https://doi.org/10.1017/S0265052505052027 Published online by Cambridge University Press

WHEN DOES A PERSON BEGIN?*

By Lynne Rudder Baker

I. Introduction

The answer to the question "When does a person begin?" depends on what a person is: If an entity is a person, what kind of being, most fundamentally, is she? Since the persons we are familiar with are human persons—persons with human bodies—one may simply assume that what we human persons are most fundamentally are animals.[1] I agree that it is often useful to think of us as animals—as long as we are thinking biologically, rather than ontologically. However, on my view, our animal nature, which we share with other higher primates, does not expose what we most fundamentally are. Ontology is not a branch of biology.

Nevertheless, my account of human persons roots us firmly in the natural world. Biologically, we are akin to other primates; but ontologically, we are unique. However, we are still material beings. I believe that we are fundamentally persons who are constituted by human organisms. Since constitution is not identity, human persons may come into existence at a different time from the organisms that constitute them. So I shall argue.

Unfortunately, this area of inquiry is clouded with terminological difficulties. The term "human being" (as well as "human individual") is used ambiguously. Some philosophers take "human being" to be a purely biological term that refers to human organisms.[2] Others take "human being" to name a psychological kind, not a biological kind.[3] And still other philosophers seem to trade on the ambiguity when they argue that human persons are human beings and human beings are human organisms; so human persons come into existence when human organisms come into existence. This is a non sequitur: Human organisms are a biological kind; human persons cannot pretheoretically be assumed to be a biological kind. The term "human being" may be used either for human organisms or for human persons, but—in a pretheoretical context—it is tendentious to use "human being" (or "human individual") for both.

* Thanks to Gareth Matthews and Catherine E. Rudder for comments. I am also grateful to other contributors to this volume, especially Robert A. Wilson, Marya Schechtman, David Oderberg, Stephen Braude, and John Finnis.

[1] Throughout this essay, I mean "we" to apply to the community of readers.

[2] For example, see John Perry, "The Importance of Being Identical," in Amélie Oksenberg Rorty, ed., *The Identities of Persons* (Berkeley: University of California Press, 1976), 70.

[3] For example, see Mark Johnston, "Human Beings," *Journal of Philosophy* 84 (1987): 64.

© 2005 Social Philosophy & Policy Foundation. Printed in the USA.

https://doi.org/10.1017/S0265052505052027 Published online by Cambridge University Press

The term "human nature" inherits the ambiguity of "human being" and "human individual." "Human nature" may refer to biological characteristics (say, length of gestation period or brain size) that distinguish human organisms from nonhuman organisms. Or it may refer to rational and moral characteristics that distinguish human persons from nonpersons.[4]

Although I would prefer to use the term "human being" to refer to human persons, and "human nature" to refer to the nature of human persons (rather than of human organisms), I shall avoid these terms in order to steer clear of ambiguity. I take the term "human organism" to be interchangeable with "human animal," and I take the nature of a human organism to be whatever biologists tell us it is. I am a Darwinian about human animals. That is, I believe that there is important continuity between the most primitive organisms and us, and that we human persons have an animal nature. But I do not believe that our animal nature exhausts our nature all things considered. I shall use a biological theory of human organisms on which to build an ontological theory of human persons. Before turning to my view of persons, let us consider when a human *organism* comes into existence.

II. When Does a Human Organism Begin?

I take the question "When does a human organism begin?" to be a biological question. This empirical question stands in contrast to the philosophical question "When does a human person begin?" (Empirical data are relevant to philosophical questions, without being conclusive.) One frequently heard answer to the biological question is that a human organism comes into existence at the time of fertilization of a human egg by a sperm. (But beware: There is not an exact moment of fertilization. Fertilization itself is a process that lasts twenty-plus hours.)[5] However, the view that a human organism comes into existence at—or at the end of—fertilization is logically untenable, because a fertilized egg may split and produce twins. If it is even physically possible for a fertilized egg to produce twins (whether it actually does so or not), a fertilized egg cannot be *identical* to an organism. As long as it is possible to twin, a zygote is not *a* human anything, but a cell cluster.[6] In the case of twinning, as philosopher G. E. M. Anscombe explains: "Neither of the two humans that

[4] See Norman M. Ford, *The Prenatal Person: Ethics from Conception to Birth* (Malden, MA: Blackwell Publishing, 2002), 9, 15.

[5] Ibid., 55. Moreover, everything in the natural world comes into existence gradually: solar systems, cherry blossoms, jellyfish, tractors and other artifacts. Thus, every natural entity has vague temporal boundaries, and hence is subject to vague existence; but it does not follow that there is any vague identity. If $a = b$ and a is vague, then b is vague in exactly the same respects. I discuss this further in my essay "Everyday Concepts as a Guide to Reality," *The Monist* (2006).

[6] G. E. M. Anscombe, "Were You a Zygote?" in A. Phillips Griffiths, ed., *Philosophy and Practice* (Cambridge: Cambridge University Press, 1985), 111.

https://doi.org/10.1017/S0265052505052027 Published online by Cambridge University Press

eventually develop can be identified as the same human as the zygote, because they can't *both* be so, as they are different humans from one another."[7] It is logically impossible for one organism to be identical to two organisms. And, of course, anything that is logically impossible is biologically impossible. In twinning, two (or more) twins come from a single fertilized egg. But neither of the twins is identical to that fertilized egg, on pain of contradiction. To see this, suppose that a zygote (a cell cluster) divides and twins result. Call the zygote "*A*," and one of the twins "*B*" and the other twin "*C*." If *A* were identical to both *B* and *C*, then—by the transitivity of identity—*B* and *C* would be identical to each other. But *B* is clearly not identical to *C*. Therefore, *A* (the zygote) cannot be identical to *B* and *C*. A human organism cannot come into existence until there is no further possibility of "twinning"—about two weeks after fertilization.

Thus, there is no new human organism until after the end of the process of implantation of a blastocyst in the wall of the womb (about fourteen days after fertilization). Even at implantation, an organism does not come into existence instantaneously. There is no sharp line demarcating the coming into existence of a new human individual organism. There is only a gradual process. But we can say this much: Soon after implantation (the primitive streak stage), the embryo is an individual, as opposed to a mass of cells.[8] At this point, there is an individual human organism that persists through fetal development, birth, maturation, adulthood, until death. There are differing views about whether the human organism ends at the time of death, but in no case does the human organism persist through the disintegration of the human body.[9]

This answers the biological question about human embryos. But there remains the ontological question—a further question that is not automatically answered by biology: Granting that a human embryo after implantation is an individual human organism, what is the relation between a human embryo and a human person? On my view, the relation is constitution: A human person is wholly constituted by a human organism, without being identical to the constituting organism. So the coming into existence of a human organism is not *ipso facto* the coming into existence of a human person. As we shall see, on my view—the constitution view—a human person is not temporally coextensive with a human organism, but

[7] Ibid., 112.

[8] This is a point that has been made by Roman Catholic writers. See, e.g., Norman M. Ford, *When Did I Begin? Conception of the Human Individual in History, Philosophy, and Science* (Cambridge: Cambridge University Press, 1988), 174–78. See also Anscombe, "Were You a Zygote?"

[9] Many philosophers identify human organisms with human bodies. For example, Fred Feldman holds that human persons are (identical to) human organisms and that human organisms persist after death as corpses. See Fred Feldman, *Confrontations with the Reaper* (New York: Oxford University Press, 1992), 104–5. Although I do not identify persons and organisms, I do identify organisms and bodies.

is nevertheless a material being, ultimately constituted by subatomic particles. Human persons have no immaterial parts.[10]

III. What a Person Is

So, what is a person? *Person*—like *statue*—is a primary kind, one of many irreducible ontological kinds. Everything that exists is of some primary kind—the kind that determines what the thing is most fundamentally. Things have their primary-kind properties essentially. Members of the kind *organism* are organisms essentially; members of the kind *person* are persons essentially. (If x has F essentially, then there is no possible world or time at which x exists and lacks F.) Thus, when a person comes into being, a new object comes into being—an object that is a person essentially.

