

# Moral Status and the Architects of Principlism

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*In this article, we discuss Beauchamp and Childress's treatment of the issue of moral status. In particular, we (1) introduce the five different perspectives on moral status that Beauchamp and Childress consider in Principles of Biomedical Ethics and explain their alternative to those perspectives, (2) raise some critical questions about their approach, and (3) offer a different way to think about one of the five theories of moral status (the theory based on human properties) that is more in line with what we believe some of its leading advocates affirm.*

**Keywords:** *biomedical ethics, human properties, moral status, personhood, substance view of persons*

## I. INTRODUCTION

Who and what is entitled to our moral concern? Why does it seem perfectly permissible for one to kill a cockroach poised to invade one's pantry for food, but not the neighbor's child who is just about to do the same? There is clearly something about the one but not the other that permits one to terminate the first but not the second. It is what Tom Beauchamp and James Childress call *moral status*, a sort of moral ranking based on characteristics or attributes that tell us whether a being has certain rights or basic welfare interests (2013, 62). What has which degree of moral status is one of the most vexing issues in biomedical ethics. How one answers the most contested questions in this field—including abortion, physician-assisted suicide, embryonic stem-cell research, the proper use of animals in laboratory studies—largely hinge on the moral status of the being that is targeted to lose its life (or suffer some significant loss) for the sake of what the act's supporters believe is morally justified.

Addressed for the first time in the sixth edition (Beauchamp and Childress, 2009) as a separate chapter, the authors offer us an overview of the differing perspectives on moral status as well as some suggestions on how these contrary accounts can be applied in a clinical setting. As with all the editions of this book as well as the other chapters in their recent seventh edition (2013), Beauchamp and Childress are remarkably clear and thorough in their analysis. Although we will raise some critical questions about that analysis, we do so in a spirit of appreciation for what this book—and each of its predecessors—has accomplished in the field of biomedical ethics over the past four decades. We are professionally grateful for the trailblazing work of Beauchamp and Childress. It is an effort that has made it possible for philosophers, theologians, and other nonmedical professionals to substantively contribute to an important area of human well-being that by its nature requires the expertise of scholars outside of the field of medicine.

In this article we will (1) review what the authors consider the different perspectives on moral status, (2) explain the authors' pluralistic account of those perspectives, that is, how the perspectives may function together in a research or clinical setting, (3) raise some critical questions about the pluralistic account, and (4) offer an alternative way to think about the first perspective, "a theory based on human properties," that is more in line with what we believe some of its leading advocates affirm.

## II. FIVE PERSPECTIVES ON MORAL STATUS

Beauchamp and Childress cover five different perspectives on moral status, each of which appeals to some characteristics that serve as criteria by which one can distinguish between beings that have moral status and those that do not: (1) human properties, (2) cognitive properties, (3) moral agency, (4) sentience, and (5) relationships. As the authors note, given the nature of the criteria under some views, moral status may come in degrees because the characteristics that serve as the criteria come in degrees as well. So, for example, if one believes that beings with sentience have more moral status than those that do not, it still may be the case that beings with a richer and more complex level of sentience—for example, mature human beings—have a higher moral status than beings with a lower and less complex level of sentience—for example, dogs, cats, chimpanzees (Beauchamp and Childress, 2013, 75–76). This means that if a conflict of rights between the two types of beings arises, the rights of the former take precedence over the latter.

### Human Properties

According to the authors, one theory of moral status "holds that distinctly human properties, those of *Homo sapiens*, confer moral status" (2013, 65). That is, individuals have moral status if and only if they are members of the

natural kind, human being, an individual human organism with a human genetic code and/or the offspring of human parents. The advantage of this view is that it covers all human beings, excluding none because of immaturity, senility, or disability. It also seems consistent with our commitment to the post-World War II advancement of *human* rights,<sup>1</sup> which arose in response to the atrocities of the Nazi regime that did in fact make distinctions between human beings in order to oppress, exploit, and/or kill ethnic as well as dependent, vulnerable, and disabled minorities (Binding and Hoche, 1920).

Nevertheless, Beauchamp and Childress argue that there are disadvantages to this view. Chief among them is the problem that “species membership determines moral status” (Beauchamp and Childress, 2013, 67). If there exist natural kinds (e.g., nonhuman aliens, robots, genetically enhanced nonhuman species, or properly trained great apes) that in fact possess what we think are uniquely human capacities (e.g., the exercise of intelligence, moral agency, deliberative reasoning, etc.), then it seems that possessing a human genome, though perhaps a sufficient condition for moral status, is not necessary. Moreover, human-nonhuman embryonic chimeras and hybrids, if allowed to develop and mature, may in fact come to exercise unique human capacities in differing degrees. Again, such cases suggest that being a human being is not necessary for moral status.

