

Alan J. Kearns

H.Dip.Ed., B.D., M.A.

Submitted for the degree of Doctor of Philosophy (Ph.D.)

Dublin City University

Professor P. Anne Scott School of Nursing

May 2005

I hereby certify that this material, which I now submit for assessment on the programme of study leading to the award of Doctor of Philosophy is entirely my own work and has not been taken from the work of others save and to the extent that such work has been cited and acknowledged within the text of my work

Signed Chan T Kearn ID No 51178176 Date 15th August 2005

Acknowledgements

I would like to thank first and foremost my supervisor Professor P Anne Scott who encouraged me when I first expressed an interest in the concept of person in health care ethics. I cannot fully express my appreciation to her for focusing the direction of my research and for her guidance in critical and reflective thinking.

My sincere appreciation to the School of Nursing, Dublin City University and to the Zentrum für Ethik in den Wissenschaften, Tubingen University for their generous assistance in providing the research material for both primary and secondary sources

My gratitude to those who proofread the thesis and who helped me to develop my thought and to express it in a more clear and accessible manner

Finally, a special thank you to Corinna, my wife, whose tireless and unremitting support helped me to pursue and complete this investigation

Table of Contents

Abstract	V111
0 General Introduction to Thesis	1
0 1 Introduction – Background	2
0 2 The Concept of Person and Human Being	3
0 3 The Core of the Thesis	8
0 4 Conclusion	9
0 5 Chapter Summary	11
0 5 1 Chapter One The Creative Revolution in Health Care	11
0 5 2 Chapter Two Concepts of Person	11
0 5 3 Chapter Three An Aesthetic Presentation of the Concept of Person	12
0 5 4 Chapter Four An Instructive Presentation of the Concept of Person	13
0 5 5 Chapter five The Implications of the Concept of Person for the	
European Charter of Patients' Rights	14
1 The Creative Revolution in Health Care	15
1 1 Introduction – The New World	16
1 2 The Creative Revolution	16
1 3 Understanding the Distortion	26
1 4 Towards a Philosophical Understanding of Positive and Negative Uses	`
of Creativity	27
1 4 1 The Ideological Pursuit of Perfection	27
1 4 2 The Closed and Open Societies in the Creative Revolution	37
1 5 Conclusion – The Need to Examine the Concept of Person	50

2 Concepts of Person	53
2 1 Introduction – Korperwelten	54
2 2 Why Use the Concept of Person?	56
2 3 Concepts of Person	59
2 3 1 The Puzzle of the Concept of Person	59
2 3 2 The Concept of Person Where does it come from?	60
2 3 3 Updating the Concept of Person	63
2 3 4 The Modern Concept of Person – Locke	69
2 3 5 Tooley on the Concept of Person	71
2 3 6 A Non-Species Concept of Person	74
2 3 7 The Strict/Social Concepts of Person	78
2 3 8 The Concept of Person and Human Being	81
2 3 9 The Concept of Person A Static Morality of a Closed Society?	82
2 4 Conclusion – Towards an Aesthetic and Instructive Presentation	87
3 An Aesthetic Presentation of the Concept of Person	89
3 1 Introduction –The Sufi Parable	90
3 2 The Disenchanted World	92
3 2 1 Zellwald – An Exhibition of Human Cells	92
3 2 2 The Person Forest – A Mechanistic Treatment	94
3 2 3 The Roots of Mechanism	96
3 3 The Meaning of "Meaning"	100
3 3 1 The World of Meaning	100
3 3 2 The World of Immediacy	100
3 3 3 The World Mediated by Meaning	101
3 3 4 The World Constituted by Meaning	103

3 4 Significance, Human Agency and Language	106
3 4 1 The Representative and Significance View of Consciousness	106
3 4 2 Self-Interpreting Animals	108
3 4 3 The Act of Strong Evaluation	112
3 4 4 Language and Public Space	113
3 4 5 Against Speciesism	116
3 5 The Concept of Person within an Aesthetic Presentation	118
3 5 1 Towards an Aesthetic Presentation	118
3 5 2 A Definition of Person	122
3 6 Conclusion – The Need for an Instructive Presentation	123
4 An Instructive Presentation of the Concept of Person	125
4 1 Introduction – The Little Prince & A "Grumpy Old Woman"	126
4 2 Self-Interpreters & "Other-Focused" Interpreters	129
4 3 The Definition of Person An Act of Blindness?	131
4 4 Towards an Instructive Presentation	146
4 4 1 Escaping from Blindness – Simple Acts and Complex Structures	146
4 4 2 Intellectual Sympathy	149
4 4 3 The Power of Concepts?	152
4 4 4 The "Current"	158
4 4 5 Intellectual Sympathy and the Closed & Open Societies	161
4 5 Conclusion – Intellectual Sympathy An Instructive Presentation	162
5 The Implications of the Concept of Person for the European Charter	
of Patients' Rights	167
5 1 Introduction	168
5.2 The Local and the Global	168

5 2 1 No Longer Moral Strangers	168
5 2 2 The Two Sources Revisited	171
5 2 3 From Closed Justice to Open Justice	176
5 2 4 From Dynamic to Static Morality	180
5 3 The EU Charter of Patients' Rights	181
5 3 1 The Rights Approach	181
5 3 2 The Charter An Example of Static or Dynamic Morality?	184
5 3 3 Towards Individualism	189
5 3 4 The Implications of the Concept of Person for the Charter of Rights	191
5 3 5 The Implications of my Definition of Person for the Charter of Rights	195
5 4 Conclusion – The Concept of Person within the Dynamic Morality of the Charter	199
6 General Conclusion to Thesis	202
7 Bibliography	210
7 1 Books	211
7 2 Articles	221
7 3 Internet Resources	235
r	
8 Appendix	237
8 1 Appendix A Korperwelten	238
8 2 Appendix B The Zellwald	239
8 3 Appendix C Diagram of Taylor's Philosophical Anthropology	240
8 4 Appendix D Diagram of Definition of "Person"	241
8 5 Appendix E 2002 European Charter of Patients' Rights	242

Abstract

The Concept of Person in a World Mediated by Meaning and Constituted by Significance

Alan J Kearns

In this dissertation I examine the technological advances benefiting health care today. I point to the fact that such progress is accompanied by a number of ethical concerns. With the assistance of technology, for example, the life of a patient in a persistent vegetative state (PVS) can be prolonged. This raises ethical questions including when we morally ought to, or ought not to, enable a patient to live or to die. Some ethicists attempt to answer such questions by distinguishing between the concept of person and human being. The former (i.e. person) automatically qualifies for moral consideration, whereas the latter (i.e. human being) does not. The concept of person, compared to human being, can offer a clearer benchmark for deciding whom to include in the moral domain. In the case of a patient in a PVS it may be easier to let go when we ascertain that s/he is no longer a person with any moral claims on us

Although the distinction between human being and person might be helpful in ethical decision-making, the concept of person tends to end up excluding a large number of human beings from the moral realm. In lieu of this, I outline a concept of person as a self-interpreting-dependent-vulnerable animal living within a reality that is mediated by meaning and constituted by significance. My concept attempts to dismantle the arbitrary boundaries of exclusion that are erected by contemporary definitions of person

Finally, I examine some of the implications of the concept of person for the European Charter of Patients' Rights I contend that the rights outlined can be logically denied to those who are not strictly persons. Against this, I argue that my concept of person may provide a possible route to counteract the Charter from becoming an exclusive rather than an inclusive code

INTRODUCTION

O. General Introduction to Thesis

0 1 Introduction - Background

The general context that paves my way into an inquiry concerning the concept of person is one of applied philosophical ethics in health care. As someone coming from a philosophy background rather than a health care background, I am interested in how critical thinking and evaluative reflection can help those engaged in the caring service, especially when dealing with issues that pose ethical quandaries

It is accepted by some scholars that, due to the nature of the work, health care has an intrinsic moral dimension (see Nortvedt 1998). Indeed, the nurse-philosopher Steven Edwards makes the case that health care professionals face many ethical problems on a daily basis that are not encountered in other occupations. Edwards (1996) asks us to consider "actions such as moving a person from one chair to another without speaking to the client, removing the coat from a conscious, confused client without their permission, preventing a confused, elderly client from leaving a day hospital, coercing a person with learning difficulties into having a bath, or a wash. "(p11) Other issues concerning confidentiality and informed consent together with the autonomy of the patient have also triggered much of the ethical discussions in the delivery of day-to-day health care. There are also the more "sensational" topics highlighted by the media including abortion, stem cell research and various other life and death issues that can affect particular branches of health care. From this it follows that there can be no doubt that in many ways moral issues infiltrate health care.

From teaching nursing ethics, it has come to my attention that at the *core* of these various ethical concerns in health care is the issue of the concept of person, i.e. the question regarding what makes a person a person. There is a way of dealing with ethical questions from the perspective of the distinction between human being and person. In general, the former (i.e. human being) does not automatically qualify for

A concept has been described as a "mental word" (Sullivan 1992 p73)

moral consideration, whereas the latter (i e person) does Judging when personhood begins and ends is one of the central issues in the great debates concerning, for example, euthanasia and abortion (Tooley 1983 p50) However, it must be said that this distinction between person and human being is not universally accepted. For some scholars there is no difference and for others the difference should be discarded ²

I will argue, however, that there is a distinction to be made between human being and person without necessarily accepting the contemporary criteria for personhood My reasons for this will become clearer in the course of the thesis However, some preliminary remarks might be of help at this stage in order to clarify why I think that the distinction between human being and person is acceptable and why the concept of person is worthy of philosophical analysis

0 2 The Concept of Person and Human Being

Firstly, it is sometimes assumed that the concept of human being and the concept of person are inseparable. In other words, to be a human being is to be a person. If one accepts this, then the issue of deciding when an individual becomes a person is automatically resolved But it does not necessarily help us with the aforementioned abortion and euthanasia debates if we accept that intentionally ending the life of a person is always morally wrong or at least morally questionable. If it is accepted that a foetus is a human being and therefore a person, then logically abortion is morally wrong or at least morally questionable. On the other end of the spectrum, if we accept that the patient in a persistent vegetative state (PVS) is still a human being and therefore a person, then logically any kind of active euthanasia, whether voluntary, involuntary or non-voluntary is morally wrong or at least morally questionable ³

² See chapter two pp55-58

³ The term "euthanasia" is derived from two Greek words eu and thanatos, meaning "a good death" (Kuhse 1993 p294, also see Burzagli 1995 p115) Traditionally, three kinds of euthanasia are distinguished voluntary, non-voluntary and involuntary euthanasia. An act of euthanasia is said to be

Secondly, the argument that the concept of person is inseparable from the concept of human being is driven by the view that life is morally valuable from the moment of conception In Christian ethics, this premise concerning the moral dignity of human life is called the sanctity of life doctrine ⁴ The Australian philosopher Peter Singer (1994) makes the compelling case that the traditional western ethic has basically collapsed (p1) Singer writes, "after ruling our thoughts and our decisions about life and death for nearly two thousand years, the traditional western ethic has collapsed" (ibid) According to Singer, the decline in religious authority together with the development in the understanding of the origin and nature of the human species has weakened the sanctity of life doctrine Singer is persuaded that the various new advancements of medical technology are bringing this doctrine to a close (ibid p4). The sanctity of life doctrine cannot cope with the array of new ethical issues produced by the success of technology in the health care arena ⁵ This was highlighted by two major milestones, which both took place in 1993 The first one was the case of Anthony Bland, when Britain's highest court discarded many centuries of traditional law and medical ethics regarding the value of human life and the lawfulness of intentionally ending it (ibid) ⁶

voluntary when an individual is deemed to be competent to decide to have his or her life terminated. An act of euthanasia is said to be non-voluntary when an individual is not competent anymore to choose between life and death. Someone else decides for him/her because s/he has not made known his or her preferences in advance or has never been able to. An act of euthanasia is said to be involuntary when an individual is competent to choose to die but has not given permission. Therefore, the act is carried out against his/her will (see Kuhse 1993 pp295-296, Brock 1992 pp10-12)

