



The Value of the Pre-Person : Potentiality, Person-Maker Criteria, and Social Dimension

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[Discussion Paper]

The Value of the Pre-Person

Potentiality, Person-Maker Criteria, and Social Dimension

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Abstract

There is a sense in distinguishing persons from other beings. Persons are forms of life towards whom an agent should feel morally responsible to the highest degree. The aim of this paper is to try and respond to the question: what line of conduct should we adopt with regard to those beings that are not persons but that we have well-founded reasons for thinking may be so in the future? The pre-persons are not, neither should they be considered as they were, persons. If we decide to guarantee their existence or well-being this decision must be based on considerations that are independent of their ontological constitution, of their actual biological status, and of the concept of potentiality. This decision can be taken only accounting for social aspects involved in the consideration of what a person is.

1. Introduction

The term pre-person has been used by various thinkers to indicate forms of life in the various stages of biological development that precede the emergence of personhood.¹ The choice of this term may be criticized insofar as it does not represent an objective and scientific description of forms of life in the various stages of development.² The type of language used and the concepts it expresses belong to the ethical and political sphere.³ The use of this term tends to suggest

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¹ Several thinkers used the term pre-person, among them:

John Harris used the term in many occasions. For example, in “Wonderwoman and Superman” the author labels the human beings that are not already persons, such as fetuses and infants, as pre-persons. Harris (1992); Jeff McMahan uses critically the term to describe a “conscious subject that exists in association with the human organism prior to the coming into existence of the person” McMahan (2002), p.46; Colin Parker represents an example of authors which categorically refuse the usage of the term pre-person (and arguably the concepts involved too). He defines it as “an influence from the medical description: it is not a pre-person, it is a human embryo” Parker (2007); Jessica Hammond defines a pre-person as “something that is likely to become a person and can therefore be the subject of actions whose harm will be felt when it becomes a person.” Hammond (2010).

² See Irving (1993).

³ See Marino (2009), p.355-368.

a certain status of the being in question and, possibly, a certain type of conduct to be adopted towards it. Within the economy of this paper, the use of the term pre-person has no rhetorical value. I use it simply because it immediately suggests the idea of a being that is deemed to have good chances of developing to the point that it becomes a person.

I assume that there is a sense in distinguishing persons from other beings, and that persons are forms of life towards whom one feels, or should feel, morally responsible to the highest degree. The aim of this paper is to try and respond to the question: what line of conduct should we adopt with regard to those beings that are not persons but that we have well-founded reasons for thinking may be so in the future? I am here referring not to ‘possible people’, entities who will exist if certain actions are performed (such as fertilization), but to ‘potential people’, entities who will exist unless something happens or is done that causes their death.⁴

The concept of pre-person, as a being that is potentially a person, is irrelevant for those who maintain that the criterion of being a person is satisfied by the mere fact of existing, at any stage of development and in any condition, provided that one belongs to a given group or species whose members are all persons. In practical terms, I am referring to those who maintain that belonging to the species *homo sapiens* is, *ipso facto*, the sole requisite.

The issue is worthy of attention for those who, appealing either to the rational nature or to potentiality argument, grant a special moral status to early forms of human life. Broadly speaking, the issue matters for all those who do not identify persons with a group, but demand that certain individual conditions be satisfied for the status of person to be acknowledged.

For those for whom it makes sense to talk of pre-persons, the latter are beings that may not be classified as persons, and are thus non-persons. Among the various non-persons, we inevitably find ourselves considering as different and special those beings that have something that distinguishes them from the others. The term pre-person seems to suggest that this something consists in the potentiality we recognise in certain beings to develop into persons. While pre-persons are undoubtedly potential persons, I do not think that the ethical assessment of the status of pre-persons should lie on the potentiality argument.

⁴ With respect to the difference between possible and potential people see Tauer (2004), p.717.

2. Potentiality

The concept of potentiality was formulated for the first time by Aristotle. In the 'De generatione animalium' he applies the doctrine of act and potency to the embryo. According to Aristotle the sperm is potentially a capacity to generate flesh and blood that is realized when it meets the female material principle. This potentiality of the sperm becomes actual in its contact with the female part. The process of generation is a change that starts with a material cause (intrinsic to the woman) and thanks to an efficient cause (the male sperm) teleologically lead to the formation of an actual new individual.

