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Self-Consciousness and Personhood

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Michael Tooley has argued that personhood can be properly ascribed only when an identifiable individual possesses: 1) the capability of desiring to live; 2) the concept of self as a continuing subject of experiences and other mental states; and 3) the belief that it itself is such a continuing entity.¹ This theory of personhood is of interest because it not only grants moral permissibility to abortion, but also permits certain forms of infanticide.² Strict application of this theory could give justification to the direct, intentional, free, voluntary, positive and knowledgeable killing of the insane, comatose and amnesiac. In these cases, the ascription of personhood would not be permissible because a concept of a continually existing self would be absent. And even further, if Tooley is to be believed, it may be permissible to ascribe personhood to some of the higher forms of animal life on the grounds that they may possess the capabilities, concepts and beliefs mentioned above. Because this theory purports to grant the freedoms and protections of the right to life to many individuals who are not members of the species *homo sapiens*, while at the same time imposing many duties and obligations of members of that species, it deserves rather careful examination and attention.

1. At the outset, it must be noted that Tooley does not establish any standards or criteria for determining the presence of the previ-

ously mentioned desires, beliefs and capabilities. Procedures are not set forth for determining when it is the case that members and non-members of the species *homo sapiens* possess these traits.³ This is a rather serious deficiency because the absence of these procedures makes it impossible to know to whom moral duties and obligations are to be ascribed. It is also impossible to know what are the obligations and duties of members of the species *homo sapiens*. If individuals who cannot express syntactically and propositionally the content of their mental states are going to be candidates for admission into the class of persons, then criteria for determining the presence of the required mental states must be established for fair judgments to be made. Tooley did not consider the development of these procedures sufficiently important to be included in his work. And no developments of these methods have been made by him in later works, which may indicate the impossibility of establishing such procedures.

2. The entailments and implications of the right to life are not clearly understood by Tooley either.⁴ The right to life grants security and protection to those who refrain from direct, free, positive, intentional, proximate, voluntary and knowledgeable attacks on other valid claimants of the right to life.⁵ Persons and human beings are properly entitled to this right because they can freely choose to comply with its duties and obligations. But individuals who cannot choose to refrain from these direct, intentional, free, voluntary, positive and knowledgeable attacks cannot be considered as valid claimants of the right to life. Tooley correctly criticizes views of the right to life which only entail protection of the physical life of the individual. But the right to life does not offer protection to this dimension of life alone. The right to life is properly attributed to materially identifiable individuals who possess the capability of asserting into publicly observable existence higher orders of meaning, moral value and logic in a knowledgeable and voluntary manner. The right to life protects the capability of these individuals to continue the actualization of these states. A necessary means for such actualization is the physical existence and functioning of the individual. The right to life does not merely protect the physical existence of the individual, for this is of no great moral significance in and of itself without a direct relation to the states and actions of the person. Rather, the right to life protects not only the physical existence but also the structures and functions of the person's states of mind. This means that actions which impair the operations of the person are as impermissible as are those which impair the physical existence of the person. Not only are abortion, murder and active euthanasia prohibited by this principle, but also actions and procedures which impair the functionings of the person, unless they are necessitated by other therapeutic procedures. Thus psycho-surgery or other procedures which destroy the capability of the human subject to

perform certain types of human action are prohibited. It is not morally permissible to act on a human subject in a manner that would destroy the capability for expressing intentions, forming conceptual thoughts, or using speech, for instance.

3. Tooley mistakenly grounds the right to life on the desire of the individual for continued existence. Tooley's discussion focuses attention on the notion that the right to life is grounded on the desire for continued existence, and that the frustration of this desire is wrong.⁶ It is not clear why there is a moral evil involved in the failure to satisfy this desire. Desire itself is of no relevant moral value, even if it is a desire for life itself. And this desire is not directly and causally responsible for the assertion into publicly observable existence of any higher moral orders. It is not clear how the right to life is to be logically derived from the existence of this desire in a subject. For it seems that a right which is absolute and unconditional should be grounded on a more substantial basis. The proper grounds for entitlement to the right to life should not be an emotive or psychological state, but a state of being and should be based on the worth and ontological condition of the claimant. But granting the protections of the right to life on the basis of possessed psychological or emotive states grounds the right to life on unstable positivist and voluntarist grounds.

Other Basis for Right to Life

Tooley's other basis for the right to life is the self-consciousness of the individual and the individual's awareness of the relationship between the self and the external states of affairs.⁷ It must be asked if there is any moral value or good attached necessarily to the awareness of this relationship or state of self-consciousness. It is not clear that either of these psychological states is directly and immediately responsible for the existence of morally valuable states of affairs. An individual's awareness of a causal relationship between an ego and certain states of affairs is of no moral interest and is only of interest if the individual possessing it is of a certain moral worth. For if an individual possesses a certain worth, then these states of self-consciousness or awareness acquire merit and value. But if the individual is not one of significant worth, then these are of no value.