Beauchamp and Childress also suggest another problem: if certain nonhuman animals lack moral status because they lack mental functions we associate with human beings, for example, “self-determination, moral motivation, language use, and moral emotions” (2013, 68), then do not human beings who lack these mental functions, because of illness or immaturity, lack moral status as well? So, perhaps biological humanity is not even a sufficient condition for moral status.<sup>2</sup>

Under their assessment of this view, Beauchamp and Childress voice their skepticism about the use of the term “person,” as it is often employed in bioethical literature to distinguish between beings with moral status and those that do not possess it. They argue that the term is “too vague a category to resolve these problems of moral status,” since for some writers “person” is just a synonym for any biological human being, whereas for others it signifies any being, human or otherwise, that exhibits “certain cognitive capacities, moral capacities, or both” (Beauchamp and Childress, 2013, 67–68). The authors imply that there is a kind of special pleading going on: “What counts as a person 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 and other entities will not” (Beauchamp and Childress, 2013, 67–68).

### Cognitive Properties

Some theorists argue that moral status depends on a being’s possession of one or more cognitive properties, such as self-consciousness, having a

self-concept, the capacity to use language in order to communicate, the power to autonomously perform goal-oriented activities, the ability to engage in rational deliberation and planning with a purpose in mind, and so forth. Although this view is intuitively appealing—since it singles out properties that we uncontroversially attribute to beings for which we have moral concern—Beauchamp and Childress note that “[a] worrisome feature of this theory is that infants, the senile elderly, persons with a severe mental disability, and others whom we generally view as having a secure moral status lack the cognitive capacities required to attain moral status” (2013, 70). However, as the authors point out, if these “marginal cases” have moral status, it seems that nonhuman animals with comparable cognitive properties have significant moral status as well. On the other hand, if marginal cases do not have moral status, it seems acceptable to allow scientists to use these immature or damaged human beings for laboratory experiments as we already allow scientists to use certain nonhuman animals for such purposes.

### Moral Agency

Supporters of this third view maintain that what gives a being moral status is its power to act as a moral agent. According to Beauchamp and Childress, under this theory, someone counts as a moral agent if at least “two conditions are satisfied: (1) the individual is capable of making moral judgments about the rightness and wrongness of actions, and (2) the individual has motives that can be judged morally” (2013, 72). Like the other two theories, this one falls prey to several counterexamples. There are numerous beings that most people think have interests that ought to be protected even though these beings cannot exercise moral agency, for example, “[m]any psychopaths, patients with severe brain damage, patients with advanced dementia, and animal subjects in research . . .” (Beauchamp and Childress, 2013, 72).

### Sentience

There is more to human consciousness than the exercise of cognition and moral agency: we have the power to feel emotions and to have awareness of pain and pleasure. This is sometimes called *sentience*. It is a capacity we share with many nonhuman animals. According to most defenders of this fourth theory, “having the capacity of sentience is a sufficient condition of moral status,” while some of its other backers “claim that this capacity is both *necessary* and *sufficient* for moral status” (Beauchamp and Childress, 2013, 73).

Beauchamp and Childress note several implications of this theory. If sentience is both a necessary and sufficient condition for moral status, it would mean that many nonhuman animals and all human fetuses after they become sentient have moral status, requiring that we significantly change our policies on animal experimentation and abortion. It would also mean that pre-sentient human fetuses and embryos as well as human beings with brain

damage who lack sentience do not have moral status. Another implication is that it is impracticable, if we apply it rigorously. For example, it would require that ordinary pest control measures and the setting of mouse traps would be akin to cooperating with mass murder. Yet, even if one finds these implications to be counterintuitive or believes they can be outweighed by a more reliable theory (e.g., human properties, cognitive properties, moral agency), there is a kernel of truth to the sentience criterion: sentient creatures can be harmed, and we do not act morally if we purposely ignore their suffering when we perform actions that may bring it about. For this reason, the authors argue that sentience, as with each of the first three theories, *may* serve as a sufficient condition for moral status, but not as a necessary one.

### Relationships

Certain types of relationships seem to secure rights and responsibilities between the parties that are specific to those relationships. Some of these are contractual and consensual, such as those arising from the patient-doctor relationship, which may deepen over time. Others, such as the responsibilities that parents have to their young children or that adult children have to their aged parents, are not explicitly consensual or contractual, but they nevertheless place special moral demands on us that we do not have in relation to strangers or to our neighbors' children or parents. "This fifth theory," Beauchamp and Childress write, "tries to capture the conditions under which relationships, especially those involving social interaction and reciprocity, are stronger and more influential than relationships with strangers and outsiders. It also tries to account for our degrees of sensitivity to and sympathy for the interests and capacities of other individuals" (2013, 77). As an account of how particular rights and responsibilities arise in our social world, Beauchamp and Childress concede that this theory has explanatory power, but they doubt that it is very helpful in providing an account of moral status. After all, certain moral rights seem not at all to depend on one's relationship to another individual or group, for example, the right to life, or the right not to be falsely imprisoned. On the other hand, a loving relationship by itself does not impart moral status, for example, if we have a close relationship with our pet dog, Phydeaux, it does not follow that it has a moral status higher than a human stranger we have never met. For these reasons, Beauchamp and Childress argue that this fifth theory is neither a necessary nor sufficient condition for moral status.

