

From *Ethics and Medicine*, 17:3 (2001): 177-186.

A Thirty-Year Perspective on Personhood: How Has the Debate Changed?

By Dennis M. Sullivan, M.D.

Introduction

The concept of personhood remains the central and enduring focus of any intelligent discussion of bioethical norms. Whether the perspective is secular or religious, couched in theological discourse or philosophical verbiage, any theory that wishes to show how man should behave must begin with what man is. Indeed, personhood “pops up” in the most unexpected places. Physicist John Polkinghorne claims that a grand, unified “Theory of Everything” must include and reconcile quantum mechanics, general relativity theory, and amazingly, *the personhood of human beings*:

Let us come straight to the point. A central question is the significance to be assigned to personhood in forming a credible and adequate account of reality. By a person I mean at least this: a self-conscious being, able to use the future tense in anticipation, hope and dread; able to perceive meaning and to assign value; able to respond to beauty and to the call of moral duty; able to love other persons, even to the point of self-sacrifice.¹

Thus, personhood is the “ground zero” of bioethical reflection. I have chosen the past thirty years as the basis of the following discussion, since during this period many changes have occurred in how personhood is viewed by society. To be more precise, the debate has been driven so much by the Supreme Court’s landmark *Roe v. Wade* decision in 1973, that we could readily talk about personhood “pre-Roe” and “post-Roe.”

This change in understanding has also been brought about by changes in the discipline itself. Bioethics began as an impulse of theological discourse, in an attempt to curb and control potential societal abuses of modern technology. In the mid-1960s, most bioethicists were religious thinkers and theologians. Currently, however, many members of hospital ethics committees are physicians and lawyers, and secular philosophers teach university bioethics courses.

This subtle shift has profound implications. The foundations were originally deontological in nature, the “should” of bioethics, whereas now the basis of most decisions is utilitarian, with an emphasis on outcomes. According to Meilaender,² the entire discipline has lost its “soul.” Nowhere is this shift more evident than in the ongoing controversy over personhood.

This paper will review the concept of personhood and its relevance to bioethics. I begin with a historical overview of the traditional understanding of personhood in secular and religious thought. I will then examine some modern challenges to personhood, and the recent shift towards utilitarian thinking. Finally, I will argue that personhood must remain the central focus of bioethical discourse, especially in view of technological advances that may make conservative utilitarian arguments moot.

Personhood in Historical Context

Theological beliefs attach great value to human life. Certainly the Judeo-Christian outlook has dominated Western culture, and has influenced secular trends as well. Brannigan and Boss give this concise summary:

Roman Catholics, Muslims, and Orthodox Jews believe that human life is sacred because it is a special creation of God. Only humans are ensouled; therefore all and only human life has moral value. There is no distinction between biological humanhood and personhood. We, as humans, have moral value simply because we have a human genotype, no matter what our age or stage of development.³

Theologically, in the words of Wennberg, “personhood can be equated with the *imago dei* . . .” He adds, “the terms *human person* and *image of God* are virtually synonymous.”⁴

The normative Christian view has been that personhood begins at conception. For example, Tertullian held that God created the soul at the moment of conception, arguing against the infusion of a soul at a later time.⁵ Jerome and Augustine spoke harshly of any “acts destroying the fetus after conception.”⁶ This was in striking contrast to the alternative views of pagan society: “Christians discarded all pagan definitions of the fetus as merely part of the mother’s body. To Christians, the fetus was an independent living being.”⁵

The Judeo-Christian tradition of the value of life had great influence over Western culture for centuries, only coming into serious conflict with other societal values at the time of the Enlightenment. Clearly, the most egregious example of a rejection of the conservative view occurred with the eugenics movement of the early twentieth century, culminating in the horrible excesses of the Holocaust. However, another crisis that led to the *need* to define humanity more precisely was the rise of modern medical techniques for abortion. A conflict of values between the traditional view of persons and the permissive liberalism of abortion led directly to the legal battleground of *Roe*. Richard Neuhaus has demonstrated the centrality of the abortion issue:

Even if some of the great questions that occupy bioethics might theoretically be isolated from the question of abortion, they seldom can be in cultural and political fact. Whether by inherent logic or by historical accident, the abortion debate has become the magnet to which all the other life-and-death debates are attached. We can try to pull them back from that debate, but they are inexorably drawn back to it . . . In ways even more relentless and entangled than at present, arguments about what we insist are “other” questions will be emerging from and returning to the question of abortion.⁷

