A Thesis

entitled

Consciousness and the Demands of Personhood:
Intersubjectivity and Second-Person Ethics

by

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This thesis argues that “person” is not a natural kind—it is not a kind at all. Instead, personhood is a mode of experiencing each other rooted in the structure of our consciousness; personhood is fundamentally relational. I begin with a survey of the prevailing theories of personhood, giving special attention to the history and development of the concept of genetic personhood. Next, I bring insights from developmental psychology, ethnography, and evolutionary anthropology to elucidate the connection between intersubjectivity and personhood. To further develop and support a concept of relational personhood, I combine these insights with a philosophical approach that includes feminist philosophy, phenomenology, and philosophy of mind. With the help of philosophers including Annette Baier, Beata Stawarska, Christine Korsgaard, and Jean-Paul Sartre, I show how the second-person experience is the experience of intersubjectivity, and how it informs our intuition that beings exist that can be wronged. I conclude by examining the implications of a relational understanding of personhood for bioethics, with special attention to questions involving the moral status of human fetuses and non-human animals.
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Chapter 1

Who Counts?

1.1 Personhood Conceived

When Deleuze and Guattari ask “What is Philosophy?” part of the answer, which we have known all along, is that “philosophy is the art of forming, inventing, and fabricating concepts” (2). We need concepts in order to work on our most difficult problems. The concept of “person” is one of the tools philosophy has fashioned to try to circumscribe the world of moral concern: everything inside the circle deserves compassion, respect, and protection. What falls outside the personhood boundary can be used and destroyed, but cannot be wronged. We may have practical considerations toward the universe of nonpersons, but we only have moral obligations toward persons.

Why draw a line at all? Why not err on the side of caution and treat everyone and everything with love and respect? One possible answer is that love and respect cannot coexist with exploitative, but extremely common, practices like forced labor, child labor,
and factory farming.¹ Many of our basic material needs, especially for food and clothing, are satisfied via modes of production that involve suffering on a truly unimaginable scale. As consumers, we have the luxury of not having to know exactly how these shoes or that cut of meat came to be. Producers, presumably, are in closer contact with the processes they own. Satisfying demands and making profit require an ontology flexible enough to accommodate the use of people and animals in abhorrent conditions.

Whether exploiter or exploited, consumer or consumed, all living beings have an interest in avoiding pain, or, at the very least, in staying alive. Conflicting interests demand adjudication, and a civilized society requires the ability to justify its choices. Excluding beings from the category of person makes it possible to rationalize exploitative treatment, which, of course, only becomes necessary if the beings in question appear to have feelings and desires that might render their misuse morally suspect. Conversely, extending the category of personhood to include entities, such as fetuses and corporations, that do not have any discernible feelings or desires provides them with a presence in moral equations, endows them with interests, and legitimizes the weighing of those interests against those of other persons.

In the last forty years, the debate over abortion has driven most of the personhood discussion within ethics and bioethics, and in the larger culture. Assisted reproductive technologies such as in vitro fertilization and pre-implantation genetic diagnosis, along

with advances in embryonic stem cell research, have added greater complexity to the question of the moral status of the fertilized ovum. While the beginning of life poses seemingly irresolvable questions about personhood, modern medicine’s ability to forestall death complicates our moral calculations at the other end of life as well. Do patients in a permanent vegetative state or with severe dementia lose their personhood? If so, how, and how might that affect our moral obligations toward them?

The way we apply the concept of personhood to specific bioethical problems cannot be separated from the social and political contexts within which these problems arise. A thorough discussion of abortion and personhood, for example, cannot be carried out without acknowledging that the question itself arises in a context of deep and persistent social, economic, and political inequality between the sexes. One indication, and by-product, of that inequality is the fact that the vast majority of fetal personhood discourse presupposes what it ought to be proving: the ethical and ontological independence of the fetus from the woman carrying it. The woman is erased, incidental, and the fetus is contemplated as if were growing by itself in thin air. Justice requires, as political scientist and reproductive rights expert Rachel Roth points out, that “[g]ender [not] be submerged as a category of analysis when investigating the politics of fetal rights” (8). So too, the pregnant subject cannot be suppressed or ignored in the analysis of fetal moral standing—if the interests of justice and equality are to be served. As we investigate different conceptions of personhood, their philosophical implications and bioethical applications, my strategy will be to keep the relevant categories of analysis in

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constant use, since the subjects this thesis addresses are intimately connected with issues of gender, race, and class.

Throughout this work, I use the term “person” to refer to a being with moral status or standing. While I think it is possible that personhood might not cover all the beings who deserve moral consideration (a point I will return to in Chapter 3), I take it as axiomatic that no being designated as a person is without moral status. Like philosopher and bioethicist Ruth Macklin, I understand the term “person” to be a normative concept. However, I disagree with her conclusion that its prescriptive nature obligates us to consider personhood either a “matter of decision [or] a matter of discovery” (41, original emphasis). As Macklin herself admits, if personhood is reckoned by decision—whether political, moral, or religious—we are left with utterly irreconcilable opinions and a shifting, unstable basis for ethical decision-making. To approach it as a matter of discovery, on the other hand, requires us to identify which particular empirical facts are important, and, as Macklin points out, “the particular scientific data selected as relevant reflect particular antecedently held views about personhood” (55). I hope to show that personhood is neither invented nor discovered, but is instead the cultivated result of particular types of relations.  

To understand how cultivation affords us conceptual options that decision and discovery do not, it will help if we first examine the prevailing views on personhood.

In their canonical *Principles of Biomedical Ethics*, Tom Beauchamp and James Childress reject personhood as a useful category for bioethical application. “What counts

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3 In one of our many conversations in the fall of 2005, Dr. Madeline Muntersbjorn introduced me to the option of cultivation (versus invention or discovery) in the context of mathematical truths.
as a person,” they caution, “seems to expand or contract as theorists construct their theories so that precisely the entities for which they advocate will be judged to be persons” (69-70). Even if we avoid the term “person,” the very core of bioethical reasoning requires that we delineate who deserves “the protection afforded by moral norms...principles, rules, obligations, and rights...” (Ibid., 68). For Beauchamp and Childress, an entity that merits such protection has moral status. They identify five theories of moral status, none of which is adequate on its own, but which, taken together, they believe cover the main points we need to consider when evaluating who deserves moral consideration.

Beauchamp and Childress’s five theories of personhood fall into three main groups, which I identify as genetic, cognitive, and relational. Genetic accounts grant moral status to those who posses human DNA, or attributes unique to the possessors of human DNA. The cognitive theories regard characteristics we associate with consciousness to be essential for personhood. From the most stringent demand for higher-order reasoning skills, to the requirement for mere sentience, the cognitive theories emphasize the importance of mental properties for determining who is worthy of moral consideration. Relational theories, according to Beauchamp and Childress, consider moral worth to derive from interpersonal relationships. In the coming sections, we will examine genetic, cognitive, and relational theories of personhood. Since cognitive views are fairly well-trodden territory for philosophers, and since I devote the next chapter to my own interpretation of relational personhood, my account of these theories in this chapter will be comparatively brief. My main goal in this section is to trace the development and deployment of the concept of genetic personhood, to offer an
archaeology, in the Foucauldian sense, of an idea that maintains a prominent and secure place in our culture, despite its inglorious origins as an instrument of racist and sexist domestic policy. The history of the idea of genetic personhood is a remarkable example of how, in Foucault’s words, “scientific knowledge is diffused, gives rise to philosophical concepts, and…how problems, notions, themes may emigrate from the philosophical field where they were formulated to scientific or political discourses” (1972, 137). The history of genetic personhood shows how elements of philosophical concepts, like normativity and justice, and of scientific knowledge, like genetics and evolution, served the political need to formulate a new answer to the question, “Who counts?”

1.2 Genetic Accounts

The first approach to moral status is based on membership in the species *Homo sapiens*; being a person is a fact discoverable in a being’s DNA. On this approach, “life begins at conception” and “personhood begins at conception” mean the same thing; to say the fertilized ovum is alive is to say that it is human and a person. On the most literal genetic view of moral status, what makes a human being a person is no less present in a 24-hour-old zygote than a 24-year-old graduate student, which makes the intentional killing of either equally immoral. While some holders of the genetic view believe that the zygote or fetus derives its moral standing from the uniquely human capacities or characteristics it has the potential to actualize, others hold that moral status is bestowed on the basis of the fetus’s genetic uniqueness.
A prominent promoter of the latter view in the U.S. today is the National Right to Life Committee (NRLC). The NRLC was founded with the financial backing of the National Conference of Catholic Bishops to combat the trend toward the liberalization of abortion laws that began in 1967 (Karrer 533). While a 1980 survey found the overwhelming majority of its members to be church-going Christians (mainly Catholic), the Committee does not advertise any religious affiliation. In fact, by the end of the 1990s, the NRLC was publicly rejecting the “media myth” that theirs was a “‘religious’ movement.” The foundation of their anti-abortion stance is the belief that personhood is created when human gametes merge at conception. The resulting zygote is endowed with the same “unalienable right to life” that all human beings possess (Gans and Balch 5). The NRLC instructs its members to tell people who question their definition of personhood that, “When a woman is pregnant, science tells us that the new life she carries is a completely separate and fully new human being from the moment of fertilization” (Gans and Balch 5, my emphasis). The Committee urges supporters to resist having fetal personhood dismissed as “merely a ‘religious’ issue” (Ibid. 10). The answer to any “pro-abortion” argument “begins and ends with the irrefutable scientific fact that at the moment of fertilization two separate cells form one new life, genetically distinct in every way from every other human being on earth” (Ibid.).

Promoting itself as a secular organization, and basing the idea of fetal moral status on biology instead of theology allows the NRLC not just to appeal to a wider audience, but to lay claim to a universally valid definition of personhood based on “scientific fact.”

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4 See Grandberg, 159.
One problem with this approach, however, is that by suppressing the premises that could explain the *moral significance* of human genetic uniqueness, the NRLC position logically leads us to question why personhood is not extended to the genetically unique offspring of every creature that reproduces sexually. To put it another way, why is genetic uniqueness only meaningful in *Homo sapiens*? As we will see below, some proponents of genetic personhood avoid this problem by positing the potential for uniquely human characteristics, such as rationality or normativity, as the relevant value, rather than uniqueness *per se*.

While the idea that “life begins at conception” is a commonly held Christian view today, the idea did not gain significant traction until the middle 19th century, and it was driven, not by religious leaders, but by the newly-formed American Medical Association.\(^6\) Prior to this time, “ensoulment” or “animation” was thought to take place more or less on Aristotle’s schedule: 40 days for male fetuses and 80 or 90 days for females (Tong 109, Cahill 31, Schroedel 1). Common law set the relevant demarcation at the “quickening,” or the time the woman first feels fetal movement in her womb (Reagan 8). Ending a pregnancy prior to the quickening was not considered a crime, and was instead often referred to in terms of “restoring the menses” (*Ibid.*).