What distinguishes *person* from other primary kinds (like *planet* or *organism*) is that persons have first-person perspectives. Just as a statue is not a piece of clay, say, plus some other part, so too a human person is not a human organism plus some other part. The defining characteristic of a person is a first-person perspective. Human persons are beings that have first-person perspectives essentially and are constituted by human organisms (or bodies). Martian persons, if there were any, are beings that have first-person perspectives essentially and are constituted by Martian bodies. Although *person* is a psychological kind, human persons are in the domains, not only of psychology, but also of biology, on the one hand, and of the social sciences, on the other.[11] A human person, like a bronze statue, is a unified thing—but the statue is not identical to the piece of bronze that constitutes it, nor is the person identical to the body that constitutes her. Your body is a person derivatively, in virtue of constituting you, who are a person nonderivatively. You are a human organism derivatively, in virtue of being constituted by your body that is a human organism nonderivatively.

In order to understand what a person is, the property to focus on is the first-person perspective. In mature persons, to have a first-person perspective is to be able to think of oneself without the use of any name, description, or demonstrative; it is the ability to conceive of oneself as oneself, from the inside, as it were.[12]

[10] Constitution is not a relation between parts and wholes. If x constitutes y at t, the difference between x and y is that x and y have different properties essentially and different persistence conditions. It is not a matter of y's having a part that x lacks, or vice versa.

[11] By "social sciences" I mean the disciplines of sociology, political science, history, and other disciplines that have groups of people in their domain. The domain of psychology includes conscious beings with beliefs, desires, and intentions. In the absence of anything immaterial, where is the domain of psychology located? The domain of psychology is located where the conscious beings with beliefs, desires, and intentions are located. Not every phenomenon in a material world has a definite spatial location—e.g., where was Smith's purchase of Shell Oil stock located?

[12] I have discussed this at length in *Persons and Bodies: A Constitution View* (Cambridge: Cambridge University Press, 2000). See ch. 3.

https://doi.org/10.1017/S0265052505052027 Published online by Cambridge University Press

https://doi.org/10.1017/S0265052505052027 Published online by Cambridge University Press

Linguistic evidence of a first-person perspective comes from use of first-person pronouns embedded in sentences with linguistic or psychological verbs—e.g., "I wonder how I will die," or "I promise that I will stick with you."[13] The content of a thought so expressed includes ineliminable first-person reference. Call the thought expressed using "I" embedded in a sentence following a psychological or linguistic verb (e.g., "I am thinking that I am hungry now") an "I* thought."[14] What distinguishes an I* thought from a simple first-person sentence (e.g., "I am hungry now") is that in the I* thought the first-person reference is part of the content of the thought, whereas in the simple first-person sentence, the "I" could drop out: one's thought could be expressed by "hungry now." If I am wondering how I will die, then I am entertaining an I* thought; I am thinking of myself as myself, so to speak. I am not thinking of myself in any third-person way (e.g., not as Lynne Baker, nor as the person who is thinking, nor as that woman, nor as the only person in the room) at all. I could wonder how I am going to die even if I had total amnesia. I* thoughts are not expressible by any non-first-person sentences. Anything that can entertain such irreducibly first-person thoughts is a person. A being with a first-person perspective not only can have thoughts about herself, but she can also conceive of herself as the subject of such thoughts. I not only wonder how I'll die, but I realize that the bearer of that thought is myself.

A being may be conscious without having a first-person perspective. Nonhuman primates and other mammals are conscious. They have psychological states like believing, fearing, and desiring, but they do not realize that they have beliefs and desires. They have points of view (e.g., "danger in that direction"), but they cannot conceive of themselves as the subjects of such thoughts. They cannot *conceive of* themselves from the first-person. (We have every reason to think that they do not wonder how they will die.) Thus, having psychological states like beliefs and desires, and having a point of view, are necessary but not sufficient conditions for being a person. A sufficient condition for being a person—whether human, divine, ape, or silicon-based—is having a first-person perspective.[15] So, what makes something a person is not the "stuff" it is made of. It does not matter whether something is made of organic material or silicon or, in the

[13] Hector-Neri Castañeda developed this idea in several papers. See Castañeda, "He: A Study in the Logic of Self-Consciousness," *Ratio* 8 (1966): 130–57; and Castañeda, "Indicators and Quasi-Indicators," *American Philosophical Quarterly* 4 (1967): 85–100.

[14] The term comes from Gareth B. Matthews, *Thought's Ego in Augustine and Descartes* (Ithaca, NY: Cornell University Press, 1992).

[15] Gordon Gallup's experiments with chimpanzees suggest the possibility of a kind of intermediate stage between dogs (which have intentional states but no first-person perspectives) and human persons (who have first-person perspectives). In my opinion, Gallup's chimpanzees fall short of full-blown first-person perspectives (for details, see Baker, *Persons and Bodies*, 62–64). See Gordon Gallup, Jr., "Self-Recognition in Primates: A Comparative Approach to Bidirectional Properties of Consciousness," *American Psychologist* 32 (1977): 329–38.

case of God, no material "stuff" at all. If a being has a first-person perspective, it is a person.

A first-person perspective is the basis of all forms of self-consciousness. It makes possible an inner life, a life of thoughts that one realizes are her own. Although I cannot discuss it here, I believe that a first-person perspective is closely related to the acquisition of language. A first-person perspective makes possible moral agency and rational agency. We not only act on our desires (as, presumably, dogs do); we can evaluate our desires. It makes possible many new sorts of phenomena: memoirs, confessions, self-deception. It gives us the ability to assess our goals—even biologically endowed goals like survival and reproduction. And on and on.

The appearance of first-person perspectives in a world makes an ontological difference in that world: A world with beings that have inner lives is ontologically richer than a world without beings that have inner lives. But what is ontologically distinctive about being a person—namely, the capacity for a first-person perspective—does not have to be secured by an immaterial substance like a soul.[16]

IV. The Idea of a Rudimentary First-Person Perspective

What I have just described is what I shall call a *robust* first-person perspective. Now I shall distinguish a robust first-person perspective from a rudimentary first-person perspective, and then apply this distinction to the question of when a person comes into being.[17]

Since our stereotypes of persons are of human persons, my notion of a first-person perspective is tailored to fit specifically human persons. If there are nonhuman persons, they, too, will have robust first-person perspectives, but they may not have acquired them as a development of rudimentary first-person perspectives. But human persons begin by having rudimentary first-person perspectives:

> *Rudimentary FPP*. A being has a rudimentary first-person perspective if and only if (i) it is conscious, a sentient being; (ii) it has a capacity to imitate; and (iii) its behavior is explainable only by attribution of beliefs, desires, and intentions.

[16] The constitution view is an argument for this claim. The first-person perspective, along with the capacity to acquire a language, may be products of natural selection or may be specially endowed by God. But for whatever reason (either God's will or natural selection sans God), nonhuman primates have not developed robust first-person perspectives of the kind that we have.

