalistic account of the illness, a “phenomenology of the illness…would tell of tremors, weakness, the frightful experience of losing vision and other life-altering symptoms…It would describe the difficulty of the everyday life of a person with MS, her fears of the future, her growing dependency on others and so on.” Illness: The Art of Living, (Stocksfield: Acumen, 2008). 9. She tells us that Merleau-Ponty’s work in particular reminds the reader that “human existence is
(85-150 minutes), specifically addressing the temporal sequence of before, during, and after the miscarriage. There were affirmative motions made to make the women comfortable and to have a connection with the interviewer. Unfortunately, part of the interview results revealed hospital stories where these women, often in pain and knowing what was happening, were not treated in a way commensurate with their emotional interpretations of what was happening to their body. “Too often they felt that the caregivers in the emergency room were not as sympathetic or empathetic as they needed them to be.”

The value of the study includes not only the narrative therapy of allowing the women to tell their story with a receptive audience, but reveals the emotional impact to caregiving in treating depression. The depression that the women felt was not a mere bodily response to a miscarriage; it was tied up with an internal interpretation by the women in a temporal projection of their lived story. “The loss of the embryo or fetus always occurred in a greater context to the women that were influenced by their embodied and defined by perceptual experience. A change in the body and in physical and perceptual possibility transforms subjectivity itself.” Illness: The Art of Living, 13.

“...To evaluate this as being a human experience, we must examine it in the three different time frames of the past, present, and future. By listening to responses from the interview questions and then interpreting the lived experiences of multiple people who have experienced the same condition, the investigator can better understand the condition and its effect upon the woman.” Adolffson, “Applying Heidegger’s Interpretive Phenomenology,” 76.

Adolffson, “Applying Heidegger’s Interpretive Phenomenology,” 77. Patricia Benner explains why this is often the case: “Modern commodified health care highly values what can be made into scientific and technical procedures and assumes that what has not yet yielded to means-end analysis, objectification and procedural accounts is under-developed and only awaits scientific and technical formalization. And until this scientific, procedural articulation occurs, all other aspects of our knowledge are considered private, inarticulate and of lesser epistemic warrant. Thus, caring practices are further marginalized because traditionally they have been practices of the domestic or private sphere and have lacked public language.” “The Role of Articulation in Understanding Practice and Experience as Sources of Knowledge in Clinical Nursing,” in Philosophy in an Age of Pluralism: The Philosophy of Charles Taylor in Question, James Tully, ed. (Cambridge: Cambridge University Press, 1994), 138.
respective past, present, and future experiences in life. In order to gain an authentic and deeper understanding of their experience in the greater context, as Heidegger theorizes, we must take this into account.” The import of the study is that the emotional component could not be understood by a disengaged observer. Instead, the women opened up in extended interviews conducted in such a manner that the full emotional story was allowed to be told. The emotions were welcomed by the interviewer and thus were allowed to give an explanatory account for much of what these women were experiencing. The discussions of the bleeding, the fears about ability to get pregnant in the future, etc., all give a more complete (and thus more accurate) account of the total effect of the event. This is a reality a naturalistic account moves right past.

Another interpretive question that is often raised in medical ethics literature under the guise of autonomy is how much information to tell the patient. In a case where the doctor is dealing with a citizen of another country, for example, it may be the case that

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75 Adolfsson, “Applying Heidegger’s Interpretive Phenomenology,” 78.