### III. BEAUCHAMP AND CHILDRESS' PLURALISTIC PERSPECTIVE

Each of the five perspectives as Beauchamp and Childress consider them proposes that its central property or properties are the basis of not only inclusion into the moral community but also exclusion from it. That is, each

of the aforementioned theories proposes not only sufficient conditions for moral status—conditions which, if met, imply that whatever individuals meet the conditions have moral status—but also necessary conditions—conditions which, if not met, imply that whatever individuals fail to meet the conditions do not have moral status. For example, Beauchamp and Childress take the theory based on moral agency to imply that everything that is a moral agent has moral status, and that everything that is not a moral agent lacks moral status. Similarly, according to Beauchamp and Childress, the sentience criterion implies that everything sentient has moral status, but that everything that lacks sentience lacks moral status. The aforementioned theories, then, can be said to be narrow in the sense that they imply restrictions on what belongs in the moral community. According to Beauchamp and Childress, in fact, these restrictions render each theory “unduly narrow” (2013, 79). They argue that none of the properties proposed—whether biological, cognitive, agential, sentient, or relational—can serve as the sole criterion of moral status.

Thus, Beauchamp and Childress propose we deny that the criteria advanced in the aforementioned theories are strictly necessary for moral status. Instead, they suggest a pluralistic, multi-criterial approach: that we accept four of the criteria—human properties, cognitive properties, moral agency, and sentience—as sufficient for moral status and that we treat the fifth criterion, special relationships, as “adding another relevant dimension to [the other four] theories” (Beauchamp and Childress, 2013, 79). They suggest no strictly necessary conditions. Their starting point, therefore, is highly inclusive. It allows them straightforwardly to avoid the narrowness charges they press against each of the other theories.

Great inclusiveness, however, introduces challenges. One is that the more populated the moral community, the more opportunities it presents for conflict between the rights of its members. Another is that the more varied the criteria of moral status, the more tension can be produced in the process of extracting practical guidance from the criteria. For example, as Beauchamp and Childress write, “the criterion of sentience (drawn from theory 4) and the criterion of human species membership (drawn from theory 1) can come into conflict in the attempt to determine the moral status of the early-stage human fetus. The sentience criterion suggests that the fetus gains status only at the point of sentience; the criterion of human properties (as expressed in theory 1) suggests that moral status accrues at human biological inception” (2013, 85). Two further aspects of Beauchamp and Childress’ inclusive account begin to address these challenges.

First, Beauchamp and Childress argue that moral status comes in degrees. It comes in degrees, they argue, because most, if not all, the properties that confer moral status come in degrees. Beauchamp and Childress observe, for example, degrees of relationship: “Relationships come in different degrees of closeness, and relations of dependence can be far more significant in

some cases than in others” (2013, 83). The same goes for most of the status-conferring properties central to the other theories considered (sentience, cognitive capacities, and moral agency; humanity may be an exception, and we discuss it more below) along with other morally relevant properties (like capacity for language use, rationality, self-consciousness, and autonomous decision-making). On Beauchamp and Childress’ view, the graded nature of moral status is key to how the view functions in clinical and research settings. They write, “A practically oriented theory of moral status will need to determine with precision what an individual’s or group’s status is, not merely that the individual or group has some form of status . . . . A comprehensive theory will explain whether and, if so, how the rank [of moral importance] will change as properties that contribute to status are progressively gained or lost” (2013, 84–5). Degrees of moral status allow their theory to more adequately engage the diverse moral demands of an expansive moral community, one that includes human and nonhuman beings, the autonomous and the nonautonomous, and so on.<sup>3</sup>

Second, Beauchamp and Childress outline an approach to creating consistent guidelines for moral status based on varied and general criteria. They recommend *specification*, a method they define as “the process of reducing the indeterminacy of abstract norms and generating rules with action-guiding content” (2013, 17). In other words, specification narrows the scope of general norms such that they recommend actions in actual contexts. For example, the general norm “respect persons’ autonomy” can be specified into the rule “respect the autonomy of competent patients by following their advance directives when they become incompetent” (2013, 17). Rules, unlike general principles, guide action in actual clinical and research settings.

The criteria of moral status are too abstract and indeterminate to guide action. Thus, they require specification in order to be linked to practice. In Beauchamp and Childress’ multi-criterial approach to moral status, specification “extracts content from the criteria in each of the five theories to show how that content can be shaped into progressively more practical guidelines” (2013, 86). Specification thus serves both their pragmatism (“practicability is an important criterion of an ethical theory” [Beauchamp and Childress, 2013, 89]) and their pluralism (“Ideally, we will be able to appropriate the best from each of the five theories . . . .” [2013, 80]).