[17] I was motivated to distinguish between a robust and a rudimentary first-person perspective by my many critics, including Marc Slors, Anthonie Meijers, Monica Meijsing, Herman de Regt, and Ton Derksen.

https://doi.org/10.1017/S0265052505052027 Published online by Cambridge University Press

https://doi.org/10.1017/S0265052505052027 Published online by Cambridge University Press

The requirement of consciousness or sentience for a rudimentary first-person perspective rules out security cameras as conscious, even though they may be said to have a perspective on, say, a parking lot. The capacity to imitate involves differentiation of self and other. The capacity to imitate has been linked by developmental psychologists to "some form of self-recognition" that does not require a self-concept.[18] Finally, a being whose behavior is not explainable except by attribution of beliefs and desires has a perspective and can respond appropriately to changing situations. For one's behavior to be explainable only by attribution of beliefs, desires, and intentions is to be a (minimal) intentional agent. Thus, a being with a rudimentary first-person perspective is a sentient being, an imitator, and an intentional agent.[19]

Human infants have rudimentary first-person perspectives. There is empirical evidence that human infants have the three properties required for a rudimentary first-person perspective. Human infants are clearly sentient. There is abundant research to show that they are imitators from birth. For example, two well-known psychologists, Alison Gopnik and Andrew Meltzoff, tested forty newborns as young as forty-two minutes old (the average age was thirty-two hours) in 1983.[20] They wrote of the newborns' gestures of mouth opening and tongue protrusion: "These data directly demonstrate that a primitive capacity to imitate is part of the normal child's biological endowment."[21] Imitation is grounded in bodies: a newborn imitator must connect the internal feeling of his own body (kinesthesia) with the external things that he sees (and later hears).[22] (Aristotle went so far as to say, in his *Poetics*, that imitation was a distinguishing mark of human beings.) And finally, according to Ulric Neisser, "Babies are intentional agents almost from birth."[23] So human infants meet the conditions for having rudimentary first-person perspectives. Indeed, developmental psychologists agree that from birth, a first-person perspective is underway.[24]

[18] Michael Lewis, "Myself and Me," in Sue Taylor Parker, Robert W. Mitchell, and Maria L. Boccia, eds., *Self-Awareness in Animals and Humans* (Cambridge: Cambridge University Press, 1994), 22.

[19] So, rudimentary first-person perspectives have what Robert A. Wilson calls "action-traction." See Section V of his essay "Persons, Social Agency, and Constitution," elsewhere in this volume.

[20] Gopnik is Professor of Psychology at the University of California at Berkeley, and Meltzoff is Codirector of the Institute for Learning and Brain Sciences at the University of Washington, where he is also Professor of Psychology.

[21] Alison Gopnik and Andrew N. Meltzoff, "Minds, Bodies, and Persons: Young Children's Understanding of the Self and Others as Reflected in Imitation and Theory-of-Mind Research," in Parker, Mitchell, and Boccia, eds., *Self-Awareness in Animals and Humans,* 171.

[22] Alison Gopnik, Andrew Meltzoff, and Patricia Kuhl, eds., *How Babies Think: The Science of Childhood* (London: Weidenfeld, and Nicholson, 1999), 30.

[23] See Ulric Neisser, "Criteria for an Ecological Self," in Philippe Rochat, ed., *The Self in Infancy: Theory and Research* (Amsterdam: North-Holland, Elsevier, 1995), 23. Neisser is a well-known cognitive psychologist at Cornell University.

[24] See, for example, Jerome Kagan, *Unstable Ideas* (Cambridge, MA: Harvard University Press, 1989). Kagan is the Starch Professor of Psychology at Harvard.

https://doi.org/10.1017/S0265052505052027 Published online by Cambridge University Press

Higher nonhuman mammals seem to meet the conditions as well. Observation of household pets like dogs and cats suggests that they have rudimentary first-person perspectives. They are sentient—they feel pain, for example. (Their brains, as well as their behavior when injured, are similar enough to ours for this to be a secure judgment.) They are imitators; even ducks, who imprint on their mothers, engage in imitative behavior. Although there is some controversy regarding the research on animal intentionality,[25] higher nonhuman mammals appear to be intentional agents. Although we have apparently successful intentional explanations of animal behavior—e.g., "Fido is digging over there because he saw you bury the bone there and he wants it"—there are no adequate nonintentional accounts of Fido's behavior. Chimpanzees that pass psychologist Gordon Gallup's famous mirror tests even more obviously have rudimentary first-person perspectives.[26]

The conclusion I draw from the work of developmental psychologists is that human infants and higher nonhuman mammals have rudimentary first-person perspectives.[27] Moreover, rudimentary first-person perspectives exhaust the first-personal resources of human infants and higher nonhuman mammals; human infants and higher nonhuman mammals exhibit no more sophisticated first-personal phenomena than what rudimentary first-person perspectives account for. Although infants differentiate themselves from others from birth, they do not pass the mirror test until they are about eighteen months old. (And chimpanzees and orangutans "show every bit as compelling evidence of self-recognition as 18- to 24-month-old human infants.")[28] According to Jerome Kagan, it is "not at all certain that [human] 12-month-olds, who experience sensations, possess any concepts about their person, and it is dubious that they are consciously aware of their intentions, feelings, appearance or actions."[29] Daniel J. Povinelli and Christopher G. Prince report that "there is little evidence that chimpanzees understand anything at all about mental states."[30] Although more evidence is needed about the cognitive devel-

[25] See, for example, Cecilia Heyes and Anthony Dickinson, "The Intentionality of Animal Action," in Martin Davies and Glyn W. Humphreys, eds., *Consciousness: Psychological and Philosophical Essays* (Oxford: Blackwell, 1993), 105–20. Heyes is in the Department of Psychology at University College, London, and Dickinson is in the Department of Experimental Psychology at Cambridge University.

[26] See Gallup, "Self-Recognition in Primates." Discussion of the mirror tests has become so widespread that the phenomenon of recognizing oneself in a mirror is routinely referred to simply by the initials MSR (mirror self-recognition) in psychological literature.

[27] I do not expect the developmental psychologists to share my metaphysical view of constitution; I look to their work only to show at what stages during development certain features appear.

[28] Daniel J. Povinelli, "The Unduplicated Self," in Rochat, ed., *The Self in Infancy,* 185. Povinelli is in the Cognitive Evolution Group at the University of Louisiana at Lafayette.

[29] Jerome Kagan, "Is There a Self in Infancy?" in Michel Ferrari and Robert J. Sternberg, eds., *Self-Awareness: Its Nature and Development* (New York: The Guilford Press, 1998), 138.

[30] Daniel J. Povinelli and Christopher G. Prince, "When Self Met Other," in Ferrari and Sternberg, eds., *Self-Awareness*, 88.

opment of chimpanzees, there is no clear evidence that chimpanzees have the capacity to construct higher-order representations that would allow conceptions of themselves as having pasts and futures.[31]

Another similarity between human infants and higher nonhuman mammals is that they are social creatures. There seems to be general agreement among psychologists that developmentally there is a symmetry of self and other, that humans (as well as other higher nonhuman mammals) are social creatures. Ulric Neisser puts the "interpersonal self" in which the "individual engaged in social interaction with another person" at eight weeks.[32] Philippe Rochat flatly asserts that the developmental origins of self-awareness are primarily social.[33] The idea of a first-person perspective is not Cartesian or Leibnizian: we are not monads that unfold according to an internal plan unaffected by our surroundings.

Thus, human infants and higher nonhuman mammals all have rudimentary first-person perspectives, but I hold that human infants are persons and higher nonhuman mammals are not persons (or probably not). If having a first-person perspective is what distinguishes a person from everything else, and if a human infant and a chimpanzee both have rudimentary first-person perspectives, how can a human infant be a person if a chimpanzee fails to be? What distinguishes the human infant from the chimpanzee is that the human infant's rudimentary first-person perspective is a developmental preliminary to having a robust first-person perspective, but a chimpanzee's rudimentary first-person perspective is not preliminary to anything.