The original concept of potentiality, as described by Aristotle, is still a crucial philosophical concept for those who maintain that the human embryo is worthy of protection and safeguards. The hylomorphic interpretation of Aristotle offers a strong notion of potentiality, to be interpreted not as a mere possibility or probability that the human embryo becomes a person, but as a process of becoming that is ontologically inherent to the being and that, if nothing intervenes to prevent it, leads it to a complete and actual manifestation of its being a person. This conception has the merit of not depending on any empirical element for the demonstration of the embryo's process of becoming, and also lends itself to expressing a dynamic structure of the person, characterized by a continuing process of becoming.⁵

The potentiality of the pre-person (embryo or other) plays an important role in those positions that maintain that what the pre-person potentially is entitles it to an identical ontological and/or moral status to those who are already actual persons, or in any case to similar treatment.⁶ On the other hand, there is the view that it is the actual possession of certain capacities that gives a being a particular status, along with the rights and protection reserved for persons. This second view is clearly related to a specific conception of personhood, which may be found under various guises: actualist, to hark back to the Aristotelian terminology with which I started, or functionalist, in the sense that only the exercise of certain functions guarantees the existence of a being whose life should be evaluated to the highest degree.

⁵ See Reichlin (1997).

⁶ Stone (1987); Hare (1993), p.147-67. They represent classic works on the potentiality argument applied to beginnings of life issues. Among more recent contributions: Tollefsen (2001); Manninen (2007).

Those who share, as I do, this latter consideration of the concept of potentiality, do not grant the protections and guarantees typical of persons to pre-persons, for at least two reasons.⁷ First of all, the potentiality that we can attribute to the pre-person is not, choosing our words carefully, a capacity to become, but rather a capacity to give rise to something else. If we maintain that a being has the potential to give rise to a person, then we should also logically maintain that this being is not a person. Consequently, we may not acknowledge a continuity of the identity between the pre-person and the person. Between the pre-person and the person there is genomic identity, and once twinning is no longer possible, numerical identity, but personal identity necessarily depends on the manifestation of personhood, a moment that marks the acknowledgement that we are dealing with a person and which may not be connected to a previous period in which personhood lacked.

The second consideration (independent of the first and *per se* sufficient) in favour of the argument that we cannot assign an intrinsic value to a being that is potentially a person is linked to the primacy and the conception of the person itself. It has been assumed that the person is a form of life towards which we should feel morally responsible to the highest degree. If the person has no value by virtue of belonging to a group, i.e. by virtue of an ontological nature, but by virtue of the possession and manifestation of certain characteristics, there is clearly the need for this value to be based on something actual rather than potential. Before these characteristics and functions become actual, the form of

⁷ Not all the authors that refuse to allow the pre-person into some kind of special consideration in virtue of their potentiality identify exactly the same reasons that I propose in this paper. Along with the classic work of Peter Singer “Practical Ethics”, Singer (1993), I suggest to consider some more recent papers focused on the argument of potentiality, e.g., Persson (2003), Devolder, Harris (2007), and Giubilini (2012).

Ingmar Persson claims that “the value an embryo has in virtue of its potentiality to become a full-blown human being can only be instrumental” and not intrinsic. Considering the embryo as a being at our disposal and therefore treating it as a mere mean, cannot be morally criticized.

Katrien Devolder and John Harris seem to hold a position from which it does not immediately follow the acceptance of the distinction I have drawn in my paper, namely the difference between possible and potential people. The authors ask: if the human zygote is morally important in virtue of its potentiality, “then what of the potential to become a zygote?” I maintain the distinction between possible (something which has the potential to become a zygote) and potential (the zygote) people because it is useful and neutrally intended in the economy of this work, but I agree with the authors that, if really considered and brought to its consequences, the potentiality argument would entail a very demanding ethics, which would require to actualise all human potential.

Alberto Giubilini’s work is centered on the thought of another author which I have considered in the present paper, i.e., Richard Mervyn Hare. Giubilini’s paper takes into consideration another perspective on the potentiality argument, which does not rely on the alleged intrinsic value of the pre-person, but on the interest (to have a life and not be aborted) of the potential person.

life in question does not have this value, precisely because it cannot be harmed or wronged from the privation of an existence that it cannot appreciate and understand. The value is never in the pre-person in reason of its potentiality to become a person, but in the person.

What can be said of some forms of life is that they may be considered pre-persons. If we decide to guarantee their existence or well-being this decision must be based on considerations that are independent of their ontological constitution, of their actual biological status, and of the concept of potentiality.

3. Person-Maker Criteria

Starting with the famous definition of Boethius, whereby ‘a person is an individual substance of a rational nature’, the attempts to distinguish the characteristics on the basis of which persons are defined as certain types of beings have moved in two directions.⁸ On one hand, there has been an attempt to define as clearly as possible the distinctive trait, or combination of traits, intrinsic to the being, considered most relevant, from among individuality, rationality and substance, thus trying to pin down the peculiar characteristics which distinguish persons from other beings. Others have put man’s social nature at the heart of the reflection on the person, the need for the mutual recognition between beings different from others.

The attempt to get and describe specific person-maker criteria apt to reveal the presence of personhood evidently belongs to the first approach.