To illustrate specification in the context of moral status, Beauchamp and Childress introduce several guidelines. Here is one that makes an appeal to theory 4 (sentience) and theory 2 (cognitive capacity):

All sentient beings have some level of moral status; the level is elevated in accordance with the level of sentience and the level of cognitive capacity. (Beauchamp and Childress, 2013, 87)

As stated, this guideline is not fully specified. In order to recommend or prohibit a particular action, like transplanting a pig heart valve into a human

heart, it needs further specification in light of the levels of sentience and cognition that (for example) pigs and human beings actually have. Nevertheless, this guideline engages the idea that both sentience and cognition are relevant to moral status, and it suggests a way to incorporate great variation in sentience and cognitive complexity into an account of moral status (see [Beauchamp and Childress, 2013](#), 87–88).<sup>4</sup>

Beauchamp and Childress' pluralism about moral status has many virtues. Perhaps most significantly, it promises to reduce the grave moral risks that accompany narrow, single-criterion views. Beauchamp and Childress acknowledge that, throughout history, serious moral violations have occurred because the operative criteria for moral status were too narrow.<sup>5</sup> In fact, they argue that the most momentous changes in the history of moral practice have occurred not with respect to the basic norms of morality but with respect to the scope of individuals protected by those norms (2013, 412–415). Beauchamp and Childress begin with a wide scope; they defend no particular principle of exclusion from the moral community. Their view is also ecumenical: it integrates intuitions about the source of moral status that sometimes seem to conflict. It also has resources to handle actual moral conflicts. It grants many degrees of moral status and includes a method for distilling practical guidance from more general norms.

#### IV. SOME CRITICAL QUESTIONS ABOUT BEAUCHAMP AND CHILDRESS' PLURALISTIC PERSPECTIVE

Beauchamp and Childress' account of moral status, then, has a great deal to offer. Even so, as the authors admit, their view as presented in *Principles of Biomedical Ethics* remains underdeveloped in a few significant ways. They themselves suggest several questions for a pluralistic account that they can only briefly address ([Beauchamp and Childress, 2013](#), 80–82). For example, they discuss the problem of potentiality, which is the challenge of determining the moral significance of an individual's *potential* for developing status-conferring properties. The problem is particularly relevant in discussions about the moral status of fetuses in utero and embryos created by in vitro fertilization, since they have only the potential for almost all of the status-conferring properties considered thus far. Beauchamp and Childress note that “problems of potentiality are nuanced and compelling, and they need more analysis than we can provide” (2013, 82). Continued discussion of such problems would certainly illuminate moral status in important and helpful ways. In the spirit of inviting such discussion, we would also like to raise the following questions.

First, what justifies the connection between the nonnormative properties that Beauchamp and Childress are interested in—like sentience and cognitive complexity—and moral status? In other words, what makes those properties



“status-conferring properties”? Beauchamp and Childress themselves raise a version of this question for theory 2 (cognitive capacity). Defenders of theory 2, they argue, need to “establish the importance and relevance of the connection asserted between cognitive properties and moral protections. Why do *cognitive* properties of individuals determine anything at all about their *moral* status?” (Beauchamp and Childress, 2013, 71). The question seems no less relevant when cognitive properties are among many determinants of moral status. Both single-criterion accounts and multi-criterial accounts should justify the connections between their properties of choice and moral status. So the question for Beauchamp and Childress is this: why do the properties in question determine anything about the moral status of individuals who exemplify them?

Second, how can one develop the notion of “degrees” or “levels” of moral status (Beauchamp and Childress, 2013, 86) in a way that accommodates the varied distributions of morally relevant properties? Beauchamp and Childress seem to suggest that there is some kind of mapping from certain properties and degrees of those properties to a position on the moral-status spectrum and that everything on that spectrum relates to everything else on that spectrum in one of three ways: by having more moral status than, less moral status than, or the same moral status as. That mapping suggestion raises the following question: what justifies any particular mapping between a property and a degree of moral status?<sup>6</sup> Beauchamp and Childress make observations like this: “infants, the mentally handicapped, and many persons who are cognitively incompetent have some level of moral status, but they do not have the same level of moral status as autonomous persons” (2013, 86). Why should we think so? Perhaps it is because for Beauchamp and Childress, moral status is correlated with breadth of moral protections—the more of one, the more of the other (2013, 86)—and those who are substantially autonomous have more decision-making rights (and so more rights to protect) than those who lack substantial cognitive and autonomy capacities.<sup>7</sup> But this seems to oversimplify the picture. We grant that individuals who are not autonomous lack the decision-making rights of those who are substantially autonomous, but it does not follow that nonautonomous individuals have a different *level* of moral status—for example, that they have less of it. It does not even follow that they have fewer rights in total. Arguably, although they lack some rights that others have, they may have some rights that others lack. For instance, a human infant may have a right to a certain kind of care that autonomous human adults do not have.<sup>8</sup> In short, although the protections due to a substantially autonomous individual differ from the protections due to a nonautonomous individual, it does not seem to follow that those individuals have a different level of moral status. So even granting an answer to our first question—that is, granting that all the properties in question are defensibly morally relevant—we think the conversation about moral status would be further benefitted by an answer to this question: What *kind*

of relevance do those properties have, and why? An apparent constraint on the answer, if what we have argued in this paragraph is correct, is that it incorporates the fact that different individuals can be owed different protections without thereby having more or less moral status than each other.