By saying that a rudimentary first-person perspective is "a preliminary to a robust first-person perspective," I mean to pick out those rudimentary first-person perspectives that developmentally ground or underpin robust first-person perspectives. Unlike chimpanzees, human animals are of a kind that normally develops robust first-person perspectives. This is what makes human animals special: their rudimentary first-person perspectives are a developmental preliminary to robust first-person perspectives. A being with a rudimentary first-person perspective is a person *only if it is of a kind that normally develops robust first-person perspectives*. This is not to say that a person will develop a robust first-person perspective: perhaps severely autistic individuals, or severely retarded individuals, have only rudimentary first-person perspectives. However, they are still persons, albeit very impaired, because they have rudimentary first-person perspectives and are of a kind—human animal—that develops a robust first-person perspective. We can capture this idea by the following thesis:

[31] Povinelli, "The Unduplicated Self," 186. So it looks as if the scope of the self-concept that Gallup postulated to explain mirror behavior is really quite limited, contrary to Gallup's speculation.

[32] Ulric Neisser, "Criteria for an Ecological Self," in Rochat, ed., *The Self in Infancy,* 18.

[33] Philippe Rochat, "Early Objectification of the Self," in Rochat, ed., *The Self in Infancy,* 54. Rochat is in the Emory University department of psychology.

https://doi.org/10.1017/S0265052505052027 Published online by Cambridge University Press

(HP) *x* constitutes a human person at *t* if and only if *x* is a human organism at *t* and *x* has a rudimentary or robust first-person perspective at *t*,

where we take "*x* constitutes a human person at *t*" as shorthand for "*x* constitutes a person at *t*, and *x* is a (nonderivative) human organism."[34] Thesis (HP) gives only a necessary and sufficient condition for there being a *human* person. There may be other kinds of persons: silicon persons (constituted by aggregates of silicon compounds) and God (not constituted by anything). (HP) is silent about other kinds of persons.

In *Persons and Bodies*, I wrote that a person comes into being when a human organism develops a robust first-person perspective or the structural capacity for one. The effect of (HP) is to push back the onset of personhood to human animals with rudimentary first-person perspectives.

In the face of (HP), someone might mount a "slippery slope" argument against it.[35] The argument would be this: "Once we introduce the notion of a preliminary, we have no reason to stop with rudimentary first-person perspectives. If we consider a being with a rudimentary first-person perspective that is preliminary to a robust first-person perspective to be a person, why not also consider a being at a prior stage that is preliminary to a rudimentary first-person perspective to be a person, and so on?" Suppose that, in place of (HP), someone proposed (HP*):

(HP*) *x* constitutes a human person at *t* if and only if *x* is a human organism at *t* and either *x* has a robust first-person perspective or *x* has capacities that, in the normal course, produce a being with a robust first-person perspective.[36]

I reject (HP*), and with it the regress argument,[37] for the following reasons. In the first place, note that a robust first-person perspective is itself a capacity—but a capacity of a special sort. A first-person perspective (robust or rudimentary) awaits nothing for its exercise other than a subject's thinking a certain kind of thought. It is an in-hand capacity that can be exercised at will. Let us distinguish between a remote capacity and an in-hand capacity. A hammer has an in-hand capacity at *t* for driving nails whether or not it is actually driving nails; you have an in-hand capacity at *t* for digesting food whether or not you are actually digesting food. Unassembled hammer parts (a wooden handle and a metal head)

[34] This latter detail is a needed technicality since, on the constitution view, *person* is a primary kind, and there may be nonhuman persons. "Human person" refers to a person constituted by a human organism.

[35] Gareth Matthews suggested this argument.

[36] Robert A. Wilson suggested (HP*).

[37] "Regress argument" is a common philosophical term for the kind of argument sketched in the preceding paragraph.

https://doi.org/10.1017/S0265052505052027 Published online by Cambridge University Press

https://doi.org/10.1017/S0265052505052027 Published online by Cambridge University Press

have only a remote capacity at *t* for driving nails; an embryo has only a remote capacity at *t* for digesting food.[38] A remote capacity may be thought of as a second-order capacity: a capacity to develop a capacity. An in-hand capacity is a first-order capacity.

According to the constitution view—as revised to include (HP)—a first-person perspective (rudimentary as well as robust) is an in-hand capacity, not a capacity to develop a capacity. According to (HP*), a being with no in-hand capacities at all, but only with a capacity to develop a capacity, is a person. I do not believe that remote capacities suffice for making *anything* the kind of thing that it is. (HP) makes being a person depend on the more constrained notion of an in-hand capacity of a (rudimentary or robust) first-person perspective.

The second reason that I reject (HP*) is this: The properties in terms of which rudimentary first-person perspectives are specified are ones we recognize as personal: sentience, capacity to imitate, intentionality. Insofar as we think of nonhuman animals as person-like, it is precisely because they have these properties. The properties that an early-term human fetus has—say, having a heart—are not particularly associated with persons, or even with human animals. Even invertebrates have hearts. So, not just every property that is a developmental preliminary to a robust first-person perspective in humans contributes to being a person. There is a difference between those properties in virtue of which beings are person-like (the properties of rudimentary first-person perspectives) and the broader class of biological properties shared by members of many taxa. The properties in virtue of which something is a person are themselves specifically personal properties.

Given (HP), then, human infants are persons: when a human organism develops a rudimentary first-person perspective, it comes to constitute a human person. Acquisition of the properties that comprise a rudimentary first-person perspective has different ontological significance for human organisms than for nonhuman primates. Acquisition of those properties by a human organism marks the beginning of a new person. Acquisition of those properties by a nonhuman organism, however, does not mark the beginning of a new person. The rudimentary first-person perspectives of higher nonhuman mammals are not developmentally preliminary to anything further. (If nonhuman primates did develop robust first-person perspectives, then they, too, would come to constitute persons.)

According to the modern synthesis in biology, we are biological beings, continuous with the rest of the animal kingdom. The constitution view recognizes that we have animal natures. The constitution view shows how to put together Darwinian biology with a traditional concern of

[38] I borrowed the example of the hammer from Robert Pasnau's excellent discussion of "has a capacity." See Robert Pasnau, *Thomas Aquinas on Human Nature: A Philosophical Study of Summa Theologiae 1a 75–89* (Cambridge: Cambridge University Press, 2002), 115.

philosophers—our inwardness, our ability to see ourselves and each other as subjects, our ability to have rich inner lives. This first-personal aspect of us—the essential aspect, in my opinion—is of no interest to biologists. The first-person perspective may well have evolved by natural selection, but it does not stand out, biologically speaking.

On the constitution view, when a human organism acquires a rudimentary first-person perspective, a new being—a person—comes into existence. When a quantity of bronze is cast into a likeness of a man, a new thing—a statue—comes into existence. Nonderivative persons are essentially persons—just as nonderivative statues are essentially statues. (Bodies that constitute persons are persons derivatively—just as pieces of marble that constitute statues are statues derivatively.) The relation between a human person and a human animal is the same as the relation between a bronze statue and a piece of bronze: constitution. The statue is not identical to the piece of bronze, nor is the person identical to the animal. Thus, the argument for the ontological uniqueness of persons does not require any special pleading. On this view, a human person comes into existence near birth: what is born is a person constituted by an organism.

On the constitution view, as we have seen, a human person comes into existence when a human organism acquires a rudimentary first-person perspective. There is not an exact moment when this happens—just as there is not an exact moment when a human organism comes into existence. But nothing that we know of in the natural world comes into existence instantaneously.[39] When a human organism acquires a rudimentary first-person perspective, it comes to constitute a new entity: a human person. In the next two sections, I shall examine some positions that contrast with the constitution view.

