

## THE RELATIONSHIP OF PERSONHOOD TO MEDICAL-ETHICAL DECISION MAKING

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### *Introduction*

In his article in this issue of *The Personalist Forum* Professor Hudson presents a very interesting, though fundamentally wrong, approach to the relationship of personhood to medical-ethical decision making. He seems to want to endorse an objectivity of values which I believe is a philosophically correct and defensible position, but he misunderstands the fundamental issue of value creating and value experiencing as a foundation for personhood. This confusion ultimately undermines the objectivity of values which he seeks. If conscious awareness is value-creating, as he claims, then ultimately all value and value relationships are subjective and relative to the person with conscious awareness. On the contrary, I hold that certain value relationships exist independently of anyone's conscious awareness of them. It will be seen that Hudson's fundamental assumption, which he does not support but just asserts—namely, that all value has its source and locus in a certain type of conscious awareness—is simply a false claim. Nevertheless, in spite of this serious flaw, his position is a step in the right direction. With this brief overview let me now support my claims with a detailed analysis of Hudson's position and a formulation of my counter position.

In analyzing any moral position, I suggest that it is required to meet at least the following four criteria as tests of adequacy: (1) it

must be responsible to common moral experience; (2) it must be complete and adequate in analyzing and explicating moral concepts; (3) it must be internally consistent; and (4) it must be clear and consistent in the distinction of descriptive, normative, and metaethics. These criteria will be applied to Hudson's position to test its adequacy as a correct moral theory. A detailed explanation of these tests of adequacy has been give elsewhere.<sup>1</sup>

### *Statement of Hudson's Position*

After accurately noting some of the causes for a swing of the moral pendulum toward relativistic theories of value during this century, Hudson notes that for the most part they have been worse than unhelpful and less than plausible. His thesis, then, is that the subjective approach to value theory has been inadequate for practical guidance and policy decision-making in medical ethics and that a new approach is needed in determining specifically what to do in complex, difficult medical ethical situations. He says:

I propose to sketch very briefly the general outlines of such a moral position . . . . There is an urgent need for a moral position which can actually be used to guide decision-making, a position which is neither relativistic nor arbitrary, and within the general framework of what morality requires.<sup>2</sup>

He notes requirements which such a position, and presumably any adequate moral theory, would have to meet and then proposes his position as a solution to the tangle of competing proposals in medical ethics.

In trying to develop this position Hudson delves into a

discussion of the ontological status of value. The position which Hudson advocates is one in which all value has its source in conscious awareness. Objects have no value apart from their relationships to conscious beings. Indeed, conscious experience creates all value, according to him. For example, Hudson says:

I begin with the claim that all value has its source and locus in a certain type of conscious awareness . . . . The only intrinsic, inherent value that ever exists occurs in the conscious experience of some being capable of the necessary level of awareness . . . . All intrinsic value occurs in conscious experience, and it is the conscious awareness of value-discriminating beings which is the foundation and occasion of all the value there is . . . . It is the occurrence of certain types of conscious experience which constitutes all intrinsic value, and which gives to material objects and conditions the instrumental value that they have. (62)

Hudson contends that it is this capacity for the creation of value which accounts for the high value that is placed on human beings. He then bestows "personhood" on any being who possesses this capacity for value-creating. Along with personhood, he contends, goes certain inherent *prima facie* rights such as the right to have life preserved and this capacity to create value protected.

### *Analysis of Hudson's Position*

There are problems with Hudson's position at different levels. That is, there are practical problems in the statement of the position which presumably could be solved by a more careful and detailed statement of the position. But then there are theoretical problems with the position that involve unacceptable implications

and logical formulation of the arguments which have much more serious repercussions and would be much more difficult to resolve.