The fetus became personalized and abortion criminalized in a perfect storm created by the social, political, and economic turmoil of Victorian America, combined with new discoveries and scientific theories and techniques that opened the processes of

\(^6\) See Reagan 8-14 and Reiman 22-31.
reproduction and development to what Michel Foucault calls “the medical gaze.” As the embryo was becoming an ontological subject, it was already the subject of study and intense disagreement in the scientific community. With the discovery of the mammalian ovum by Karl Ernst von Baer in 1827, coupled with advances in cell theory and the widespread use of the microscope, science came to understand that (if not entirely how) male and female gametes combined to form a new individual. Prior to being “materialized as a scientific specimen with physical substance” (Dubow 11), whatever existence the fetus had, it was as a part of the body of the woman who was carrying it. Interestingly, just as science and medicine were converging to individuate and separate the fetus, the law was maintaining its inseparability from the woman. The first attempt to sue for the wrongful death of a fetus was rejected by the Supreme Court of Massachusetts in 1884—precisely on the grounds that the fetus was not a separate person whose death was actionable (see Dubow 22).

State-of-the-art medical care at the beginning of the 19th century involved brutal “heroic” techniques for exorcising illness—through purging, sweating, blistering, and blood-letting (M. Kaufman 2-4). These ineffective, debilitating, and often deadly, treatments sent many patients in search of alternatives. The medical profession at mid-century was divided between the elites, who were the university-educated “regulars” or practitioners of orthodox medicine, the regulars, who were either self-taught, had served

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7 See The Birth of the Clinic, especially the section in chapter 8 on anatomist Marie François Xavier Bichat and the way in which the visualization of tissues from the resurrected process of necropsy helped bring about a new conceptual organization to medicine. One of the interesting outcomes of this metamorphosis was that the gaze became trained on the morphology and activity of tissues, while the person they belong to receded into irrelevance. While Foucault’s focus was related to disease and decomposition, I think a very interesting parallel analysis can be made about fertilization and embryonic development.

8 For a history of the questions and the debate between preformationists and epigenicists, see Dubow, 11-13 and Van Speybroeck, et al. For a look at the same issues that predates the identification of DNA, see C.M. Jackson’s JAMA article from 1921.
apprenticeships, or had attended inferior institutions, and the “irregulars,” who were homeopaths, herbalists, and other sectarian healers (Knoll 341-3). In 1846, to consolidate their power and protect their profession against the others, the elites organized into the National Medical Association, which changed its name in its second year to the American Medical Association (Ibid. 344).

Along with homeopaths, the irregulars most feared and despised by the AMA were midwives. Prior to the Civil War, midwives commonly attended to the needs of pregnant women: assisting in births, dispensing abortion-inducing preparations, and performing instrumental abortions (Pence 81, Conrad 172). The orthodox physicians disliked the competition for the paying segment of the shrinking maternity market, and they sought to “discredit midwives and encourage women to abandon their care in favor of the growing profession of obstetrics” (Craven 29). This professional power-grab occurred as the nation was struggling with the falling birthrate among educated middle-class white women and an abortion rate “estimated by at least one physician to be as high as 20 to 25 percent of pregnancies” (Ibid.).

While midwives were not the only people performing abortions, the AMA particularly demonized them for contributing to the shrinking white Anglo-Saxon Protestant population (Ibid.). One Michigan doctor decried the ‘truly appalling’ practice that, left unchecked, would cause the ‘Puritanic blood of ’76 (to) be sparingly represented in the approaching centenary’ (qtd. in Solinger 69). According to historian Sara Dubow, “European-American fertility rates declined from 7.04 children in 1800 to 3.56 children in 1900” (20). While white Protestant women were opting out of motherhood, other women were not. According to historian Leslie J. Reagan, “Hostility to immigrants,
Catholics, and persons of color fueled this campaign to criminalize abortion. White male patriotism demanded that maternity be enforced among white Protestant women” (11). Antiabortion crusader Dr. Horatio Storer was very plain: ‘The great territories of the far West, just opening to civilization…offer homes for countless millions yet unborn. Shall they be filled by our own children or by those of aliens?...This is a question our women must answer. Upon their loins depends the future destiny of our nation’ (qtd. in Dubow 21).

Concurrent with its racially-motivated campaign to illegalize abortion, the AMA set about destroying the professional credibility of midwives and ensuring that women physicians were educated separately. After the Civil War, the AMA refused to admit women, as well as practitioners from racially integrated medical societies (M. Kaufman 77). Professional women were reviled by many male colleagues, but even more generally in 19th century American culture for being “over-educated…self-seeking spinsters who threatened the supremacy of the Anglo-Saxon race by forsaking their maternal duties” (Buhle 171). Physicians contributed their opinion that females’ education—not the world of choices it opens, but intellectual activity itself—was responsible for poor fertility (Smith-Rosenberg and Rosenberg 340). Harvard Medical School professor Edward Clarke warned the public that educating post-pubescent females would "divert ‘force to the brain’ which was necessary in the ‘manufacture of blood, muscle, and nerve, that is, in growth,’” resulting in "women with ‘monstrous brains and puny bodies…weak digestion…and constipated bowels'” (Barlow and Powell 103).

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9 For more on segregated medical education, see Barlow and Powell.
Despite these dire warnings, by mid-century, middle class women were leaving the home to pursue education and employment opportunities, to organize temperance leagues, and to agitate for equal rights, birth control, and the right to vote, as well as an end to slavery and vivisection. At the same time, working class women were organizing in the factories for better wages, hours, and working conditions. As historian Rosalind Rosenberg observes, “the social and economic developments of an industrializing country…[threw]…the limits of the female sphere” into question (141-2). Women were establishing themselves in the public sphere at the very moment in history when their reproductive services were in the greatest demand.

The salvation of the white race seemed clearly incompatible with “voluntary motherhood,” especially as many potential volunteers were becoming otherwise occupied. The AMA’s creation and promotion of the doctrine that life begins at conception was a partial answer to both the population problem and the Woman Question. The physicians’ campaign to criminalize abortion coincided with changes in medical theory and practice that allowed them to put down the lancet and the mercury and begin to build a measure of professional credibility and cultural authority previously unattainable. The advances of germ theory, cell theory, genetics, and embryology gave orthodox medicine the scientific foundation it was lacking, and also sharpened the contrast between it and the “irregulars” who put more trust in experience than in theory.

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10 See Buettinger, Buhle, Ryan 181-191, and Freedman for details on women’s construction of a political, social, and sexual identity in opposition to, and sometimes in concert with, the dominant cultural narrative of the feminine ideal.
12 See Whorton 10-14, and Rogers 35-7.
In the new intellectual climate of detachment and objectivity, the woman’s subjective experience of the quickening became irrelevant, dismissed as mere ‘sensation’ (Reagan 12). The first experience of fetal movement, the concrete beginning of what Iris Marion Young calls the “privileged relation to this other life” (163), lost its status as a demarcation point because knowledge of the quickening belonged exclusively to the woman in whose uterus it was occurring. Rather than discovering and diagnosing the condition himself—deciphering the data on her body and reading them back to her—the physician had to rely on her report. Giving credence to the subjective impressions of patients was the preferred strategy of the homeopath.\footnote{One of the reasons for homeopathy’s popularity at the time was the trust its practitioners placed in their patients’ unpressured reports of their own sensations. See Hahnemann, 86 et passim.} In the new medical paradigm, privileged information belonged only to the physician. Denying the significance of the quickening served “to erase the distinctions between earlier and later stages of pregnancy…” (Reagan 13), which allowed the conclusion that abortion at any stage of pregnancy was equally wrong. From the “objective” standpoint of the physician, a one-day old embryo was the same as a 5 month-old fetus; any experience of a woman to the contrary was dismissed as irrelevant.

The idea that moral status begins at conception has its adherents in the academy. One classic text is jurist John Noonan’s 1970 tract *An Almost Absolute Value in History*. Noonan’s position is that to have moral status is to be human, and all that requires is being “conceived by human parents” (51). He argues that, “if a fetus is destroyed, one destroys a being already possessed of the genetic code, organs, and sensitivity to pain, and one which had an 80 percent chance of developing further into a baby outside the
womb” (*Ibid.* 57). While Noonan’s calculation of the probability that any given zygote would develop into a “reasoning being” has problems, both logically and factually, it is interesting to note that the valued product at the end of the calculation is not simply an organism with *H. sapiens* DNA, but “the biological carrier of the possibility of human wisdom” (*Ibid.*).

As Beauchamp and Childress point out, the appeal of the genetic theory of moral standing is its inclusiveness (68). Even if the theory is ultimately underwritten by the value of a particular human characteristic, like wisdom or rationality, no carrier of human DNA can be denied personhood—even for failure to manifest the valued characteristic. On the other hand, denying moral status to any nonhuman being that displays rationality (or other morally-valuable characteristics) simply on the basis of species membership they find “baseless and prejudicial.” Beauchamp and Childress also raise, as an objection to the genetic theory, the possible ambiguous moral status of beings that contain some human DNA (*Ibid.*). In addition to these human-animal hybrids, robots and extraterrestrials could also conceivably display reason and compassion and the ability to suffer, so it seems that excluding them from personhood out of hand requires some justification.

Cases of cyborgs and aliens aside, we do have reason to question the fairness and logic behind denying moral status to nonhumans, simply because they are not members of our species. I count three possible ways of justifying genetic personhood: 1) humans

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14 Noonan bases his case on the “sharp shift” in the probability between any given sperm’s chance of becoming a reasoning being (1 in 200 million) and the 8 in 10 chance he gives the fertilized zygote. As Clune (288) and McMahan (305-8) both point out, the gamete has zero chance of becoming a reasoning being because it ceases to exist as such once it combines with the other gamete to form the zygote. Also, recent data suggest that the actual probability of a fertilized ovum surviving to live birth is closer to 3 in 10 (Macklon, et al.)
are endowed by a supernatural creator with personhood status that belongs exclusively to members of *H. sapiens*, 2) the very fact of humankind’s dominion over the rest of the animal kingdom *proves* both genetic superiority and the appropriateness of, for example, utilizing animals for our ends, and 3) moral status is ultimately assigned on the basis of morally-desirable, genetic characteristics, which are only displayed (or potentially displayed) in *H. sapiens*.

The first, a religious view of genetic moral status, is an influential part of the American folk view of personhood, but it requires the acceptance of premises that do not resonate with people outside the Judeo-Christian tradition (nor, probably, with everyone inside). Since my goal is to interrogate thoroughly the concept of personhood, and since dogmatic views do not, by definition, lend themselves to the sort of analysis I am interested in, I will not focus on specific religious views, except to note their influence where appropriate.

The second view, just as dogmatic as the first, is essentially that might makes right. Superior intelligence both allows and justifies humanity’s rise to a position of dominance over the rest of the planet. In its starkest and crassest form, the idea has little appeal. But, as we will see below, many cases for human-only personhood that do not reference a supreme being ultimately rest on the circular idea that what justifies human choices is the fact that we possess the ability to justify our choices. This view is part of a category of beliefs sometimes referred to as “human exceptionalism,” which professes the twofold purpose of promoting equality among all humans and justifying the
“humane” use of animals to meet human needs. One of the factors motivating the view that all and only humans deserve moral consideration is that, without such a view, we cannot guarantee equal right for all humans, which leaves the door open to atrocities like genocide and slavery.