V. Substance Dualism

The constitution view is materialistic: All substances in the natural world are ultimately constituted by physical particles. There are no immaterial substances in the natural world. However, the constitution view has been accused (by philosopher Dean Zimmerman) of being a terminological variant of substance dualism. The charge takes the form of a dilemma:[40] When a person thinks, "I hope that I'll be happy," there is either one thinker of the thought or two. If there are two, then there are too many thinkers. But if there is only one real bearer of the thought, the critic claims, the constitution view is indistinguishable from substance dualism

[39] There is (ontological) indeterminacy at the beginning of everything that comes into existence by means of a process. See my essay "Everyday Concepts as a Guide to Reality," *The Monist* (2006).

[40] This is my interpretation of Dean Zimmerman's "The Constitution of Persons by Bodies: A Critique of Lynne Rudder Baker's Theory of Material Constitution," *Philosophical Topics* 30 (2002): 295–338.

https://doi.org/10.1017/S0265052505052027 Published online by Cambridge University Press

of the sort that holds that immaterial souls are located in bodies that have mental states in virtue of their relations to souls. If there is only one thinker of the thought, then there are two substances (person and animal), distinguished by the fact that one of them is the thinker and the other one is not.

On the constitution view, "one thinker" would refer to the person-constituted-by-the-animal, and "two thinkers" would refer to the person (a member of one primary kind) and the constituting animal (a member of a distinct primary kind). When a person thinks, "I hope that I'll be happy," there is only one thinker that has the thought nonderivatively, the person-constituted-by-the-animal.

Thus, I take the first horn of the dilemma, but deny that it is substance dualism.[41] Zimmerman is right to say that to have a property derivatively is to be constitutionally related to something that has it nonderivatively, but he is mistaken to think that to have it derivatively is to not have it at all. I have argued at length that the constitution-relation is a relation of *unity*. If you take the constitution-relation seriously as a unity-relation, then "derivatively" is not "by courtesy." I suspect that Zimmerman's belief that to have a property derivatively is not to have it at all stems from what I take to be a metaphysical prejudice: the only properties that something *really* has are intrinsic to it. On this assumption, if x has a property in virtue of its relation to y, where y is nonidentical to x—even if the relation is as close as constitution—x does not *really* have the property. Since I have argued that many things have relational properties essentially, I consider it question-begging to criticize the view by assuming that to have a property in virtue of constitution-relations is not really to have it. The unity is a matter of constitution.

As I said, biologically, I'm a Darwinian: I believe that there is important continuity between the most primitive organisms and us, and that we have animal natures. But there is more to us than our animal natures. I do not believe that biological knowledge suffices for understanding our nature, all things considered. Like the substance dualist, I think that we are ontologically special: the worth or value of a person is not measured in terms of surviving offspring. But emphatically unlike the substance dual-

[41] Zimmerman asks how I differ from an emergent dualist (like William Hasker), who holds that a soul—a distinct substance, made of a unique kind of immaterial stuff—emerges from a body. Despite some affinities between my view and Hasker's, I think that it is implausible to suppose that there are immaterial substances in the natural world. Moreover: (1) On my view, the relation between a person and her body (as well as the relation between a person and the micro-elements that make her up) is an instance of a very general relation common to *all* macro-objects; whereas, according to Hasker, the relation between a person and her body is that a body is one part of a person, who also has a special immaterial part. (2) On my view, what emerges from material elements is never anything immaterial; on Hasker's view, the emergent self is an immaterial object. (3) I think that all the causal powers of a human person are constituted by causal powers at lower levels; whereas Hasker holds that the self has libertarian free will and can modify and direct the brain. See William Hasker, *The Emergent Self* (Ithaca, NY: Cornell University Press, 1999), 195.

https://doi.org/10.1017/S0265052505052027 Published online by Cambridge University Press

ist, I do not account for what makes us special in terms of having an immaterial part.

Here are some fundamental ways that the constitution view differs from substance dualism. On the constitution view: (1) There are not just two kinds of substances—mental and physical—but indefinitely many kinds of substances. Each primary kind is ontologically special. (This is important because there is not just one big divide in nature between two disparate realms—mental and physical.) (2) The constitution relation itself is comprehensive, and is exemplified independently of any mental properties. Thus, in contrast to substance dualism, there is no special pleading for persons. (3) The derivative/nonderivative distinction is likewise comprehensive, and is exemplified independently of any mental properties.[42] So, I think that I escape the dilemma of either having to countenance too many thinkers or too many mental states or of falling into substance dualism.

According to substance dualism, there is a bifurcation within the natural world itself—not just, as traditional theists hold, a bifurcation of Creator and creation. Substance dualists take human persons to have two substantially different parts: one material (the body) and one immaterial (the mind or soul). (Whereas a substance dualist might say that we have one foot in heaven, I don't think that we have any feet in heaven.) A person comes into being, according to substance dualism, only when both the material and immaterial parts are present. Different versions of substance dualism locate the coming into being of a person at different times.

I do not believe that substance dualism is a plausible account of the natural world as we know it today. Although I reject scientism root and branch, empirical investigation of the natural world has produced an amazing body of knowledge with no end in sight.[43] Postulation of immaterial substances in the natural world should be a last resort. Since I think that we can do without postulating immaterial substances in the natural world, I think that we ought to do without them. According to the constitution view, nature itself is a unified whole with its own integrity, and human persons are a part of nature.[44] With the exception of one version (which I shall discuss in part B of Section VI), I shall put aside substance dualism.

[42] Substance dualists countenance only one-way borrowing: the body borrows mental properties from the soul. Zimmerman supposes that the "emergent dualist will surely regard [my two-way borrowing] as simply a question of semantics" (Zimmerman, "The Constitution of Persons by Bodies," 316). He does not say why the substance dualist's one-way borrowing of mental properties from the soul by the body should be considered a matter of metaphysics, but borrowing in the other direction only a matter of semantics.

[43] By "scientism" I mean the view that *all* correct explanations are scientific explanations. We must distinguish between scientific claims—claims made from *within* science—and claims made *about* science. One important claim about science (one that I reject) is that science is the arbiter of all knowable truth, that there is nothing to be known beyond what science delivers.

[44] This is so, I believe, whether there is a Creator or not.

https://doi.org/10.1017/S0265052505052027 Published online by Cambridge University Press

https://doi.org/10.1017/S0265052505052027 Published online by Cambridge University Press

Now let's consider two alternatives to the constitution view. Both these alternatives—which I reject—take persons to be ontologically in the same category as animals. I shall call these the "biological-animalist view" and the "Thomistic-animalist view," respectively. What I am calling the "biological-animalist view" is called simply the "animalist view" in the mainstream literature on personal identity. I am using the more awkward term, "biological animalism," in order to distinguish this view from a very different view that also takes human persons to be animals, but takes human animals to have immaterial souls. I am calling this latter view "Thomistic animalism."

VI. Persons as Animals

A. Biological animalism

On the biological-animalist view, what we are most fundamentally are human animals, and human animals are construed as biologists construe them. The animal kingdom is a seamless whole. According to the biological-animalist view, human animals (= human persons) are just another primate species—along with chimpanzees, orangutans, monkeys, and gorillas. The fact that human persons alone have inner lives (or any other psychological or moral properties) is not a particularly important fact about human persons. Proponents of the biological-animalist view have nothing to say about what distinguishes us from nonhuman primates. This is so, I suspect, because what distinguishes us from nonhuman primates is not biologically important.