In the early years of the modern bioethics movement (1965-1980), the lines were sharply drawn on both sides of the abortion question, with the debate centered on the personhood of the fetus versus the rights of pregnant women. Respected writers such as John T. Noonan, Harold O.J. Brown, Francis Schaeffer, and C. Everett Koop went beyond the traditional theological understanding, and added biological and philosophical reasons that the unborn child is a human person from conception. Yet there is no doubt that the conservative view had begun to erode in this era. Many have blamed the decline of the Judeo-Christian worldview and the rise of secular humanism as key factors in the modern denial of personhood.⁸

However, even the U.S. Supreme Court acknowledged the centrality of personhood. In the 1973 decision, Judge Blackmun stated: “If this suggestion of personhood is established, the appellant’s case, of course, collapses, for the fetus’ right to life is then guaranteed specifically by the [Fourteenth] Amendment.” However, the Court declined to rule on that basis: “We need not resolve the difficult question of when life begins. When those trained in the respective disciplines of medicine, philosophy, and theology are unable to arrive at any consensus, the judiciary, at this point in the development of man’s knowledge, is not in a position

to speculate as to the answer.”⁹ The Court went on to make autonomy, defined as a woman’s right to privacy, the central issue. This was held as a higher (or at least more clearly visible) principle, over the human life of the fetus.

One reason that Roe denied personhood to the fetus was its lack of independent viability; i.e., if the fetus was still dependent on the mother for life, it was not yet a person worthy of protection. Nonetheless, in the years since *Roe v. Wade* (and as reaffirmed in the 1992 *Casey* decision), even this view of personhood has not been determinative. From a legal perspective, there has always been an exception clause that operates after the point of viability, for “pregnancies endangering a woman's life or health.”¹⁰ Because of broad definitions of such exceptions, abortion has essentially been legal up to any moment before physical birth.

Indeed, many pro-choice scholars have regarded personhood as irrelevant. Some have gone so far as to assert that the *Roe* decision needlessly alienated the religious and politically conservative community, in denying personhood to the fetus. Lawrence Tribe, a liberal constitutional scholar, has written: “The Court could instead have said: Even if the fetus is a person, our Constitution forbids compelling a woman to carry it for nine months and become a mother.”¹¹

Judith Thomson presented a compelling argument along these lines in 1971. Though her “unconscious violinist” illustration preceded *Roe v. Wade*, there is no evidence that it influenced the Court, since the Court refused to concede personhood to the fetus. Thomson’s argument, briefly stated, goes like this: Imagine that you awake one morning to find that you have been kidnapped and had your circulatory system attached to a famous violinist. The Society of Music Lovers, in an attempt to save the violinist from a fatal kidney ailment, is using your healthy body to cleanse his bloodstream. After nine months, he will have recovered, and can be safely disconnected from you. To say that you are legally and morally obligated to accede to this situation is clearly outrageous.¹² Thomson extends this analogy to pregnancy, and thus argues persuasively that even personhood does not trump a woman’s right to autonomy.

Francis Beckwith presents a cogent refutation of the violinist argument by showing that the two circumstances (violinist and pregnancy) are in no way morally equivalent. For example, he points out that pregnancy is not always a voluntary moral obligation, as in the case where couples conceive in spite of contraceptive efforts. Such a couple is still morally responsible to protect such unplanned children. Beckwith then contrasts the unnatural and artificial situation of the violinist with the natural state of the unborn:

It is evident that Thomson's violinist illustration undermines that deep natural bond between mother and child by making it seem no different from two strangers artificially hooked-up to each other so that one can 'steal' the service of the other's kidneys. Rarely has something so human, so natural, so beautiful, and so wonderfully demanding of our human creativity and love been reduced to such a brutal caricature.¹³

Beckwith goes on to state that abortion is not merely the withholding of treatment, as with the violinist, but is an active form of killing. Indeed, Thomson's case seems particularly weak at this point, since few have disputed that abortion is the active destruction of life. Legal scholar J. Budziszewski has said it well: "Whether a particular act of killing counts as murder is, of course, an ethical question, but *whether it kills* is a biological question. To kill is to take life, and the unborn child is alive."¹⁴

Is the living entity that is killed in abortion a person? Peter Kreeft perhaps best illustrates the centrality of this question in his allegorical dialog, *The Unaborted Socrates*. In a conversation between the philosopher and an abortionist named Dr. Herrod, the question of personhood is the key:

Socrates: Now, rationally, what does *killing* mean?