One practical problem in Hudson's position comes in the repeated vagueness employed in explication of the basic claim that all value has its source and locus in a certain type of conscious awareness. Just what this "certain type" of consciousness is goes without clarification. Rather, the vagueness is later repeated when Hudson says that the only value that ever exists occurs in beings capable of the necessary level of awareness. Just what the "necessary level" of awareness is, unfortunately, is not adequately addressed. This issue becomes crucial later when personhood is based on this certain type of conscious awareness and carries with it various *prima facie* rights such as the right to life. But what counts as this certain type of consciousness? What is the necessary level of awareness? For example, does an anencephalic infant have the necessary level of awareness for personhood? Does the moderately retarded Down's Syndrome child have this certain type of consciousness that carries with it the protection of personhood? They have some conscious awareness, but how is one to determine if it is the "certain type" or "necessary level"? The implications of this for abortion and euthanasia indicate that Hudson's intention of developing a new position, one which would provide the practical details of what morality requires one to do, has gone unrealized. It was just such problems as these that required a new position in the first place. It seems that Hudson's hope of charting a course through the tangles of medical ethics has run aground.

A potential reponse for Hudson's defense would be that the "certain type" of consciousness and "necessary level" of awareness are found in his reference to the required capacity for value creation and value discrimination. Hudson says, "But mere



life, i.e. mere organic metabolism, is of no value in itself; it is valuable only because (and thus only insofar as) it contributes to the capacity for value-realizing conscious awareness" (63). So presumably the capacity for value creation and/or value discrimination is the key to personhood and its rights for protection.

However, this generates two other problems for Hudson's position. The capacities for value creation and value discrimination are not the same. On the one hand, if personhood hinges on the capacity for value creation, then fewer entities may be included in personhood than he intended. This has implications for both the practical and theoretical levels. On the practical level there are still problems of where to draw the line as to when an entity can or cannot create value, e.g., with a fetus, the profoundly retarded, etc. On the theoretical level there are problems of whether even those entities that are obviously considered persons create value. This point will be discussed later. So if personhood hinges on the capacity for value creation, then much more explication is required of Hudson to be sure his concept of personhood includes everything that he intends.

On the other hand, if personhood hinges on the capacity for value discrimination, then more entities may be included in personhood than he intended. If the capacity for value discrimination is what is required for personhood, then my puppy dog is as much a person as is Hudson. Indeed, most all sentient beings would qualify for personhood with Hudson's position. He says, "For convenience in referring to it, let us give the name 'personhood' to the capacity for the type of awareness which appreciates and realizes value . . . ." (64). I am convinced that my pet is a being which has the capacity for the type of awareness which appreciates and realizes value — perhaps even moral value, but certainly other types of value.

A potential response for Hudson's defense would be to acknowledge that animals, at least higher animals, are persons. A

reasonable defense could be given for that position; but it would not help solve many of the problems in medical ethics, especially issues like xenographs and other uses of animals in medical experimentation. But this is a response that Hudson is not willing to make. Although he gives no arguments to support his claim, he holds that only human beings are persons. He says:

But other animals, at least those which exist on earth, are not persons. Any rights which our analysis of their nature leads us to conclude that they may have are not personal rights, even though such rights may turn out to be grounded in the rough approximation of some of their traits to ours. (75, n. 11)

Since he holds the personhood concept to be so important, it would be helpful if Hudson would explain the distinction rather than just categorically state that non-human animals do not meet the criteria of value creation and/or value discrimination. For Hudson to deny this would violate common sense experience. In ordinary common sense experience many animals, although perhaps not all, seem to meet his criteria of value creation and value discrimination. How such animals differ from human beings who qualify for personhood is left unclear. But unless Hudson can spell out the distinction between human beings and non-human animals with regard to personhood, his theory is incomplete and therefore inadequate.