Tooley's problem is that he grounds the right to life on the value or merit of the individual, but not on the worth of the individual. For Tooley, the individual has to achieve a certain status, such as being the causal agent of certain specific types of publicly observable events in a direct and immediate fashion, before he can validly claim the right to life. Thus, this right is grounded on the acquisition of certain capabilities, beliefs or dispositions which are not considered meritorious.

Merits or values cannot stand as the grounds for the possession of rights, but only for privileges. The right to life is an absolute and inviolable one which requires a foundation that is stable and not subject to voluntary abolition. Self-consciousness and one's awareness of the relationship of the ego to other states of affairs can be voluntarily abolished from existence in Tooley's scheme, and so destroy the grounds for valid entitlement to the right to life.

Tooley's self-consciousness requirement is ambiguous and inconsistently applied.⁸ He does not wish to deny the protections of the right to life to the comatose, sleeping, drugged or insane, but a strict application of the principle of self-consciousness makes conferral of the right to life difficult in these cases. When in these states, these individuals lack a concept of a self as causally related to human mental states. They are not the conscious and knowledgeable subjects of the desire to continue existing in these states. But Tooley wants to provide them with the protections of the right to life on the principle that they will soon come into full and proper possession of the states required for valid possession of the right to life. The logical structure of this theory would compel the disinterested analyst to ascribe the protections of the right to life to the infant who also will come into full possession of the states that are required for proper possession of the right to life. Tooley, however, refuses to do this, and this remains a conflict which he does not adequately resolve.

Tooley is not specific in what is entailed in and implied by the self-consciousness principle. It is not clear if the ability to articulate and assert into publicly observable existence in a knowledgeable manner that a self exists is what is entailed by this principle. It may be the case that self-consciousness only refers to an awareness of external forces operating in a causal relationship to one's existence. If the former is what is entailed by the self-consciousness principle, then it is doubtful that even fairly mature infants could be legitimately granted the right to life. But if the latter is what is entailed, then unborn human life could be granted the protections of the right to life on account of the fact that this awareness seems to be present at the moment of genetic coding. If Tooley is to assert that self-consciousness is necessary for the proper ascription of the right to life, then clarification of the content of self-consciousness should be provided.

4. It is claimed by Tooley that there is no reason to attach any moral significance to differences in species, and that there is no reason to limit the class of persons to the class of human beings.⁹ With the last part of this statement, I can agree, but not with the first because it fails to see that some species lack the organic, morphological and neurological facilities which permit the persons' states of mind to be asserted into publicly observable existence. If the states of mind that

are proper to persons are to be properly possessed, then the physical capabilities permitting the assertion into existence of these states in a publicly observable manner must be present. Given our present knowledge of the universe, the only species which retains the organic, morphological and neurological structures permitting the mental states of persons to be asserted into concrete and public existence is the species of *homo sapiens*. If other species should be discovered to be in possession of these structures, then serious consideration would have to be given to admitting these species into the class of persons. Possession of these capabilities, however, would not be sufficient, for species must also exhibit the ability to assert moral states of affairs into public existence in a direct, intentional, voluntary and knowledgeable manner. If this requirement is also met, then there would be a strong case for ascribing personhood to these species. Differentiation of species is important in that only one species is presently known to have the capability for freely, intentionally, voluntarily and directly asserting higher orders or moral value, order and logic into concrete and public existence.

5. In light of his refusal to offer the protections of the right to life to some members of the species *homo sapiens*, Tooley's offer of such protections to some non-members is logically incongruous. While it is logically possible for members of other species to acquire the means to assert the content of their mental states into existence and actualize higher orders of moral value, this should not be considered a practical possibility because of the inability of persons to confer on others the ontological structures of personhood. It is not at all apparent that it is within the capabilities of persons to form the structures which permit syntactical and propositional speech, intentional expression and conceptual thought to be actualized in other individuals. And it is not apparent that the ontological structures which permit the assertion of moral values into public existence can be transferred to other species, or actualized by them under their own power. Also, it is not clear that the organic, morphological and neurological structures necessary for the transformation of private mental states into publicly observable states of affairs can be established in other species. In spite of these difficulties, Tooley regards it as possibly permissible to ascribe personhood and the protections of the right to life to select members of other species. Yet some members of the species *homo sapiens* who have both the logical and practical possibility of asserting their intramental and moral states of affairs into publicly observable existence in the proximately present future are denied the protections of this right. It is illogical to ascribe the protections of the right to life to individuals who lack the practical possibility of asserting these states into public existence while refusing them to individuals who have both the logical and practical possibility of actualizing these states. There is also

an incongruity involved in the granting of admission into the class of persons to individuals who have never expressed in an intentional, syntactical and propositional manner the content of their states of mind, while refusing this membership to individuals who have this as a proximate logical and practical possibility.