⁴ For Singer, the sanctity of life doctrine can be summed up by the belief that it is " never right intentionally to take an innocent human life" (Singer 1994 p74). However, the stark reality of both abortion and euthanasia in contemporary health care institutions poses a challenge to this belief

⁵ I outline these achievements in chapter one pp16-23

Anthony Bland was one of the people involved in the tragic 1989 Hillsborough Football Stadium disaster m which hundreds of football fans were involved in a deadly crush. As a result of Anthony Bland's lungs being crushed and his brain being deprived of oxygen, he fell into a persistent vegetative state (PVS is a condition where the upper part of the brain is seriously injured and where the patient lies in a sleep-like state). Bland was provided nutrition and hydration by means of a nasogastric tube until 1993 when feeding was withdrawn in order to allow him to die following the wishes of his doctors and his family "the administrator of the hospital in which Bland was a patient applied to the Family Division of the High Court for declarations that the hospital might lawfully discontinue all life-sustaining treatment, including ventilation, and the provision of food and water by artificial means, and discontinue all medical treatment to Bland 'except for the sole purpose of enabling Anthony Bland to end his life and to die peacefully with the greatest dignity and the least distress'" (Singer 1999 p297) Indeed, Anthony Bland could not end his life himself, he needed others to assist him

The second one was the law on voluntary euthanasia in the Netherlands, when its parliament decided to legalise what had become accepted practice among some doctors of giving lethal injections (ibid, see also Gordijn and Janssens 2001 pp299-309)

Singer (1994) suggests, therefore, that in 1993 the traditional sanctity of life doctrine was finally exposed and was brought to a conclusion (p4) ⁷ Singer equates this sanctity of life doctrine to Hans Christian Anderson's story of the *Emperor's New Clothes* Like the people's reactions to the emperor's new clothes, some people will not admit that the sanctity of life doctrine is without content, i.e. that it is simply meaningless (ibid). Why is this? The sanctity of life doctrine purports that those who belong to the *Homo sapiens* species automatically have moral standing. However, Singer contends that just because an individual belongs to the *Homo sapiens* species, does not mean that s/he automatically has any moral claim on us. In other words, there is nothing particularly special about being a member of the *Homo sapiens* line.

According to Singer, the collapse of the traditional western ethic should not be a cause for dismay or despair but should be envisaged as an opportunity for a cathartic experience. It is an opportunity for a new ethic to emerge that will help people to approach the issues concerning the beginning and the end of life, in a more practical and humane way (ibid.)

Following Singer's thought, it could be claimed that the concept of human being, compared to the concept of person, is not an evaluative concept. In other words, being a human being is neither a necessary nor a sufficient condition for having moral

The 1996 Irish Ward of Court case resonates with the Bland case However, there are a number of differences. The Ward of Court (i.e. the woman) was fed by a gastrostomy tube and was not in a complete PVS but in a semi-vegetative state. However, similar to the Bland case, the removal of nourishment and hydration was legally sought in order to allow her to die with dignity (see O'Carroll 1995).

⁷ Indeed, for Singer, " modern medical practice has become incompatible with belief in the equal value of all life" (Singer 1994 p189)

worth Being a person is a necessary and a sufficient condition for having moral worth ⁸ The concept of person, compared to human being, can offer a clearer benchmark for deciding whom to include in the moral arena and at which stage of their development Consequently, the concept of person provides a new ethic that helps people to approach the issues regarding the beginning and the end of life, in a more practical and humane way For instance, if a foetus is not a person, then logically it may not be morally wrong to end its life. In a similar way, if the patient in a PVS is not a person, then logically it may not be morally wrong to end his or her life.

Thirdly, the traditional sanctity of life doctrine has been discriminately applied only to human beings and not to animals. In light of this, Singer outlines a new period of opportunity with a series of new commandments, contrasting them with the so-called old commandments. For example, the so-called fifth commandment. *Treat all human life as always more precious than any nonhuman life*, is exchanged for a more sophisticated principle. *Do not discriminate on the basis of species* (ibid pp201-202). Singer points out that some nonhuman animals, which are of a high intellectual and emotional level, equal, in every respect, and even surpass, some of the profoundly disabled human beings. In contrast to the traditional sanctity of life doctrine, the right to life should not be based on a right given by species membership, in this case the *Homo sapiens*. The right to life belongs solely to those who possess "personhood"

The distinction between human being and person allows other entities that were formally excluded (i.e. some animals) to be included. Therefore, not all members of the *Homo sapiens* species are persons and not all persons have to be members of the *Homo sapiens* species. Thus, instead of the concept of person being a restrictive concept, unlike human being, it actually has the potential to be an inclusive concept.

⁸ A necessary condition is one that a concept or a term must demonstrate For instance, X is necessary for Y otherwise Y cannot be true A sufficient condition is one that guarantees the occurrence of something For instance, X cannot occur without Y occurring

There is no doubt that Singer's thought concerning the moral dignity of animals compared to the mentally handicapped is logically coherent and very persuasive. But, as the paradox of Zeno reminds us, you can have a logical argument and still end up with a false conclusion. This points to the traditional distinction between the truth of a proposition and the validity of the argument. The argument might be quite logical but the truth of its propositions might be questionable. Perhaps, this is why many health care workers find it hard to accept some of Singer's conclusions, especially regarding the moral status of infants, who are not yet considered to be persons.

Fourthly, it could be claimed that we can still use a qualified concept of human being instead of the concept of person. For instance, it could be argued that only those human beings that exercise rationality and are morally accountable should be deemed to have moral worth. In this way, this qualified concept of human being takes over the role of the concept of person. Yet, it still does not stand up to the objection that it is inherently discriminatory because it automatically excludes nonhuman beings.

From the above arguments I think that the distinction between the concept of person and the concept of human being is philosophically legitimate

Having accepted the distinction between the concept of person and human being, I was left with a feeling of philosophical uneasiness. For a while I was not sure what was at the root of my philosophical discomfort concerning the distinction between human being and person. I was not entirely happy with the boundary that is automatically set between those who are deemed to be of moral standing and those who are not. Therefore, in order to remedy this philosophical uneasiness, I set out to analyse

⁹ Zeno gives the example of Achilles and a tortoise having a race Achilles decides to give the tortoise a head start by 100 meters Logically, Achilles can never catch up with the tortoise because when Achilles reaches the 100 meter mark, the tortoise will have moved on to, perhaps, the 101 meter mark, and when Achilles reaches the 101 meter mark, the tortoise will have moved on again Therefore, logically, Achilles can never win the race Of course, in reality it is quite different Therefore, logical arguments like this can have false conclusions depending on the premise from which they begin

the various driving forces underpinning the concept of person, the fruit of which is in this research

03 The Core of the Thesis

In this dissertation I analyse how the concept of person has the effect of being more exclusive than inclusive. In my investigation I use the work of Henri Bergson (1986) to argue that certain concepts of person, which inevitably end up excluding those who are deemed non-persons from the moral realm, reflect the static morality of a closed society rather than the dynamic morality of an open society. I propose that this is demonstrated when the benefits of medicine and technology are confined to those who are deemed worthy. For example, in the context of the creative interface between technology and medical expertise, persons—not necessarily human beings—are considered to be at the centre of the health care and moral universe. As the bioethicist H. Tristram Engelhardt (1996) writes "Medicine is concerned with persons in the strict sense of moral agents, which includes patients who discuss their problems with their physicians and come to agreements about treatment" (p135 and p239).

In order to counteract the concepts of person that reflect the static morality of a closed society, I outline a definition of person as a *self-interpreting-dependent-vulnerable animal living within a reality that is mediated by meaning and constituted by significance* My concept attempts to dismantle the arbitrary boundaries of exclusion established by certain concepts of person. However, I accept the fact that this concept risks becoming another definition of exclusion rather than inclusion. In view of this, I point to two chief directions in consciousness as outlined by Bergson (1999) intellect and intellectual sympathy. The intellect tends to use concepts to set boundaries between

¹⁰ Engelhardt makes the case that "the character of medicine depends upon the ontological status of the subject with which it is concerned" (Engelhardt 1973/74 p230). He also argues the case that "medicine is the agent of persons. It is engaged on their behalf. It is restrained by obligations to respect the wishes of persons and directed by the goal of doing good to persons" (Engelhardt 1996 p276).

objects whereas intellectual sympathy tends to engage with objects and goes beyond boundaries. From this, I argue that it is only through intellectual sympathy that we can become aware of a kind of a "current" between persons, which helps us to recognise others as "persons". Therefore, I contend that in the last analysis it is through intellectual sympathy that my concept can become and remain part of the dynamic morality of an open society.

Finally, I draw out some of the implications of my argument regarding the concept of person, for the new European Charter of Patients' Rights (2002) Firstly, I examine whether the Charter is an example of the static morality of a closed society or the dynamic morality of an open society Secondly, I make the case that, from the perspective of some contemporary concepts of person, many individuals are automatically excluded from this Charter In light of this, I argue that my definition of person as a self-interpreting-dependent-vulnerable animal living within a reality that is mediated by meaning and constituted by significance may provide another avenue through which so-called non-persons could be given a moral standing

0 4 Conclusion

To sum up, it can be argued that compared to human being, the concept of person provides a more useful tool which helps solving some of the ethical difficulties that health care professionals face, especially with concerns relating to the beginning and end of life. The concept of person provides a benchmark for discerning whose lives are to be considered to have moral worth. In lieu of this we need to understand what we mean by the term "person" and to whom that term can be applied. Consequently, pertinent ethical issues in health care can only be fully comprehended and, therefore resolved to some extent, by clarifying our concept of person, especially if we are going to decide whom to include in this concept. For that reason, how we philosophise about

the concept of person has crucial ethical implications for health care, especially if the concept ends up being more exclusive than inclusive

Finally, I use the work of a number of philosophers in order to navigate my approach to finding a more inclusive concept of person. In this way, the dissertation is not a thesis about one particular philosopher but rather a collage of different voices because, as Isaac Newton once remarked, it is only by standing on the shoulders of giants that we see further. I do not claim to solve all the difficulties with the concept of person. But, as Albert Einstein said, the formulation of a problem is sometimes more important than its solution.

¹¹ Quotations are taken from the Nobel Museum, Stockholm

0 5 Chapter Summary

051 Chapter One The Creative Revolution in Health Care

In this chapter I make the case that there is a propensity towards positive and negative manipulation of human creativity. The creative revolution that benefits the world of health care is faced with the constant risk of becoming a search for the perfection of humanity within history for a chosen few. Using the work of the German philosopher Eric Voegelin, the case is made that this search for perfection is spurred on by an ideological consciousness that seeks to reach perfection within history at whatever cost and to confine the benefits to a chosen group. Using the work of the French philosopher Henri Bergson, I argue that this ideological consciousness is rooted in the phenomenon of a closed society, derived by the static morality, which automatically excludes those who are outside the pale of the group from the benefit of the creative revolution. In health care ethics, the concept of person may be used by a closed society to exclude those who do not fit the criteria of personhood.