In addition to the previous problems, at times Hudson seems to confuse metaethics and normative ethics. He claims to be doing metaethics, i.e., philosophical analysis or conceptual clarification of basic concepts such as personhood and the nature of value. He leaves no doubt that he is intending to do

philosophical analysis and conceptual clarification. However, frequently he ends up offering normative advice for medical ethical decision-making by making prescriptive assertions rather than philosophical statements or conceptual clarifications. He even confuses his normative assertions with apodictic statements when repeatedly he mistakenly says 'must' when the sense of the statement requires that he meant 'should.' For example, Hudson says, "... the physicians and other experts must weigh all the available evidence in order to attempt to predict [the presence of personhood] ...." (70). Elsewhere he says:

The decision making process must include the use of a thorough range of diagnostic procedures .... Where there is an appreciable measure of doubt, the decision must always (*prima facie*) be in favor of maintaining life rather than of terminating. (69)

But these normative admonitions of how one should run a medical practice are not relevant to his avowed purpose of conceptual analysis. The point is that one should not be claiming to do one thing while doing another. It is all right to do either one but logically inconsistent to claim to do one while in fact doing the other. Finally Hudson says, "It is this [value creating conscious awareness], also, which must guide our policies with regard to all human needs" (71). It may indeed be the case that if he does a good job of his philosophical analysis, then the clarified concepts will guide our policies; but it is unhelpful and inappropriate for Hudson to promote his normative views under the banner of philosophical analysis. Perhaps his ultimate normative concerns will be satisfied by his metaethical work; however, the two should not be confused. In confusing the two, his position fails to be logically consistent and is therefore inadequate.

Too often Hudson fails to clarify and argue his views. On numerous occasions he claims in reference to one of his points that "it is clear" or that "everyone agrees" when, in fact, that is not the case. Frequently when a writer says that, it is a ploy to persuade and convince the reader to accept the assertion without questioning or analyzing the accuracy of the claim because the writer either is not convinced of the adequacy of the claim or has not done adequate analysis of the claim. The former involves sheer deception and the latter involves innocent ignorance. Hudson may not have intended to engage in either of those, but he uses the technique too often. For example, he says:

It is clear that everyone who discusses these matters agrees that what is essential in personhood is such features as the ability to perceive, to feel, to think, to understand, to judge, to enjoy, to suffer, to appreciate, to communicate with others, and to respond to and interact with the environment.  
(66-67)

This is simply a false statement. If it *were* clear and *everyone* agreed with this statement, most of the problems which Hudson is trying to solve would not occur, and he would not need to be trying to clarify the concept of personhood. His concerns over the problems of infanticide and euthanasia exist because it is *not* clear and *not* everyone agrees on just what the essential features of personhood are. Many people believe that seriously defective human infants or irreversibly comatose human adults are still persons even if they do not possess most of the features listed by Hudson as essential and agreed to by everyone. And it is this disagreement that justifies Hudson's enterprise of conceptual clarification of the notion of personhood. Similarly he says, "The

moral justification for such acts (of euthanasia and infanticide) is clear enough" (66). But it is precisely because the moral justification of such acts is not clear enough that we need further conceptual clarification as to what constitutes euthanasia, infanticide and personhood as well as when and how these concepts are properly employed. Other examples of this inappropriate technique of claiming that a point is clear or agreed upon when it is not could also be cited but the point has been made sufficiently.

Another practical problem for Hudson's position is that even if it were clear and well-argued and even granted as correct, it would not be much practical help in medical ethical decision-making and particularly not to the practice of medicine. He illustrates his theory with examples of infanticide and euthanasia. While these are hotly debated issues in the philosophical literature and difficult cases when they occur in the practice of medicine, they seldom occur percentage-wise and are not a big problem in the day-to-day practice of medicine. Very very few patients fail to achieve or permanently lose the kind of value creating conscious awareness Hudson requires for personhood. If there were suddenly a unanimous agreement on Hudson's concept of personhood, the practice of medicine would change imperceptibly. Even in neonatology and oncology, seldom is infanticide and euthanasia a problem in the sense that seldom is there a question of whether the patient is a person. Rather, usually the problem in the practice of medicine is whether there is adequate justification for a particular medical intervention with a given patient who clearly is a person even by Hudson's criteria. The vast majority of moral problems in medicine occur with common, mundane issues of informed consent, truth-telling, confidentiality and interpersonal relationships and do not involve concerns over the presence or absence of personhood. This is simply an empirical issue which experience in a medical center will readily confirm. However, not only is Hudson's concept of