Concern for universal human rights also motivates the third view of genetic personhood, one proponent of which is philosopher S. Matthew Liao. He argues that a being derives its moral status from its genetic capacity for moral agency, wherein moral agency is the “capacity to act in light of moral reasons” and the genetic basis for this capacity is the “set of physical codes that generate moral agency” (164). Liao considers his account to guarantee the moral status of all humans, regardless of whether or not they actually become or remain moral agents. His account departs from the human exceptionalist version of genetic personhood, in that he considers possession of the genetic basis for moral agency to be sufficient, but not necessary, for moral status, which means he is not excluding out of hand any other species from possible personhood.

Liao’s view cannot be fully appreciated without some discussion of the concept of “speciesism,” which was popularized by Australian ethicist Peter Singer in his 1975 work *Animal Liberation*. As the name suggests, speciesism is “a prejudice or attitude of bias toward the interests of members of one’s own species, and against those of members of other species” (1975, 7). The concept has gradually gained attention in the intervening decades, but it might be overstating things to say, as Wesley Smith does, that sensitivity to speciesism has become “the mainstream view” in secular bioethics, philosophical

15 For a fairly recent explanation and defense of human exceptionalism, see bioethicist Wesley J. Smith’s *A Rat Is a Pig Is a Dog Is a Boy* (2009).
16 See Adler, 263-5.
materialism, (and) environmentalism…” (20). It has, in any case, prompted some ethicists, Liao included, to make an effort to honor what Liao calls the Species Neutrality Requirement.\(^{17}\) To meet the requirement, an account of personhood or moral status (or rightholding, as Liao prefers\(^ {18}\)) “must provide some criterion for rightholding that in principle does not exclude any species and where the criterion can be assessed through some objective empirical method” (160). Liao believes that he meets the first requirement because any species could be eligible for moral status if its members are found to possess the genetic makings for moral agency (168). His theory meets the second requirement, in that the gene(s) for moral agency is an “identifiable, actual, physical attribute”—even if science cannot yet tell us precisely where to find it (Ibid.).

Liao’s account assumes, of course, that the capacity for moral agency is genetic. Given all the variability we find in human societies, past and present, and given that some notion of normativity appears to be common to all of them, then it does seem reasonable to look for the origin of moral capacity in our biology. Certainly, the specific content of any given moral system can be analyzed as a cultural construction, but the universality of normativity itself points to something in our cognitive structure that makes “acting in light of moral reasons” part of what it means to be human. Further, as Liao points out, the fact that most children develop the psychological building blocks of moral reasoning—rationality and empathy—on a fairly predictable timetable is a strong indication that those cognitive mechanisms are innate (164). As we will discuss in more detail in the next

\(^{17}\) Liao references *Abortion* by Joel Feinberg and Barbara Levenbook as the source of the Species Neutrality Requirement (160 n4).

\(^{18}\) For Liao, rightholding is the same as personhood, about which he says, since it is “a stipulation, nothing substantive follows from it” (161 n7). I would argue that something quite substantive follows from the assumption of radical individualism that rightholding implies. I will return to this point in the next chapter.
chapter, most babies are, in fact, born with the ability to engage intersubjectively with others, which some begin to manifest within hours of birth.\textsuperscript{19} If interpersonal communication is a prerequisite for moral agency, and if babies are born ready to participate, then ascribing a genetic basis for the capacity for moral agency seems quite reasonable.

Liao’s account of “rightholding” does satisfy the criteria he set out for himself. He considers it inclusive of all humans, since those who fail to develop moral agency in virtually all cases possess the necessary genes; it is only due to disease or trauma those genes fail to activate. His account also grants moral status to humans whose capacity for moral agency has been compromised or destroyed by disease or trauma, because it is their phenotype that is altered, but not their genotype. His account also does not automatically or by definition exclude other species from having moral status. But since we cannot, as far as I know, confidently posit a genetic basis for moral agency for any beings other than humans, it seems that Liao’s avoidance of speciesism is a technicality. He does point out, however, that “since the genetic basis for moral agency is only a sufficient condition for rightholding” other species and beings who may qualify for personhood in some other way do not have to be excluded (168).

At this point, we can review the main points of genetic personhood before moving on to the other theories. There are two different axes of analysis we need to take into account. The first is whether personhood automatically resides in a human zygote because it is the result of the genetic fusion of human gametes, or whether personhood is automatically established on the basis of the potential personhood-conferring attributes

\textsuperscript{19} See Trevarthen and Aiken, p. 7.
that a zygote possesses in virtue of its chromosomal make up. As we have seen, the official National Right to Life position appears to be the former, while John Noonan references the eventual manifestation of attributes like wisdom and reason to justify his claim that morally considerable life begins at conception. Even though he declines to discuss the ramifications, Liao does allow that his account “will imply that fetuses and embryos are rightholders since they are human beings…” (163). On this first axis, then, the decision to be made is whether human DNA is valuable in itself, or valuable for what it can produce.

On the other axis is the question of whether human DNA is necessary for personhood, sufficient for personhood, or both. Liao explicitly believes it is only sufficient, while Adler and the human exceptionalist camp believe that it is both. As alluded to above, the argument for making genetic humanity both necessary and sufficient for moral status is that allowing any other species into the circle has to be done on some basis (e.g.—sentience), and that once there are admission criteria, we place ourselves in the position of being able to exclude humans who do not meet the criteria. As Wesley Smith says, paraphrasing Adler, “if we ever came to believe that humans do not all possess a unique moral status, the intellectual foundations of our liberties would collapse” (242, my emphasis).

Is this claim warranted? It seems the concern for the inclusion of all humans is addressed when, as Liao makes it, being human is sufficient but not necessary for moral status. I am tempted to suppose that one of the motivations for exceptionalism is the desire to justify the continued use of animals for food, clothing, transportation, entertainment, and research. Wesley Smith quite openly wants to preserve his steak
dinner and leather shoes (43), though he professes a deeper concern. The problem is actually that “granting sacred liberties to animals would degrade the importance of rights altogether, just as wild inflation devalues money” (243). To view this question through the lens of the marketplace is an odd choice, but I think it gestures toward a significant underlying concern: if animals have moral status, if they are admitted to have interests, then there will be no way to stop them from competing with humans when conflicts of interest arise. Smith and the exceptionalists want humans to “win” in every case, from satisfying the most trivial human desires for tasty food or nice upholstery, to securing the gains made by testing medical treatments and surgical techniques. The only way to avoid competing for consideration is to place all nonhumans in the category of beings that do not have moral status, and make belonging to *H. sapiens* not just sufficient, but necessary, for personhood.

The second group of theories of moral status is the most familiar to philosophers. These theories base personhood on the possession of certain cognitive properties, like rationality and self-awareness. They overlap with the genetic theories inasmuch as most of the characteristic(s) identified as qualifying a being for moral status occur mainly, if not exclusively, in humans. Equating personhood with cognitive abilities is ingrained in the Western philosophical tradition, dating back to ancient Greece. In this section, I will bring together some passages and ideas that have helped shape Western notions of personhood. A brief survey such as this cannot possibly do honor to the individual philosophers, whose views on the questions I am examining here are unquestionably

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20 It seems especially odd in light of his criticism, 10 pages earlier, of columnist Ilana Mercer’s defense of NFL quarterback and convicted dog-abuser Michael Vick. When Mercer opines that animals are property and humans should not be interfered with in the disposal of the resources they own, Wilson adds rhetorically, “Perhaps, but should we really be reducing everything to market principles” (232)?
more subtle and complex than any snapshot can demonstrate. My goal is a modest one: to show that the way we value cognitive processes in general, and rationality in particular, has deep roots in Western intellectual history.

1.3 Cognitive Considerations

In the closing passages of the *Timaeus*, in his “account of the universe,” Plato tells us that the most precious part of our soul is that which “resides in the top of our bodies” (90a5).\(^{21}\) Our head is our ‘root,’ and we stand erect because we are suspended from heaven (90b1). Birds descended from “innocent but simpleminded men” (91d10), and those creatures—descended from those “who had no tincture of philosophy” (91e4)—whose crania took on an elongated shape from lack of use, they were given extra feet and situated closer to the ground (92a2-4). Next, the “most mindless” land animals were just put directly on the ground, with no feet at all (92a5-b1). Finally, we have the water-dwelling animals, which “came from those men who were without question the most stupid and ignorant of all” (92b2-3). “Their justly due reward for their extreme stupidity is their extreme dwelling place” (92b8-c1). According to Plato, this process is ongoing, whereby beings “exchange their forms…and in the process lose or gain intelligence or folly” (92c3-4).

For Aristotle, reason is essential to the good life. In the *Nichomachean Ethics*, he tells us that “…human good turns out to be the activity of the soul in accordance with virtue…” (1098a15), where virtue is “a state of character concerned with choice, lying in a mean, i.e., the mean relative to us, this being determined by the rational principle, and

\(^{21}\) Credit for identifying the relevance of this dialogue and particular passage belongs to Tim Stainton.
by that principle by which the man of practical wisdom would determine it” (1106b36-1107a2). For Aristotle, the capacity for “reason, reasoning, thought, intellect, [and] belief” is what separates man from the animals (Stainton 453). Not only do animals fall short in Aristotle’s view, but so do many people, owing to natural defects in their reasoning, especially their abilities to deliberate and decide. In the Politics, he writes, “the deliberative faculty in the soul is not present at all in a slave; in a female it is present but ineffective, in a child present but undeveloped” (1260a10-12). The rational ideal, according to philosopher Marcia Homiak, “suggests that the best human life and a moral life is available only to those who engage in the kind of rational reflection necessary to determine properly how to live” (2).22

From ancient times to modern, philosophers have considered intellectual abilities not just highly desirable, but an essential part of what it means to be fully human. This tradition was continued in the philosophy of John Locke. In An Essay Concerning Human Understanding, Locke considers a “person” to be “a thinking intelligent being, that has reason and reflection, and can consider itself as itself, the same thinking thing, in different times and places” (2.27.9). Further, person “is a forensic term, appropriating actions and their merit; and so belongs only to intelligent agents capable of a law, and happiness and misery” (2.27.26). Locke was aware that the proposition that “all humans are rational” was doubtful, especially since experience shows us that ‘children for some time and some men all their live times are not soe rational as a horse or a dog’ (qtd. in Mattern, 26). Still, even if we have to accept uncertainty about the definition of man as a

22 In her essay, Homiak makes an interesting case for reading through the apparent sexism and oppressiveness to a deeper appreciation of the scope and applicability of the rational ideal.
natural kind, Locke was more confident that we could identify “‘the moral man’ as I may call him, which is this immoveable, unchangeable idea, a corporeal rational being” (3.11.16).

Immanuel Kant is another modern philosopher for whom cognitive abilities are an essential part of moral personhood. In *Groundwork of the Metaphysics of Morals*, Kant calls non-rational beings *things*, with only instrumental value (428). “Rational beings, on the other hand are called *persons* because their nature already marks them out as ends in themselves. Persons…are not merely subjective ends…they are objective ends—that is, things whose existence is in itself an end… (*Ibid.*). Being an end means being a valued and valuing creature. Rationality provides the ability to deliberate, to choose an action according to values, rather than being governed by “instincts, desires, emotions, and attachments.”