On the biological-animalist view, what makes us the kind of beings that we are are our biological properties (like metabolism), and our continued existence depends only on the continued functioning of biological processes.[45] It is exclusively up to biologists to tell us what our natures are. A noted biological animalist, Eric Olson, says pointedly: "What it takes for us to persist through time is what I have called *biological continuity*: one survives just in case one's purely animal functions—metabolism, the capacity to breathe and circulate one's blood, and the like—continue."[46] Psychology is, as Olson says, "completely irrelevant to personal identity."[47]

Being a person and having the properties that are associated with being a person, on the biological-animalist view, are irrelevant to the kind of entity you fundamentally are. Person-making properties are temporary and contingent properties of human animals. Olson offhandedly refers to the properties in virtue of which a human animal is a person as "rationality, a capacity for self-consciousness, or what have you"; in Olson's

[45] Eric T. Olson, *The Human Animal: Personal Identity without Psychology* (Oxford: Oxford University Press, 1997), 30.

[46] Ibid., 16.

[47] Eric T. Olson, "Was I Ever a Fetus?" *Philosophy and Phenomenological Research* 57 (1997): 97.

view these are rather like properties of "being a philosopher, or a student, or a fancier of fast cars"—properties that are not part of one's nature.[48] According to biological animalism, what makes you you concerns the biological functions controlled by your lower brain stem.

If biological animalism is correct, then being a person is just an ontologically insignificant property of certain organisms. In that case, the question "When does a person begin?" would be ambiguous. Either it would mean: When does an organism—an entity that will acquire the property of being a person—begin? Or it could mean: When does an organism acquire the property of being a person? These questions have different answers: the time that a new organism begins is much earlier than the time that it acquires the property of being a person. But we need not decide which way a biological animalist ought to construe the question "When does a person begin?," because there are reasons to reject the biological-animalist view independently of how it answers this question.

The main reason to reject the biological-animalist view is that it renders invisible our most important characteristics. The abilities of self-conscious, brooding, and introspective beings—from Augustine in the *Confessions* to analysands in psychoanalysis to former U.S. presidents writing their memoirs—are of a different order from those of tool-using, mate-seeking, dominance-establishing nonhuman primates—even though our use of tools, seeking of mates, and establishing dominance have their origins in our nonhuman ancestors. With respect to *the range of what we can do* (from planning our futures to wondering how we got ourselves into such a mess), and with respect to *the moral significance of what we can do* (from assessing our goals to confessing our sins), self-conscious beings are obviously unique—significantly different from non-self-conscious beings.

I agree with the biological animalists about our biological nature—as I said, I am a Darwinian—I just think that our biological nature does not exhaust our nature all things considered. For example, if Darwin is right, there are only two ultimate goals for human animals: survival and reproduction. But people have ultimate goals that cannot be assimilated to survival and reproduction. (Think of people willing to die in the service of an abstract idea like freedom.) Thus, I think that biological animalism does not do justice to the reality of human persons. So, let's turn to Thomistic animalism.

B. Thomistic animalism

I use the term "Thomistic animalism" to describe a view that regards us as fundamentally animals, but does not construe human animals as biologists construe them. According to Thomistic animalism, any member of the biological species *Homo sapiens* is a person. But being a member of the

[48] Olson, *The Human Animal,* 17.

https://doi.org/10.1017/S0265052505052027 Published online by Cambridge University Press

https://doi.org/10.1017/S0265052505052027 Published online by Cambridge University Press

Homo sapiens species is not like being a member of other species. According to Thomistic animalism, all and only members of the *Homo sapiens* species have immaterial spiritual souls that are not recognized by biologists.[49] Thus, according to Thomistic animalism, human persons are animals, but there are two kinds of animals: nonrational animals that do not have immaterial souls and rational animals that do have immaterial souls.

Norman M. Ford, author of two informative and provocative books on the beginning of persons,[50] is a major proponent of the view that I am calling "Thomistic animalism." Ford is concerned with what he usually calls "the human individual." As he put it, "I shall use all three ways of referring to the members of our biological species *Homo sapiens* as interchangeable and with the same meaning—human individual, human being and person."[51] This may sound like biological animalism, but it is crucially different. Unlike biological animalism, Thomistic animalism does not take biology to be the arbiter of the nature of animals, at least of human animals. Ford does not believe that "the human person can be satisfactorily explained in purely empirical terms." A human animal is not "just a living body that has the capacity to engage in rational self-conscious acts."[52] On the Thomistic-animalist view, a human animal is animated by an immaterial spiritual soul or a "human life-principle," which, after death, "is no longer present in the corpse."[53] Ford sees a "fundamental psychosomatic unity of soul and matter within the ontological unity of the human individual."[54] (Thus, I take Ford's view to be a form of substance dualism.)[55]

Although, on Ford's view, "person" officially is just another name for members of the *Homo sapiens* species, the "core of our personhood" is not a matter of biology: "Rape and perjury are immoral everywhere. This is

[49] See Ford, *When Did I Begin?*; and Ford, *The Prenatal Person.*

[50] The thesis that Ford elaborates and supports is (what is commonly taken to be) the official view of the Roman Catholic Church after the First Vatican Council, 1869–70. However, it is not the view of Thomas Aquinas, nor is it just an updated version of Aquinas's view. Aquinas, following Aristotle, thought that until the presence of a rational soul—about twelve weeks into gestation—there was no human individual of any sort. See Robert Pasnau, *Thomas Aquinas on Human Nature,* 100–142. (An updated version of Aquinas's view, I believe, would place the beginning of a human person at the development of a brain that could support rational thought.) The Roman Catholic Church's official position is that human life must be protected from the time of conception. John Finnis pointed out to me that the doctrine is not that a fetus *is* a person, but that a fetus *must be treated as* a person. See, for example, Congregation for the Doctrine of the Faith, "Instruction on Respect for Human Life in Its Origin and on the Dignity of Procreation: Replies to Certain Questions of the Day," http://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_doc_19870222_respect-for-human-life_en.html (accessed April 4, 2004).

[51] Ford, *When Did I Begin?* 67.

[52] Ibid., 74.

[53] Ibid., 16; and Ford, *The Prenatal Person,* 13–16.

[54] Ford, *When Did I Begin?* 74.

[55] Although Thomistic animalists are substance dualists, I consider their view as a variety of animalism because they take their view from Thomas Aquinas, who followed Aristotle in holding that men (as he would say) are essentially animals.

so because morality is essentially related to the core of our personhood where human dignity and solidarity originate."[56] Thomistic animalism, then, takes us human persons to be fundamentally animals with important nonbiological properties that are unique to human persons. Moreover, Ford sometimes calls a spiritual soul "an immaterial life-principle."[57] If we need an immaterial life-principle to explain our being "living human individuals," why don't chimpanzees also need an immaterial life-principle to explain their being living nonhuman primates?

In any case, I think that Thomistic animalism is ultimately unsatisfactory for two principal reasons. First, Thomistic animalism tears apart the animal kingdom. Contrary to contemporary biological thought, Thomistic animalism makes membership in the species *Homo sapiens* very different from membership in any other species. It asserts that biology does not have the last word on *Homo sapiens*. Second, Thomistic animalism conceives of us human persons as having two parts: an immaterial soul and a material body. The constitution view offers an alternative that avoids both these difficulties while retaining moral and theological benefits of Thomistic animalism.[58]

On the constitution view, biology does have the last word on *Homo sapiens*; but biology does not have the last word on us human persons, all things considered. If we are constituted by human animals, but not identical to the human animals that constitute us, then we can give biology its full due—and with biologists, see the animal kingdom as a seamless whole—and still emphasize the very properties that Thomistic animalists insist on.

For example, unlike biologists, Ford locates the evolutionary difference between "a form of animal life" and human beings in a spiritual soul, evidence for which is that human beings have reflective self-awareness.[59] According to the constitution view, we can side with the biologists on the matter of the difference between human and nonhuman animals, and yet agree with Ford that reflective self-awareness does make us human persons unique. We just need to distinguish between human persons and human animals and refrain from using "human beings" or "human individuals" equivocally. We do not have to abandon standard biology in order to secure our uniqueness. Nor do we have to suppose that we have immaterial spiritual souls—or that any animal would need or have such a thing—in order to secure our uniqueness.