personhood not helpful in general since it is not applicable to most of the ethical problems in medicine, but also it is not very helpful even with those particular problems for which it is specifically designed to address, primarily due to the vagueness of the concept and the many gray areas of its own. Hudson acknowledges that there are no sharp demarcations and that we simply have to go on those traits which we know in ourselves and recognize in others. But that is not much help in knowing whether the traits we recognize in ourselves and others are the ones we see in adequate amount in defective newborns and at various levels in retarded human beings. Which traits and how many of them in what degrees are sufficient? The obvious ones are obvious enough. It is the less obvious traits that we worry about, and Hudson's position gives absolutely no help in how to go about deciding such things. He only suggests that such cases involve intelligent, thoughtful and compassionate human judgment, not just mechanical application of rules. And I would add—even rules about the presence or absence of the criteria for personhood.

Furthermore, in supporting his position that infanticide and euthanasia are not only sometimes morally permissible but sometimes even morally required, Hudson contends that those patients who do not possess personhood do not have the right to life which needs to be preserved and protected. While it follows from his earlier claims that all persons have a right to life because of their intrinsic value, his further claim that *only persons* have a right to life seems more difficult to justify. Indeed, it seems to violate common moral experience. But Hudson states, "It is the possession of personhood . . . which therefore is the ground of the attribution of rights such as the right to live to any organism" (69). By implication this would mean that it would not be morally wrong capriciously and systematically to exterminate the bald eagle or the great blue whale as a species simply because they

are not persons. But is this an acceptable, morally adequate stance? It would seem that all living things have at least a *prima facie* right to continue living unless there is adequate justification to end their lives. This indicates that Hudson's position fails to be in keeping with primary common moral experience and therefore is inadequate.

Now I turn to some theoretical problems with Hudson's position. The first one results from his emphasis on gradations and degrees of characteristics as opposed to all-or-nothing distinctions. An implication of Hudson's position is that there are such things as partial persons. He notes that we have to recognize that the features which constitute personhood may be present or absent in greater or lesser degrees and correspondingly the rights which accompany personhood may also be a matter of degrees. He contends that it is clear that a mature, alert, rational, adult human being is a person while it is equally clear that an amoeba is not a person. Of course, this is clear only if one has some distinguishing criterion of personhood. For Hudson the distinguishing criterion is the capacity for the type of awareness which appreciates and realizes value. It is not at all clear that an amoeba does not appreciate certain values such as high humidity and low illumination. Certainly the emphasis on gradation and degrees of characteristics of personhood makes it much more difficult to draw the line between human beings and other animals with regard to personhood. However, even granting Hudson's point of there being a significant difference between a human being and an amoeba, with his emphasis on gradations the problems still remain for medical ethics regarding the moral status of apes, monkeys and other primates and even more so for seriously defective infant and comatose adult human beings. Hudson states:

.... there are gradations everywhere, sharp objective distinctions nowhere, and many border-



line cases where we will inevitably have difficulty deciding .... Our standards must take these facts into account and thus we must think in terms of the presence in greater or lesser degree of the distinguishing marks of personhood rather than expect that these marks will be always either fully present or entirely absent. (66)

The implication of this is that there is such a thing as a partial person. But the concept of a partial person does not make sense. It is like the notion of being a little bit pregnant — either you are or you are not. Common moral experience simply does not square with the notion of partial persons. One does not experience partial persons. One experiences beings which are persons and being which are not. Sometimes one experiences beings which are not persons but have some of the characteristics of persons. However, that does not make them partial persons. That simply makes them beings with various degrees of similarities to persons.

A potential response for Hudson's defense would be to draw the distinction between being a person and having the characteristics of a person (to a greater or lesser extent). Then one could argue that the anesthetized normal adult human being or even the seriously defective infant is a person while the non-human primates and other animals are not persons even though they may have some, even many, of the characteristics of a person. But, of course, while this might help deal with the concept of a partial person, it would not solve many of the problems of medical ethics.