052 Chapter Two Concepts of Person

In chapter two I examine some of the literature from the vast intellectual landscape concerning the various concepts of person that have emerged I point to the fact that the word "person" originally has no philosophical meaning and is used in the context of theatre. However, it takes on a particular philosophical meaning because of the Christological and Trinitarian debates concerning the humanity and divinity of Jesus Christ and the relationship between God the Father, Son and Holy Spirit Gradually, the concept becomes more specialised, but at the heart of it remains the notion of the rational nature of the human being. The locus of personhood is to be found in the inherent rational nature of the *Homo sapiens*. However, the analogical employment by the Christian Church of the term "person" in order to justify how Jesus Christ is not a

human being but a divine person with two natures (i.e. human and divine) demonstrates that an entity can be a person but not a human being. This idea is developed with the work of the English philosopher John Locke. He shows that personhood is something that is not intrinsic to human beings but is something that can be attached to entities that show the necessary attributes of consciousness, the exercise of rationality and a concept of self. Therefore, species membership is no longer essential. Now, the epicentre of personhood is to be found, for example, in the display of rationality and in the manifestation of self-consciousness. This has a major influence on contemporary philosophers working in the health care arena including Michael Tooley, Peter Singer, and H. Tristram Engelhardt. For them, the concept of person can be applied to any entity that displays signs of rationality and self-consciousness, for example. However, in the last analysis, their concepts of person end up excluding far more entities from the moral realm. In light of this, their concepts tend to illustrate the static morality of a closed society.

053 Chapter Three An Aesthetic Presentation of the Concept of Person

Following on from the examination of the various concepts of person, I argue in this chapter that such concepts belong to the world of facts rather than to the world of meaning I explore the concept of person from the context of reality, which is mediated by meaning and constituted by significance Firstly, I use Bernard Lonergan's analysis of the three worlds of meaning the world of immediate experience, the world mediated by meaning and the world constituted by meaning I then go on to interface the three worlds with Charles Taylor's work on significance, language and human agency For Taylor, it is through the act of self-interpretation that the person bestows significances on his/her experiences Part of this self-interpretation is an evaluative dimension whereby the person evaluates his/her significances. It is through this act of self-

evaluation that persons have standards of behaviour and are able to recognise those as standards From Lonergan's and Taylor's analysis, I outline a definition of person as a self-interpreting-dependent-vulnerable animal living within a reality that is mediated by meaning and constituted by significance

054 Chapter Four An Instructive Presentation of the Concept of Person

In this chapter I examine the definition of person as a self-interpretingdependent-vulnerable animal living within a reality that is mediated by meaning and constituted by significance and ask whether I, too, am in danger of succumbing to the static morality of a closed society. In other words, if certain entities do not fit my concept, am I also working from a closed society's mentality? In answer to my own question, I look at difficult and controversial cases and see whether embryos, infants and/or PVS patients do fit my concept Although, some seem to fit better than others. I make the argument that even normal human adults may not fulfil the criteria all the time In light of this, I return to Bergson for some philosophical help in understanding why my good intentions of having an inclusive concept rather than an exclusive concept, run the same risks as other concepts. Here I examine the notion of complex and simple forms of the intellect and show how the intellect tends to make what is in itself simple, quite complex, through the use of concepts. As well as that, it seems that originating experiences can never be fully packaged into concepts. It is only at the level of intellectual sympathy where we can enter into the originating experience. In other words, it is at this level that we can share experiences with people, where as concepts can never fully communicate those experiences. In this context, I make the case that there is, what I call, a "current" between persons that helps them to recognise each other as "persons"

0 5 5 Chapter Five The Implications of the Concept of Person for the European Charter of Patients' Rights

This final chapter examines the new European Charter of Patients' Rights from the perspective of the concept of person. The case is made that such a charter could end up becoming another static code of a closed society, in this case it could become the closed society of patients. I argue that the various concepts of person weaken the case for those who are most vulnerable in society (i.e. those so-called non-persons) to be included in the Charter. Following this, I argue that my definition of person may provide an antidote to this closed mentality by appealing to the health care professional's intellectual sympathy.

CHAPTER ONE

1. The Creative Revolution in Health Care

1.1 Introduction – The New World

It could be argued that the twentieth century has witnessed the greatest personal, moral and social disorder that humanity has ever encountered. It is a century that will be remembered for its wars fuelled by its buttressed ideologies. The insecurity of humanity continued in the twenty-first century with the fall of the twin towers of the World Trade Centre on the 11th of September 2001, which almost grinded the western world to a halt. The sorry picture of the fresh acts of international terrorism around the world expresses alarm and raises disturbing questions about humanity's capacity to vent evil. It is clear that although the great political ideologies of the twentieth century have come to an end there are still veils of intellectual distortion that penetrate the moral climate that encircles humanity in the infancy of the twenty-first century. The world of health care is not an idle bystander or immune from this world plagued by veils of intellectual distortion. Health care professionals have to work within this world and provide a palliative and curative response. In this chapter, I will examine how veils of distortion that arise from ideological consciousness, rooted in the phenomenon of a closed society, can affect the creative revolution in health care.

1.2 The Creative Revolution



(Medicinhistoriska Museet 2004)

Bo Pettersson's watercolour of a woman having a hand-wrestle with a skeleton figure aptly depicts the unremitting struggle between health and sickness. When we

look closely at the present world of health care, we can see that it has greatly benefited from, what could be described as, a creative revolution facilitated by technology. science and medical expertise 1 Humanity has ingeniously developed technology for the sake of humankind's well-being. The creative quest to conquer illness and premature mortality has gathered pace in recent times. The post-war years provide striking testimony to the medical revolution that is assisted by technology. In many ways the Second World War marked a turning point in the technological advance of health care. when it activated an expeditious and an avid pursuit of innovation. To take one example, the critical state of casualties from the D-Day invasion of Normandy led the medical professions to discover how to remove bullets from the heart of a soldier without causing his death. This, in turn, led to great strides in heart surgery (Le Fanu 1999 p191) In many ways, the vast achievements from the interface between technology and medicine are akin to the great Industrial Revolution When industrialisation made its breakthrough in Europe it replaced human and animal power with machinery The technological revolution, however, is on a larger scale and at greater propulsion. Yet when we throw a sharp eye over the technological advances benefiting the world of health care, we can observe that they have been accompanied by a number of ethical concerns

Firstly, there can be no doubt that the development of organ transplantation – facilitated by immunological tolerance drugs – has been a major surgical advancement within the last decades. Heart, kidney and liver transplants save many lives on a regular basis, they have become almost routine operations. This is not to imply that each transplant does not have its own complexity. But, they have certainly become an

¹ Nature itself provides various medical and healing remedies against diseases that beset humanity. For instance, Alexander Fleming accidentally discovered penicillin when he noticed a mould, in a leftover culture dish, preventing bacteria from spreading (see Le Fanu 1999 p7)

essential part of everyday general hospital life ² Nonetheless, they raise ethical concerns regarding the nature of valid consent and the harvesting of organs, especially when considering the present-day reality in some parts of the world where demand surpasses supply. There is also the question as to whether Xenotransplantation (i e the taking of organs from animals and transplanting them into humans) as opposed to Allotransplantation (i e the taking and transplanting of organs within the same species) is ethically acceptable.

Secondly, the intensive care unit (ICU) symbolises the remarkable achievements of contemporary medicine when intermixed with technology ³ New advancements in prolonging life, including high-support systems, ventilator machines and resuscitation techniques, introduce ethical issues regarding when we morally ought to, or ought not to, prolong life. Consequently, they pose new ethical questions regarding those who survive, but who would have otherwise died, and are left either in a coma or a persistent vegetative state (PVS). Patients in a PVS experience a loss of the function of the higher brain while the brainstem (i.e. lower brain) remains intact (Lustig 2001, Shewmon 2001). From the perspective of the brainstem criteria of death, they are not clinically dead, whereas from the perspective of higher-brain death, they might be considered dead. These issues, together with the shortage of vital bodily organs for transplantation, have prompted new criteria for defining death.

² The hand transplant of Matthew Scott in 1999 marked a historic break in the history of conventional transplantation (CNN 1999)

³ Ronald E Cranford (1996) remarks that the rise in the use of intensive care units in the last twenty years has been phenomenal (p194)

⁴ The term PVS was proffered by B Jennett and F Plum (1972) Adam Zeman (1997) offers an informative distinction between coma, brain death and PVS. He states that "coma is a state of unconsciousness in which the eyes are closed and sleep-wake cycles absent. It is usually transient Brain death implies the irreversible loss of all brainstem functions. It is, in a sense, the converse of PVS, in which brainstem function survives while the function of the cerebral hemispheres is lost or gravely impaired (p797).

For example, it was Pierre Mollaret and Maurice Goulon who detected the condition of brain death in 1959 (Houssin 2003 p26) The Harvard Report officially introduced the concept of brain death in 1968 (Report of the Ad Hoc Committee 1999 p287, Bernat 1998) According to Singer (1999), "this change in the definition of death has meant that warm, breathing, pulsating human beings are not given further medical support. If their relatives consent and other organs can be cut out of their bodies and given to strangers" (p293)

concerning whether intravenous feeding, for example, is artificial as opposed to natural, and thus whether it is morally acceptable to have it removed when it becomes too burdensome for the patient. This, in turn, points to the euthanasia debate. Is it morally right to help a patient to die by "mercifully" omitting life-sustaining medicine and/or nutrition and hydration? In debates about the ethics of withdrawing such sustenance technologies, two schools of thought are often distinguished. On the one hand, those who believe that feeding tubes should be removed tend to focus on the artificial means by which food and fluids are given to the patient. According to this school of thought, the patient's death is not caused by the removal of the feeding tube but by the condition of his/her health. In other words, the patient is already dying. On the other hand, those who disagree with the removal of sustenance tubes argue that we should not concentrate on the perceived artificial method of feeding but on the nature of the act of feeding. In other words, they argue that feeding the patient is a basic human act. Therefore, the patient's death is not caused by a deterioration in the condition of his/her health but by starvation and dehydration?

On a related front, some writers raise the question regarding whether active euthanasia is more "humane" than passive euthanasia (Rachels 1999 p227) ⁸ Is it ethically correct to use a lethal injection in order to shorten the life of a patient so that s/he can forego excruciating suffering and, thus, die with dignity? All of these

-

⁶ Voluntary euthanasia has been practiced openly in the Netherlands for some time Dan W Brock (1992) offers an informative assessment of this (pp10-22) Some philosophers argue that killing a patient in a PVS is not an act of euthanasia because the patient cannot consciously benefit (McMahan 2002 p448)

⁷ Terri Schiavo, who was in a PVS for fifteen years, died thirteen days after her feeding tube was removed (BBC News 2005a)

8 Possesse authorized to the contraction of the contracti

⁸ Passive euthanasia occurs when life-sustaining medicine and/or nutrition and hydration are omitted In other words, the patient's death is not directly caused. Active euthanasia occurs when the patient's death is directly caused through a lethal injection, for example. There is major debate regarding whether the distinction between passive and active euthanasia has any ethical weight (see Thornton 1999 p414, Foot 1979 pp14-40, Dixon 1998 pp25-29)

viewpoints bring into question the ethical role of the health care worker in the dying process 9

Thirdly, on another front, the reproductive technique of m vitro fertilization (IVF), which is designed to facilitate human conception, has become a common occurrence in many health care institutions. Since the birth of Louise Browne in 1978 – the first baby conceived through the IVF process – other forms of reproductive technology have been developed including gamete mtra fallopian transfer (GIFT), IVF with donor egg and IVF with frozen egg (see Koch 1998 p21). The process of freezing spare embryos liberates IVF and embryo transfer from certain time constraints (Smith 1996 p66). It is now possible to have children from the same act of conception to be born at different times. Still, the fertilization of many eggs in the IVF process raises the question as to what is to become of those embryos that are not placed in the woman's uterus (see Warnock 1985 p30). Are they to be destroyed or are they to be frozen and used as "spares" for research purposes?