76 Elio Frattaroli argues that in psychology there is an increasing tendency to look past the messy, contextual aspects of personhood in favor of naturalistic data. He describes a colleague of his as belonging “to the new breed of psychiatrists who see psychiatry as a research science, who base treatment decisions not on an emotional understanding of people but on the statistical results of double-blind, placebo-controlled treatment-outcome research….I have always felt though that these studies suffer from—and foster in those who rely on them—another kind of blindness as well, blindness to the uniqueness of a person…It is often argued that the knowledge gained through treating patients as statistics is worth the loss of human concern for the individual…” Healing the Soul in the Age of the Brain: Why Medication Isn’t Enough (New York: Penguin Books, 2001), 46–47. As the subtitle to the book notes, the natural move for many of these types of doctors is to overprescribe in order to compensate for the inability to venture into personal connections. This argument is made as well in Elizabeth Wurtzel’s Prozac Nation, Peter Kramer’s Listening to Prozac, and Carl Elliott’s Better Than Well. There is an emerging fear that narrative problems of loss, etc., as we saw in Chapter Two with Sadie, are translated into generalized categories more amenable to quick treatment. For example, as Dr. Fratteroli notes, universalizing the patient is not a perfect answer, but for many practicing doctors it is worth the gain in seeing past the particulars of the person in order to medicate the problem/category effectively.
words like “tumor” or “cancer” in fact are treated as tantamount to “death.”\textsuperscript{77} To the doctor, as a trained scientist, these may be the correct terms, but the patient has a culture and historicity from which he or she meets the doctors and interprets their words. There may simply be no feasible way to attempt to heal the patient and also use the word, “cancer.” This, however, is not a scientific fact; it is not amenable to any instruments, etc. It can only be known if the doctors know the patient’s story, her background, her fears, etc. Richard Zaner tells a story where the doctor and patient failed to interact well.

As a professional in a hospital setting, Zaner was asked to deal with a couple because they had an “abortion problem.” The pregnant mother was 22 years old and was undergoing her first pregnancy. After an ultrasound it was determined that there was a problem with the fetus. The problem was severe enough to be a possible spina bifida case. The radiologists, however, could not be sure of their diagnosis and the mother was so informed. In addition, the pregnancy was in its 22\textsuperscript{nd} week and the law would not allow any abortion after the 24\textsuperscript{th} week in that state. After all the tests were done, the mother was told that there was a chance that the tests were wrong because a “statistically significant” number of false positives occurred on that test. Zaner notes that at a certain point, “one physician told me that ‘she seems angry, and feels that we’re being deliberately unclear’ about the tests. He thought her ‘agitation’ and ‘anger’ were directed at him for offering a ‘therapeutic abortion’ and because of the ‘ethical controversy’”

\textsuperscript{77} See Deborah Gordon, “The Ethics of Ambiguity and Concealment Around Cancer: Interpretations Through a Local Italian World” in \textit{Interpretive Phenomenology}. 
involved. There was thus an assumption by the doctor that the anger was linked to the question of abortion with the attendant ethical questions involved as well as toward his professionalism. However, when Zaner met the couple their anger was not about the abortion, but about the importance of their decision and how they didn’t know enough to make such a decision. The mother put it this way:

How in the world can we decide what to do? The doctor just doesn’t understand what it’s like for us. It’s not that we are opposed to abortion, but what if the tests are wrong, and there is nothing wrong with our baby? But if the tests are right, and we don’t abort, that’s not right, either; it’s just not right to bring a baby into the world with so much going against it! Put yourself in our shoes: is it right to force a baby to be a hero just to stay alive…and for how long? What will its quality of life be, with all the pain and suffering it will have? We know we’ve got to decide, but it’s just not fair!

These are all good questions and inquiries and reasonable emotions. The couple was counseled by Zaner about not beating themselves up and about doing their best with the information they had from the doctors and radiologists. The mother then asked Zaner what the statistics meant and what “statistically significant” meant. Zaner told her that it was roughly 3-5 percent. “‘What?’ the woman broke in. ‘Then there’s a 95-97 percent chance the test is right?’ ‘Not only that,’ I responded. ‘The radiologists think their reading is very likely correct—3 out of 4 chances. Put that together with the AFP test: both are more likely correct than not.’”

Zaner notes that people experience numbers

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79 Zaner, “Experience and Moral Life,” 214.

differently, with some thinking that a 30 percent chance of rain means that it will likely rain on them, but not so to others. Once it was cleared up what their real problem was (confusion amidst a very important decision), they made their decision to abort.