Another theoretical problem occurs in his theory of personhood as a result of Hudson's placing a heavy emphasis on the

potential or capacity of a being to have value-creating conscious awareness. He uses the notion of potential to include under the concept of personhood normal human infants and sleeping adult human beings who lack any conscious awareness at the moment. Furthermore he frequently refers to the concept of complete potential or full potential. This seems like a strange locution. It would seem that with the notion of potential, one either has it or does not. Of course a possessed potential may or may not become realized in actuality. For example, one may have the potential to become a biological father; but regardless of whether or not it is actualized, one either has it or does not. One does not become a partial biological father versus a complete biological father. Care needs to be taken not to confuse partially having a potential and partially realizing a potential. Having a potential is an all-or-nothing situation whereas realizing a potential is a matter of gradation or degrees. The latter entails the former but not vice versa. That is, one can realize a potential only if one has it, whereas one can have a potential regardless of whether or not one realizes it. So Hudson's reference to complete or full potential is unnecessary and unhelpful. At least if there is a significant distinction between a potential and complete potential, then he needs to explain the distinction more thoroughly. Apparently this emphasis on complete and full potential is a function of Hudson's earlier concern over gradation and degrees of characteristics, which led to the problem of the notion of partial persons.

In addition, the emphasis on the potential for value-creating conscious awareness may include more under the concept or personhood than Hudson intended. For example, it is not clear why all human sperm and egg cells would not qualify for personhood with Hudson's theory. They each are a potential locus of value-creating conscious awareness. Yet one would not likely want to say that every time a man masturbates he has

destroyed millions of persons. And surely one would not want to say that every time a woman menstruates she has destroyed a person. Of course, it is granted some things have to happen to the sperm and egg cells which are the potential loci of value-creating conscious awareness, just as some things have to happen to the normal human infant and the sleeping adult human being — namely, growing up and waking up.

A potential response for Hudson's defense would be that the sperm and egg cells do not have the potential before fertilization but rather before fertilization only have the potential to get the potential after fertilization. This seems like a rather strange position, for one can readily see how it leads to an infinite regress in which the proteins that become sperm and egg cells then have the potential to get the potential to get the potential necessary for becoming persons, etc. No doubt Hudson would consider this defense undesirable. However, even if the sperm and egg cells before fertilization can somehow be excluded from his concept of personhood, it seems that after conception the embryo is a potential locus of value-creating conscious awareness which is included in Hudson's concept of personhood and therefore entitled to the rights afforded persons. This, of course, generates many of the problems with abortion, but granted, sometimes rights conflict between people and adjudication has to occur. Unfortunately, Hudson gives no hints at how the resolution of these conflicts of rights is to be achieved. So although he is seeking a position which can actually be used to guide decision-making, it is not at all clear how his position would be helpful in the search for a solution to the abortion debate.

Furthermore, with regard to the potentiality argument, it is simply not a good argument logically. The form of the argument is that since X has the potential to be Y, then X should be treated as if it were Y. Therefore, since the normal human infant or fetus

has the potential to be a person, it should be treated as if it were a person (which includes respecting the various rights of personhood). However, the inadequacy of the logic of this form of reasoning is readily apparent when one argues that since a man has the potential to be a rapist, then he should be treated as if he were a rapist. The logic of the potentiality argument is just poor logic. So Hudson needs to rely on something besides the potential for becoming a person to account for the status of normal human infants and sleeping adult human beings as well as human fetuses.

Although he couches it in terms of an analysis of the concept of personhood, Hudson's fundamental concern in his article is with the nature of values. Ultimately at issue is the subjective-objective controversy in value theory. Hudson begins his article by lamenting the popularity of the subjective approach throughout the first three-fourths of this century. He decries this subjective relativism which maintains that morality has no objective foundation and proposes to develop an objective position which will overcome the relativistic and arbitrary nature of moral theories of the recent past.