As Christine Korsgaard puts it, “rationality, for Kant, is the capacity for normative self-government” (2005, 87). She interprets Kant as holding that “only beings who can make moral demands on themselves can make moral demands on each other, and therefore that only our fellow rational beings can give us obligations” (2009, 5). As we will see in the next section, Korsgaard makes a very compelling case for a different interpretation of our obligations as rational beings. For now, though, it is enough to note that the Kantian correlation of moral agency with moral worth, and of both with rationality, remains an influential conception of moral status.

Of the many contemporary views that equate personhood with the possession of certain cognitive capacities, a frequently cited account is the one laid out by Mary Anne

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23 See Korsgaard (2009), p. 5.
24 For example, see Abernethy, Baker (2008), Dennett, Frankfurt, Singer (1993, p 110-111), and Tooley.
Warren in *On the Moral and Legal Status of Abortion*. Warren lists five criteria she considers crucial to moral status: “consciousness,” “reasoning,” “self-motivated activity,” “the capacity to communicate,” and “the presence of self-concepts and self-awareness” (1973, 67). She does not claim that they are jointly necessary or individually sufficient, although she considers that the first two, perhaps even the first three, are probably both necessary and sufficient for personhood (*Ibid.*). According to Warren’s criteria, fetuses are not persons, and therefore not beings to whom we can sensibly ascribe full moral rights (*Ibid.* 68). One upshot of a fairly demanding list of properties is that newborn babies, the permanently unconscious, and humans with severe cognitive disabilities are not persons either, and so do not possess the full moral rights that persons have. Further, since the possession of human DNA is not one of the criteria, and since great apes and dolphins are both known, or strongly suspected,\(^{25}\) to possess the properties Warren considers constitutive of personhood, it seems that some animals, by this account, could have moral standing that some human beings could lack. Taken to its logical conclusion, a theory of moral status based on cognitive properties might sanction infanticide and euthanasia, and at the same time forbid the use of chimpanzees and dolphins for experimentation and entertainment. While some philosophers accept these conclusions,\(^ {26}\) I think it is safe to say that they do not resonate with the majority, inside or outside of philosophy. As a result, like human DNA, certain cognitive capacities may be *sufficient* for moral status, but it is hard to make a coherent case for their being necessary.

\(^{26}\) See for example, Singer (2010) and Tooley.
After genetic personhood and personhood based on cognitive properties is the third approach, which confers moral status on the basis of moral agency. For Beauchamp and Childress, moral agency entails the ability to evaluate actions morally and to act for moral reasons (74). Only moral persons are obligated to treat themselves and others as ends, because only moral persons are capable of meeting those obligations. Where symmetry and reciprocity are highly prized, personhood-as-moral-personhood has some appeal: a fair exchange between autonomous equals. The problem, of course, is that we are not all autonomous equals. We willingly engage in very asymmetrical relationships, most notably with our children, who are, at least for the first few years of life, not reliable moral agents, but whose moral status is beyond question. Besides babies and children, there are many other humans that for medical, psychological, or developmental reasons are not candidates for moral agency, but whom most of us are not willing to write off as being owed no moral consideration. When we move beyond our own species, no further than to our companion animals, many people have a strong intuition that we have moral obligations to nonhumans that are completely, and unproblematically, unilateral.

With the number of possible recipients of moral consideration outstripping the number of providers, it seems that moral agency, like rationality and membership in *H. sapiens*, is sufficient for personhood, but it cannot be necessary. The asymmetry between moral agency and moral worth underlies some philosophical discussion of the possibility of two separate meanings of “personhood”: moral and metaphysical. Metaphysical personhood is a broader class of “intelligent, conscious, feeling” beings (Dennett 146) or beings with “a first person perspective essentially” (Baker 2008, 3). While Tom

\[27\] See for example Beauchamp (1999) and Dennett.
Beauchamp upholds the distinction, he concludes that “metaphysical personhood does not entail moral personhood or moral standing and that personhood of either type is not the only basis of moral standing” (310). Dennett, on the other hand, argues, sensibly I think, that the concept of personhood, moral or metaphysical, is “inescapably normative,” and that “(t)he moral notion of a person and the metaphysical notion of person are not separate and distinct concepts, but just two different and unstable resting points on the same continuum” (163).

Some measure of this instability is avoided with the fourth theory, in which personhood is based on sentience. According to this theory, all a being requires to have moral status is the ability to feel, especially to feel pain and pleasure. This theory has its roots in the philosophy of Jeremy Bentham, who thought that the criterion for considering the interests of any beings in the calculation of the “greatest possible quantity of happiness” was not “Can they reason? nor, Can they talk? but, Can they suffer?” (310, 311 n1, original emphasis). Bentham saw that animals were obviously “susceptible of happiness,” but they, because their interests had been “neglected by the insensibility of the ancient jurists, stand degraded into the class of things” (Ibid. 310, original emphasis). Peter Singer is a high-profile example of a modern day Utilitarian whose scope of application of the Principal of Utility matches Bentham’s. Singer’s work, and some of the responses to it, provide a comprehensive picture of the advantages and drawbacks associated with the idea that sentience is both necessary and sufficient for moral standing.

The main advantage of the sentience theory accrues to those who, like Singer, want to make an ethical case against cruelty to animals. The fact that animals are capable of experiencing pleasure and pain means that they have interests, at least in attaining
pleasure and avoiding pain. Many animals have relationships and solve problems; they grieve and nurture, and, unless prevented, they actively pursue the satisfaction of their own needs and desires. If we object to the idea of depriving self-directed, conscious, feeling beings of all pleasure and comfort, and filling their lives with nothing but pain, boredom, fear, and frustration, then we are bound to consider practices like factory farming completely unethical. If, on the other hand, we want to continue benefitting from the practices that cause unspeakable suffering to tens of billions of sentient beings each year, Singer challenges us to come up with a non-circular justification for that position.  

While using sentience as a sufficient condition for personhood allows us to bring animals into the circle of moral consideration, it becomes problematic from two different angles if we consider it necessary as well (as Singer does). First, if sentience is necessary for moral status, then humans who lack it are less worthy of moral consideration than nonhuman animals that do not—a result that many people find unacceptable. Because Singer does not see any warrant for the claim that all humans have an inherent worth or dignity that makes them automatically morally superior to all other creatures, he ends up running afoul of some disability theorists, Catholic bioethicists, and, of course, promoters of human exceptionalism or human-centrism. 

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29 It should be noted here that, for Singer, being a person and having moral standing are not the same. His view of personhood is closer to Locke’s, whereas he views sentience as the only requirement for moral standing (see Practical Ethics, chapter 4). I think Eva Kittay, for one, overlooks this distinction and attributes to Singer a much more demanding view of moral status than he actually holds. He does not help matters by continually referencing the cognitive capacities of animals and comparing them to impaired humans in order to make his case for the moral worth of animals. See, for example, their papers in Kittay 2010, 331-344 and 393-413. 
30 For examples of objections by a disability theorist, see Kittay (2000 and 2010); a Catholic critique, Colosi p. 77-81; and see Wesley Smith and Richard Posner for the discussions from the “human-centric” position.
While some theorists consider his sentience criterion to make the scope of moral consideration too broad, Singer is also criticized by environmental philosophers for making the circle too small. According to Holmes Rolston III, Singer excludes plants, for example, from having moral status because they have no interests, no feelings: “nothing ‘matters’ to a plant; a plant is without minimally sentient awareness” (253). Because they lack sentience, they are unable to value anything, including their own continued existence. Rolston points out, however, that plants thrive, they benefit, they survive—and that these, in any other contexts, are value words. “Natural selection picks out whatever traits an organism has that are valuable to it, relative to its survival” (Ibid.). From Rolston’s perspective, “sentientism” is just as arbitrary and indefensible as speciesism. To define the verb “to value” in such a way that it requires consciousness is to beg the question, to assert what should be argued. Valuing something and knowing that one values it are two different processes. Only from a cognitivist or sentientist perspective is the awareness of valuing necessary for valuing to take place. Whereas Singer locates value in sentience, Rolston tells us that, “The planet as a self-organizing biosphere is the most valuable entity of all, because it is the entity able to produce all the Earthbound values” (266).

When we take into account those who want to guarantee moral consideration for all humans, irrespective of their level of consciousness, and those who want to expand profoundly the scope of entities to which we have moral obligations, the sentience criterion can be seen as nothing more than another sufficient condition for moral status. So far we have seen, using Beauchamp and Childress’s classification, that being human, possessing certain cognitive capacities, being a moral agent, and being sentient are all
properties that entitle their bearers to moral consideration. None is (uncontroversially) essential, but each one is sufficient on its own. This takes us to the final theory: the relational view of personhood.

1.4 Relational Concerns

Beauchamp and Childress define a theory based on relationships as one holding that “relationships between parties account for moral status, primarily relationships that establish roles and obligations” (79). On their interpretation, relationships do not create personhood; rather, they define or confer it. Their paradigm example of a moral status-conferring relationship is the one between patient and doctor. Certain norms, expectations, and obligations follow when people enter into such a relation, which do not necessarily obtain outside of it. They also talk about the less formalized bonds of caring, involving family, friends, and coworkers. “These relationships,” they say, “bring value to our lives, and moral obligations often arise from them” (Ibid.).

Given this interpretation, it is not surprising that Beauchamp and Childress find a relation-based theory of personhood deeply problematic. If moral value is relational, rather than something that inheres in the beings themselves, then they fear that beings without relations can be seen as having no value at all. Properties-based theories, as imperfect as they are, appear to at least lend a measure of objectivity to the determination of personhood. With a relations-based theory, on the other hand, a potential person can be granted or denied moral standing at the subjective whim of the community. Because of its subjective nature, relational personhood does not help us identify the category of beings who have moral standing; it does not help us delineate a kind. Accordingly, Beauchamp
and Childress find that a relational theory provides neither a necessary nor a sufficient condition for moral standing: not necessary because humans without relations still deserve moral consideration, and not sufficient because we can love things that do not, by virtue of our love, gain moral standing (81). They believe relational personhood can, at best, help account for varying degrees of moral status by explaining “how one gains or loses a specific moral right or obligation…” (Ibid.)

These objections are difficult to respond to for two main reasons. First, the unwelcome consequences they predict from subjective and/or community-based moral evaluation seem remarkably similar to the way things actually are. From embryos to death-row inmates to multinational corporations, the conferral or denial of moral status is always a group effort. Personhood, as this survey of theories suggests, does not point to a stable category of a kind. It is a concept that is at every step contested and shifting, because its ethical meanings and uses are inextricably bound up with its political, juridical, economic, and social meanings and uses. Relations do not muddy the waters that would otherwise run clean over autonomous persons; rather, relations are the shifting grounds out of which persons emerge.