Zaner sums up in a persuasive manner the importance of interpretation and how without it, parties unfortunately talk past each other. (The couple) understood that dilemma to be the centering moral issue, and five subthemes shaped their decision: (1) the couple’s concern to do right, to be good, and to act justly; (2) the prospective baby’s future implied by any decision reached; (3) the doctor’s concern to do right, to be good, and to act fairly in relation to both the developing fetus and its parents (with a concern also to act consistently with professional codes and established practices); (4) the couple’s distress over the confusing uncertainties; and (5) the doctor’s dismay over the anger he thought was directed at him.

These elements are human elements, knowable only by means of an intersection of narratives by means of dialogue. Notice that the doctor’s interpretation of what bothered the couple fundamentally differed from the facts and was guided by his own perspective and historicity. Notice also that the couple had the facts in terms of statistics, but didn’t know what they didn’t know and were frustrated with the uncertainty, but not with the abortion choice itself. The doctor, for example, “seemed somewhat disturbed that things were not immediately obvious to the couple.”

The doctor knew already how to interpret the tests, knew what the numbers meant, but the couple did not. And he did not “translate” the numbers to them.

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82 Leder addresses the situation where the cancer patient is told of “cell types, stagings, statistical survival rates, surgical and radiological options. This is not simply ‘the truth’ about what is here unfolding but the truth-according-to-Western-medicine. The medical interpretive system powerfully reveals and makes sense of certain aspects of (the medical situations) but just as powerfully conceals others….‘Speaking the truth,’ then, is not simply a matter of producing words; it describes a complex communicative relationship
I have told this story at length because it is indicative of the fundamental disconnect which may occur when interpretations are mismatched, when the doctor is not engaged on a human sciences level. As Zaner reminds us, “[E]vidence is a matter of relevant experience and is essentially contextual. Evidence about fetal hydroencephaly cannot be the same as evidence for alleging that the couple was ‘angry.’”\(^83\) As I mentioned with Bob and Sadie in Chapter Two, good medicine requires some sort of interpretive harmony and dialogue, with a recognition of the other as someone who has a point of view, and listening to see how they see it. “Those engaged in caring must be able to take on the perspective of the patient and make his or her peace with the situation and its suffering in order to be touched by the situation of a fellow human being.”\(^84\) In other words, the connection occurs when they find out how to use the same words with the same meaning in the same context—there is an interpretive harmony of interpretations and narratives. Leder links such connections with the autonomy so prized in medical ethics. “The health care provider can provide a crucial role in restoring autonomy by helping the ill person reconstruct meaning in the face of the threat posed by events. The life-story has taken a radically new turn, but it need not thereby cease to be a

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\(^83\) Zaner, “Experience and Moral Life,” 233.

\(^84\) Hubert Dreyfus, “Preface,” in *Interpretive Phenomenology*, x. See also, Victoria Leonard’s “A Heideggerian Phenomenological Perspective on the Concept of Person” in the same book: “Heideggerian phenomenologists…propose that there is no Archimedean point, no privileged position for ‘objective’ knowing and that all knowledge emanates from persons who are already in the world, seeking to understand persons who are already in the world…Atemporal, ahistorical, transcendent knowledge of human behavior is impossible” (55).
This is what I mean by engagement. It is the engagement that allows for the interpretive phenomenology.

To remind the reader, I claim there is a connection in these latter descriptions of non-anencephalic disengagement to the treatment of the anencephalic child and non-higher-consciousness persons. I see these as both members of a same species. To put this a bit more concretely, I would say that the same doctor who views the patient in front of him or her, being prepared for surgery, as fundamentally an organism to be fixed is exhibiting the same distancing as those five philosophers who used naturalistic data at the beginning of this chapter to address the anencephalic child. Doctors who ignore the need for emotional healing or the ability to address other psychological or medical symptoms in an individualistic manner in fact disengage from a fundamental relational ontology in favor of a naturalistic stance. This disengagement is present in disability cases and in everyday visits to the doctor. The anencephalic child merely draws it into relief, but the discussions of phenomenology in medicine certainly display it as well.