Third, and relatedly, can Beauchamp and Childress' approach to moral status adequately escape their concerns about wrongful exclusion from the moral community? As already noted, a central motivation for their pluralism is to avoid denying moral status to individuals just because they lack some highly valued property that we wrongly consider necessary for moral status. Beauchamp and Childress express particular concern for vulnerable populations. The worry is that "[vulnerable populations] fail to satisfy criteria of moral status precisely because the dominant criteria have been tailored specifically to deny them partial or full moral status" (Beauchamp and Childress, 2013, 79). They grant that their pluralism is only a "first step" (Beauchamp and Childress, 2013, 79) in addressing this problem. Looking ahead, however, we wonder whether their account of degrees of moral status will reintroduce discriminatory opportunities. For example, we may rank merely sentient individuals as having less moral status than individuals that have cognition just because the former lack a property we happen to value highly. What constraints do Beauchamp and Childress propose we put on our ranking process to prevent sneaking our discriminatory motives and tendencies in through the back door?

Fourth, as we have already noted, one of the virtues of Beauchamp and Childress' account of moral status is that it unites potentially competing insights. Although they do not defend a particular view about which contributions which properties make, they seem optimistic that a coherent, pluralistic theory can be developed. Central to their ecumenical proposal is their observation that the various properties that confer moral status come in degrees. "The five theories we have addressed," they write, "can each be interpreted so that moral status is expressible in terms of degrees" (Beauchamp and Childress, 2013, 83). The idea is that each of the properties considered is relevant to an individual's overall moral status. While this may be true for many individuals, namely, those who have moral status on the basis only of properties that come in degrees, it may not be true for those who have moral status on the basis of properties that do not come in degrees (should there be status-conferring properties that do not come in degrees). As Beauchamp and Childress acknowledge, humanity is arguably just such a property (2013, 84). For those who think that humanity confers moral status and that *being a human being* is not a state an individual can exist in to a greater or lesser extent, working out their place in a pluralistic theory needs to be addressed.<sup>9</sup> One possible resolution follows a suggestion Beauchamp and Childress make for theory 4 (sentience): "Sentience theory could be used to determine which beings have moral status, whereas the other theories could be called on to determine the degree of moral status" (2013, 76). Somewhat

similarly, the humanity theory could be used to determine which beings have (full) moral status, and the other theories could be called on to determine both the particular moral demands of those with full moral status and the degree of moral status of those individuals that lack full moral status. It is not clear whether such a proposal would be as ecumenical as Beauchamp and Childress intend their account to be.

#### V. AN ALTERNATIVE RENDERING OF A THEORY OF HUMAN PROPERTIES

In the final section of this article, we introduce an alternative theory of moral status based on human properties, a view that one of us has dubbed *the substance view of persons* (Beckwith, 2004, 2007, 2015). Even though it is held by most scholars whom Beauchamp and Childress would classify as supporters of a theory of moral status based on human properties (Lee, 2010; Friberg-Fernros, 2015; Kaczor, 2015), Beauchamp and Childress' depiction of that theory does not quite capture what we believe is central to the substance view. In this final section of this article, we offer a rendering of the substance view that addresses what Beauchamp and Childress argue are some of the general shortcomings of any theory of moral status based on human properties. We do not defend it as the correct position, but rather just present it as a friendly clarification of what its champions actually believe.

According to advocates of the substance view, all persons have the same moral status and all living human beings are persons, regardless of their size, level of development, environment, or dependency. Thus, all members of the human family, including the prenatal, the mentally impaired, and others unable to exercise their personal powers, are nevertheless persons. This means that certain types of research and procedures, such as elective abortion and embryonic stem-cell research, are *prima facie* immoral.

The substance view depends on an element of an Aristotelean/Thomistic metaphysics, that the natural world consists of living creatures with a variety of natures from which we can discover the proper ends (or perfection) to which the creatures are ordered. Taking her cue from Boethius (A.D. 477–524),<sup>10</sup> the defender of the substance view argues that a human being is an animal substance of a rational nature, meaning that each human being is a particular subsisting living organism that is ordered toward the exercise of certain rational (or personal) powers that are the perfection of its nature.<sup>11</sup> Like every other living organism, the human being remains identical to itself over time while gaining and losing parts. Under the substance view, you are your body, meaning that you are *not* your cognitive properties, your moral agency, your sentience, or your relationships. These are certainly proper accidents to which a rational animal's nature is ordered,<sup>12</sup> and in that sense they may be *had by* you, but they are not you. So, for example, a human

being who cannot exercise its rational powers, because of malady, immaturity, sleep, or insanity, nevertheless has full moral status, since what matters for making this judgment is not what a being does or does not do, but what a being is. Just as a human being with both legs amputated is still a member of an upright walking bipedal species, a human being lacking the ability to exercise her rational powers is still a rational animal. The judgments we make about a human being's loss or lack presuppose that we know what it really is. To follow a stock example from Thomas Aquinas, there is an important difference between the lack of sight in a stone and in an animal since it is not a part of a stone's nature to see (1920, LQ48.a5.a1).