Many countries admit birth control measures not aimed at preventing conception, but at interrupting pregnancy. In many countries artificial insemination is practised, as is abortion, embryo selection and research using forms of human life. These practices are evidently authorized by the fact that the beings in question are not considered by legislators, nor by the majority of citizens, as their peers.

According to many, and in my view rightly so, the beings in question are not persons, insofar as they do not possess or display certain characteristics. Many authors have tried to understand and describe what these salient traits are.

Joel Feinberg describing undoubted commonsense persons writes:

⁸ See Spaemann (2006), p.3-4.

In the commonsense way of thinking, persons are those beings who, among other things, are conscious, have a concept and awareness of themselves, are capable of experiencing emotions, can reason and acquire understanding, can plan ahead, can act on their plans, and can feel pleasure and pain.⁹

According to Michael Tooley:

[A]n organism possesses a serious right to life only if it possesses the concept of a self as continuing subject of experiences and other mental states, and believes that it is itself such an entity.¹⁰

What these two descriptions share is the emphasis placed on the psychological concept of personhood. Hard as it may be to accept, if the criteria for the recognition of the person are minimum thresholds of consciousness, self-awareness and rationality, namely, if the personhood is thoroughly described by the psychological criteria, then pre-persons, included foetuses and newborns, really do not give any demonstration of being persons.

These descriptions are not unproblematic, especially if the listed characteristics are to be considered as necessary traits for qualifying the person. It is questionable for example to record as a necessary person-maker the emotionality or the capacity of feeling pleasure and pain, or even the self-consciousness.¹¹ I suggest that what is significant of these characteristics in this specific context is that when applied to the pre-persons nothing of what seems to be relevant either in a commonsense level, or in a purely philosophical level, has ever been possessed or displayed by them. Above all, as a main consequence, they lack the capability of attributing a value to their own life.

The acceptance of these reasons leads to consequences which are difficult to admit, so that the very authors that support them often tend to mark out a clear difference between what is said in the academic field, on a theoretical level, and the effective actuability of their theories, which are to be interpreted as research and speculation, but not as proposals.

⁹ Feinberg (1986), p.262.

¹⁰ Tooley (1983), p.82.

¹¹ An accurate and very critical description of the problems related with person-maker criteria based theories (which the author names 'criterialism') is given in Chappell (2011).

Yet, there are differences among pre-persons, not only on a biological or functionalist level, meaning that persons have different perceptions of them and behave towards them in different ways. Various societies are prepared to accept or even to promote behaviour whereby pre-persons are used for the well-being and ends of persons, but are not likewise prepared to consider other pre-persons, such as for example newborns, as being at our disposal in the same way.

How can we escape this paradox? We could assign to a being's potential to become a person a growing importance as its development progresses, but this does not seem reasonable, since the concept of potential, if considered a determining factor, attributes value to the entire period of existence of the pre-person, from when it is deemed sensible to establish a starting point (for many authors, conception) up until the moment, period or event which is deemed to mark the emergence of the person. Otherwise we could follow Anne Maclean in maintaining that the reason why babies must be treated in certain ways is beyond reason and rationality, since "their being babies is the reason, all the reason in the world."¹² The history of philosophy has given great credit to emotional reactions and moral feelings, sometimes elevating them to the point that they become moral compasses.

In reality, persons have sacrificed and are ready to risk their own lives so that newborns or even foetuses may continue to live and achieve a condition in which they can express themselves as persons. A research proposal on newborns or so-called postnatal abortion would probably be refused and abhorred by any social order.¹³ Yet we can still agree that they are not persons, so either a definition of person that does not include them is wrong, or not all non-persons are worthy of the same degree of moral consideration.

4. The Social Dimension

As mentioned above, the consideration of man's social nature represents the core of the second kind of approaches to the concept of person.

The theoretical elaboration of the concepts of pre-person and person only concerned with its own consistency on a 'high' philosophical level may be correct, but it might not be enough to ascertain what line of conduct should be adopted towards them. Taking into consideration the social factors of common

¹² Maclean (1993), p.36.

¹³ Using the expression "postnatal abortion" I am referring to Giubilini, Minerva (2012).

sense and morality, the issues of law (we should not forget that in case law, the natural person, which in many legal systems coincides with the human being from birth, provided it is vital, traditionally represents the repository of rights and duties) or the scientific needs, along with the concept developed on the high philosophical level, would hardly lead to a correct and univocal concept of the pre-person. What can realistically be done is to find a conceptualization of, and a line of conduct towards, the pre-person, which are adequate in relation to the system in which this concept is going to be used. Of course, different systems (to be intended as societies) may come to different elaborations of the concept (and of the right behaviour), but this should not fear anybody because, whatever line of conduct is adopted, the pre-person in itself has not a value and cannot be harmed or wronged. Those who could feel harmed or wronged are the existing members of a social group, namely the actual people, if they had to conceptualize and act towards pre-persons in a way that is alien and inconsistent with the rest of their moral.