Advancements m embryonic stem cell research elicit further issues as to whether we morally ought to sacrifice the life of the embryo in order to make progress in attempting to alleviate conditions such as diabetes, Alzheimer's and Parkinson's disease Such degenerative conditions owe their source to the death or dysfunction of cells. In 1998, scientists successfully isolated and cultured human embryonic stem cells

Without a doubt, this is not an issue only for doctors directly involved but also includes other health care professionals such as nurses. This is a fact acknowledged by Bandman and Bandman (1995) when they write that "at the primary level of prevention and care, patients and families look to 'their' nurses for information, advice, and support when facing difficult decisions of this nature. At the secondary level of curative care, nurses are actively involved in monitoring and sustaining treatment modalities such as life-support systems. At the tertiary level, nurses are practicing advanced levels of clinical competence and shared decision making. At a societal level, nurses are or are expected to be actively involved in policy formulation within the health organization, in professional societies, and in legislative bodies" (p4)

¹⁰ See Edwards (1998), Harcourt (1995) and Koch (1998) for an informative account of the history and development of IVF

Also see Stoppard (2000 p51), Smith (1996 p65) Thomas A Shannon (1997) points out that although three embryos are generally transferred to the woman's uterus after fertilisation, there have been occasions when this number was "significantly" higher (p61) Dyson (1995) argues that a large number of embryos are produced for research purposes (p35) According to John Haldane's (2000) research, about 100,000 embryos are destroyed or experimented upon in British laboratories every year (p190) However, the Human Fertilisation and Embryology Authority (2004) has reduced the number of embryos per transfer from three to two (p2)

for the first time. Thus, they hoped that by reintroducing new healthy cells, the patient's neurological and biological functions would be regenerated. Consequently, it would appear that how the embryo is valued is somewhat ambivalent. On the one hand, an embryo does not qualify as a "person" in the strict philosophical sense. In other words, an embryo is not a being that possesses self-consciousness, a sense of past, present and future and does not exercise rationality. The embryo is not morally accountable. Therefore, an embryo has no moral claim on us. On the other hand, an embryo's cells are extremely valuable for research. Although, technically an embryo is a collection of cells, this fact is sometimes presented in a pejorative sense, especially in abortion debates. But, for those involved in stem cell research, this collection of cells is very important.

Fourthly, the attempt of cloning humans is another route to produce embryonic stem cells. Dolly the sheep represented a new breakthrough in cloning. The sheep was cloned not by splitting embryonic material but by a new technique called "nuclear transfer". With this procedure, the nucleus (i.e. genetic material) is removed from an unfertilised egg and is replaced with the nucleus of a cell in further development. For some, cloning offers perilous futuristic visions of Aldous Huxley's (1998) *Brave New World*. Yet, as the English philosopher John Harris (1998) points out, cloning does not create identical copies of the same individual, but only of the same genotype (p24). In this way, clones are — or would be — like identical twins. If we do not feel anxious when identical twins are born, why should we when identical twins are deliberately made (ibid.)? Notwithstanding this argument, the morality of the cloning method has only been accepted by a paucity of thinkers and organisations.

12 I will examine this in more detail in the next chapter

¹³ The various aspects of this debate are well documented in McLaren (2002)

¹⁴ The European Parliament (1998) and the World Health Organisation (1999), for instance, have both rejected it Also Kass (1985) raises a number of ethical questions surrounding cloning including experimenting on the unborn and the discarding of embryos, for example (pp66-69)

for IVF but given time, it has become more accepted. It will be interesting to see how the debate about cloning advances and legislation develops

Fifthly, with the application of molecular biology to medicine, it is argued that the emergence of genetics has been at the centre of the scientific revolution in the latter part of the twentieth century (Matter 2001 p11) 15 The discovery by James Watson and Francis Crick of the double helix structure of DNA (deoxyribonucleic acid) in 1953, with its implications for genetic manipulation, gives us a biological power that emulates the historic significance of the nuclear energy generated by the splitting of the atom (Le Fanu 1999 p189) Three techniques have become popular Genetic Engineering, which seeks to develop new drugs, Genetic Screening, which seeks to eradicate inherited diseases and Gene Therapy, which seeks to correct and, as it were, re-engineer genetic defects (1bid p275) 16 Yet again, we are compelled to face the question as to whether it is legitimate to add a hyphen between the words "gene" and "ethics" and call it "gene ethics" In other words, does ethics have any place in genetics? If so, what are the ethical implications involved in soma and germ-line therapy in terms of genetic enhancement? The former (i.e. soma therapy) fixes dysfunctional genes, whereas the latter (i e germ-line therapy) detects which gene has a (dormant) disposition towards degenerative conditions such as Alzheimer's disease and, thus, gives us the option to halt the malevolent gene from developing and from affecting further generations that belong to that hereditary line (Anderson 1982 p513, Lacadena 2001 p47, Manaranche 2001) It would appear that there are no serious ethical misgivings about fixing a dysfunctional gene, but is it ethical to tamper with future generations in the germ-lme?

¹⁵ Paul Billings and Sophia Koliopoulos (2001) explain that the gene is a unit of heredity, which transmits information to the cell, whereas the genome is the home of the gene (p20)

Alongside with this, the Human Genome Project is an attempt to map the three billion base pairs of genes that make up the human genome. It is often referred to as the "book of life", the "blueprint of human life" and the "holy grail"

As well as that, do we have the moral right to seek to have our own genetically tailored child?¹⁷

Finally, there have been a number of inventions of diagnostic tools and products, such as the laparoscope and the CT scan, that have provided doctors with a fantastic inner-vista of the workings of the human body. Of course, from an ethical perspective, some of the findings from these tools force us to face difficult issues. For instance, ultrasound enables us to detect foetuses with severe malformations and poses the ethical question of whether we ought to abort them before they come to full term

From the above, it can be concluded that at the dawn of the twenty-first century health care practitioners face many ethical predicaments, directly or indirectly, engendered by the various great advancements made by medico-technology in this creative revolution ¹⁸

Although some health care professionals may see such predicaments as affecting doctors primarily and nurses and other health care practitioners secondarily, I think that it can be fairly argued that these kinds of moral questions are becoming more and more pertinent for all those involved in the health care service. Accordingly, health care professionals are called more and more to be morally reflective regarding the ethical repercussions of their work. Indeed, ethical issues in health care also affect those in civic society. It is often the case that ethical problems and dilemmas¹⁹ about the utilisation of biomedical and biotechnological advancements are brought to the fore of

¹⁷ "Our future is technological, but it will not be a world of gray steel Rather our technological future is headed toward a neo-biological civilization" (Kelly 1994 p183)

¹⁸ Some would claim that the new frontiers in health care have also led to a mass medicalisation of society and an irrational fetishisation about health (Le Fanu 1999 pxix)

A moral problem, by definition, usually has a number of possible solutions, whereas a moral dilemma involves a conflict between two moral principles or values. As Søren Holm (1997) puts it "ethical dilemma has a precise technical meaning, which distinguishes it from ethical problems. For the philosopher, an ethical dilemma occurs when, after full consideration of all relevant factors, I find myself in a situation in which I ought to do two different and mutually exclusive acts. That is, I ought to do act A and at the same time I ought to do act B, but I cannot do both. I am therefore in a situation in which I cannot fulfil all my moral obligations" (p83). See also Ian E. Thompson, Kath M. Melia, and Kenneth M. Boyd (1994) for their discussion on the distinction between a moral problem and a moral dilemma (pp4-6).

people's consciousness by heated debates, as it was the case with Zain Hashmi. This young child had a fatal blood disorder – thalassaemia – and needed a bone marrow transplant but unfortunately no suitable match could be found. By using IVF his parents sought to produce an embryo from which doctors could remove stem cells that could regenerate bone marrow that would offer a good tissue match (BBC News 2002). The public was faced with the issue of whether it is ethically right to create a number of embryos – and discard them – in order to find a genetically perfect match to save the life of a child?

Yet, the various ethical issues surrounding the use of technology may seem a little peculiar because obviously if used for the good of humanity, whether it be the creative revolution made possible by technology, bioscience or the random discoveries of what nature has to offer, surely this is extremely positive. On the other side of the coin, what may be positive for humanity in general, may turn out to be negative for the individual in particular The question that faces us is whether technology is inherently problematic or value free There can be no doubt that the funding of certain types of technological research can be spurred on by vested interests. The funding of a project has to be justified and it has to find a financial return on the initial investment. In this sense, technology, or at least its use, may not be entirely value free There can also be a race to be first with new breakthroughs and discoveries. Ethical norms and legal laws tend to be seen as an impediment to winning the technological race. This is sometimes referred to as the technological imperative that propels us to keep going no matter what the costs may be While it may be acceptable then to argue that technology is not valuefree, I am still more inclined to agree with the position that it is not technology itself that is the problem but the use we make of it (Cassell 1996 p178) 20

²⁰ Gisela Konopka (1992) makes a similar argument. She writes, "we have to remember a very basic principle, that science in itself is valueless and so is technology. In the use of both in a world inhabited by people, human ethics and values must enter" (p18)

However, it is clear that the creativity of humanity concretised in technology and interfaced with medico-bioscience can have both positive and negative effects. This finds echoes in the ancient African Yoruban myth of Ogun. In Yoruban mythology, Ogun is the god of creativity who, through his power, points to the double-edged sword of ingenuity and destruction in the exercise of creativity (Larsson 2002 p11). Ogun shows that creativity is accompanied by destruction. In this way, Ogun is known as the god of both creativity and war (ibid.) One modern example of the positive and negative effects of creativity is Marie and Pierre Curie's investigation of the radiation that is discharged by uranium. They discovered that radiation could also be derived directly from uranium atoms (Senior 1998, Larsson 2001 pp441-43). This led to a radical knowledge that can be used for either the treatment of cancer or for the manufacturing of atom bombs.

Even the atomic bomb verifies the great and hornific vigour of humanity's creative streak when utilised in the deployment of science and technology. In a small village of Haigerloch in the south of Germany lies the *Atomkeller* (i.e. the "atom cellar"), which is a testimony to the success of the German nuclear research (Atomkeller-Museum 2005). The atom research project at Haigerloch belonged to the Berlin-based Kaiser-Wilhelm Institute. The atom cellar was deliberately located underneath a castle church (i.e. the *Schloβkirche*) in order to avoid potential bombing by the Allies during the Second World War. From a retrospect position, it is easy for us to see two possible effects stemming from the research conducted at this cellar. There are positive and negative consequences emerging from the creative feats of the scientists who dedicated their life to this work. On the positive side, they proved that a chain reaction could be set in motion and maintained by using uranium and thermal neutrons. This was due to Otto Hahn's discovery of how to divide the atomic nucleus of uranium (Hoffmann and Cole 2001). It was now possible to instigate a neutron chain reaction by

a splitting of this kind, with an ensuing discharge of large amounts of energy. On the negative side, it was also possible to develop a nuclear weapon. Although, it is a documented fact that the scientists involved in the work of the atomic experiment had acquired both theoretical and practical knowledge, they had neither the intention nor enough material to develop a weapon of mass destruction (Atomkeller-Museum 2005 p11). Nonetheless, others took up this potential and the horrific atomic bombings of Hiroshima on the 6th of August and Nagasaki on the 9th of August 1945 are poignant examples of this fact.