The second problem is that Beauchamp and Childress’s version of relational personhood involves a serious underreading of the idea, aided by some equivocation on the idea of social relations. On their construal, relations function, weakly, as an attribute, something like self-awareness or moral agency, but without the force to make them sufficient for personhood. To demonstrate this insufficiency, they conflate familial relations with belonging to a “social matrix.” This equivocation allows them to move from failed family relations to societal rejection, and conclude, quite reasonably, that we
need a more solid basis for reckoning moral status. Beauchamp and Childress, at least in this argument, see relations as properties a being may possess (or lack). In the next chapter, I will defend a more robust version of relational moral status—one that considers the reality of personhood as something that emerges from interactive relations between subjects.
Chapter 2

Self and Other

As the preceding discussion shows, efforts to define personhood in terms of necessary and sufficient conditions are not successful, largely because there is no list of attributes that is both inclusive and exclusive enough. If the scope of inclusion were the only issue, we should be able to satisfy all concerns by adopting the broadest possible criteria. It appears, however, that a very important function of the personhood concept is to justify excluding people/beings/things from moral consideration, subtracting them from the universe of beings toward whom we have obligations.

Restricting the scope of personhood clearly serves a political function. The institution of slavery in the U.S., to give an example from history, required a legal and cultural definition of personhood that excluded African Americans, in order to justify relegating them to the category of property. To give an example from today, consider the recent attempts by several states to extend legal personhood to fertilized ova. One such law, recently passed by the Oklahoma state senate, would not only outlaw all elective abortions, it would also deny women emergency contraception, and likely limit access to
in vitro fertilization. While appearing on the surface to institute a more inclusive
definition of personhood, the only way such laws are enacted is through restricting
women’s choices and behavior—thus rendering women of reproductive age less than
fully autonomous citizens. We will return to this point in Chapter Three.

Whatever the content of any given theory of personhood might be, the concept
itself, of personhood as attributes-of-an-object, is a tool for demarcating who/what is
worthy of moral status from who is not, and for justifying disparate treatment. Seen this
way, the concept of personhood is an instrument of power and control. Its uses have a
traceable history and development, one aspect of which we have examined in the context
of genetic personhood in the previous chapter.

The version of relational personhood I will outline and defend in this chapter has
several advantages over attributes-based accounts. First, my account is consonant with
data from developmental psychology and cultural anthropology that demonstrate the
depth and universality of the human drive for intersubjectivity. Second, my account
incorporates insights from diverse philosophical traditions that focus on the role of
relationality in ethics and epistemology. Finally, relational personhood, properly
construed, leads us to a new way to approach problems in applied ethics that have been
rendered intractable by attributes-based approaches, namely, those that involve the moral
standing of embryos and nonhuman animals. As I will discuss in the last chapter of this
thesis, my relational account can preserve the philosophical heart of the idea of
personhood, without creating a concept that can be used as an instrument of oppression.

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31 See http://www.reuters.com/article/2012/02/16/us-oklahoma-personhood-idUSTRE81F0ES20120216.
2.1 Born to Share

In contrast to the intellectual tradition that stresses individuality, autonomy, and the epistemological and ontological primacy of the self, and for which the existence of other minds is always in question, the findings from infant intersubjectivity research suggest that, long before we develop an ego, before we acquire language or the ability to manipulate symbols, we have an awareness of self-and-other that is cultivated through our interactions with caregivers. The medium for this development in most children is the mutual gaze between baby and caregiver. The gaze opens up channels for communication, imitation, cooperation, and exchange, which form the foundation for our intellectual, emotional, and normative development as social beings.

When developmental psychologist Colwyn Trevarthen began his research in the late 1960s, he utilized a technique called “microanalysis” to examine 16 mm film of parent-child interactions (Beebe, et al., 815-6). The faces of parent and baby were shown in split screen, at 24 frames per second. By examining the film a few frames at a time, the researchers could note the content and timing of the interactions to the minutest detail (Ibid.). The data gained from these observations formed the basis of Trevarthen’s theory of innate intersubjectivity—the idea that infants are “born with awareness specifically receptive to subjective states in other persons” (Trevarthen and Aitken, 4). They come equipped with the ability and desire to communicate, and this capacity is cultivated through dialogical relations with others (Trevarthen, 1993, 159). This communicating intersubjective self precedes propositional thought. According to Trevarthen, “[t]he core

32 For overviews of infant intersubjectivity research, see Trevarthen and Aiken (2001) and Beebe, et al. (2003).
of every human consciousness appears to be an immediate, unrational, unverbalized, conceptless, totally atheoretical potential for rapport of the self with another’s mind” (Ibid. 121).

With sighted infants and attentive caregivers, the mutual gaze activates a regular and predictable pattern of reciprocal exchange—a fully organized proto-conversation, involving vocal and bodily gestures (Trevarthen and Aitken, 4-7). Far from being a one-way teaching of communication to the baby by the caregiver, the infant intersubjectivity research shows that the baby, sometimes within hours of birth, is just as involved in engaging the caregiver and eliciting appropriate responses (Ibid. 6, 7 and Papoušek, 58). This apparent mutuality has two interesting consequences. First, it shows that, instead of existing in a boundaryless state of symbiosis with the mother, prior to separation and individuation, the infant has the kernel of subjectivity already in place. 33 As Trevarthen explains, in order to communicate, an infant must first “exhibit to others at least the rudiments of individual consciousness and intentionality” (2001, 5). Without that display, there is nothing for the caregiver to interact with; two subjectivities cannot interface unless both are present.

The other result of the apparent mutuality and reciprocity of infant-parent communication is that it means we are, fundamentally, born to care and to share: to be interested in others and to take turns by communicating in a dialogic fashion. Some infant intersubjectivity research suggests that our neurological, cognitive, and social

33 The “symbiosis” and “separation-individuation” theories were advanced by psychoanalyst and researcher Margaret Mahler around the same time the intersubjectivity findings were being published. For a fairly recent review of her work, see Pine (2004).
development can be compromised, not just by abuse and trauma, but also by an insufficient quantity of quality interaction during infancy.\textsuperscript{34} We not only come prepared to engage dialogically with others, our development is impaired if we are thwarted in doing so. Whatever culture shapes us into, nature has given us, not just an aptitude for, and interest in, reading and responding to others, but, a need to do so.

While visual interaction is the surest route to awareness of the self-other dyad in the infant, it is not absolutely required for the development of intersubjectivity. Visually impaired babies and their caregivers face special obstacles, but they are not insurmountable (Loots, et al., 409-10ff.). The greatest impediment to the visually-impaired infant’s development of intersubjectivity is the caregiver’s misinterpretation of the child’s subtle behavior cues as a lack of interactivity. As Loots, et al. point out, if caregivers react to a perceived lack of attention on the part of the infant by responding less, then a cycle of withdrawal and reduced interaction is set in motion that endangers development (409-10). This danger is yet another indication of the deeply mutual nature of these early interactions. Without both subjectivities engaged, the caregiver is just as vulnerable to losing what Trevarthen calls “the delicate and immediate with-the-other awareness” (1993, 122).

The fact that human infants, under normal circumstances, are imitative and interactive is not controversial. However, the neurocognitive mechanisms underlying this phenomenon are not well understood. The intersubjective response may be triggered by the phenomenon of emotional contagion, which Frans de Waal defines as the

\textsuperscript{34} For data on disorders of neurological and cognitive development and their connections to early interactions, see Papoušek and Papoušek (1983) and Trevarthen and Aitken (2001), 25-30.
“adoption—in whole or part—of another’s emotional state” (283). Philosopher Ingar Brinck theorizes that the biological basis of emotional contagion is the action of mirror neurons. These neurons, when stimulated, cause the state observed to be mirrored in the observer, such that “…noticing another agent’s facial expressions of emotion will activate similar areas of the observer’s brain as of the agent whose face is observed, and gives rise to similar sensations and negative or positive experiences” (117).35

The existence of mirror neurons implies a biological basis for empathy, but exactly how behavior is affected by them is not known. As neuroscientist Ralph Adolphs notes, “Phenomena such as emotional contagion [and] imitation…have been argued to constitute ontogenetic and phylogenetic precursors from which empathy, simulation, and other abilities emerge…but the details remain poorly understood and the theories remain debated” (3). In one recent development, researchers in the UK found that observers’ pupils change to match the size of the pupils they see in a sad face (Harrison, et al.). The response is completely involuntary, and only occurs when the observers look at sad faces; looking at neutral, happy, or angry faces with varying pupil sizes makes no difference in the observers’ pupil size (Ibid. 11). Again, this data does not tell us anything about behavior, but it does support the idea that humans are attuned to the feelings of others in an immediate and noncognitive way.

If, as Trevarthen’s research suggests, humans are hard-wired for intersubjective engagement, then we should expect to find evidence for intersubjectivity not just outside

35 Whether mirror neurons are an effect of, rather than a cause of, intersubjectivity is not a settled matter. See for example Heyes (2009). Perhaps they co-arise dependently on each other. The exact role of mirror neurons in human behavior is also in question. According to Patricia Churchland, “we really do not know how imitative behavior is produced” (2011, 154).
of our own culture, but outside our own epoch as well. The next section touches briefly on beliefs about personhood in three hunter-gatherer societies. The traditional beliefs in these small egalitarian societies are not influenced by the individualist, consumerist worldview that pervades much of the modern world. This ethnographic data supports the idea that the human ability to read and respond to others is a universal feature of our species, like bipedalism. Such a trait should lend itself not just to cross-cultural comparison, but to an evolutionary explanation. At the conclusion of this section, we will look at the work of primatologist and anthropologist Sarah Blaffer Hrdy in connection with the question: How did we become the Great Apes with intersubjectivity?

2.2 Apes, Animism, and Anthropology

As I hope I have shown, the content of the concept of personhood in the U.S. in the 21st century is largely determined by who is using it and what they are trying to accomplish. Where there are systemic imbalances of power, imbalances that operate through distinctions of race, class, gender, and ability, human beings are not understood to belong to a single category of beings in which everyone is equal. What happens to the concept of personhood in an egalitarian society? Would it serve any purpose? Where there is no institutionalized oppression, will we find persons, or just people?

According to anthropologist Nurit Bird-David, “before the 1960s, research into the ‘person’ as a cross-cultural category hardly existed” (S71). Bird looks at the idea of personhood among the Nayaka, a hunter-gatherer people in South India. The Nayaka believe in beings called devaru. The concept of devaru is not readily translatable, but Bird uses the term ‘superpersons’ as a marker. In the Nayaka context, devaru may be
what we would consider inanimate, or they could be animate, but not human; the same
entity could be devaru sometimes, but not others (S74-5). A devaru is constituted by and
through its relationships with particular Nayaka in the context of particular events. The
Nayaka socialize with the devaru in large gatherings, where the devaru are summoned,
shared with, and engaged in conversation. The “conversation has to be kept going at all
times…because it keeps the Nayaka-devaru interaction and, in a sense, the devaru
themselves ‘alive’” (S76).

The practice of ascribing personhood to natural phenomena is what is generally
understood by the term “animism.” The term was first elaborated as a system of
“primitive” spirituality in 1871 by anthropologist Edward Burnett Tylor. In his classic
work, *Primitive Culture*, Tylor wrote, “Animism characterizes tribes very low in the scale
of humanity” (426). In Bird-David’s words, Tylor “posited that ‘animists’ understood the
world childishly and erroneously, and under the influence of 19th century evolutionism,
he read into this cognitive underdevelopment” (S68). The animism he describes involves
belief in the existence of multiple, powerful spiritual entities, and along with a “theory of
soul” that extends beyond humans, beyond animals and plants, to all manner of objects
including manmade articles such as clothing and tools (426-7, 471, 474). Particularly
childlike, according to Tylor, is the impulse to ensoul animals: “The lower psychology
cannot but recognize in beasts the very characteristics which it attributes to the human
soul, namely, the phenomena of life and death, will and judgment, and the phantom seen
in vision or in dream” (469).