It would not be surprising that such people who feel that the proper way to do medicine or to do any sort of science is to emulate the observer-independent universality of the natural sciences—that these same people would feel that the proper way to evaluate the personhood of a consciousness-deprived child (or any such damaged individual) is to disengage from (1) the initial apprehension of the face, (2) the ineffable transcendence that the face reveals, (3) the irreducible alterity revealed in that

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85 Leder, “Toward a Hermeneutical Bioethics,” 248. In addition, in this section, Leder notes that “the physician can listen to and support the healing story, tactfully question destructive elements…and, in general, play the role of a respectful dialogue partner who hears and speaks to the patient’s need for narrative.” Leder, “Toward a Hermeneutical Bioethics,” 249.
transcendence, (4) the asymmetrical obligations that the face makes me responsible for, and (5) the relationships with the damaged individual that illuminate that I (and others) already recognize their face and am drawn back to it again and again. In the disengagement I have attempted to describe, all of that would be set aside in favor of a dispassionate, second order plane, from where I might evaluate with scientific data the child’s potential, ability to be conscious, desires to continue to exist, etc.

**Conclusion**

This chapter is the culmination of a dissertation that began with discussions of naturalism and the possibility of recognizing the value in human sciences accounts of personhood. Here, that trajectory of personhood and naturalism that began in the first chapter with the philosophy of Taylor, Habermas, and Honneth was fleshed out in detail regarding the anencephalic child. It was done in light of the Levinasian claims about alterity outlined in Chapter Four.

The first part was meant to describe in a clean, unbiased manner the positions of Father McCormick, Mary Anne Warren, Michael Tooley, Jeff McMahon, and Peter Singer and show that their different attitudes and approaches nevertheless all speak to a naturalistic tendency to use objective medical data in order to evaluate any threshold of personhood. These accounts then served as a point of departure for the rest of the chapter.

In the second part, the philosophy of Levinas returned from Chapter Four to serve as the basis for an applied ethics discussion of personhood and relationships with anencephalic children. This part had two sections meant to draw out two different
emphases rather than delineate a clear separation. Those two emphases were first that the Levinasian philosophy of alterity applies to all children and to the anencephalic child (and thus all who lack consciousness and interiority). This was done by the use of scenarios and narratives of those who have dealt with such severely damaged individuals and by evaluating the human responses to such children. In the second section of this part, I then used the narratives from the first section in concert with a discussion of the dialogical nature of humans in order to address relationships with the anencephalic child. If this part in general was successful, then it became apparent that the personhood emphasized in the first section and the relationships emphasized in the second section indicate the presence of an alterity with damaged persons that may be articulated sufficiently well to answer a basic skepticism against the Levinasian accounts of a pre-theoretical, pre-perceptive encounter with an other as a person.

Lastly, the chapter again addressed in two sections a part on disengagement. The disengagement here was meant to cap the Chapter Five discussions of personhood with regard to anencephalic children and the severely cognitively impaired and also bring the entire dissertation to a close by circling back to the second chapter. The idea here was to claim that the disengagement addressed by the five philosophers in the first part with regard to certain cases was of a piece with the overall naturalistic tendencies addressed in Chapter Two and could likewise be seen in non-anencephalic cases such as those addressed by interpretive phenomenology in caregiving. To do this, the first section used paradigm cases of disengagement, describing a movement from already-known persons to post hoc evaluations of them and their worth. Levi and Frankl were quoted in
particular to flesh out this phenomenon. The second section of this part then looked to the post-Husserlian, post-Heideggerian tradition in philosophy to address this same disengagement in the use of technology, in the treatment of patients, and in the evaluation of psychological cases, and elsewhere. If this last section was well done, it displayed the closeness of these two disengagements and thus helped explain the common attitudes in philosophy and medicine toward the severely cognitively disabled, especially the anencephalic child.
CHAPTER SIX