Legal and moral problems are involved in granting personhood to non-members of the species *homo sapiens*. If parrots or porpoises, for instance, are to be granted membership in the class of persons on the grounds that they have a desire for continued existence, a concept of the self as the subject of mental states proper to persons, and the belief that they are such a continuing entity, then they must accept the duties and obligations that are proper to the class of persons. This would mean that dogs would have to refrain from attacking mailmen, and that parrots would incur guilt for uttering objectively false statements. There also remains the substantial problem of informing individuals such as these of their moral, social and civic duties. How these problems would be faced is uncertain.

'Potentiality Principle'

6. The "potentiality principle" which Tooley claims to be the foundation of the conservative position is not clearly understood by him. He argues that the potentiality principle ascribes the right to life to the unborn because some trait is possessed potentially that will become actualized in adult life and warrant ascription of the right to life.¹⁰ This is not an accurate perception, however, for the properties that permit the adult to validly claim the protections of the right to life are possessed in their full actuality by the unborn. The right to life is validly claimed by the individual of worth who has the capability of expressing in an observable form of existence the content of mental states which actualize higher orders of meaning, logic, order and moral value. In the developing stages of life this capability is found, just as it is found in the adult, for the developing stages possess this from the moment of genetic coding.

Tooley's criticism of the potentiality principle rests on a misapprehension of the character of the distinctive traits of the person. He appears to assume that intentional expression, syntactical and propositional speech and conceptual thought are actualized in the same way that the capability for playing a musical instrument is actualized. The capability for performing actions such as playing a musical instrument is only actualized after voluntary consent is given. The traits of intentional expression, syntactical and propositional speech and conceptual thought do not require voluntary consent for actualization. Persons think conceptually by nature without reflection, judgment or consent.

This signifies a radical difference between these capabilities and those which require voluntary consent. Persons do not voluntarily choose to attribute moral value to their human acts, nor do they choose to attribute moral evil to acts of murder. The moral quality of their acts is inherent to the acts themselves. Failure to see this distinction effectively reduces the properties that distinguish persons to just psychological properties. The difference between persons and other individuals is an ontological, not just a psychological difference.

7. It is contended by Tooley that the killing of the unborn is no different in its morally relevant characteristics than killing kittens who have been injected with a serum that provides them with the potentiality of developing into persons.¹¹ He argues this by pointing to the fact that there is nothing morally objectionable about refraining from injecting the kittens with the serum. This is true. But from that point, he asserts that there is nothing objectionable about an action which would terminate the process by which these potentialities become actualized. This is more difficult to accept. The case which he cites is quite unnatural, and we cannot be sure that all of the relevant moral factors are known. But if it is the case that the kitten is identical to the unborn human person in all relevant moral aspects, then killing the kitten would be morally prohibited. If the kitten were an individual of inherent worth capable of expressing in a knowledgeable, free, voluntary, intentional manner the content of mental states actualizing higher orders of meaning, logic, order and moral value, then the kitten would have a valid claim to the protections of the right to life. But if these properties were not actualized in the kitten, and were only possible potentialities, then killing the kitten would not be prohibited. For in this condition the kitten is similar to the human egg or sperm which does not possess the capability for expressing in a publicly observable manner the content of human mental states as an actualized potentiality. The possession of potentialities for existence as a person alone is not sufficient for ascription of the protections of the right to life. Only when the properties which are proper to persons are actual within a materially identifiable individual and are enriching and developing is it proper to ascribe the right to life.

Tooley fails to see that the person is ontologically prior to the existence of the desire for life, the awareness of an ego standing in a causal relations to mental states and the belief that one is such an ego. These conditions cannot constitute a person, for the person must possess actual existence for the identification and ascription of these traits. Without the prior existence of the person, any ascription of these traits is incoherent. But if the person is fully actualized, then the presence of these traits can aid in the identification and description of the person.

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6. Tooley, *op. cit.*, p. 60.
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Doctors

I stand in awe of Doctors,
A circle esoteric indeed
Learnedly diagnostic, prognostic,
With 'clinical eye' to lead.

Vast the store of knowing and doing
Each scholarly brain to refrain,
To hold, pigeon-holed for
the "re nata" now;
Then to surface instanter again.

What a marvel, the surgical skills,
Confounding imagination
With sections 'ad extra and intra,'
To a fraction of millimeters,
Precise in concatenation.

Our venturesome mind,
Magnetic to our will,
May set upon a course to founder.
And here the good Psychiatrist
Enters hopefully, with delicate skill.

A touchy, ad interim foot-note —
Just remuneration due.
What price my pulsing stream of life?
Nor gold will purchase the sunshine,
Nor our life-giving air will renew.

We, most wondrous of works divine,
Must meet dread days of detrition,
Our haven of hope, with the trust of a child,
This, — the Doctor's glorious mission.

— Fr. Walter Terence Doyle

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