Tylor’s interpretation and description of animism was greatly influenced by the
Christian and spiritualist sensibilities of his day, as well as by the intellectual climate of
positivism in which he worked (see Bird-David S68-9). He attributes to “primitives” notions of an afterlife, a hierarchical spirit world, and a substance dualist-inspired concept of the soul (426-9). Despite the jarringly ethnocentric, and frankly racist, nature of his representation of animism, it has remained largely unrevised (Bird-David S67). With her analysis of Nayaka animism, Bird-David is challenging Tylor’s definition and “refiguring so-called primitive animism as a relational epistemology” (S68). She explains:

If ‘cutting trees into parts’ [to gain knowledge of the forest] epitomizes the modernist epistemology, ‘talking with trees,’ I argue, epitomizes Nayaka animistic epistemology. ‘Talking’ is shorthand for a two-way responsive relatedness with a tree—rather than ‘speaking’ one-way to it, as if it could listen and understand. ‘Talking with’ stands for attentiveness to variances and invariances in behavior and response of things in states of relatedness and for getting to know such things as they change through the vicissitudes over time of the engagement with them. To ‘talk with a tree’—rather than ‘cut it down’—is to perceive what it does as one acts towards it, being aware concurrently of changes in oneself and the tree. It is expecting response and responding, growing into mutual responsiveness, and, furthermore, possibly into mutual responsibility. (S77)

This condition of responsive relatedness is what Tylor called “the personifying stage of thought” (477). But rather than making persons in their own image, out of objects in the environment, the Nayaka make subjects out of them in the process of establishing and maintaining relationships with them. In the absence of a relationship, the animal, the tree, and the stone certainly exist, but only as objects.

In addition to living and nonliving entities, places can also be subjectified in an animistic worldview. According to scientist Elina Helander-Renvall, the Sami people of the Arctic, for example, regard the land that supports them, that holds their collective
history and experiences, to be a social agent in its own right (49). “Intersubjective involvement and perceptions between humans and animals are based on the fact that both groups have a place in the world, and their environment is commonly shared” (Ibid. 47). Humans, animals, and their shared environment are all actors in an ongoing social relationship. In the words of religions scholar Graham Harvey, ‘Animist relationality is an all-around, all-encompassing sociality’ (qtd. in Ibid. 49).

The Chewong, a small group of indigenous people in Malaysia, also have a concept of personhood that includes many non-human entities. Anthropologist Signe Howell explains that virtually any entity might be considered a person in the Chewong worldview; what divides persons from nonpersons is consciousness (131). However, unlike a modern Western approach, that measures consciousness strictly in terms of brain activity, the Chewong consider “movement, breath, and smell” to be as essential to consciousness as to the capacity to think and feel (134). Rather than thinking that they view cognition as embodied, Howell considers it equally correct to say that, to the Chewong, “bodies are minded” (132).

In these egalitarian societies, non-human entities, in the appropriate contexts, can become personified or subjectified. The personhood of fellow humans is not a question; the category of person brings other entities into the realm of intersubjectivity. As Howell notes, “society for the Chewong is bounded by those personages with whom they stand in a relationship of obligation, responsibility and rights and with whom these demands are expressed in relations of exchange in some form” (136). Personhood does not inhere in any category of non-human entity; it is cultivated through interaction with humans, and it places participants on a footing of mutual moral concern.
Trevarthen’s research indicates that humans are born equipped for sharing and connection with others, and we see evidence in non-hierarchical societies today of “responsive relatedness” that extends far beyond species boundaries. How did our ability, our need, to read and respond to other subjects evolve? Sarah Blaffer Hrdy investigates how it is possible that our “other-regarding tendencies,” our deep interest in “intersubjective engagement” and cooperating with others “…could have evolved in creatures as self-serving as apes are” (11). Hrdy suggests that the fact that human babies spend such a long time dependent on others to provide them with food “…is one reason why those seeking human universals would do well to begin with sharing” (18). She credits our eagerness to share, to help each other (particularly with child-rearing), and especially our deep interest in each other’s “fears and motives, longings, griefs, [and] vanities…” with the fact that Homo sapiens managed to thrive in the midst of far more aggressive and self-centered apes (28). Hrdy believes that we acquired language after the emotional machinery of empathy was already in place, that language was a response to the pressing demands of interpersonal engagement (38).

One of the keys to our evolution of empathy, according to Hrdy, has to do with the response of our altricial infants to the people around them. Unlike many other mammals, human mothers immediately let others hold their babies, and from the moment of birth onward, as is evidenced in hunter-gather societies today, cooperative care and feeding of dependent youngsters is the norm. Babies have evolved a variety of ways of alerting any potential caregiver to their needs and eliciting the help required to survive.

It was thought until very recently that the parent/alloparent interactions with the infant that involved mutual gazing and imitating were unique to humans, and were likely
the source of empathy and the development of the child’s early grasp of the mental states of others. As more sophisticated studies of other primates reveal, however, these behaviors do exist in monkeys and apes, but only for a matter of days or weeks, after which interest in gazing and imitating disappears (Hrdy 57-63). Why do these traits not only persist, but intensify in human children? Or, as Hrdy asks repeatedly, “Why us and not them?” The answer for Hrdy lies in the cooperative breeding practices of traditional societies (and presumably in the environment of evolutionary adaptedness), where a child’s survival depends not just on devoted parents, but on the engagement of caring, responsible alloparents. Natural selection favored “…the evolution of cognitive tendencies that…encouraged infants to monitor and influence the emotions, mental states, and intentions of others” (121).

Hrdy theorizes that being fed and cared for by alloparents as well as parents had a two-fold impact on the development of intersubjectivity. First, being physically separated from the mother causes the baby to look around for her, and to engage in intensified mutual gazing upon finding her. The separated infant, when reunited, has a heightened interest in reading her mother’s feelings toward the infant herself (119-20). Even when other competent caregivers abound, separation from mother introduces an insecurity into the world that prompts the baby to seek her reassurance, or at least to try to read her intentions. Second, the reliance on multiple caregivers causes the baby to “be more aware of distinctions between self and others…” (139). Engaging with a variety of nurturing people aided the survival of tiny, dependent Pleistocene babies by ensuring them food, warmth, and safety. Reading and responding to different people, with their particular faces, voices, smells, and mannerisms, and charming them into providing loving care,
fostered the development of a general-purpose social skill that Hrdy believes set early hominins apart from the other apes.

Intersubjectivity, then, or “the sharing of experiential content (e.g., feelings, perceptions, thoughts, and linguistic meanings) among a plurality of subjects”\(^\text{36}\) is a trait observed in human infants that likely evolved in connection with changes in the way the earliest proto-humans raised their young. In the examples of the traditional societies discussed, we saw how intersubjectivity informs a relational understanding of personhood that serves to enlarge the world of moral concern. In an animist context, to personify, or personate, a non-human entity is to ascribe subjectivity to it and to grant it moral standing. This convergence of findings from developmental psychology, ethnography, and evolutionary anthropology substantiates the idea that intersubjectivity is the foundation for an understanding of personhood that resonates with the way people experience morally significant others. In the next section, I will outline some recent work in the philosophy of intersubjectivity and relationality, and apply these insights to the concept of relational personhood. Before looking at that work, however, I would like to bring in John-Paul Sartre’s depiction of self-other relations, and his theory of consciousness that underlies them. While his conclusions reflect his exclusive focus on first- and third-person reasoning, which I discuss below, his philosophy of mind, with one important revision, is well-suited for understanding interpersonal relations from a second-person perspective.

\(^{36}\) From Zlatev, et al., 2008, p. 1, original emphasis.
2.3 From the Gaze to the Look

I begin this section by contrasting the gaze, so instrumental in the development of intersubjectivity, with Sartre’s unforgettable description of The Look. In *Being and Nothingness*, Sartre describes a situation in which I am crouching before a door, peering through a keyhole, totally absorbed in the spectacle before me, and then suddenly I become aware of being observed in the act of peeping. The look of the other causes what Sartre calls “essential modifications” to appear in my very being (284). We are mutually revealed to each other through the look, but to Sartre, instead of that revelation forming the basis for intersubjectivity, the look consigns us to relations of conflict and objectification.

At the keyhole, I am conscious (in fact, self-conscious), but I do not have explicit awareness of myself as a voyeur; I am completely one with my actions. Although the activity of peeping is freely undertaken, it is my very freedom that allows me to escape defining myself as a jealous voyeur—at the very moment that I am just that. It is not until I am observed that shame instantly washes over me, and I confront my self in the act, and my being-a-peeper is fixed by the other. All my other possibilities disappear, and I become set in stone, thing-like; I coincide exactly with what the other sees. While the Look as Sartre describes it has negative implications for me and my freedom, it is, like Trevarthen’s intersubjectivity, a transformative relation between me and the other, mediated by sight. Because he confines his analysis to the first and third person—to I versus the Other—Sartre does not imagine how I could experience the subjectivity of
another person, except in the context in which the other, as subject, has turned me into an object with his look.

Sartre acknowledges that we can experience the first person plural—the “We-subject”—particularly in contexts of joint projects or activities, but he believed it to be “a pure psychological, subjective event in a single consciousness; it corresponds to an inner modification of the structure of this consciousness but does not appear on the foundation of a concrete ontological relation with others…” (447, my emphasis). Why is this necessarily the case for Sartre? Why does our lived, “psychological,” experience of solidarity, for example, fail to satisfy the needs of ontology? As I will explain below, it is because Sartre gives unwarranted privilege to the first-person perspective, to the point that his formulation here is actually circular. I do not have independent access to your thoughts and feelings, and for Sartre this means that “subjectivities remain out of reach and radically separated” (Ibid.).

This radical separation requires that the role of language be completely submerged. When Sartre talks about the shame induced in me by the other’s observation of my vulgar gesture, he attributes it to the objectifying gaze of the other: “I am ashamed of myself as I appear to the Other” (246, emphasis in the original). He holds that it is not a question of the “presence of another in my consciousness” because “in the field of reflection, I can never meet with anything but the consciousness which is mine” (Ibid.). I would argue that reflection, the act of conceptualizing, analyzing, criticizing ourselves to ourselves is entirely dependent upon language. As such, the “field of

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37 I was aided in the formulation of this question by Iordanis Marcoulatos (2003).
38 Even though treating language as a given is something I have long associated with Sartre, I have to give credit to John Searle (2006) for helping me to see the relevance of that tendency to the current project.
reflection” is already populated by others, because linguistic meaning is a collective endeavor. Before we can carry on an internal dialogue, we have to acquire language. We learn how to talk to ourselves from conversing with others. From the infant intersubjectivity research, it seems likely that we are born able and eager to engage with others in an expressive, turn-taking sort of way. These protoversations with caregivers evolve into verbal conversations as we are taught and/or absorb the shared meanings and grammars of our linguistic community. If we are present to ourselves in our own consciousness, and if that is a feat we accomplish via language, then our individual fields of reflection are very much overlapping. To imagine a subjectivity completely walled off from other peoples’ is to ignore the contribution of language, and therefore of other people, to the process of self-awareness.