1 3 Understanding the Distortion

The positive and negative use of the creative feats of humanity in health care raises ethical issues for health care professionals who may be left wondering, "where can I go"? in the ever-changing labyrinth of health care that is affected by the creative revolution. The British Romanticist poet William Wordsworth reminds us that sometimes it is only through reflective distancing that we can begin to grasp the true significance of something. When Wordsworth saw a daffodil he could not fully grasp its true beauty immediately. It was only afterwards, when the experience was recalled in his memory, that he was able to "see" its true significance.

For oft, when on my couch I lie

In vacant or in pensive mood,

They flash upon that inward eye

Which is the bliss of solitude,

And then my heart with pleasure fills,

And dances with the daffodils (Wordsworth 1994 p61)

For Wordsworth, the best precondition for penetrating reality is reflection through recalling the reality of the thing within the context of solitude. Applying this to the ethical issues surrounding the creative feats in health care, I decided to take Wordsworth's advice and try to understand "what's going on" by distancing myself from the immediate health care ethical issues and by looking elsewhere for some direction. In attempting to penetrate, to some extent, to the roots of the positive and negative manipulation of humanity's creativity, I have found that Eric Voegelin's analysis of the ideological pursuit of human perfection together with Henri Bergson's analysis of the closed and open societies, provide helpful apertures.

14 Towards a Philosophical Understanding of Positive and Negative Uses of Creativity

1 4 1 The Ideological Pursuit of Perfection

As I have previously shown, health care faces a complex mosaic of new, startling developments arising from the creative revolution in medicine and biotechnology, which seek to extirpate suffering and the various limitations of the human condition. The clinical practitioner's expertise intermixed with technology and science amasses great new possibilities to ease suffering and pain. To forestall any misunderstanding, it must be stated that this in itself is extremely positive. Nevertheless, as I have said, the creative use of technology may have not only positive effects but also negative implications for the individual and eventually for humanity. The focus of my study in this section is to examine the possible sources of both the positive and negative side of the creative revolution in health care.

One of the sources of this creative revolution is the innovative drive for perfection that seems to have always accompanied humanity. This is well illustrated in

²¹ Voegelin (1952) refers to Bergson's symbols of closed and open societies in his own work (pp60-61)

the short story "The Birth-Mark" by Nathaniel Hawthorne (1974), which recounts the tale of a scientist (Aylmer), whose life is a quest to find a way to conquer his wife's (Georgiana) facial imperfection. To the rest of the world his wife is beauty personified. To him, however, she has one noticeable imperfection. A birthmark on her left cheek, which is likened to an imprint of a small crimson hand (p38). Aylmer says to Georgiana, "you came so nearly perfect from the hand of Nature, that this slightest possible defect—shocks me as being the visible mark of earthly imperfection" (ibid p37). The rest of the narrative depicts Aylmer's search to discover a potion that will remove this facial flaw from his wife. A blemish that symbolises her humanity and mortality. Although Georgiana is at first reluctant to participate in Aylmer's experiments, she quickly succumbs to his desire and declares that she wants to "put off the birthmark of mortality by relinquishing mortality itself in preference to any other mode" (ibid p53). In the end, Aylmer succeeds in developing a concoction that removes the birthmark while at the same time causing his wife's death

The story illustrates that the drive for perfection in the face of human imperfection inspires people to invent remedies to counteract any flaws. Aylmer achieves his goal in discovering a potion to make his wife become the most beautiful woman in the world. However, in achieving this positive effect, he also instigates a negative reaction from her, which causes her death. It would appear that the double-edged sword of ingenuity and destruction strikes here again.

The last sentences of the story suggest that Aylmer's search for perfection seeks to go beyond this world to attain the perfect future within the present moment

Yet, had Aylmer reached a profounder wisdom, he need not thus have flung away the happiness, which would have woven his mortal life of the self-same texture with the celestial. The momentary circumstance was too strong for him,

he failed to look beyond the shadowy scope of Time, and, living once for all in Eternity, to find the perfect Future in the present (ibid p56)

I think that these sentences point to, what could be described as, the "ideological" dimension of humanity's search for the perfect future within the present According to the German political-scientist Eric Voegelin, the pursuit of reaching human transfiguration within history is the driving pulse of the many ideologies of the twentieth century. The ideological movements, which characterised the "Age of Ideology" from the middle of the nineteenth century up to the twentieth century, are not simply consequences of political and social conditions but point to something inherent in human nature itself. In other words, the various ideologies do not stem from a reaction to the political conditions of the time but point to the imperfect state of the human condition living within a deficient social reality. The ideological systems endeavour to give an account of reality and humanity's place within it in order to transform reality and the human condition

What is at the bedrock of this tendency to transform the human condition and reality itself? According to Voegelin's philosophical anthropology, human existence is structured by a dramatic field of numerous tensions. We live in tension between time and timelessness, between hope and fulfilment, between perfection and imperfection, between knowledge and ignorance and between plenitude and deficiency (Voegelin 1990d p176). The ideological consciousness seeks to overcome this tension of living between perfection and imperfection by inaugurating within reality a utopia of human perfection. Consequently, the ideologist attempts to transfigure imperfect existence into a permanent state of perfection. However, this perfection cannot be realised within present reality because important sectors of reality are omitted by the ideologist.

²² This period of time is referred to as the "Age of Ideology" by a number of writers including Voegelm, (1978) and Aiken (1961)

including the inherent limitation of the human condition (Voegelin 1990a p316) For this reason, the ideological tendency does not solely belong to the modern period – although it is one acute manifestation of it – but is a perennial universal propensity that belongs to the human condition

In this way, Voegelin departs from the conventional view that ideology is a type of fallacious thinking on modern problems 23 He is convinced that the motivating experience of the ideological activists is similar to that of the ancient Gnostics 24 The Gnostics were an ancient religious sect that claimed to possess special knowledge of spiritual things. According to their tradition, the world is a prison and is the source of alienation Through their esoteric knowledge they seek to escape from the shackles of the human condition They seek to pulverise the limits of the human condition by transcending its precinct and by becoming identified with the divine. However, this experience is reserved for the few Gnosis is "the equation of salvation with knowledge, the belief that knowledge will enable man to triumph over the material world and over his own physical limitations, and finally the belief that saving knowledge must remain esoteric, accessible only to a spiritual or intellectual elite "(Rossbach 1996 p241) The argument, as put by Voegelin, is that gnosticism is a deformation of Christianity It is an attempt to compress the eschatological fulfilment to a this-worldly reality Gnosticism is a deformation of the Christian expectation of an other-worldly transcendent event, drawn wholly into a this-worldly event, i.e. that the perfect otherworldly kingdom of God is pulled down into this world (Voegelin 1952 p129, also see Walsh 1990 p92) ²⁵ The finesse of gnosticism is that it claims to provide an efficacious

Voegelin acknowledges this when he writes "moreover, besides the Christian there also existed a Jewish, a pagan, and an Islamic gnosis, and quite possibly the common origin of all these branches of gnosis will

²³ The ideological consciousness is described by Voegelin as a "closed" consciousness, a "disorientation", a "pneumapathological consciousness" and an "egophantic revolt" (Voegelin 1990a pp111-162 and Voegelin 1990b pp265-291)

²⁴ The word "Gnostic" is derived from the Greek word *gnosis*, which means a special type of knowledge It is a mystical knowledge that provides an escape from the world. It is not philosophical because it aims at the divinisation of humanity, whereas philosophy aims at the love of wisdom (Voegelin 2000b p244). ²⁵ It is accepted that there were variants of gnosticism before Christianity (see Perkins 1990 pp421-422).

and arcane knowledge that supplies the ontological bridge to the realm of identification with the divine ²⁶

For Voegelin, the milieu of modernity is essentially gnostic in character because the modern ideologues seek to trigger a world-immanent transfiguration that will liberate them from the oppressive conditions of existence. He believes that this gnostic ingredient is to be found in the epistemological and soterological manoeuvres of modern political revolutionaries. The distorted veil of ideology spurns the imperfection of the human condition in order to make the world a better place. Their perfectionist project seeks a paradise regained with considerable aplomb. For example, Karl Marx desired to conquer the alienated, but malleable, human condition. Through dialectic materialism, this takes the form of primitive communism, of class society and of final communism. This class struggle inevitably leads to revolution and, through this, to the birth of the classless society, the final goal for humanity (see Marx 1994 pp102-156 and pp157-186)

The hefty ideologies of the twentieth century were ushered in by a voracious pursuit to eradicate human suffering. The various ideological movements sought to get rid of social oppression and to introduce justice in society and peace in the world. Their intention of inaugurating social justice and world peace was surely praiseworthy. Yet,

have to be sought in the basic experiential type that prevailed in the pre-Christian area of Syriac civilization" (Voegelin 1952 p126) Nonetheless, it would appear that, for Voegelin, it is in response to Christianity that gnosticism finds its mature manifestation because he contends that "nowhere, however, has gnosis assumed the form of speculation on the meaning of immanent history as it did in the high Middle Ages, gnosis does not by inner necessity lead to the fallacious construction of history which

charcaterizes modernity since Joachim" (ibid)

²⁶ For Voegelm, the beginning of this deformation of the Christian expectation of the Kingdom of God finds its seeds in Joachim of Flora Joachim applies a Trinitarian framework when he seeks to find meaning in history. The first period of history is the age of the Father. It is the life of the layperson. The second age in history is that of the Son. It is the life of the priest. Finally, the third age, the time in which we are living, is that of the Spirit. It is the life of the monk. This third stage is the final realm, i.e. the fulfilment of the eschaton within history (Voegelin 1952 pp110-127). The discovery of the Coptic Gnostic library at Nag Hammadi in Egypt led to an expansion of documentary material about this ancient sect. Webb points out that the early Gnostics tended to reject the world rather than transform it, which has made Voegelin's use of the term rather controversial (Webb 1981 p200). However, Webb argues that the use of the term is still appropriate because both the modern ideological movements and the Gnostic sect seek absolute knowledge of reality. Therefore, Webb encourages the use of capitalising the name of the ancient sect (i.e. Gnostic) to distinguish it from gnosticism (ibid pp201-201).

on the other side of the fence, at the apex of the extensive flowering of so-called social emancipation in history, unprecedented systematic human cruelty was instigated. This systematic destruction of human life found its decisive expression in ethnic cleansing At the height of this social liberation, unparalleled human brutality was used in order to achieve the utopian aim of a perfect society. This bespeaks the inherent flaw of ideological movements that attempt to truncate reality into a particular system. The pursuit of transformation provides a smoke-screen for the morality of the efficient destruction of humanity

However, within some philosophical circles, it is accepted that there are no more ideologies 27 Nonetheless, I think that the ideological attempt at seeking to perfect humanity, while confining this to a select few, still penetrates some of our contemporary thinking and is therefore a veil of distortion. If Voegehn is correct in saying that ideological consciousness arises out of a response to various tensions intrinsic to the human condition, then clearly this does not end with the post-modern period I think that it is the interface between technology and bioscience, not alchemy or political systems, that is now the creative key that may be used to unlock human limitation and human mortality for a specific group of people ²⁸ In other words, the creative intermix between technology, science and medicine can be used in a negative way by becoming a camouflage for an ideological consciousness that seeks to outgrow humanity's present