By conceiving of human persons as members of the species *Homo sapiens*, but essentially having nonbiological properties (immaterial souls),

[56] Ford, *The Prenatal Person*, 17.

[57] Ibid., 91.

[58] See my "Material Persons and the Doctrine of Resurrection," *Faith and Philosophy* 18 (2001): 151–67; and my "Death and the Afterlife," in *The Oxford Handbook of Philosophy of Religion*, ed. William J. Wainwright (Oxford: Oxford University Press, 2004), 366–91.

[59] Ford, *When Did I Begin?* 1. Moreover, Ford sometimes slips up and *contrasts* human persons and animals. See ibid., 75.

https://doi.org/10.1017/S0265052505052027 Published online by Cambridge University Press

https://doi.org/10.1017/S0265052505052027 Published online by Cambridge University Press

Thomistic animalism cannot make good sense of the respects in which we are like the rest of the animal kingdom and the respects in which we are not. By contrast, the constitution view clearly holds that we are part of the animal kingdom with respect to what constitutes us, but that our being essentially persons makes us unique in just the ways that Ford would like.

One consideration that is *not* among my reasons to reject Thomistic animalism is that it is presented as a Christian view.[60] Indeed, I think that theists who believe in (or even who want to leave open the possibility of) life after death have still another reason to reject Thomistic animalism: Animals essentially are organic; organic material essentially decays (it is corruptible). I do not see how an animal could possibly survive death. Ah, but the Thomistic animalist says, we are very special animals; we are animals-with-immaterial-souls, and an immaterial soul does not decay! In that case, if we are to survive death, we should be identified with the immaterial soul, not with animals at all. The constitution view, as I have argued elsewhere, is a better way to leave room for life after death than postulation of an immaterial soul.[61]

Thus, I believe that the constitution view is superior to both biological animalism and Thomistic animalism (as well as to substance dualism). Biological animalism does not recognize the ontological importance of the unique properties of human persons. Thomistic animalism, while recognizing the ontological importance of human persons, attributes the ontologically important properties to (putatively) immaterial features of members of the animal kingdom. By contrast, the constitution view both recognizes the ontological importance of the unique properties of human persons, and regards human persons as natural, material beings—without contravening any tenets of traditional theism or even of Christian doctrine. Now let's return to the matter of the coming into existence of a human person and its implications for thinking about abortion.

VII. Thinking about Abortion

This is an essay in metaphysics—specifically in the metaphysics of personal identity. It is not an essay on public policy, nor is it an essay on the legal issues concerning abortion in the United States. These matters, though important, are logically subsequent to the ones at issue here.[62]

[60] For what it's worth, I am a practicing Episcopalian, who accepts the Nicene Creed.

[61] See my "Death and the Afterlife," in Wainwright, ed., *The Oxford Handbook of Philosophy of Religion*. I also believe that the constitution view can make better sense of the "two-natures" doctrine of Christ than can substance dualism. See my essay "Christians Should Reject Mind-Body Dualism," in Michael L. Peterson and Raymond J. VanArragon, eds., *Contemporary Debates in the Philosophy of Religion* (Malden, MA: Blackwell Publishers, 2004), 327–37.

[62] If I had written a different essay, U.S. Supreme Court cases—such as *Roe v. Wade* (1973) and *Casey v. Planned Parenthood* (1993)—would have been germane; but they are not ger-

Nevertheless, the constitution view has one logical implication that is relevant to thinking about abortion. Thus, I want to add a coda to discuss this implication and reasons why it is useful in thinking about abortion.

According to the constitution view, as we have seen, a human organism exists before a human person comes into being: a human person comes into being when a human organism develops a rudimentary first-person perspective—at birth, or shortly before.[63] The obvious consequence of the constitution view for the issue of abortion is this: Any premise that implies that abortion before development of a rudimentary first-person perspective is the killing of an innocent person is false. If the constitution view is correct, then no sound anti-abortion argument can be based on such a premise.[64] This is all that follows from the constitution view. But it answers—in the negative—an important question: Does every human organism have the same ontological and moral status as you and me? This question is an important philosophical one for everyone—legislators, judges, as well as private individuals who have no official social roles—who thinks seriously about abortion.

Using "fetus" as short for "fetus before development of a rudimentary first-person perspective," the metaphysical implication of the constitution view is the following thesis—call it "(O)":

(O) A human fetus is an organism that does not constitute a person.

Thesis (O) has no direct implications for condoning or not condoning abortion. It certainly does not justify abortion. Indeed, one may endorse (O) and be just as opposed to procured abortions of any sort as someone who holds that every human embryo is a person. Thesis (O) is, however, significant for thinking about abortion, because it removes a whole category of arguments that short-circuit careful moral thought. The thesis that every fetus is a person implies that abortion is the killing of an innocent person. If the fetus is a person, abortion is morally impermissible regardless of the circumstances of the pregnant girl or woman. Morally speaking, the thesis that the fetus is a person renders the pregnant female invisible: it simply forecloses any consideration of the woman or

mane to this metaphysical essay. Such legal considerations are at the wrong level of discourse for this essay.

[63] In "Was I Ever a Fetus?" Eric T. Olson argued that on views like mine, I was never an early-term fetus. Distinguo! There is no x such that x was a fetus at t and I am identical to x. However, there is an x such that x was a fetus at t and I am now constituted by x. For my full reply to Olson's article, see my "What Am I?" *Philosophy and Phenomenological Research* 59 (1999): 151–59.

[64] Moral theories like utilitarianism or Kantianism are of limited use in debates about abortion for two reasons: (1) The question of what beings qualify as being subject to moral theories is not answered by the theories themselves; and (2) in applying a moral theory to an actual case, all the "moral work" goes into describing the particulars of the case. In actual decisions about abortion, the particulars of the case carry the day.

https://doi.org/10.1017/S0265052505052027 Published online by Cambridge University Press

girl per se who (for whatever reason) has an unwanted pregnancy. By contrast, (O) allows respect for pregnant females per se and not just as incubators. In thinking about abortion, it is morally important not to leave out respect for the pregnant girl or woman in her own right.[65] Thesis (O) opens up the field of discussion to include pregnant girls and women in their own right. There are three further reasons that (O) is helpful in thinking about abortion.

The first reason is that, by removing the premise that a fetus is a person, (O) clears the field of misleading arguments about, e.g., a "right to life." There can be no "right to life" until there is a person to be a subject of that right. It makes no sense to suppose that a nonexisting person has a right to be brought into existence. Moreover, "life" is used to refer both to biological life (taking in nutrition, locomotion, growing—biological characteristics that we share with other species) and to personal life (joys, hopes, plans for the future—nonbiological characteristics that appear in a biography). Human biological life derives value from making possible personal life. But to take human biological life—shorn of context and of considerations of quality—to be an absolute value in itself verges on idolatry. It puts allegiance to an abstract metaphysical view above the concrete needs of the actual people involved: it gives precedence to an abstraction—*life*—over the real lives of real people.

The second reason that (O) is helpful in thinking about abortion is this: Rejection of the thesis that the fetus is a person shifts the issue from a question about the morality of killing a person to a question about the morality of bringing into existence a person in various circumstances. The question of whether a person should be brought into existence is very different from the question of duties toward a person already in existence. This shift of questions—to whether a person should be brought into existence in various given circumstances—makes room for careful reflection that takes into account relevant considerations such as the health of the fetus, the health of the mother, the capacity of the mother (or others), financially and emotionally, to take on the responsibility of caring for an infant and bringing up a child, the quality of life that a child would likely have, the impact of a new child on the family, and the consequences for society of bringing a child into the world in the given circumstances. Discussions that assume that fetuses are persons simplemindedly screen off such morally relevant considerations from view.