Sartre’s radical separation of subjectivities further requires that the self we find in “solitary” reflection somehow exist, not just independently of language, but of socialization, social roles, and relationships as well. In reality, we come to know ourselves through dialogue with others. Putting thoughts and feelings into words, listening and questioning, getting and giving feedback, clarifying and revising: these are the activities of interpersonal communication which constitute not just self-awareness, but self, itself. No one is completely transparent to herself or to others, but caring people who ask the right questions and who inspire honest dialogue do not just know each other; they create each other in a significant way. They would not be the same people without each other. These subjectivities, these vantage points on the world, are deeply interdependent. Of course I cannot see through your eyes or feel your migraine, but those perceptions and sensations are not you. Your subjectivity is your perspective on those
events and experiences—what they mean to you. For you to process those experiences, to make them objects for reflection, is to put them into a sharable format, even if there is no one else around. The very process of reflection is deeply influenced by other voices, other subjectivities—past and present, present and absent. Why draw the ontological border at that aspect of ourselves that cannot be shared, while discounting the multiple facets of self that are actually created and/or defined through the process of sharing?

While the Sartre of Being and Nothingness denies the ontological possibility of intersubjectivity, his theory of consciousness provides a theoretical structure for intersubjectivity, if the role of language is taken seriously. First, for Sartre, all consciousness is self-consciousness. As he notes, “If we wish to avoid an infinite regress, there must be an immediate, non-cognitive relation of the self to itself” (8-9, my emphasis). In Sartre’s view, even when conscious attention is directed toward some other object, that act of consciousness is always, at the same time, self-consciousness. Second, “Consciousness is consciousness of something, [which means] that consciousness arises oriented toward a being which is not itself”… (17).

These two facets of consciousness are central to Sartre’s theory: that all consciousness is self-consciousness and that consciousness is intentional. As philosopher Kathleen Wider formulates it, a conscious being “has to be conscious of itself as not being the object of which it is conscious” (63, emphasis in the original). When consciousness reflects on itself, the same relationship of non-being applies. Because we are conscious beings, and because our consciousness is structured in this way, we do not coincide with ourselves; we are present to ourselves. As Sartre points out, “If a being is present to itself, it is because it is not wholly itself. Presence is an immediate
deterioration of coincidence, for it supposes separation” (101). This lack of complete being that is our lot as conscious beings has profound ramifications for Sartre, as it is the source of our suffering as well as our freedom. The important point for our purposes is that our lack of coincidence with ourselves arises with the capacity to conceptualize ourselves, which is in turn dependent not just upon language, but, even more fundamentally, on the ability to differentiate ourselves from others.

Ingard Brink credits psychologist Vasudevi Reddy with the insight that “the experience of self-other equivalence presupposes both the infant’s original identification with the other and the experience of being different” (118, emphasis in the original). Just as we have an “immediate non-cognitive relation” of our self to our self, the infant intersubjectivity research suggests that we have this same immediate non-cognitive relation to the other. As Reddy points out, before we are able to pay joint attention with another person to a third object, we experience ourselves as being the object (or subject) of attention (401). To grasp the relation between the other’s conscious attention, and our self as the recipient of their attention, is to have an intersubjective experience. This experience is possible because self-consciousness is actually self/other-consciousness. There is no logical basis for distinguishing consciousness from self-consciousness without bringing other-consciousness into the equation.

What Sartre did not seem to take into account is that radically separate subjects and objects are not our only choices. Between the perspectives of first-person subjects and third-person objects is the second person: you, the pronoun of address. “You” can be singular or plural, subject or object—depending on the particular context. “You” is always relational, both in the sense that it indicates interpersonal communication is taking
place, and because the referent for the pronoun cannot be understood unless we know how the speaker-addressee relationship applies. In the words of philosopher Beata Stawarska, “The referents of I and you exist…exclusively within the dialogic space of direct address, and never outside it” (2007, 87). In the next section, I will use the concept of second-personhood, especially as it has been developed by Stawarska, to support an idea of relational personhood.

2.4 Second Persons

According to Stawarska, the importance of the I-you relation to philosophy intensified in the context of deepening class antagonisms and a world torn asunder by World War I (2009, 135). One of the thinkers from this period credited with articulating the philosophy of dialogue is Martin Buber. In his classic work, I and Thou, Buber tells us that, “The I of the primary word I-It makes its appearance as individuality and becomes conscious of itself as subject (of experiencing and using). The I of the primary word I-Thou makes its appearance as person and becomes conscious of itself as subjectivity. A person makes his appearance by entering into relations with other persons” (62). In the words of Buddhism practitioner and scholar, B. Alan Wallace, “While an ‘I-it’ relationship is fundamentally manipulative, an ‘I-you’ relationship is truly intersubjective…” (217). The I-you relationship allows both parties to “transcend the polarity of self and other and engage with a sphere of between-ness of self and other…” (Ibid.).

This realm of between-ness is precisely where relational personhood is created and maintained. Instead of being identified in the properties of self or other, personhood
can be understood as both the condition for, and the result of, the intersubjective relationship between them. This personhood, predicated on the I-you relation, is second personhood. As Annette Baier notes, “Persons essentially are second persons, who grow up with other persons” (84, emphasis in the original). Prior to the intersubjectivity research of Trevarthen and others, the dominant view in the nascent discipline of child psychology was that “egocentrism [was] the original state of the human mind” (Stawarska, 2009, 93). We have seen that, to the contrary, babies show a remarkable interest in, and aptitude for reading and responding to others. These findings, according to Stawarska, argue for “an originally decentered condition and attunement to other perspectives from birth on…” (Ibid., 94). One indication of this attunement is the relative ease with which toddlers master the use of first- and second-person pronouns, despite the fact that the referents for these pronouns are never static, entirely situational. As Baier notes, “My first concept of myself is as the referent of ‘you,’ spoken by someone whom I will address as ‘you’…The correct use of the second person pronoun is the test for that grasp of the concept of a person which is essential to persons” (90, my emphasis). To be a person, on Baier’s view, is to know a person, or at least to have the capacity to engage with another in a second-person relation.

In this chapter, we have seen how data from developmental psychology supports an understanding of human beings as essentially interactive creatures, born with the capacity for mutual, reciprocal, and imitative behaviors that indicate a native understanding of multiple perspectives. These findings suggest that we are born to engage intersubjectively with other people. We have also seen several examples from hunter-gather societies whose intersubjective engagement with the world extends beyond species
boundaries, and forms the basis for a concept of personhood dependent on relations of reciprocity and mutual obligation. We saw from the work of Sarah Blaffer Hrdy that the human capacity for intersubjectivity likely evolved in conjunction with collective parenting, and together they can account for our reproductive success in the midst of much larger and fiercer competitors.

To make a philosophical case for intersubjectivity as a structure of human consciousness, I borrowed from Jean-Paul Sartre his basic understanding that all consciousness is always at the same time self-consciousness. Based on the findings above, I included other-consciousness within that basic structure. I concluded the chapter with work from philosophers on “second-personhood,” to support a theoretical understanding of human nature that is rooted in our biology and in our capacity for language. My goal has been to make a case for a view of personhood that is not a tool used by the powerful to justify oppression or legitimize special legal status. Rather, on my view, personhood is both the condition for, and the result of, intersubjective relations between second persons. In my concluding chapter, I will show how this understanding of personhood can shed new light on two especially vexing problems of personhood: that of human fetuses and non-human animals.
Chapter 3

Personhood Delivered

In the first chapter, we looked at different ways of understanding a person as a particular kind of being. Even where there is disagreement about exactly which properties are necessary and/or sufficient to qualify a being as a person, there is general agreement that, however it is reckoned, personhood “belongs” to a being. In the last chapter, I outlined a way of understanding personhood as something that results instead from second-person relations between subjects. The current attempts by religious conservatives to write fetal personhood into law clearly requires an understanding of personhood as a property, conferred or inherent, and not as the cultivated result of mutual recognition and exchange. A closer look at some of this “fetal rights” legislation, and the context surrounding it, reveals some of the inconsistency and hypocrisy under the veneer of concern for the defenseless fetus.

To frame the abortion debate around the moral standing of the fetus accomplishes three things. It implicitly reduces the pregnant woman to a childlike status in order that her interests may be adjudicated in parallel with those assigned to the fetus. Second, by centering the debate on a conflict of rights, the actual work of pregnancy and childbirth is
ignored, and stripped of all social meaning. Finally, to elevate the fetus to a rights-holder is to make women’s bodies public property. Let us take each of these points in turn.

To put women and fetuses or embryos on the same moral ground requires that we imagine the dividing group of cells inside a woman’s uterus to be the existential equivalent of that woman herself. On the one hand, it may appear initially that the act of juxtaposing the woman and fetus in this way requires that we conceive of the fetus on the level of the woman: an actualized, autonomous, rights-bearing individual. I submit that what actually happens is the opposite: in order to bring the pregnant woman and the fetus onto the same ontological plane such that their “rights” can be understood as conflicting, the woman is reduced to being childlike and dependent.

To support this claim, I offer four examples of recent state-level legislation addressing women and reproduction. In Arizona, the Senate Judiciary Committee has endorsed a bill that would exempt employers from having to pay for contraceptives if they find the use of birth control morally objectionable.\(^{39}\) The law would allow employers to require women to submit proof from their physicians that the pills are used to treat medical conditions, not to prevent pregnancy. Also in Arizona, the Senate has approved a measure that would protect doctors from being sued for failing to provide a pregnant woman with information (for example, about fetal anomalies) that might lead the woman to seek an abortion.\(^{40}\) In New Hampshire, the House has passed a bill that would require a 24-hour waiting period before an abortion and that would also mandate that doctors show

\(^{39}\) This is part of HB2625, the full text of which can be found at [http://e-lobbyist.com/gaits/text/596074](http://e-lobbyist.com/gaits/text/596074). See also Betancourt (2012).

women pictures of fetal development at two-week intervals, and that they tell women that having an abortion increases their risk of breast cancer.\textsuperscript{41} Finally, a measure under consideration in the Georgia state legislature would prevent a woman from terminating any pregnancy in which the gestational age is greater than twenty weeks.\textsuperscript{42}

Women, according to these laws, must divulge personal health information to their employers if they wish to have their contraception covered by the health plan for which they pay the same premiums as other medication users. Women may have important information about their pregnancy withheld from them, lest they should choose on the basis of that information to terminate a pregnancy. Women may be lied to about the risks, manipulated with pictures, and/or subjected to humiliating, invasive, and medically unnecessary procedures, such as forced transvaginal ultrasound, in order to be convinced not to choose abortion, or to be intimidated out of considering termination as an option.\textsuperscript{43} Women may be required to live with a dead or moribund fetus inside them and wait for the unspeakably painful and upsetting process of miscarriage to happen on its own. These are just a few of the hundreds of pieces of legislation proposed in the last two years, the aim of which has been to insure that women do not attempt to prevent or terminate pregnancy.