²⁷ See Walsh's (1995) analysis of ideology Voegelin (2000b) makes the same argument as Walsh (pp224-251)

David F Noble (1995) argues that the technological outlook in contemporary society is, in essence, a "religious phenomenon" (p128) He writes "Hiroshima, a stark reminder of the impermanence of progress and the contingency of history, provoked what historian Paul Boyer described as an 'atominduced revival of eschatological thinking,' and a 'mood of approaching apocalypse' 'This atomic bomb is the Second Coming in Wrath,' exclaimed Winston Churchill" (ibid p108) Noble points to the argument that the emergence of technology and the religion of technology are one and the same phenomenon At the same time, the energetic development of technology is in fact medieval in origin and spirit There is now an ideological marriage between technology and transcendence, and thus technology becomes a form of eschatology (see Maurer 1982 pp253-265) Similarly to Noble s thinking, Lewis Mumford believes that there is a "faith in the religion of the machine" (cited in Noble 1995 p128) Mumford (1934) also states "The dream of conquering nature is one of the oldest that has flowed and ebbed in man's mind Each great epoch in human history in which this will has found a positive outlet marks a rise in human culture and a permanent contribution to man's security and well-being" (p37) We are on the verge of a human epiphany that is inspired by a profound aspiration for the creation of a new humanity

condition and gives control of this to a precise group. The abolition of suffering that is underpinned by an ideological consciousness can lead to devastating consequences, as we have witnessed and continue to witness in wars and genocides. There is ample evidence in history of occasions where we have been propelled into moral chaos in the name of the quest for human perfection.

Take the example of the atrocities of eugenics that were carried out in the name of the scientific quest for human perfection in Nazi Europe (Distel and Jakusch 1978) In light of this, as put by Daniel Callahan (1996), the dreams of technology are simply the other side of the nightmare coin (p14). Therefore, while evidently technology can be used to enrich humanity, it can also be used to debase that very humanity. From this, the question arises as to whether there is a limit to seeking to delimit the human condition.

I think that, in health care, many of the ethical issues posed are created by humanity's creative attempt to lift itself out of its limiting condition and, in some way, to find the perfect future in the present. With the creative revolution in health care new possibilities are opened to humanity to determine its own destiny and not to succumb to biological determinism imposed on us by nature. Such advancements have brought numerous benefits to humanity. To name a few examples. There has been a considerable increase in life expectancy and a reduction in infant mortality. The use of technology in neonatal intensive care units enables premature, underweight babies to

²⁹ David Smith (1996) remarks that "this century has experienced both the heights of human scientific ingenuity and the depths of human depravity" (pvii) Dawson S Schultz and Franco A Carnevale (1996) argue that "it can only be expected that modern man will be a difficult patient because the sick bed dictates to him the task for which he is least prepared confrontation with (or suffering) the vulnerability of his body and the transience of his life "(p189)

³⁰ David Cook (2003) formulates this question in another way " it is appropriate to ask whether there is a limit to human existence" (p83) As he puts it "human beings cannot escape from key moral reflections on what we as humans do and can do Just because we have the capacity to perform a particular procedure, develop and use a specific drug, machine or technique leads us to the ethical question of whether we should actually do any or all of these things" (Cook 2003 p82)

³¹ Still, circulatory diseases and cancer make up about 65% of deaths in Ireland each year (The Department of Health and Children 2001 p25) In addition, we continue to struggle with (relatively) old and new life-threatening diseases such as AIDS and SARS

develop and survive As well as that, various life-threatening diseases such as tuberculosis have been almost alleviated

Yet, in spite of all this, there are a number of paradoxes in the present-day use of medicine and technology to conquer the various imperfections of the human condition For instance, in trying to lessen disease and to avert death, medicine and technology seem to heighten our fear of disease and death (Callahan 1996 p17) 32 This is a peculiar phenomenon Undoubtedly, the elimination of suffering, disease and other negative attributes of the human condition appear to be intrinsically good. Clearly it is in our interest to overcome vulnerability at whatever level in order to survive Notwithstanding this, it could be claimed that it points to the perennial tendency of attempting to transform the reality of the human condition, which may not always have completely positive consequences and therefore can become a veil of distortion

But is the transformation of the human condition as radical as gnosticism? It is true that gene therapy carries the technical advances to their definitive conclusion by attempting to correct the germ-line itself. This brings to mind the image that humanity might finally obtain power over its own destiny and over the limitations imposed by the sweepstake of genetic inheritance (Le Fanu 1999 p301)

Unlike Voegelin, James F Keenan (1999) places the search for perfection within the context of a teleological understanding of human flourishing, enabled by the virtues (p110) 33 According to Keenan's research, perfection signifies whatever is lacking in actuality In this way, seeking perfection is quite natural to the destiny of any living being because it is intrinsic to its nature. The problem lies in the type of perfection sought For example, if perfection is seen as a market commodity - e g a perfect body -

³² Armando Roa (2002) argues that "the so-called post-modern culture stands alien to the inner lives of persons, and sets its goal in the faith that technology will ultimately solve all our anxieties and problems, and that life must become a permanent source of pleasure" (p87) A good example of this is the popularity of cosmetic surgery In light of such practices, Melanie Phillips and John Dawson (1985) are convinced there is a tendency on the part of many people to treat the doctor simply as a technician whose job it is to give the public what it wants" (p6)

33 This pursuit for perfection is the key to virtue ethics, according to Keenan

it is not really human perfection ³⁴ The difference in seeking perfection in the sense of achieving what is potentially within the human condition is completely different to seeking what is not Potentiality puts a boundary on a substance. For example, a human baby boy has the potential to become a man, but not a dog. Additionally, we are mortal beings. We cannot escape from the fact that one-day we will die. Even if we could live far longer than the average age — say two hundred years — there are questions concerning whether this would be in our best interest, both psychologically and socially Clearly, this is not the meaning of potentiality in Keenan's sense of the term. For him, potentiality signifies what is ontologically possible, which may or may not be actualised (ibid p107).

In contrast to Keenan's understanding of the search for perfection, the ideological consciousness pursues a perfection that is not inherent in human nature. Therefore, if the perfect "man" and the perfect "society" are not achievable, there is recourse to violence. The French Existentialist philosopher-writer Albert Camus (1994) illustrates this point dramatically in his play *The Just*. The rebels want to inaugurate social peace and justice in society. However, after the rebels' failed assassination attempt on the life of the Russian Grand Duke (because of the presence of his nephew and niece), we are given an insight into the rebellions' initial system of thought, which drives them to commit murder in the name of justice. It is interesting to follow the dialogue between Dora and Stepan, members of the terrorist group, in the aftermath of the aborted attempt.

Stepan Because Yanek did not kill those two, millions of Russian children will die of starvation in the next few years. Have you ever seen children starve to

³⁴ Keenan (1999) claims that "biotech firms are now making the same offer The perfect child, chin line, and buttocks are now available, for a price This, obviously, is not human perfection" (p105)

death? I have, and death by a bomb is a breeze next to that death. But Yanek did not see them. He only saw two intelligent dogs of the Grand Duke.

Dora But the death of the niece and nephew of the Grand Duke will not prevent one child from dying Even in destruction, there is order, and there are limits (ibid pp186-187)

With Dora, the rebels eventually realise that there are limits to their revolt. They agree that there has to be a limit even when faced with tyranny. If there are no limits governing the rebellion then they will sooner or later take the place of the tyrant. To put it another way, if they accept that all is permitted, they will end up being no better than the tyrant against whom they are rebelling. This is the heart of the problem of the ideological drive. In seeking to reach perfection within history, crimes against humanity are enacted in order to reach social utopia.

To conclude this section, I do not believe that the search for perfection is intrinsically negative and ethically questionable. The story of "The Birth-Mark" and Voegelin's analysis demonstrate that the double-edged sword of positive and negative aspects of creativity owes its source to an ideological pursuit of perfection at all cost without regard to those who get in the way of this chase. Ideological thinking reserves the results of this creative revolution for the chosen few and paradoxically perpetrates crimes against humanity in order to reach the social perfection for humanity. However, it must be said that not all utopian pursuits are necessarily ideological. In other words, the pursuit for perfection within history may not necessarily be negative if it is not accompanied by an ideological desire to reject the mtrinsic limitations of the human condition and to refine the search for perfection for a chosen few.

1 4 2 The Closed and Open Societies in the Creative Revolution

In this section, I will use Henri Bergson's (1986) analysis of the closed and open societies as another avenue to understand the phenomenon of the positive and negative aspects of the creative revolution in health care. This French philosopher of life places his investigation in the context of his discussion regarding the sources of morality and religion ³⁵ For the purpose of my examination, I will concentrate exclusively on the moral sources ³⁶

Bergson argues that there are two sources of morality. The static and the dynamic ³⁷ These two sources of morality are inherent in what we might call the genetic endowment of the human species and both give rise to two radically different forms of human social organisation, the closed society and the open society ³⁸ However, Bergson shows that the sources of morality are not to be found in the fact of the existence of societies. If individuals form societies, then the source of morality cannot be found in societies but in individuals. For that reason, Bergson does not accept a social explication of the source of morality. He believes that we must dig deeper than society to find the source of morality. As he maintains, "we must delve deeper still if we want to understand, not only how society 'constrains' individuals, but again how the individual can set up as a judge and wrest from it a moral transformation" (Bergson 1986 p100). As it will be shown, this moral transformation takes place through a dynamic morality that transcends social boundaries that are driven by static morality. But before

³⁵ Bergson is considered a philosopher of life because of his views regarding the evolution of the species in history

³⁶ I find Bergson's argument compelling because it offers another window onto the problem of the positive and negative uses of the creative revolution in health care. His analysis of static and dynamic moralities offers a philosophical tool to understand the phenomenon of the double-edged sword of positive and negative applications of the creative revolution to health care. As well as that, his study offers a philosophical lens through which we can understand why the concept of person tends to set a boundary between those who are deemed persons, and those who are not, in the moral domain. For that reason, I think his argument is insightful and germane for the present discussion and therefore merits serious consideration.

³⁷ I am aware of the fact that contrasts can often be construed as perilous dualisms. What needs to be

That aware of the fact that contrasts can often be construed as perilous dualisms. What needs to be made clear at this stage of the thesis is that these various poles (static and dynamic, closed and open) are in tension within any society. See p44, footnote 41 of this chapter and see general conclusion to the thesis. Bergson does not use the word "genetic". It is a modern word that I adopt to explicate Bergson's thought Bergson's book, *The Two Sources of Morality and Religion*, was originally published in 1935.

explaining both static and dynamic moralities, it is important to note that Bergson seeks to demonstrate that the source of morality is essentially biological (ibid p101)

Let us look first at static morality. If we reflect on our moral experiences as children, we might ask ourselves why we felt guilty for taking apples from our neighbour's tree. At this basic level we sensed that we had done something wrong, not only because our parents and teachers may have taught us not to take what did not belong to us, but because of something more primordial. Even though no one actually saw us doing the "malevolent" deed, it seemed as if society itself was interposing and making itself felt because we had in some way put the social order out of joint. Bergson states "We did not fully realize this, but behind our parents and our teachers we had an inkling of some enormous, or rather some shadowy, thing that exerted pressure on us through them. Later, we would say it was society" (ibid p9). He therefore locates this experience in nature itself, which has erected a mechanism of social compulsion in order to maintain natural social order.