However, Hudson then launches into a discussion of the ontological status of values which ultimately undermines his position. He says that a moral position is urgently needed which can actually be used to guide decision-making and which operates within the general framework of what morality requires. This last phrase 'of what morality requires' implies that there is an objective value structure that common sense moral experience recognizes. That is, there is a general framework of moral values that requires some things and prohibits others independently of how the moral agent or person feels about them such that sometimes one can get these moral requirements right and sometimes get them wrong. Hudson says, "As moral beings we will certainly judge that some experiences, delightful as they may be in themselves, are experiences which we ought not to have

because they contribute to so much suffering or cause so much evil. (62). This means that there are normative requirements emanating from the general framework of values. I think this position is correct and that it is commendable for Hudson to attempt to develop such an objective value theory which will square with common sense moral experience.

However, Hudson also says, "All intrinsic value occurs in conscious experience, and it is the conscious awareness of value-discriminating beings which is the foundation and occasion of all the value there is (62)." This raises serious questions about how Hudson understands and explicates the nature of value, particularly the ontological status of value. Without adequate elaboration, he claims in a footnote that value is a characteristic or quality which is created by conscious awareness similar to the way color is created by light. On the contrary, I suggest that value is a relationship between the way things are and the way things ought to be. And since relationships exist whether one is aware of them or not, then values exist whether one is aware of them or not. Indeed, then value can exist without there being any conscious awareness to discern whether or not things are the way they ought to be. This may seem less obvious with moral value than other kinds of value, such as the concept 'good of a kind', but I contend that this existence as a relationship holds for value of all kinds. In a world where there was not conscious awareness, there could still be a good tree in the sense of its being good of a kind, i.e., in the sense of its being an accurate example of a tree such that if and when there were any beings with conscious awareness, they could discern it as a good tree. Similarly in a world where there was no conscious awareness, there would still be moral values or universal normative requirements such that if and when there were any beings with conscious awareness, these universal moral imperatives would impinge upon them as

the relationship of how things ought to be. But Hudson claims that all value, not just moral value, has its source in conscious awareness. This claim is either trivial or false. It is trivial if he merely means that without conscious awareness one does not have the existence necessary to discern the value that exists whether one is discerning it or not. While one can have an obligation without being aware of it, obviously one cannot have an obligation without oneself existing to have the obligation. But surely this is not the point of Hudson's position since this point is so simple-minded that it would not justify the time and effort of writing his paper. On the other hand, the claim is simply false if he means that one's conscious awareness literally creates the value which is not there without conscious awareness as opposed to one's conscious awareness discerning or experiencing the value which is there whether one is aware of it or not. That is to say, one experiences value; one does not create value. Our common moral experience validates this to us regularly. I assume that Hudson is not pursuing trivial issues such as whether the inside of a watermelon is red before it is cut or whether the watermelon is good before it is eaten.

However, if Hudson means experience creates value in the substantive sense and not just in the trivial sense, then his ontological position about value undermines his search for an objective position which is not relativistic nor arbitrary. If experience creates value as Hudson claims and everyone has his/her own subjective experience, then everyone creates his/her own value, and its existence is relative to the one creating it. But this is exactly the position Hudson wants to avoid. It seems that unwittingly he has endorsed what he is arguing against. This unfortunate circumstance can be avoided by acknowledging that value exists independently of one's conscious awareness of it. This leads to an objective theory of value like Hudson is seeking. I have argued the details of just such an objective theory of value

on other occasions and need not repeat these arguments here.<sup>3</sup> The position I support avoids the relativistic, subjective arbitrariness that concerns Hudson. It entails that there are right and wrong answers to moral questions. But if persons do not create value, then Hudson's concept of personhood is too narrow and does not include everything he wants included — indeed it becomes vacuous. So he either has to abandon his concept of personhood as value creating beings or abandon his hope for an objective position which will not be relativistic. Short of that he has to explicate his concepts differently so as to make them compatible with each other, which they are not as they stand.