Consider the fictional case of Dr. Eugene Ecks.<sup>13</sup> He is a mad scientist who has opened a research facility (Ecks Laboratories) for the purpose of creating cloned embryos that will be harvested so that children and adults in need of transplants may use the embryos' organs for spare parts after the embryos have matured.<sup>14</sup> Very early in the embryos' development, Dr. Ecks orders his minions to block the embryos' neural tubes (as in the unintentional case of an anencephalic child) so that their higher brain functions never arise. Thanks to advanced technology, the embryos continue to develop into fetuses and are then transported to suspended animation tanks in which they may become infants, children, or mature adults, with all their organs intact (higher brain functions excepted). On the substance view, the embryos were wronged when Dr. Ecks' minions blocked their neural tubes early in their development, long before they could exhibit any of the characteristics that certain theories claim entail moral status, for example, self-consciousness, moral agency, sentience (Beauchamp and Childress, 2013, 69–76), organized cortical brain activity (Boonin, 2002, 115–32), desiring a right to life (Giubilini and Minerva, 2013). This means, under the substance view, the embryos are entitled to their higher brain function, and thus for anyone to rob them of that function, even prior to their achieving it, is in fact to wrong them. Consequently, it is not clear how, under any of the other views, one could say that Dr. Ecks and his minions have done anything wrong, especially since under these other views the embryos lack a high enough moral status (if they have any moral status at all) to trump the noble purpose of Ecks Laboratories to extend the lives of what the defenders of the other views believe are beings that do in fact have moral status (or at least a much higher moral status).

Now imagine that a group of anti-Ecks radicals breaks into the laboratory and makes off with some of the embryos. The radicals take the embryos to another laboratory. There several scientist-allies inject a substance into the embryos that can reverse the effects of neural tube blockage. The treatment accomplishes its end and the embryos are then implanted in the natural wombs of several female volunteers, who subsequently adopt the children after they are born. If one believes that the taking and the healing of the damaged embryos was an act of justice, then one harbors intuitions

consistent with the substance view, that intentionally to disrupt the perfections to which a rational animal is ordered is in fact to harm it. If that is the case, then elective abortion and embryonic stem-cell research are *prima facie* immoral.

Because the properties that flow from a rational nature come in degrees—that is, cognitive properties, moral agency, sense of humor, talent for music, etc.—not only between persons but within the person during the tenure of her entire life, our intuitions about human equality under the substance view do not depend on the vicissitudes of human development, age, or health. These characteristics wax and wane throughout a human being's existence, but what the human being is essentially—an individual substance of a rational nature—does not. Under the other theories, argues the defender of the substance view, it is difficult to see how one can ground human equality, since the characteristics that serve as the criteria to which advocates of those views appeal all come in degrees, that is, cognitive properties, moral agency, sentience, relationships, a fact that ethicist Jeff McMahan (2008, 104) confesses leaves him “profoundly uncomfortable.” For, he writes, “it is hard to avoid the sense that our egalitarian commitments rest on distressingly insecure foundations” if “the properties on which our moral status appears to supervene are all matters of degree” (McMahan, 2008, 104).

The defender of the substance view agrees with Beauchamp and Childress that being a human being is not a necessary condition for moral status, since she maintains that there could be in principle other natural kinds that are rational animals. “Thus,” writes Christopher Kaczor, “this account of personhood is not ‘speciesism,’ for in principle any number of species other than humans could be persons” (2015, 120). Not only do we not know of one defender of the substance view who argues that possessing a human genome is a necessary condition for moral status, the one citation that Beauchamp and Childress offer as an example of that position—a collection of quotes from two members of the President's Council on Bioethics (2001–2009)<sup>15</sup>—does not even make that claim. As for human-nonhuman hybrids and chimeras, the substance view advocate concedes that “if creatures of mixed origin are manufactured, then we shall have to debate about whether they should be included in the category of persons” (Kaczor, 2015, 27). Nevertheless, “the debate about such creations need not undermine the moral conviction that all human beings—anyone who arises from human parents—should be accorded equal rights” (Kaczor, 2015, 27).

With regard to marginal cases, the substance view defender argues that a person with cognitive disabilities has greater moral status than a mentally comparable and healthy nonhuman animal. For, on the substance view, the former's state is a consequence of illness or accident impeding the human flourishing to which she is still ordered as a rational animal, whereas the nonhuman animal is exactly as it should be, given its nature. The supporter of the substance view believes that this helps us explain certain intuitions

we may have about disparate treatment between similarly situated human and nonhuman animals. Suppose you believe that eating hamburgers made from cows is morally permissible. You order one at McDonald's, but instead you are served a Hans Burger made from the remains of Hans, a patient in a persistent vegetative state (PVS). If in the PVS, Hans was mentally comparable or inferior to a standard cow, why not indulge in a Hans Burger? The substance view can provide an answer: Hans has greater moral status than the cow—regardless of his mental capacities—because of the kind of thing that Hans is. Imagine you are driving and a negligent father lets his infant child wander into the street, and the family German Shepherd runs after the child. You are driving too fast to break, and thus you have to either go right or left to avoid hitting one or the other. If you go right, you kill the child. If you go left, you kill the dog. Most everyone would say that you should go left, even if the infant's cognitive life, degree of sentience, and agential capacities are less sophisticated than the dog's. In fact, most everyone would say you should go left even if the infant's mental capacities were such that, for whatever reason, they would never surpass the dog's. At least three of the other views considered (cognitive properties, moral agency, and sentience) obligate you to go right in this case.<sup>16</sup>