Herrod: I suppose it means forcibly putting a live organism to death.

Socrates: And is abortion's object a live organism?

Herrod: Of course.

Socrates: And is the [termination] of the process its death?

Herrod: Yes.

Socrates: Is the death forcible?

Herrod: Yes.

Socrates: Then abortion is killing.

Herrod: Yes, but not murder.

Socrates: That is yet to be decided . . . We agreed that murder is the killing of an innocent human being . . .

Herrod: . . . "[But] a fetus is not a human being, and therefore abortion is not murder. Quod erat demonstrandum. Finis. Consummatum est. Case closed."¹⁵

By showing the abortionist's discomfiture, Kreeft has deftly reiterated what the U.S. Supreme Court affirmed in 1973: personhood is the key to the moral and constitutional protection of human life.

Reflections from the Current Debate

Because the respect for life has declined in the modern world, a certain degree of pessimism is perhaps understandable among those who hold to a pro-life position. In the shifting ground of abortion rights, pro-life writers have perhaps felt that the personhood battle has been lost, or at least has been ignored. From a legal perspective, even some pro-life legal experts claim that personhood may be a “dead issue.”¹⁶ This may well be true, for the Supreme Court precedents of *Roe v. Wade* and *Casey* are now so well established that even a predominantly conservative Court may not be able to overturn them.

Another reason for pessimism may derive from a lack of impact of the personhood argument on popular sentiment. Carol Gilligan conducted a study among pregnant women facing the possibility of terminating their pregnancies. Many acknowledged the humanity and personhood of their unborn child, even to the point of calling abortion “murder.” Yet the economic and social circumstances of their lives mostly influenced their choices, often resulting in a decision to abort.¹⁷

Pessimism about the effectiveness of the personhood argument is highlighted by the current emphasis on utilitarian arguments to stem the tide of abortion. The psychological, emotional, and physical harm of abortion provides a compelling argument against taking the life of unborn children. This allows one to avoid the question of personhood. For example, there are significant psychological consequences of abortion, often underreported or ignored by abortion rights groups. Ashton reported that 44% of patients undergoing induced abortion complained of nervous disorders, 36% had sleep disturbances, and 31% regretted their decision to abort.¹⁸ Others have reported post-traumatic stress disorder, sexual dysfunction, and suicidal ideation.^{19,20} In addition, a

growing list of physical complications is linked to abortion, including an increased risk of breast and other cancers, uterine perforation, and an increased risk of problems with subsequent pregnancies.²¹

It seems evident, however, that the medical and physical risks of abortion will diminish as techniques improve. This is certainly the claim of the National Abortion Rights Action League (NARAL), which has extensively defended the safety of elective abortions. NARAL claims that abortion must be legal, in order to prevent a return to the days of illegal, “back alley” procedures.²² In fact, there is no good evidence that illegal abortions were common in the years immediately prior to Roe, and no evidence that the legalization of abortion has had any impact on these statistics.²³

It is probable that the psychological impact of abortion will be less the earlier it is performed.²⁴ It is also clear that a growing number of women prefer medical, as opposed to surgical methods.²⁵ These trends can only increase as newer pharmaceutical abortifacients become available. According to Roberge, “Advances in technology will reduce the fetal body count while vastly increasing the embryonic fatalities. As a consequence, this may increase societal acceptance of abortion.”²⁶

The array of technological choices for medical abortion is growing at an alarming rate. Methotrexate is an increasingly appealing medical alternative among abortion providers, and has been well accepted by patients.²⁷ Gynecologists, including a growing number who do not currently perform surgical abortions, are willing to use mifepristone, also known as RU 486.²⁸ This trend will only increase now that the French abortifacient has received FDA approval.