#### *Formulation of a Counter Position*

It seems that a more defensible approach to the concept of personhood would be to acknowledge that all human beings and only human beings are persons. This is more in keeping with our common moral experience of reality and avoids the almost certain failure of trying to reform our language in such a way that the term 'person' would come to mean something quite different from what it commonly means to us currently, which is what Hudson's position requires. Then one can acknowledge that sometimes adequate justification can be given to have the life of a person preserved and the capacity for the realization of value protected, and sometimes adequate justification cannot be given. The adequate justification is the reasons one gives in support of any given position. The giving of adequate justification is, after all, what moral reasoning is all about, rather than reformulating the language and changing the definitions of concepts. Spelling out the adequate justification for preserving or not preserving a person's life would seem a lot easier than determining the necessary and sufficient criteria for personhood. After all,



Hudson admits that the search for such criteria is hopeless. He says that it is a not fully specifiable list which probably cannot be produced and that no such successful list is expected. On the other hand, progress is being made on establishing adequate justifications for preserving and not preserving human life. For example, there is virtual unanimous agreement on not preserving the life of the irreversible brain dead patient as well as on preserving the life of Jews from Nazi euthanasia chambers. Of course, there are still a lot of situations that are not yet clear and are still being worked on, such as seriously defective newborns and oncology patients in intractable pain. But be patient. The adequate justification approach has shown real progress in just a few decades whereas the search for the necessary and sufficient criteria for personhood has proved fruitless for centuries. Furthermore, the development of adequate justification fits Hudson's requirement of a position being derived from human reason which any unbiased and informed person can understand. It is difficult to see how his position, in which some but not all sentient beings are persons and some patients who are generally thought to be persons do not qualify for personhood under his criteria, even meets his own requirements.

For pragmatic reasons it seems that the adequate justification approach is better because it enables any group of intelligent, rational people to engage in useful discussions about whether or not a given medical treatment should be performed and leads to practical guidance about particular actions. On the contrary, the criteria for personhood approach does not facilitate fruitful discussions which yield practical guidance about particular actions. Rather the criteria for personhood approach leads to esoteric discussions of hypothetical possibilities frequently ending in exasperation and no clear sense of what to do in a particular case. The practice of medicine is based upon problem solving through the application of clinical reasoning which requires being

able to give adequate justification for one's medical decisions which physicians regularly do. The practice of medicine is not based upon abstract philosophizing which is academically fascinating but alien to clinical decision-making and something which physicians do not generally do. So if Hudson wants to help solve the problems of medical ethics and provide a position which can actually be used to guide decision-making, as he claims, then he needs to abandon the criteria for personhood approach.

Furthermore, the adequate justification approach is capable of application to a much broader range of medical ethical situations than is the criteria for personhood approach. Hudson criticizes other recent medical ethical theories for being too narrow and sometimes being devised to deal with a specific issue. However, the criteria for personhood approach deals with at best a limited number of issues. It seems to be designed primarily for infanticide and some limited cases of adult euthanasia although Hudson suggests that it has potential application for abortion. Nevertheless, this is a very limited range of medical ethical problems, and furthermore, the vast majority of medical ethical problems do not even turn on the concept of personhood. On the other hand, the adequate justification approach is applicable to all medical ethical problems because reasons are always required in support of any position or action, and reasons are what constitute adequate justification. Of course, not just any reasons constitute adequate justification, but any adequate justification is constituted by reasons. Specifying which reasons constitute adequate justification in any particular case is the process of the moral endeavor. One might argue that loss of some of the criteria which Hudson believes necessary for personhood are the reasons that constitute adequate justification for given actions in certain cases. While that may be the case sometimes, there are a multitude of other

reasons that can frequently be given that do not have anything to do with personhood. The quality of life considerations that often influence decisions about medical intervention would be examples of the other reasons that do not have anything to do with the concept of personhood.