The social element is not even enough by itself to exhaust the concept of personhood. A possible approach may be that of combining the psychological criteria considered crucial for defining the person with the social element of the acknowledgement of what is a person. This is not to be considered necessarily in its dimension of reciprocity, since a being may be considered as a person without their recognising in turn that other beings are their equals representing a condition of their being a person or being recognised as such.

The social dimension of the knowability and acknowledgement of the person needs to be considered if we are not to consider the person as a knowable being on the same level as a mathematical inference, i.e. only on a purely theoretical level. Along these lines, I firmly agree with Engelhardt in attributing a value, albeit not absolute, to the social sense of personhood. This sense means that infants are already playing the role of persons, since they are socialized by their parents and in the perception of society.¹⁴ Being the border between the pre-person and the person very slight, the extension of special considerations to the former would represent, under diverse aspects, a way to pursue the good of the latter. Where I do not follow Engelhardt is in his consideration of the social sense of personhood as a primarily utilitarian construct. Rather, I look at the social aspect of the person as a constitutive ingredient of the concept and at the

¹⁴ See Engelhardt (1978), p.94-101.

inclusion of pre-persons into moral consideration not just as the expression of prejudicial feelings but as a social phenomenon, which shed a practical and useful light on the consideration of the pre-person as well.

The newborn has potential psychological capacities which in the future will entail the consideration of him, by himself and by the others, as a person, and he is currently invested with a social consideration about what he is that somehow personalize him. The newborn should not already be considered or treated as a person solely based on the social or interpersonal aspect; the importance and guarantees to be assigned to him should be lower with respect to the persons, but, considering the social aspect involved in being person, we can better understand where the value that is actually assigned to some pre-persons comes from.

John Harris proposed to substitute as leading question about the value of the person “When does life begin” with “when does life begin to matter morally”.¹⁵ What matters morally cannot be directly derived from mere data or facts, which, at best, can help for the identification of boundaries. Yet, they don’t give a satisfactory description of the person, which emerge as the summa of several criteria, including the social consideration and recognition of a value, which can concern pre-persons, or some pre-persons, too.

Using Heikki Ikäheimo’s words, we can talk of an *interpersonal status concept of personhood*, for which being a person means “being seen by others in light of person-making significances”.¹⁶ These significances include the psychological criteria, but “being seen by others in light of person-making significances” evidently also presupposes the social dimension, which is not only constituted by the recognition of psychological capacities, but also by a series of moral considerations which are part of a social heritage.

To summarize, it seems sensed to reserve a special treatment to some pre-persons, the reason being not in their potentiality to become persons, but in the acquisition of a wider perspective of the elements involved in the consideration of what a person is, encompassing person-maker criteria and social phenomena of recognition and inclusion.

5. Conclusion

To conclude, we can maintain the concept of pre-person to indicate certain

¹⁵ Harris (1985), p.8.

¹⁶ Ikäheimo (2009), p.77-92.

beings and yes, we can reserve certain protections and guarantees for such pre-persons, if the alternative of considering them as beings at our disposal is repugnant. With this I do not assume that disdain is always moral disdain, or that the general moral sentiment should always be pandered to, but I assume a moral conception that takes account of it, an attitude not divorced from the underlying social and cultural context. The combination of the two approaches considered suitable for identifying the person (and consequently for giving us a concept of pre-person) has already de facto led, in research, legislation and the public conscience, to a situation in which certain pre-persons are considered to be at our disposal, while others are not.

On the basis of the scientific findings available we may decide not to consider newborns or foetuses of over 24 weeks as beings at our disposal.¹⁷ Whatever solution is deemed most suitable, it will in any case be arbitrary, but science does not provide data that allow us to identify with certainty the passage from pre-person to person, insofar as these are non-scientific aspects of an event that it makes more sense to interpret as a social phenomenon.

What I have said above must be supplemented by a few final considerations. I maintain that the interests and needs of actual living persons are more important than those of pre-persons, who it is assumed do not have interests and needs in the strict sense of the term. When we are faced with borderline cases, the existence and well-being of actual persons who could benefit from the disposal of non-persons (including pre-persons) should have precedence, unless it can be demonstrated that the damage that man could suffer from considering some beings which are potentially persons as beings at our disposal, represents a much greater moral and material evil.

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¹⁷ Due to tremendous advancements in perinatal medicine a pregnant woman and the fetus can be thought as two independent individuals and as two patients too. The limit of fetal viability is currently considered to be around 24 weeks. See Morgan et al. (2008).

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