\textsuperscript{41} For the current text of the bill, see \url{http://www.gencourt.state.nh.us/legislation/2012/HB1659.html}. The American Cancer Society denies a causal link between breast cancer and abortion \url{http://www.cancer.org/Cancer/BreastCancer/MoreInformation/is-abortion-linked-to-breast-cancer}, as has the international Collaborative Group on Hormonal Factors in Breast Cancer. For a different perspective, see Malec (2003).

\textsuperscript{42} The text of this bill can be found at \url{http://www1.legis.ga.gov/legis/2011_12/fulltext/hb954.htm}. See also Peck (2012).

\textsuperscript{43} For a doctor’s perspective on the forced transvaginal ultrasound, see \url{http://jezebel.com/5895451/a-doctors-manifesto-for-fighting-transvaginal-ultrasounds}. Political cartoonist Gary Trudeau has also offered his own perspective on the Texas law: \url{http://abcnews.go.com/blogs/headlines/2012/03/doonesbury-takes-on-texas-abortion-law/}. 
While the professed aim is to protect innocent fetuses, these laws have the effect of punishing and degrading women. They also paint a glaringly inconsistent picture when coupled with the fact that the people most vehemently demanding that all pregnancies go to term seem to have little interest in the welfare of children once they are born. House Republicans have just announced their plan to reduce the budget by 2.5 trillion dollars by making heavy cuts to food stamps and federal health programs.\(^{44}\) Last year, they sought substantial cuts to the program that provides emergency housing vouchers, and to the WIC program, which low income mothers and children rely on for nutritional assistance.\(^{45}\)

As we have seen, the first consequence of framing the abortion debate in terms of fetal rights is that the pregnant woman becomes less than an autonomous adult. She is no longer entitled to privacy or to the opportunity to make her own informed decisions about her medical care. The second result is that the bodily processes of impregnation, pregnancy, labor, and childbirth are removed from the discussion. The fetus is discussed as if it existed independently, and as if its existence had been created by the act of one individual. Missing from most of the discussion is an acknowledgement that two people are responsible for the conception of an unwanted pregnancy. Since women shoulder the entire physical burden for pregnancy and childbirth, the male is allowed to recede into the background in terms of responsibility. Yet he retains his place of prominence in the public discourse, leading the charge against women’s reproductive freedom.


In addition to the invisible impregnators, women’s embodied experience of pregnancy, labor, and delivery disappears when the abortion discussion is framed by the rights of the fetus. Paradoxically (or perhaps not), instead of great value being attached to the bringing forth of new life, all value is assigned to the fetus, as if it brings itself into existence—if only the heartless woman can be prevented from murdering it. Pregnancy is treated as a nine-month non-event, after which the woman can go on about her business, as if the process itself had no social, emotional, physiological, intellectual, or financial dimensions, risks, and ramifications. Even under the happiest of circumstances, pregnancy is an ordeal, an around-the-clock job for which there is not one second of relief, which culminates in an experience that many woman find excruciating and terrifying. No woman could go through the experience and not be irrevocably changed by it, even if she chooses not to parent the infant she has borne. The ease with which adoption is proffered as a solution to an unwanted pregnancy is another clear indication that the experience of pregnancy and childbirth is completely discounted. If it were otherwise, if the enormity of the woman’s contribution and sacrifice were truly recognized and honored, the abortion discourse would reflect that appreciation.

While the significance of women’s reproductive labor is absent in the fetal-rights discourse, so is any acknowledgement of the social significance of birth.\(^\text{46}\) We saw in Chapter One how the denial of the significance of the quickening led to the idea that “life begins at conception.” The day a woman feels the fetus moving marks a change in her relationship with it. The relationship becomes, at that moment, interactive. The quickening is \textit{the} demarcation between a being imagined and a being experienced. But

\(^{46}\) Mary Ann Warren (1989) inspired me to see the significance of the birth, itself, in terms of the findings discussed in Chapter Two.
since that experience is exclusively the woman’s, it means nothing; to the doctors of the 19th century making the pronouncements, then, the zygote was exactly the same as a kicking fetus. The move today to endow embryos and fetuses with the same moral standing as infants is to ignore the fact that birth marks the new human’s entrance into the social world. Prior to birth, the baby interacted directly with only one person (barring multiple gestation), but as we saw from Trevarthen and Hrdy’s work, the cultivation of a person begins immediately after birth and works best with the involvement of multiple other persons.

The third outcome of centering the debate on the rights of the fetus is that, by making the fetus a rights-bearing individual from the moment of conception, as many proposed laws attempt to do, women’s uteri become, in an important sense, public property. Laws that aim to restrict abortion take decisions away from the person seeking medical attention, and place them in the hands of the state. What goes on inside a woman’s uterus becomes a matter, not of personal experience, but of public concern.

If we look at these three consequences of fetal “personhood”: that the woman is reduced to an incompetent child or breeding animal, that the process of pregnancy and childbirth are completely disregarded, and that women’s bodies become a domain of state control, it is clear that to assign personhood to the fetus is to denigrate women. Add the abysmal lack of public support for women and their children, and it is obvious that “fetal personhood” as a legislative concept is not about improving the moral standing of the unborn; it is about deepening the oppression of those who give birth.

A relational view of personhood does not necessarily exclude a fetus. Relational personhood relies on feedback, on mutual exchange, that can only exist between the fetus
and the woman in whose body it is growing. Other people can experience the fetus through the body of the woman, but only the woman herself has the direct, unmediated experience of the fetus. If the pregnancy is wanted, the fetus can become a person to the woman as soon as its presence is known. All of the biological processes taking place between the woman and fetus can be experienced by the woman as an ongoing relationship: an exchange, a sharing—long before kicking and turning and hiccupping begin. Similar to the way the Nayaka experience the personhood of beings we might consider to be mere objects, the woman who has an intersubjective experience of the fetus inside of her understands subjectivity in a way that is not bounded or defined by cognitive or linguistic abilities. The relational personhood of the fetus can be recognized and reinforced by others, but ultimately has to be conferred by the pregnant woman herself. In a society in which women do not share power equally with men, the thought of a woman having the sole authority to distinguish, in her own uterus, a clump of cells from a person is too difficult for some people to accept.

A relational understanding of personhood does not operate separately from, or in conflict with, the embodied subjectivity of the pregnant woman herself. From this standpoint, it is clear that pronouncing the fetus categorically devoid of personhood is just as problematic as “personhood at conception.” Both extremes rest on the error that personhood exists as an objective feature out in the world, that the category of fetus either does or does not participate in. Denying fetal personhood out of hand is another way of discounting women’s experience and the work of pregnancy and childbirth. One of the philosophical consequences of the categorical denial of fetal personhood is that it leads to
the acceptance of infanticide. A recent article in the online Journal of Medical Ethics reiterates what some philosophers have been saying since Michael Tooley broached the subject in 1972: if abortion is permissible because the fetus has no moral standing, then consistency requires that we also sanction infanticide, because there are no morally significant differences between the properties of the 37-week-old fetus and those of the newborn infant.

The argument for infanticide makes two false assumptions, each the consequence of discounting the woman’s subjective embodied experience of pregnancy and of denying the social meaning of childbirth. The first error is thinking that moral status is established through the possession of particular properties. The second is assuming that the entry into the world of multiple social relationships is not a morally significant event. Once the umbilical cord is cut, the two-bodies-in-one become separate. The infant, though tiny and utterly dependent, is now bounded by her own skin. Now, she can be a subject among subjects in an entirely unprecedented fashion. Prior to birth, the only interaction available to her was with and through her mother. Only if we completely ignore the magnitude of the change for both mother and infant that is brought about by birth, can we find no morally significant difference between a third-trimester fetus and a neonate.

The arguments for the permissibility of infanticide sometimes accompany the call for completely unrestricted abortion. While “pro-choice” on the surface, these arguments discount women’s experience of pregnancy and childbirth just as much as those that ascribe personhood to the zygote. The woman is just as surely erased from the process

47 See Giubilini and Minerva, http://jme.bmj.com/content/early/2012/03/01/medethics-2011-100411.full.pdf+html.
either way. Part of this erasure is driven by deeply ingrained disrespect for women, but another part can be attributed to the longstanding philosophical tradition that privileges objectivity and individualism. This tradition gives unwarranted moral weight to higher-order cognitive functions, while at the same time ignoring the incredible cognitive blossoming that begins immediately upon a human being’s entrance into the social world.

As we saw in Chapter Two, the Nayaka, Sami, and Chewong views of personhood demonstrate how relations of mutuality, reciprocity, and obligation produce what we come to understand as moral worth. Baier and Stawarska further explain that subjects are cultivated from the process of intersubjectivity; persons originate in second-personhood. As Annette Baier says, “Persons are the creation of persons” (86). This understanding of personhood acknowledges the unique relationship that pregnancy entails, and it leaves the question of the moral status of the fetus up to the woman in whose body it is growing.

The main strength of relational personhood can also be seen as its greatest drawback. By locating the source of personhood in intersubjective experience, we lose the ability to make categorical assertions about moral standing. It is not possible to say, for example, that all people in a persistent vegetative state, or without a cerebral cortex, are or are not persons. Neither are we justified in confining personhood to Homo sapiens. Bioethics cannot look to relational personhood for ready answers to the many questions that arise when the boundaries of moral worth are contested. However, most medical ethics dilemmas in the institutional setting—assuming financial liability is not the only real concern—can be effectively addressed with mutual I-you communication.

48 I unequivocally experience the personhood of the nonhuman animals with whom I share my home.
What the concept of relational personhood lacks in usefulness on the level of abstract theorizing, it makes up for in the realm of application to concrete ethical problems because it places value on respectful, compassionate, and reciprocal communication.

Perhaps the universe of moral concern is broader than what can be captured by relational personhood. I have no intersubjective experience with cows, pigs, and chickens, but I recognize an obligation not to consume their bodies for my pleasure, and not to give aid to the industries that profit tremendously from their suffering. I have the ability (and, truthfully, the luxury) not just to choose, but to justify my choices, which, according to Christine Korsgaard, is what really sets humanity apart from the rest of the animals. “In the end,” she says, “humanity will be what we make of it. Should we just be the cleverest of all species, who have found efficient and profitable ways to make use of many other species…? Or should we be the species who tries to respond with respect and compassion to the other animals who share our fate as conscious living beings” (6-7)?

It might be argued that my assigning moral status to animals is the same as the middle-aged white man in Congress assigning it to fetuses. Neither one of us has any intersubjective experience with the targets of our moral concern; we are both presumably motivated by compassion for beings we believe are being treated unfairly. I think there is one main difference in our concern, which a relational approach makes clear. Fetuses, as we have noted, are living inside actual humans who are just as deserving of compassion as any other beings. Pregnant women have thoughts, dreams, needs, and feelings that can be communicated and acted upon—including thoughts about how to deal with their own pregnancy. In contrast, animals in factory farms are not living inside anyone; no one else’s self-determination or bodily integrity needs to be violated in order to protect them.
If we acknowledge, as all fetus-centered discussion of abortion fails to do, the full social, moral, and existential significance of pregnancy and childbirth, then we have to conclude that the pregnant woman is uniquely qualified to grasp her situation, and she deserves our compassion, respect, and support, whatever she decides to do.
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