Anyone who is considering an abortion is in a terrible situation. Everyone can agree that it would have been much better not to have become pregnant. But when the options are to have an abortion or to have a baby,

[65] Note that I am not using the fact that (O) allows respect for pregnant females per se, and not just as human incubators, as reason to accept (O), but rather as reason to welcome (O) as a consequence of the constitution view. The reason to *accept* (O) is that it follows from the constitution view, which is a comprehensive view defended on grounds having nothing to do with fetuses.

https://doi.org/10.1017/S0265052505052027 Published online by Cambridge University Press

there are circumstances in which the choice to have an abortion is the morally better choice. One such circumstance is a situation in which the fetus is anencephalic. Anencephaly is a fatal condition in which brain formation begins but goes awry, leaving a defective brain stem and malformed hemispheres. Anencephalic fetuses are never capable of long-term survival. Delivery of such a baby carries a high risk of hemorrhage and extreme trauma for the mother. Bringing such a baby into the world is not a wise use of health-care resources.

In such cases, I believe that abortion would be morally the right course of action. The anencephalic human organism will never have a rudimentary first-person perspective and will never come to constitute a person. Even Ford, who still counsels against abortion, agrees that such a fetus "will never be able to express rational activities." But Ford holds that a fetus with "anencephaly is a human individual with a rational nature on account of a divinely created immaterial soul or life-principle and who, due to a malformed cortex and brain damage, will never be able to express rational activities."[66]

The point is this: If (O) were false[67]—if abortion were morally impermissible on the grounds that a fetus is a person—then morally speaking, there could be no exceptions to the prohibition of abortion in the case of anencephaly, or in the case of rape or incest, or in the case of saving the pregnant woman's life. None of these considerations would be relevant to allowing abortion. (That most abortions have nothing to do with these extreme circumstances is irrelevant to the logical point.) Thus, another reason to welcome (O) is that (O)—unlike its denial—allows consideration of morally relevant circumstances in deciding about an abortion.

The third reason that (O) is helpful in thinking about abortion is that abortion is a complex issue, and (O), unlike the denial of (O), allows the complexity to be recognized. For example, who should make decisions about abortion? If (O) is denied, there is no moral room for decisions about abortion to be made by anyone. Given (O), the following line of thought is available (though not forced upon one):

It is reasonable that, in *any* decision, whoever will bear the burden for the effects of the decision should have control over making it. The ultimate bearer of responsibility for having a baby is primarily the pregnant girl or woman, and to a lesser extent her sexual partner, her doctor, and other caregivers whom she may call upon for help.[68] A new person does not come into existence until the fetus develops a rudimentary first-

[66] Ford, *The Prenatal Person,* 95–96.

[67] Thesis (O) is false if and only if either a fetus is not an organism, or a fetus is a person. I shall assume that those who deny (O) do not deny that a fetus is an organism, but rather hold that a fetus is a person.

[68] Those who urge ill-prepared pregnant girls not to have abortions seem to melt away when the baby actually arrives; their concern for human life, as many have pointed out, seems to stop at birth.

https://doi.org/10.1017/S0265052505052027 Published online by Cambridge University Press

person perspective, perhaps at birth, perhaps shortly before birth at the earliest.[69] Since fetal development is a gradual process, the closer the fetus comes to developing a rudimentary first-person perspective, the more cautious someone considering abortion should be. So, as long as we can be sure that there is no rudimentary first-person perspective—up through, say, the second trimester of pregnancy—the decision to abort should be in the hands of the pregnant girl or woman and her allies.[70]

This line of thought leads to individual choice about matters of great personal importance and intimacy, but not to moral relativism. There is an analogy here with religion. We may tolerate individual religious choice, while not advocating religious relativism. One can be convinced that someone else is wrong on a vitally important matter, without feeling justified in interfering with her decision. Thesis (O)—the thesis that a fetus is not a person—allows (but does not require) individual moral judgment and tolerance for others' moral judgments about their own lives.

Thus, there are three important differences between the thesis that a fetus is not a person—(O)—and the denial of (O). First, (O) allows but does not require giving precedence to the concrete and particular (actual pregnant girls and women) over the abstract and general (the idea of life considered in isolation from anyone's actual experience of life). The thesis that a fetus is a person does the reverse. Second, (O) allows but does not require attending to the moral significance of the circumstances of a pregnancy. The thesis that a fetus is a person renders those circumstances morally irrelevant. Third, (O) allows but does not require individual moral judgment and tolerance for others' moral judgments about the most intimate details of their own lives.

To sum up this section: The constitution view, which is supported by arguments that have nothing to do with abortion,[71] implies that a fetus before development of a rudimentary first-person perspective is not a person. This section gives reasons to welcome this consequence. The overall reason to welcome it is that it opens the door to discussion of

[69] Although a fetus may be sentient early on, it seems unlikely that it has a capacity to imitate or that it behaves in ways explainable only by attribution of beliefs, desires, and intentions until birth or shortly before birth. Thus, even in the absence of empirical research, I think it is safe to suppose that the requirements of a rudimentary first-person perspective are not met until birth or shortly before birth. I am not arguing from any attitude toward abortion of nearly full-term fetuses to a conclusion about the ontological status of the fetus. The thesis about the ontological status of the fetus—that a fetus before development of a rudimentary first-person perspective is not a person—follows from the constitution view, which was developed quite independently of these issues.

[70] The reason that one may want to leave the state out of these decisions until there is a rudimentary first-person perspective is that laws limiting abortion are made by legislatures and upheld at times by courts filled with people who sincerely believe that women find fulfillment in being subordinate to men. A compassionate public policy would not leave the fate of women and girls who get pregnant in the hands of such people.

[71] See my *Persons and Bodies*.

https://doi.org/10.1017/S0265052505052027 Published online by Cambridge University Press

the considerations that I mentioned. If abortion were the killing of an innocent person, then none of the considerations that I mentioned—anencephaly, rape, incest, the pregnant person's suitability for parenthood, or the others—would even be relevant to the morality of abortion. There would be nothing to argue about. Putting aside the view that the fetus is a person is a necessary condition for discussion of the morality of abortion in various circumstances.

VIII. Conclusion

The constitution view of human persons is part of a comprehensive picture of the material world. It holds that human persons are constituted by bodies (i.e., organisms) without being identical to the constituting organisms. Such an account does justice both to our similarities to other animals and to our uniqueness. Moreover, I have argued that the constitution view is superior to biological animalism, Thomistic animalism, and other forms of substance dualism. According to the constitution view, a human person comes into existence when a human organism acquires a rudimentary first-person perspective. The onset of a first-person perspective marks the entry of a new entity in the world.

The constitution view has one important consequence for thinking about abortion. The consequence is that, for principled reasons that have nothing specifically to do with abortion, a fetus is not a person.[72] Just as a hunk of marble is in an ontologically distinct category from a statue, so is a fetus in an ontologically distinct category from a person. Thus, the constitution view gives one an *ontological* reason to deny that the fetus is a person. Anyone who takes it to be morally abhorrent to force a rape victim to bear the rapist's child has in addition a good *moral* reason to deny that the fetus is a person. Anyone who believes that there is even a possibility of morally relevant differences among pregnancies should welcome the thesis that follows from the constitution view: A fetus is not a person.

Philosophy, University of Massachusetts, Amherst

[72] Nor, of course, is an embryo a person. Thus, any argument against embryonic stem cell research that presupposes that an embryo is a person is also unsound.

https://doi.org/10.1017/S0265052505052027 Published online by Cambridge University Press