While this approach of granting personhood to all and only all human beings would not solve all the problems of medical ethics, it would avoid the problems of partial persons and the attributing of personhood to non-human animals. This would shift the focus of medical ethics away from a concern over what constitutes personhood toward a concern over what constitutes adequate justification for the initiation or discontinuation of medical treatment to preserve life and/or to protect the capacity for the realization of value. This focus seems to be much more appropriate for the activities of medical ethics as a discipline. Also, there is considerable public experience with this focus of adequate justification for intervention, as opposed to little public experience with formulating the criteria that constitute personhood.

### *Evaluation of Hudson's Position*

In summary, it seems appropriate to conclude that Hudson's explication of his theory of personhood is inadequate as it stands. It has demonstrated practical problems of vagueness of central concepts when it referred to a "certain type" of awareness and a "necessary level" of awareness without adequately clarifying what constituted this certain type or necessary level of awareness. Also, Hudson's reliance on the capacity for value creation and value discrimination as the key to personhood was alternately found either to include more than he wants included or to include less than he wants included. Either way, it does not look good for his position. Furthermore, practical problems were noted in the

formulation of the position in that it was frequently claimed that points were clear and agreed upon when in fact they were not. Worse still, it was found that even if Hudson's position were granted entirely, it would not be much practical help in medical ethical decision-making or in the practice of medicine as he had hoped.

In addition, theoretical problems were found in the formulation of the position when it failed to meet most of the criteria set out initially as necessary for any adequate moral theory. It was found to violate common moral experience in its formulation of a concept of personhood which includes the notion of partial persons and which allows the capricious extermination of a non-human species. Furthermore, questions were raised about the completeness of the theory when it failed to clarify the distinction between human beings and non-human animals with regard to personhood. The heavy reliance of the concept of personhood on the potential for value-creating conscious awareness was found to be theoretically problematic and raised questions about the logical adequacy of the position, especially when the concept of potential was analyzed and the inadequacy of the logic of the potentiality argument was revealed. Finally, Hudson's position was found to violate the distinction between normative ethics and metaethics when it purported to be doing philosophical analysis and conceptual clarification but frequently made normative admonitions and prescriptive assertions about how to practice medicine. But not only did his position not meet the criteria I set for any adequate moral theory, it was found not to meet his own requirements of objectivity and wide applicability.

Lastly, most of the more interesting and potentially useful issues for supporting Hudson's position, such as the resolution of conflicting rights, the implications of his position for suicide and abortion, and the relationship of animal rights to their possession

of the various criteria for personhood, are all avoided with a reference to insufficient space or their being so important as to require a detailed treatment as the subject of a different paper. Yet, roughly a fourth of his paper is devoted to lamenting previous inadequate theories before proposing his own. It would seem that if he had anything useful to say about these important issues, Hudson could have shortened the introduction and at least given some hints about them.

### Acknowledgement

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### Notes

<sup>1</sup>Donnie J. Self, *Value Language and Objectivity: An Analysis in Philosophical Ethics* (Ph.D. Dissertation, University of North Carolina Library, 1973).

<sup>2</sup>Yeager Hudson, "Personhood: Toward a foundation for Medical-Ethical Decision Making," *The Personalist Forum*, Vol. 1, No. 2 (Fall, 1985), 60. Further references to this article will be indicated by page numbers in parentheses following the reference.

<sup>3</sup>Donnie J. Self, "Methodological Considerations for Medical Ethics," *Science, Medicine and Man*, I (1974), 195-202; Donnie J. Self, "Objectivity and Value Supervenience in Medical Ethical Decision-Making," *Ethics in Science and Medicine*, II (December, 1975), 145-150; Donnie J. Self, "An Alternative Explanation of the Empirical Basis of Medical Ethics," *Ethics in Science and Medicine*, II (December, 1975), 151-166; and Donnie J. Self, "An Analysis of the Structure of Justification of Ethical Decisions in Medical Intervention," *Theoretical Medicine*, VI (October, 1985), in press.