Our point here, as we have already noted, is not to defend the substance view. It is merely to offer a rendering of it that we believe addresses some of the shortcomings that Beauchamp and Childress attribute to it vis-à-vis their analysis of a theory of human properties.

## VI. CONCLUSION

It is a daunting task to write a critical analysis of just one chapter of what is perhaps the most important book in biomedical ethics published over the past five decades. Not only because of its wide influence across a variety of academic disciplines, but also because of the stature of its authors, two men whose accomplishments as teachers and scholars have set them apart from virtually all their peers. Although, as should be obvious, we part ways with Beauchamp and Childress on several issues concerning moral status, we offer our analysis with respect and admiration.

## NOTES

1. The Universal Declaration of Human Rights (1948) states:

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world, Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people . . .

2. Beauchamp and Childress do not put it that way, but that seems to be the clear implication of this aspect of their critique.

3. Beauchamp and Childress' view is not unique with respect to accommodating degrees of moral status, of course. Any view on which status-conferring properties come in degrees can admit degrees of moral status. This is essential to their view's pragmatic relevance and, according to Beauchamp and Childress, is likely a part of any adequate understanding of moral status. They consider a view which reformulates the problem of degrees of moral status "entirely in terms of different sets of obligations and rights, which increase or decrease in various contexts." They maintain that such a view is "too simple for an adequate understanding of moral status" (Beauchamp and Childress, 2013, 84).

4. To be clear, Beauchamp and Childress do not endorse the guidelines they mention. All they are doing is *specifying*, and in their theory, specification is not enough for justification. Generating *justified* specifications is subject to further aspects of their theory, like constrained balancing and reflective equilibrium. (However, on their view, specification and justification are not independent either: "to qualify all along the way as a specification some transparent connection must be maintained to the initial general norm that gives moral authority to the resulting string of specifications" [Beauchamp and Childress, 2013, 17].) The guidelines for moral status that Beauchamp and Childress introduce are just illustrations of the kind of norm that specification within a multi-criterial account produces.

5. They note, for example, that "[from] ancient Hellenic times to the present, we have witnessed different motives and theories at work when groups of people (e.g., slaves and women) have been refused a certain social standing because they lack some highly valued property that would secure them full moral status" (Beauchamp and Childress, 2013, 79).

6. As previously cited, Beauchamp and Childress do acknowledge the importance of spelling out the connection between particular status-conferring properties and the degree of status they confer: "a comprehensive theory will explain whether and, if so, how the rank will change as properties that contribute to status are progressively gained or lost" (Beauchamp and Childress, 2013, 85), and they do not presume to give a comprehensive theory in *Principles of Biomedical Ethics*.

7. We suggest that Beauchamp and Childress would make this argument on the basis of the following passage: "We will state [the guidelines governing moral status] using the language of a 'level of moral status.' This idea of a level should be interpreted in light of our previous discussion of degrees of moral status. This theory provides for a continuum of moral status, running from a limited range of moral protections to a broad range of moral protections. For example, infants, the mentally handicapped, and many persons who are cognitively incompetent have some level of moral status, but they do not have the same level of moral status as autonomous persons. For instance, those who lack substantial cognitive and autonomy capacities do not have the same decision-making rights as those who are substantially autonomous" (Beauchamp and Childress, 2013, 86).

8. See, for example, the [World Association for Infant Mental Health \(2016\)](#).

9. Of course, not everyone who thinks that humanity confers moral status will think that humanity is a property that one has all the way if one has it at all. If "humanity" refers to a life characterized by certain distinctively human cognitive or agential activity, for example, then humanity comes in degrees (see Beauchamp and Childress, 2013, 80).

10. "A person is an individual substance of a rational nature" (Boethius, *Liber de Persona et Duabus Naturis*, ch. 3, as quoted in Aquinas [1920, I.Q29.a1]).

11. We want to acknowledge that the substance view and some of the terminology we use to express it may raise ableist concerns. Given spatial constraints, however, we cannot give those concerns the careful treatment they deserve. Moreover, the authors disagree about how best to conceptualize the problem. While Beckwith recognizes the worry about ableism, he maintains that the substance view is fundamentally—and perhaps uniquely—opposed to ableism. On the substance view, he argues, an individual's moral status depends on the sort of being she is, not on whether she is able to exercise the powers that we often attribute to healthy and mature members of the human community. The substance view therefore undercuts any justification one might have for ableist views. Krile Thornton, on the other hand, recognizes that the substance view provides important resources for resisting ableism, but also worries it identifies disabilities as impediments to flourishing, connects capacities like eyesight and reasoning to "the state to which we are ordered," and aligns being perfect with being rational (or having certain cognitive capacities more generally). In short, she worries that the substance view reinforces harmful normative standards about what abilities constitute flourishing.