CONCLUSION

This dissertation began with the debate between the natural sciences and the human sciences and the appropriate application of each model. Taylor, Habermas, and Honneth argued that the human sciences were more the appropriate paradigm in cases where the intractability of human personhood and interiority at large were in question. In those cases, a move toward naturalistic preferences was unwise because it was so incomplete. Further, it denied recognition to the unavoidably distinctive character of a conscious, interpretive existence. Lastly, it attempted to mold human characteristics into prevailing models in a way that not only indicated the preference of science over the humanities, but also seemed to dismiss the latter. These writers informed us that the human sciences are the only viable option to address the complexity of embedded human lives and to guide humans in how to apply technology to those lives. Specifically, the use of newer technological capabilities absent some human sciences restraint was found to be too precipitous a course to be taken without guidance from more textured, reflective human aspects. With Habermas, reflections took the form of Kierkegaardian understandings of an integrated, maieutic life, with an ability to be one’s self, and with Honneth, it came from the loss of a pre-theoretical recognition in reification. The entire, detailed discussion of naturalism was done for two reasons: (1) to display clearly the tension between the two models, especially with the preference of some in philosophy to
decide ethical questions on naturalistic algorithms or protocols and (2) to set the stage for the discussion in the next three chapters of the extreme case of an anencephalic child.

Chapter Three began that discussion of the personhood of an anencephalic child by briefly addressing four types of claims for personhood for such children. These were legal, political, natural law, and prudential. The legal found that the child was a person simply because it was born—to be born was to be a legal person under the 14th amendment. Courts have never attempted to deny post-natal children constitutional personhood. The political theories, embodied here by Eva Kittay, Robert Goodin, and Alasdair MacIntyre, made the claim that vulnerable or dependent children were persons and in need of our care and had much to demand from us. They did so within their rich discussions of moral and political claims of members of communities. Nowhere, however, did any of the writers justify the inclusion of all post-natal children into their categories of concern. Next, the natural law thinkers used a mixture of philosophical and theological bases to state either that the anencephalic child was a person because he or she was an enduring substance made in the image of God or because the child could meet with the most basic of self-evident rules, the right to life. All post-natal children for these reasons were found to be persons. Lastly, Kass and Jonas were shown to argue in a way that included the vulnerable children or other extreme cases because of a fear of not doing so. Such extreme cases were argued to be within the protection of a human personhood umbrella simply because it was too frightening not to do so. In that way, human post-natal personhood was presented as the only reasonable model to avoid slippery slopes leading to other, deeper degradations.
Despite the fact that I would eventually agree with their conclusion, the four theories in Chapter Three were found to be less than stellar candidates for grounding anencephalic personhood because they could not meet basic speciesist challenges. All four seemed to offer post-natal personhood only to humans simply because they were humans and were post-natal. This smacks of a speciesist prejudice that refuses to question the disparity between, say, an unconscious child with only minimal reflexes even to feel pain, and a dog who is quite conscious, with full neural receptors to allow for pain.

The first step toward a sustainable, more philosophically grounded, personhood for anencephalic children was to lay out with clarity the discussions of alterity in the work of Emmanuel Levinas. Levinas grounds human alterity, a recognition of the profound otherness in humans, not upon mere post-natal membership in the human species, but instead on a claim that the face of the other reveals something already there. That is, unlike, say, speciesist accounts that seem to exclude animals or only include humans based on certain criteria or judgments, this philosophy merely attempts to describe what is the case regarding other persons. Similar to Honneth in Chapter Two, it did so in such a way that described what is pre-conceptually, pre-perceptually present as a foundation for any later discussions or judgments. That is, any subsequent discussions only become possible in light of a recognition of this earlier, fundamental apprehension of the other.