A subtle distinction has arisen in terms of “abortion alternatives.” Increasingly, the secular medical community has relied on implantation of the embryo as a determinant of pregnancy. There has even arisen the term “pre-embryo” for the pre-implantation product of conception. Robertson has succinctly summarized this concept: “A legal and ethical consensus is emerging that pre-embryos are not legal persons or moral subjects.”²⁹ This is clearly a shift from the traditional definition of personhood.

Armed with this arbitrary distinction, a woman is not “pregnant” until the “pre-embryo” has implanted in the uterine wall. This has fueled the popularity of so-called emergency contraception, also called the “morning-after pill,” as touted in this statement from Planned Parenthood: “Emergency contraception, also called post-coital contraception, can prevent pregnancy after unprotected intercourse.”³⁰ This method uses higher-than-normal doses of estrogen and progestin hormones (the same hormones used in birth-control pills), and may prevent implantation of the embryo if fertilization has already occurred. In other words, the effect may be that of an early medical abortion. We have discussed elsewhere the use of “pre-embryo” as a euphemism to justify early abortion, on the grounds that a woman is not actually pregnant.³¹

Yet this idea has dramatically influenced the popular understanding of emergency contraception. Columnist Ellen Goodman expressed it this way: “[Emergency contraceptives] like Preven or Plan B that prevent fertilization or implantation are not abortifacients. They don't even work if you're already pregnant. The sooner you take them, the better the odds you won't get pregnant.”³² This understanding presumes that pregnancy is defined by implantation, not conception.

There is a widespread movement, both in Britain and the U.S., to make such “emergency contraception” available without prescription.³³ Whereas abortion used to be something that doctors did to women, now it is becoming something that women do for themselves. What effect does this trend have for the conscience of society, as women become more and more involved in the active taking of human life?

Also looming on the technological horizon are abortifacient vaccines. Studies are underway to stimulate the immune system to react against human chorionic gonadotropin (HCG), a hormone produced by the developing embryo, which is necessary for proper maturation of the uterine endometrium. Another immune target is the trophoctoderm, the outer layer of the human embryo. If successful, both techniques would prevent implantation of a developing embryo every time it is conceived. The woman would hardly know that she is pregnant, yet if she is sexually active, she could have as many as twelve abortions every year.³⁴

As techniques for early abortion become easier and medically safer, some of the current pro-life arguments focusing on untoward maternal effects of abortion may have an unintended consequence: they may, in a subtle way, morally facilitate the procedure:

As more data arises on the complications due to surgically induced abortions, marketing strategies for abortifacient products will capitalize on this data as a motivational factor toward more embryo-stage directed abortifacients. Simply put, pharmaceutical corporations will use available data on abortion complications (e.g. abortion and infertility link; abortion and breast cancer link, etc.) to convince the consumer to use birth control that in reality is abortifacient in nature. As the population of consumers accepting this technology increases, total surgical abortions will rapidly decrease, while the total number of abortions will rise exponentially.²⁶

As abortion becomes easier and safer, through chemical means such as methotrexate, mifepristone, “emergency contraception,” or even through HCG or trophoectoderm antigen vaccines, the guilt and other costs may diminish, and along with it, the utilitarian ethical argument. After all, a woman who is not even aware she is pregnant may find it an easy decision, emotionally and psychologically, to abort an unwanted child. If the ethical position depends on the consequences of the act alone, there may be no reason for women not to choose such “easy” technologies.

In the present environment, it is clear that strictly utilitarian arguments will be severely diminished in their ability to prevent the destruction of embryonic human life. Therefore, the personhood argument must remain a foundational part of the pro-life ethic.

Influence of Personhood on the Debate

In spite of the pessimism discussed earlier, some modern trends give hope that personhood may still have a powerful influence. The controversy over “partial-birth” abortion (more technically known as intact dilation and extraction) is revealing in this respect. This procedure elicits such a reaction that 23 states have attempted to outlaw it, and there have been two attempts in the U.S. Congress (1995 and 1997). In contrast to

early abortion, people react instinctively to “partial-birth” abortion, for it is difficult to deny the humanity of a 20-week old fetus.

Many abortion proponents claim that personhood is a complex question, and that no one can agree on its bases. They claim that, in a pluralistic society, the personhood of the fetus is a value judgment, upon which honest people may differ. The fact that there is such a widespread outcry over “partial-birth” abortion belies this claim.