A friend described a similar experience of this shadowy social pressure to me. One day, when he was at work, he began to have a terrible headache. It became so unbearable that he asked his supervisor whether he could "pop out" for some minutes in order to buy a packet of painkillers. When he was out, he discovered that there was no pharmacist close at hand. So he had to walk a little further and it took him a little longer than he expected. Rationally, he thought to himself that there was nothing wrong with taking a little extra time, it was just an unfortunate situation and he would hurry back to his work as soon as he found a chemist. However, as he went on he began to feel he was doing something wrong and he felt that there was an unknown force compelling him to hurry back. From Bergson's perspective, this miasma of culpability is a social morality, endowed by nature, making its weight felt. Bergson describes this compelling force of social obligation as moral obligation (ibid p266). It is a static morality because it stems.

from nature's demand on us to cohere with the interests of the social group to which we belong. It is experienced as a pressure or as a restraint wielded by society upon its members.

In general, the social cohesion demanded by nature is analogous to that of an ant-heap and an ant (1bid p266) Society assigns specific roles to its members and they respond naturally to the needs of the society in a similar fashion as the ants in an antheap At the nucleus of a society is a compelling social force that holds it together. It is the social pressure to conform to the needs of the ant-heap that induces the ants to act on behalf of the group But this social pressure is grounded in the instinct of the creature In the case of humanity, although this social pressure is primarily genetic and becomes part of our social make-up, it is more than an instinct Putting it simply, unlike the ants that comprise the ant-heap, human society is constituted by collective free wills Therefore, each particular experience of moral obligation is contingent. That is to say we have the freedom to follow or not to follow this force By using our reason, we can weigh up the pros and cons of our proposed action or inaction and picture to ourselves various ensuing consequences. To return to the example of my friend, for the sake of argument, instead of rushing back to the office he might decide to go for a coffee and take it easy and just tell his boss that there was a long queue at the apothecary. His actions would show that human reason can pose a danger to the unity of the human society and thus to its preservation (Gallagher 1970 p61)

Even though each particular experience of moral obligation is contingent, at the same time moral obligation in general is necessary. In this sense, although moral obligation is more than instinct, it is less than intelligence. In basic terms, this social demand is rooted not in human reason but in nature. In view of this potentiality to ignore the moral force and to deceive the social group, nature instils a "virtual instinct" in humanity in order to counterbalance any anti-social propensities, mainly caused by

reason (Bergson 1986 p28) It is a "virtual instinct" because it is not purely an instinctive reaction, otherwise my friend would not even dream of deceiving his superior

Instinct and intelligence are to be found along two divergent paths of evolution that were once intermixed. Instinct represents the distinctive mark of the animal kingdom whereas intelligence represents the distinctive mark of humanity. However, according to Bergson, a residual of intelligence exists in instinct and a residual of instinct exists in intelligence. The ant-heap is preserved because nature has implanted in the ants the instinct of working together for the common good. Human society is not preserved because of instinct alone but also because of intelligence. However, as it has been said, this intelligence can act as a threat to the social cohesion of the group. Therefore, human society is preserved because nature has imparted in humanity a "virtual instinct" to counteract any anti-social tendencies of the intelligence.

Obligation takes on reason in the battle for social cohesion. Reason will seek ways to maximise the benefit of an action for the individual and not necessarily for the society. But the "virtual instinct" of moral obligation is the "totality of obligation" that makes itself felt in each experience of obligation. Therefore, although each particular experience of moral obligation is contingent (i.e. we may choose to follow or not to follow it), obligation in general is necessary (i.e. the closed society can only exist if this sense of social pressure is in our nature)

Let us come back again to my friend, supposing he decides to work only to the minimum because he earns the same money regardless of whether he works harder or faster. In this case the "totality of obligation" might make itself felt and my friend may be forced to re-evaluate his action. For instance, if he and others took this type of action, then the company would eventually not withstand the competing forces in the market and would go bust. Thus, in the long-term it would not serve my friend's interests if he

worked "out of sync" with the social whole of the company Therefore, he would be wise to plug into this social order. The virtual instinct of the totality of obligation attempts to counteract any anti-social tendencies of intelligence. But this experience is still contingent – even if my friend listened to the argumentative voice of obligation he might still decide to pursue his own self-interested goal. Likewise, we might continue stealing apples from next-door without feeling moral remorse.

The static morality gives form to, what Bergson calls, a closed society (ibid p30) The resulting closed society is one whose members care only for their specific social group. The closed society includes a certain number of associates and excludes those outside its social pale. Its members care little for any outsiders and are wary of any so-called foreigners who pose potential threats to their social unit. In the case of my friend, one could say that the company is the closed society and its code of conduct is its codified static morality.

Groups that differentiate themselves from others constitute a closed society. This "them and us" trait of the closed society can be observed in many aspects of life. To take a couple of examples. On a political level, we have nation states that emphasise differences rather than commonality the Irish and the English, the Germans and the Austrians, the Canadians and the Americans, etc. Some Canadians are quick to point out that although they might have American sounding accents according to European ears, they are definitely not Americans. On a professional level, there are social barriers that stress the professional role of each group and thus form a sort of closed society teachers and students, nurses and doctors, managers and staff, etc. On a societal level, there are collective differences between villages, towns and counties. It is quite natural to form such communities. To put it another way, we are made for such a society. There are varying degrees of closed societies. Some are quite harmless while others are not

Clearly, there is a vast disparity between the closed society of hospital porters and care attendants compared to the antagonism between nations

Language is one tool that can distinguish one group from another and therefore helps in the formation of a closed society. For instance, if I travel to France and I cannot speak French, I am inevitably excluded from the inner French social realm unless the native French speakers are willing to make the effort to speak to me in English This, of course, may not be noticeable if I just take a weekend trip to Paris But if I was to stay any longer the urgency to learn the language would become more and more pressing, not necessarily because of the love of French, but because of a deep-seated feeling of not wanting to be excluded I am not suggesting that each nationality with its own distinct language is automatically a closed society but language can create a gap between people and help groups to form closed societies. In Germany, for example, Hochdeutsch (1 e "high German") is the national language that all Germans can understand Yet, in the various regions of the country, people have their own dialects that, at times, can be so completely different to the *lingua franca* of the country that it is like a "foreign" language As well as that, you can have two villages, which are only some kilometres distance apart, which have a variance on a dialect, so they may not even understand each other easily

On the other end of the spectrum, there is the experience of the dynamic morality and its resulting expression in the form of an open society (ibid p267). Compared to the static morality of a closed society, dynamic morality is inspired by the experience of love for those outside the social periphery. Dynamic morality throws a "spanner in the works" of social obligation by embracing all of humanity and by not restricting the experience to one social group. Whereas static morality is rooted in the genetic inherent structure of the human species, dynamic morality – although it finds its

seeds in our genetic make-up – is something that can create social forms that are new and original

Dynamic morality is represented by a privilege few that have an intuitive experience of love of humanity which transcends their particular social club. These inspired individuals appeal to the dynamic morality of ordinary people and attract them to follow their lead. I think that a poignant example would be someone like Martin Luther King, who preached and lived a life that was marked by universal humanity in the face of racism and discrimination. In his experience, there is a dynamic leap from what is programmed for the survival of the closed group (as represented by the then white Americans) to the universal fellowship of the whole of humanity (as represented by King). Following Bergson's thought, it can be claimed that King only had influence because he was backed by a dynamic social movement that he both inspired and was inspired by

Bergson makes the claim that the leap from static to dynamic morality is not one of degree but of kind. In many cases it is the difference between the love of country and the love of humankind (ibid p32). From an evolutionary perspective, static morality is an impediment to the process of life developing towards a universal humanity, whereas dynamic morality is a leap in being 40. This dynamic morality is emotional, inspirational and a creative love for all humanity (Gallagher 1970 p71). It finds expression in the resulting open society. The static morality of moral obligation within the closed society is incomplete and imperfect, whereas the dynamic morality of moral aspiration within the open society is complete and perfect. This is perfection not in an ideological sense—where the search for perfection does not consider human limitation nor does it concern all of humanity. The dynamic morality is complete and perfect because, unlike the

³⁹ I will give more attention to this in chapter five pp171-176

⁴⁰ According to Bergson's philosophy, this dynamic leap is driven by the *elan vital* ("vital impulse") According to his philosophy of evolution, life is a creative evolution, which is due to an *original impetus* of life "passing from one generation of germs to the following generation of germs through the developed organisms which bridge the interval between the generations" (Bergson 1998 p87)

ideological search, it does not involve only certain sectors of humanity but all of humanity and it considers human limitations.

Static morality is compulsive; dynamic morality is attractive. According to Bergson, static morality is "a system of *orders* dictated by *impersonal* social requirements," whereas dynamic morality is "a series of *appeals* made to the conscience of each of us by *persons* who represent the best there is in humanity" (Bergson 1986 p84). In this way, static morality is social while dynamic morality is human.

Dynamic morality is an uplifting and an inspiring experience that, after we catch our breath, can be mediated through the intellect. The experience is like a lava-flow that is cooled and solidified in the mode of reason and language. It finds expression in the creative intellect of men and women. Static morality tends not to be progressive or creative but rather regressive and bland because it becomes confined to the narrow interests of the particular social group. To return to my friend, we can picture a scenario where the company for which he works is an open democratic society where the workers have an active participation in the decision-making process of the company. In such a company my friend will be inspired to hurry back to his work, not because of a shadowy social pressure but because of his own willingness to work for the common good of the company – a willingness that may be inspired by the actions of its leaders.

Bergson admits that his analysis of static and dynamic moralities does not lend itself to strict empirical scrutiny today because both moralities can no longer be found separately in a pure primitive state: There is a mélange between them.⁴¹ The static has

⁴¹ In view of this, I am not inclined to use categories such as "bad" and "good" to describe static and dynamic moralities. I am slow to argue that static morality is "bad" and dynamic morality is "good". They represent two sources of morality. As I argue in the general conclusion to the thesis, we tend to live in tension between both moralities. However, static morality, with its resulting closed society, has society as its aim. This society tends to be closed in on itself. It tends to seek to protect itself from other societies because of distrust and fear (Bergson 1986 pp32-33). The relationship then between the various closed societies tends to be one of mutual hostility. Closed societies include a certain number of individuals and exclude others (ibid. p30). In spite of this, we are naturally made for this society (ibid. p266). By nature, we look after the inner circle of our family, for example. This is not necessarily "bad". As Bergson notes, "not that nature was wrong in attaching us by strong ties to the life she had ordained for us" (ibid. p52). In this case, the life that is naturally ordained is the life for the closed society. The dynamic morality, with

handed on to the dynamic morality some of its compulsive obliging force – the closed society might use the rhetoric of the open society⁴² – while the dynamic has handed on to the static something of its wider regard for all of humanity (Bergson 1986 p50). The dynamic infuses new life into the static, while the static tends to turn what is inspirational and appealing into a fixed moral code ⁴³

Through the work of reason the two moralities interact and make mutual exchanges allowing moral progress to ensue Nonetheless, the essence of dynamic morality is emotion and is not like obligation and is not to be found in reason (Bergson 1986 p44, p89 and p101, Bergson 2002 p128) In this way, Bergson takes exception to the Kantian tradition, which argues that morality is founded in reason alone For Immanuel Kant, people are not mere followers of the universal moral law but are legistlators of this law. They can decipher how the central maxim of the categorical imperative, i.e. "act only according to that maxim whereby you can at the same time will that it should become a universal law" (Kant 1993 p30) will be applied in each situation. For Bergson, neither reason nor social facts are the sources of morality. But, this dynamic morality needs concepts and language to make itself known. That is why reason has an important role to play in the evolution of morality because it puts matter into the form of obligation and creative emotion, which is concretised in customs, traditions and institutions.

its resulting open society, has humanity as its aim. The open society does not seek to protect itself from other societies. It does not exclude but includes members from other societies. However, we do not completely leave the inner circle of family. Bergson claims that when passing from the static to the dynamic morality "we break with one particular nature, but not with all nature" (ibid p58). Families can live within the open society. A possible example of a family attempting to live in an open society is one which encourages their children to take part in exchange programmes in order that they meet people from various cultures.