Specifically, the descriptions of alterity were shown to be a nested series of concepts that describe human alterity as a recognition that the other is absolutely separate
from me, to the extent that, despite my desires, he or she cannot be relegated or put into any categories of understanding I might have. The other cannot be understood by me, made same by me, totalized by me. The sign of this radical otherness is the face, which is not an anatomical feature. It is a non-perceptual sign that points to the other’s transcendent infinity. That infinity, which was shown later not to be the same as interiority, is not an infinity of possibilities, but an infinity of a transcendent, almost numinous quality. It is the recognition of a separable presence of the other that cannot be grasped by me, but nevertheless speaks to me and demands an asymmetrical responsibility from me. It was argued that when this transcendence is ignored, for example with murder or extermination, it is not because that criminal did not somehow know that there was a face or somehow not have the ability to see the face, but because of a prevailing prejudice in the encounter.

Levinas provided the literature needed in Chapter Five to describe a human sciences account of personhood with regard to extreme cases. This human sciences account, of course, would differ completely from the naturalistic tendencies critiqued in Chapter Two. Evidence of this tendency to use quantifiable data, etc., in extreme cases, however, was shown by a quick description of five philosophers who used various checklists or discernible naturalistic criteria for personhood. To these thinkers, only objective data used to address or fill out objective criteria could plausibly be said to answer the question of personhood. To answer them, I provided an application of Levinas’s philosophy.
First, it was found that Levinas’ philosophy did address the face of an infant and, by extension the face of an anencephalic infant. This was achieved by noting that the infinity of the infant was not destroyable by a car accident, by murder, or by any severe neurological disorder. To buttress Levinas’ descriptions of an underlying recognition or grasping of alterity with even severely damaged persons, I used first person accounts to demonstrate in fact how people did act around anencephalic children and other severely brain damaged individuals. If those descriptions made sense, then they could act as human sciences data to address Levinas’ human science claims of alterity. That is, if those accounts worked in such a way as to describe how in fact people do and would behave, then they are indicative of an underlying personhood. These narratives were held more widely to provide indicators of relationships, such as holding, naming, combing hair, talking to, taking pictures with, etc.—all indicative of a “carrying back” from the other what he or she has to offer. The relationships, as manifestations of an open stance, interpreting the needs and presence of the other, then could be said to piggyback on the underlying Levinasian personhood. The relationships revealed what may have become forgotten to us and to the five philosophers because of a certain disengaged status.

It is this disengagement that closed out the dissertation. First, the prejudice raised at the end of Chapter Four was brought back here to address the stance that others have toward extreme cases. It was argued that that type of disengaged stance was forgetful of the primordial, narrative-described-and-buttressed personhood of these most damaged of patients. The person who uses prejudice, including an acculturated desire to favor naturalistic checklists over human science accounts, as the five philosophers did—that
person will completely miss the personhood, the alterity of the anencephalic child. That person will not see the relationships as fundamentally predicated upon a firm, personal existence. And, looking at disengagement practices in general (that is, beyond the case of damaged persons only), it was asserted that the overarching tendency in caregiving was to reach for natural sciences data and protocols and matrices over any interpretive, historical, narrative-laden interaction with the patient. This thus brought the dissertation back to the writings which began it—Taylor, Habermas, and Honneth and the worries over technology and scientistic prejudices when the human subject was involved.

* * *

If this dissertation was successful, it was because it argued in a convincing fashion that the broad textures of the human sciences, with its narratives and interpretations and literature and historicity and dialogue, offer a more accurate way to address the personhood issues in extreme cases. If the details of Taylor and Habermas and Honneth, in concert with the Levinasian descriptions of alterity and my application of them to the narratives in the last chapter, display a realistic description, then it can be said to be a reasonable conclusion that an anencephalic child, and all similar extreme cases, are in fact persons. The natural sciences models do not speak well here to the depth of human existence and do not accurately portray the embedded, relational aspects of human nature.