12. A "proper accident" under Aristotelean/Thomistic metaphysics is neither an essential nor an accidental property, as contemporary analytic metaphysicians understand those terms. Rather, a proper

accident is a feature that flows from a being's essence if it is healthy and its development is not prematurely disrupted. So, for example, eyesight or the ability to reason is not an essential property of a rational animal, but rather, a proper accident to which its nature is ordered.

13. One of us has offered similar illustrations in Beckwith (2007, 147–149; 2013, 342–343; 2015, 126–129).

14. Scientist Carol Kahn (1989) suggests such a possibility, though for her the project is far from mad, but is morally defensible.

15. The two members are Robert P. George and Alfonso Gómez-Lobo, and here is the collection of quotations that Beauchamp and Childress (2013, 65–66) reproduce:

Fertilization produces a new and complete, though immature, human organism. The same is true of successful cloning. Cloned embryos therefore ought to be treated as having the same moral status as other human embryos. A human embryo is, then, a whole living member of the species *Homo sapiens* in the earliest stage . . . Human embryos possess the epigenetic primordia for self-directed growth into adulthood . . . We were then, as we are now distinct and complete . . . To deny that embryonic human beings deserve full respect, one must suppose that not every whole living human being is deserving of full respect. To do that, one must hold that those human beings who deserve full respect deserve it not in virtue of the kind of entity they are, but, rather, in virtue of some acquired characteristic that some human beings . . . have and others do not, and which some human beings have in greater degree than others . . . [Even embryos] are quite unlike cats and dogs . . . As humans they are members of a natural kind—the human species . . . Since human beings are intrinsically valuable and deserving of full moral respect in virtue of what they are, it follows that they are intrinsically valuable from the point at which they come into being. (George and Gómez-Lobo, 2005, spanning 201–205)

16. These examples are adapted from ones given by Kaczor (2015, 21).

## REFERENCES

- Aquinas, T., 1920. *Summa Theologica*. 2nd ed. Trans. Fathers of the English Dominican Province. <http://www.newadvent.org/summa/1048.htm> (accessed April 4, 2020).
- Beauchamp, T., and J. Childress. 2013. *Principles of Biomedical Ethics*. 7th ed. New York: Oxford University Press.
- . 2009. *Principles of Biomedical Ethics*. 6th ed. New York: Oxford University Press.
- Beckwith, F. J. 2004. The explanatory power of the substance view of persons. *Christian Bioethics* 10(1):33–54.
- . 2007. *Defending Life: A Moral and Legal Case Against Abortion Choice*. New York: Cambridge University Press.
- . 2013. Potentials and burdens: A reply to Giubilini and Minerva. *Journal of Medical Ethics* 39(5):341–4.
- . 2015. *Taking Rites Seriously: Law, Politics, and the Reasonableness of Faith*. New York: Cambridge University Press.
- Binding, K., and A. Hoche. 1920. *Permitting the Destruction of Unworthy Life: Its Extent and Form*. Leipzig, Germany: Verlag von Felix Meiner.
- Boonin, D. 2002. *A Defense of Abortion*. New York: Cambridge University Press.
- Friberg-Fernros, H. 2015. A critique of Rob Lovering's criticism of the substance view. *Bioethics* 29(3):211–6.
- George, R. P., and A. Gomez-Lobo. 2005. The moral status of the human embryo. *Perspectives in Biology and Medicine* 48(2):201–10.
- Giubilini, A., and F. Minerva. 2013. After-birth abortion: Why should the baby live? *Journal of Medical Ethics* 39(5):261–3.



- Kaczor, C. 2015. *The Ethics of Abortion: Women's Rights, Human Life, and the Question of Justice*. 2nd ed. New York: Routledge.
- Kahn, C. 1989. Can we achieve immortality? The ethics of cloning and other life extension technologies. *Free Inquiry* 9(2):14–8.
- Lee, P. 2010. *Abortion and Unborn Human Life*. 2nd ed. Washington, DC: Catholic University of America Press.
- McMahan, J. 2008. Challenges to human equality. *Journal of Ethics* 12(1):81–104.
- UN General Assembly. 1948. *Universal Declaration of Human Rights*. United Nations [On-line]. Available: <http://www.un.org/en/universal-declaration-human-rights/> (accessed April 4, 2020).
- World Association for Infant Mental Health. 2016. *Position Paper on the Rights of Infants*. World Association for Infant Mental Health [On-line]. Available: <https://perspectives.waimh.org/2016/06/15/waimh-position-paper-on-the-rights-of-infants/> (accessed April 4, 2020).