What of Gilligan’s contention that a woman may choose abortion in spite of a belief that her child is a living person? Clearly, this is no failure of the ontological argument itself, but a failure to fully communicate the significance of personhood. It is also a failure to meet a woman’s felt needs, for in the economic or social crises of their lives, women may not be able to “hear” well.

Modern crisis pregnancy centers (often run by churches) provide counseling for women contemplating abortion, and offer alternatives such as adoption in a nonjudgmental environment. The principle here is that women are inextricably linked to their unborn children. Meeting societal and personal needs is a necessary step if personhood is to help them decide against terminating a pregnancy.

A newer trend in these facilities is the use of an ultrasound examination. This non-invasive test, performed in early pregnancy, can help a woman to visualize the fetus as an actual baby. Dr. William Stalter, Medical Director of a women’s center in Dayton, Ohio, feels that it has a significant impact: “With ultrasound, I can see an immediate change in their demeanor. They see the baby sucking its thumb, moving its arms and legs; all of a sudden it is really a small child, rather than just a blob of tissue” (W. Stalter, personal communication, February 28, 2001). Although it is too early for accurate statistics, it appears that such ultrasound examinations in early pregnancy may actually lower the abortion rate. By identifying the fetus as a person, a woman may choose life.

Is there a common denominator in these trends? What is it about “partial-birth” abortion and ultrasound exams that speaks to the conscience of people, whether or not they are Christians? Could there be “self-evident” truths and “unalienable rights,” that are readily seen by all people? The seventeenth-century English philosopher John Locke claimed that natural rights are not derivative or conferred, but *intrinsic*. In other words, “natural rights come with being human; they *can’t* be given up.”¹⁴ Personhood, thus defined, would become an ontological principle that adheres to the fetus by definition. Such an appeal to conscience, natural law, or common humanity may have more influence in a pluralistic society than strictly theological principles.

Though beyond the scope of this discussion, modern technology has raised a whole host of additional bioethical questions that relate to personhood. Such developments include newer reproductive technologies, cloning, and the Human Genome Project. In all of these, a proper ethical position will benefit greatly from a careful study of the personhood standard.

Conclusion

This paper has analyzed the personhood debate over the past thirty years, and has shown how that debate has undergone some subtle changes. The shift in bioethics from deontological to utilitarian principles has influenced the conservative focus on personhood, and perhaps blunted its impact.

Yet abandoning personhood as a central tenet would be a serious error. As shown, advances in abortive technology may make utilitarian arguments against abortion less and less effective. This is not to say that such arguments are inappropriate or irrelevant, for anything that helps reduce abortion in society is of great value. However, a sole reliance on utilitarian approaches may lose impact as technology advances.

Abandoning personhood would leave no adequate basis for the defense of life at its earliest stages. Such would leave a vital element out of the ongoing discussion of human nature, and would diminish us as human beings.

References Cited:

1. Polkinghorne J. Faith, Science, and Understanding. New Haven: Yale University Press; 2000.
2. Meilaender GC. Body, Soul, and Bioethics. Notre Dame: University of Notre Dame Press; 1995.
3. Brannigan MC, Boss JA. Healthcare Ethics in a Diverse Society. Mountain View: Mayfield Publishing Company; 2001.
4. Wennberg RN. Life in the Balance. Grand rapids: William B. Eerdmans Publishing Company; 1985.
5. Gorman MJ. Abortion and the early church : pagan, Jewish, and Christian attitudes in the Greco-Roman world. Downers Grove: Intervarsity Press; 1982.
6. Noonan J (ed). The Morality of Abortion: Legal and Historical Perspectives. Cambridge: Harvard University Press; 1970.
7. Neuhaus RJ. The Way They Were, The Way We Are. New Jersey: Humana Press; 1992.
8. Schaeffer FA, Koop CE. Whatever Happened to the Human Race? The Complete Works of Francis Schaeffer. Volume 5. Wheaton: Crossway Books, 1982.
9. Roe v. Wade <<http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=US&vol=410&invol=113>>. Accessed 2001 8/3/2001. U.S. Supreme Court, 1973.
10. Planned Parenthood of Southeastern Pennsylvania v. Casey <<http://www2.law.cornell.edu/supct/html/91-744.ZS.html>>. Accessed. U. S. Supreme Court, 1992.
11. Tribe L. Abortion: The Clash of Absolutes. New York: W.W. Norton; 1990.
12. Thomson JJ. A Defense of Abortion. Philosophy and Public Affairs. 1971 Fall, 1971;1(1):47-66.
13. Beckwith F. From Personhood to Bodily Autonomy: The Shifting Legal Focus in the Abortion Debate. In: Kilner J, Cameron N, Schiedermayer D (eds). Bioethics and the Future of Medicine. Grand Rapids: William B. Eerdmans, 1995.
14. Budziszewski J. Written on the Heart: The Case for Natural Law. Downers Grove: InterVarsity Press; 1997.
15. Kreeft P. The Unaborted Socrates. Downers Grove: InterVarsity Press; 1983.
16. Bopp J, Coleson R. Memorandum <<http://www.personhood.net/docs/BoppMemorandum1.pdf>>. Accessed February 24, 2009. Personhood.Net, 2007.
17. Gilligan C. In a Different Voice. Cambridge: Harvard University Press; 1982.
18. Ashton JR. The Psychosocial Outcome of Induced Abortion. British Journal of Obstetrics and Gynecology. 1980;87:1115-22.
19. Rue VM, Coleman PK, Rue JJ, Reardon DC. Induced abortion and traumatic stress: a preliminary comparison of American and Russian women. Med Sci Monit. 2004 Oct;10(10):SR5-16.
20. Reardon DC, Coleman PK. Relative treatment rates for sleep disorders and sleep disturbances following abortion and childbirth: a prospective record-based study. Sleep. 2006 Jan 1;29(1):105-6.
21. Reardon D. The Aftereffects of Abortion <<http://www.afterabortion.org/complic.html>>. Accessed August 20, 2004. Elliot Institute, 1990.
22. NARAL. The Safety Of Legal Abortion And The Hazards Of Illegal Abortion <<http://www.naral.org/mediaresources/fact/hazards.html>>. Accessed 2000 9/11/00. NARAL, 2000.
23. Willke JC. Illegal Abortions <http://www.abortionfacts.com/dr_willke/connector_july_97.asp#1>. Accessed February 24, 2009. Heritage House 76, 1998.
24. Lazarus A. Psychiatric Sequelae of Legalized First Trimester Abortion. Journal of Psychosomatic Obstetrics & Gynecology. 1985;4(3):140-50.
25. Winikoff B. Acceptability of Medical Abortion in Early Pregnancy. Family Planning Perspectives. 1995;27:142-8.

26. Roberge LF. The Future of Abortion <<http://pages.map.com/lroberge/future1.htm>>. Accessed 2000 9/11/00, 1997.
27. Harvey SM, Beckman LJ, Satre SJ. Experiences and satisfaction with providing methotrexate-induced abortions among US providers. *J Am Med Womens Assoc.* 2000 2000;55(3 Suppl):161-3.
28. Koenig JD, Tapias MP, Hoff T, Stewart FH. Are US health professionals likely to prescribe mifepristone or methotrexate? *J Am Med Womens Assoc.* 2000 2000;55(3 Suppl):155-60.
29. Robertson JA. Legal and ethical issues arising with preimplantation human embryos. *Arch Pathol Lab Med.* 1992;116:430-5.
30. Planned-Parenthood. FACT SHEET: Emergency Contraception <<http://www.plannedparenthood.org/library/BIRTHCONTROL/EmergContra.htm>>. Accessed 2000 9/11/00, 2000.
31. Sullivan DM, Francis JW, Sellers JA. Reviving the Saracen's Head: A Commentary on the New Biotechnologies. *Ethics and Medicine.* 1999;15(3):77-84.
32. Goodman E. A little-known pill that can avert abortions. *The Boston Globe* 2001 2/25/2001;7.
33. Wade L. 'Morning-after' pill headed over-the-counter? <<http://www.cnn.com/2001/HEALTH/02/05/morning.after/index.html>>. Accessed 2001 2/28/2001. CNN News, 2001.
34. Roberge LF. Abortifacient Vaccines: Technological Update and Christian Appraisal. In: Kilner JF, Cameron NMdS, Schiedermayer DL (eds). *Bioethics and the Future of Medicine.* Grand Rapids: William B. Eerdmans, 1995.