In doing this, the most salient criticism is whether or not the Levinasian descriptions in fact make sense. To put it bluntly, why should such strange descriptions of a pre-conceptual, pre-theoretical grasping of an infinite other in fact be believed?
They are sufficiently numinous to sound almost mystical. If so, this runs counter to philosophical parameters. Since the time of Thales and the adoption of *logos* over *muthos*, there has been a movement toward intelligibly articulate descriptions of the *kosmos* over traditional answers given by the gods or divine sources. Since ancient Greece, philosophy has set aside such mystical bases as a foundation for understanding the world. It may be possible or at least reasonable to see Levinas, whose alterity is elemental to my argument, as doing just that. And if Levinas falls, the dissertation falls.

To answer that objection and support the Levinasian descriptions as realistic, I asserted the power of the human sciences descriptions of narratives and relationships. The narrative accounts of the nurse talking to the cerebral hemorrhage patient and caring for him, the mother putting oil on her daughter’s fingernails, the doctor holding the cortically dead baby who sneezes and coughs, the mother holding her anencephalic baby as it died in her arms, the scenario of the nurse John confronting a doll, a corpse, and a baby with their significant interpretive differences—if those narratives seemed apt and accurate and realistic, then they point to an underlying personal connection that does not fit with the naturalistic data but that does nevertheless ring true. That is, if my account makes sense, then we need not claim that Levinas is so mystical that he loses any relevance. In the Greek accounts, the gods tell Hesiod that he is a “mere belly” reliant upon their wishes to impart to him the truth or not. He is utterly reliant upon their inspiration and he can never know, they tell him, if they are being completely honest. Here, however, I have attempted to ground the Levinasian descriptions in accounts that cohere with facts on the ground, as it were. The accounts from caregivers give evidence,
unlike Hesiod and the gods, that there is something underneath the scientific data that speaks to us, that we can relate to, that we can “carry back” into our own lives, that we have an open stance toward. And that underlying something is personhood.

* * *

The dissertation began with the story of an ambulance crash and the death of three professionals (driver, EMT, and critical care nurse) and a patient. That patient was a ten-day-old girl, Virginia Medding, who had been born with anencephaly. She had already lived past the expected life span for such a serious illness and was being transferred from the local hospital to a hospice. There was a story about it in the newspaper, and the account of the accident there raised a series of questions that this dissertation would answer. The most serious of these dealt with Virginia’s personhood.

Now the dissertation is ended. And having read it and looked in detail at the various narratives, scenarios, first-person accounts, as well as a reiteration of the interpretive nature of the human sciences and the deep, embedded nature of humans in general, answering the question that began that introduction is clear: having picked up the newspaper and read the headline, “Four People Die in Ambulance Crash on Hwy 152,” we may reasonably conclude that the headline is true and accurate and sad because a person, Virginia Medding, with whom we may relate, is gone from the earth.
ABBREVIATIONS


Adolfsson, Annshofie. “Applying Heidegger’s Interpretive Phenomenology to a Woman’s Miscarriage Experience.” *Psychology Research and Behavioral Management* 2010:3 75-79.


VITA

Brian J. Buckley was born and raised in San Jose, California. Before attending Loyola University Chicago, he attended five other universities, earning five degrees. They are in chronological order: a Bachelor of Arts in History from Seattle University (Seattle), a Juris Doctor degree from George Washington University (Washington, DC), a Bachelor of Arts in Classical Studies from the University of Washington (Seattle), a Master of Arts in Philosophy from Catholic University of America (Washington, DC), and a Master of Arts in Philosophy from Gonzaga (Spokane).

While at Loyola, Brian was the winner of the John F. Grant, MD Essay Competition for Students Studying Health Care Ethics, was an adjunct instructor, and engaged in a year-long teaching internship.

Currently, Brian is an Academic Year Lecturer at Santa Clara University. His teaching experience includes over 45 classes taught at five universities. He continues to work in the field of personhood, justice, and the history of philosophy. He lives in Gilroy, California.