⁴² For example, the closed society might claim that it respects universal human rights. But, in reality, such rights are only applied to its members rather than to those who happen to reside in their society but who are not members.

are not members

43 Gallagher (1970) notes that "we do not become aware of pure social pressure or pure aspiration acting upon our will because as soon as these forces have been felt the intellect represents them in concepts" (p89)

The last chapter of Bergson's *The Two Sources of Morality and Religion*, begins to bring into focus the dual aspect of the creativity of humanity from the perspective of the closed and open societies. Bergson describes how both instinct and intelligence have different tools for carrying out their work. Bodily organs are designed by nature and tend to be immutable. Invented tools, on the contrary, are not given by nature but are created by humanity and therefore tend to be diverse, incessant and unpredictable (Bergson 1986 pp309-310). Emotion is at the core of the unforeseeable and ever-recurring novelty in the culture of creativity. Emotion stimulates and motivates reason to pursue activities and persevere in the face of obstacles and disappointments. "Creation signifies, above all, emotion" (ibid p45). In this way, Bergson argues that inventions are almost like an extension of our bodily organs. He writes, "the workman's tool is the continuation of his arm, the tool-equipment of humanity is therefore a continuation of its body" (ibid p309). Through their creative minds, men and women attempt to use matter itself in order to overcome matter. Men and women use tools to surpass bodily limitations.

The natural propensity to invent is due to the limitation of the human condition. As we have seen in the analysis of the genetic root of the closed society, instinct and intelligence are closely connected. However, with the creative feats of humankind, it can be observed how intelligence and instinct diverge, although they never completely separate. We still remain beings with instincts. For example, if I place my hand over a fire and the fire gets too hot, I will instinctively withdraw my hand. I do not need to think and to reflect about the matter. I perform the withdrawal of the hand immediately

The same instinctive reaction to protect oneself kicks in with somnambulistic states. Unbeknown to consciousness, instinct reacts when danger lies ahead. Bergson gives the real-life example of a woman approaching a dysfunctional elevator. Instead of flinging herself unknowingly into the void she has a hallucination of some force, which

prevents her from making a fatal mistake (ibid p120). This is a natural defensive mechanism working to protect humanity. But with intelligence, as opposed to instinct, novelty and invention are possible. In the creative evolution of the species, the animal world has the necessary tools at hand to carry out their genetically-specified tasks, whereas the human world does not have all the necessary tools to carry out its genetically-specified tasks. The faculty of intelligence enables the creative invention of new instruments. Bergson (1998) argues that " instinct perfected is a faculty of using and even of constructing organized instruments, intelligence perfected is the faculty of making and using unorganized instruments" (p140)

l

Instinct and intelligence represent two radically different types of knowledge In the former case, knowledge is inbuilt and instinctively acted on and therefore unconscious In the latter case, knowledge is not inbuilt, but is learnt, reflected on and conscious Since human beings possess intellects as well as instincts, they have the possibility of transcending their own nature Indeed, in today's terms, the biotechnological revolution is a step towards transcending the limits of the human condition There is a natural tendency on the part of the intellect to transform given materials provided by nature into an instrument of action Following from this, one could argue that the ideological pursuit of reaching perfection at all costs and the technological imperative have their roots in the work of intelligence. The problem arises when we forget about the human condition that we are trying to make better, when we use others as a medium towards such discoveries and when we exclude others from the benefits of such discoveries When examined from a Bergsonian perspective, it can be said that the creative impulse of humanity is pulled down and concretised in the closed society for its own narrow objectives. The created invention is used for the good of the closed society, which may have negative consequences for those outside its fringe. The moral impetus to cohere in the social group may encourage participants of the closed

47

society to take measures that may appear quite moral to them, but not to the rest of the world

The classic case is Alfred Nobel's inventions, which were used not only to create a better world, but also to destroy it (see Larsson 2001 pp15-26). For example, dynamite has both positive and negative effects. The positive effect is that in the open society it can help destroying in order to rebuild. It can be used, for example, to explode one bridge in order to make way for a new and better one. Thus, it can be used in many ways for the good of humanity. However, when pulled down by the interests of the closed society, it can be used as military hardware for an attack on foreign foes.

I think that, in a similar fashion, the creativity of humanity (via the creative revolution in technology, bioscience and medicine) when operated in health care, can be pulled down into the narrow objectives of the closed society. There can be no doubt that the technological and the medical expertise that enables transplants to take place on a daily basis points to the startling creativity of humanity. When used in an open society—spurred on by a love for universal humanity—it can be a gift of life to all those who need it. Bodily organs can be transplanted from different races, ethnic groups, etc, because there are no obvious boundaries, apart from biological ones. When used in a closed society—urged on by social cohesion—transplantations can be used for a select few who can afford it, especially when there is little supply. Then the bodily organs are used as market commodities illicitly sold for profit-making purposes.

Similarly, the astonishing creative revolution of the life-support system which enables us to halt the dying process and provide another avenue for maintaining life, has no boundaries in an open society. It is open to all who require it. But the social-economic concerns of the closed society will consider a hierarchical ranking of those who have more of a chance of survival. If the closed society is utilitarian in outlook, then the potential utility of the survivor will be taken into consideration. Unfortunately,

in an emergency situation, the general sorting out of those who have the greatest chances of survival is often sadly necessary, especially in the face of the stark reality of finite resources. In some cases, if doctors do not prioritise, they risk lessening the chance of recovery for those who are not written off. But, if it is taken to extremes in a closed society, then we may have the allocation of patients according to their social standing.

Following this line of thought, the question arises as to whether the debate concerning when we morally ought to, or ought not to, prolong life points to a closed or an open society? Can we say that if we turn off the ventilating machine, that it is a static response rather than a dynamic response? Surely, one could argue that when we stop the ventilator we are also showing love for humanity in the face of suffering. So, it is not always clear what our motivations are. As well as that, we have to ask whether the brainstem criterion of death belongs to the open society, and whether the higher-brain death criterion belongs to the closed society? Is the latter merely interested in harvesting organs for their society?

The creative revolution of IVF, which enables infertile couples to transcend the barriers of nature, is also astounding. Surely it is for the greater good of humanity to be able to conquer infertility or at least provide a route around it?⁴⁴ The work on stem cells also shows how humanity can use its creative reason to out-manoeuvre nature in order to surmount debilitating diseases. Surely, this is the work of an open society? But, as with the above, it can still be pulled down into the narrow objectives of the clique. The

⁴⁴ It could also be argued that IVF is inherently static because it can be used to maintain genetically related family lines

Another question that could be raised is whether we should always look out for those in the broader society I think that static morality can justify the moral view that we should take care of our family (and our self) before we look to the needs of the wider society

The argument could be made that the moral vision of the open society is too demanding. It is difficult to look out for those, for example, beyond the inner family circle. It is true that dynamic morality is not a natural response but requires much effort and a new way of understanding other people from different societies. Still, I think dynamic morality does not entail that we abandon the moral demands of the inner circle of a family life. However, with the experience of dynamic morality, we obtain a new way of seeing how the moral demands of the inner circle of our family are not isolated from the moral demands of the "wider family" of humanity to which we belong

biggest question posed by IVF and embryonic stem cell research is whether the embryo, which may be discarded or experimented on, is a person

15 Conclusion - The Need to Examine the Concept of Person

From my reflective distancing, I have come to the conclusion that the creative revolution in health care is open to the distorting veils of the ideological urge to achieve human perfection for a chosen few and to the narrow-interests of a closed society. Thus, while the creative revolution in health care has benefited the overall practitioner's clinical expertise, in some cases the patient's vulnerability has increased. This may not appear obvious because clearly the aim of the health care professional is to diminish (or take away completely) the patient's feeling of vulnerability by using his/her clinical expertise, helped by the technology available, within a caring environment

However, what might not always be obvious (even to the health care workers involved) is the philosophical vision (whether it be ideological, closed or open) guiding their clinical expertise. Surely this also has an impact on the patient's vulnerability, especially if s/he is considered to be no longer a person but only a human being. For instance, the distinction between human being and person may make it easier for the health care practitioner to decide on the appropriate care for those in a persistent vegetative state (PVS). For some it may seem reasonable not to expect that a human being in a PVS would be given the same amount of medical attention and nursing care as someone on renal dialysis who has full consciousness and use of rationality. Still, if you ask a health care practitioner whether we ought to prolong the life of the patient in a PVS, you will receive a variety of answers. Some will claim that if there is no hope of recovery then we should forego all extraordinary or disproportionate means of prolonging the individual's "suffering". The individual is not living but merely existing

It is easier to let go when we ascertain that what remains is not a person but its biological outer shell. Conversely, others will find this morally repulsive and will claim that we should still give basic palliative care, but will find it difficult to justify their reasons when pressed. Their position might be motivated by a feeling that this is (or was) still "someone" and should be given the same respect as any patient or at least be given minimum respect.

It is at this point that the work of philosophy can attempt to clarify some of our thinking especially regarding our concepts of person. Philosophy provides a sort of "spring cleaning" of our thoughts. At the same time, for some, it can be like a bomb that explodes our preconceived ideas and beliefs in the hope of resolving difficult ethical issues. In this way, the issue of personhood remains no longer in an academic quandary but must be faced by every health care practitioner.

To return to Wordsworth's insight regarding the daffodil. It can be argued that sometimes it is only by distancing ourselves from immediate reality that we can really begin to grasp true beauty. I think that it is the role of a philosopher to understand "what is going on" regarding the ethical issues prompted by the creative revolution affecting health care practices and to attempt to provide a passage from the cave of confusion to the sun of transparency (Plato 1987 pp316-325, BkVI 514-521). This does not imply that the philosopher can take away the confusion completely. Nonetheless, with such nascent creativity infused in health care, it is the task of the philosopher to provide the lenses through which to examine the various new ethical questions in the wake of turbulent times ahead brought on by veils of distortion.

Consequently, I believe that the philosopher is called to recover a fuller understanding of personhood and therefore to initiate a "healing process" by helping the health care practitioner to utilise his/her clinical expertise in a way that does not

heighten the vulnerability of the patient but protects it ⁴⁵ Both the health care practitioner and the philosopher can work together to make present what Václav Havel (1985) describes as the "essential aims of life", which are naturally present in everyone "In everyone there is some longing for humanity's rightful dignity, for moral integrity, for free expression of being and a sense of transcendence over the world of existence" (pp27-28)

In our contemporary society, I feel that this will be the philosopher's key role, i.e. to capture the reality of what makes a person a person and, thus, to protect its rightful dignity, its moral integrity, its free expression of being and its sense of transcendence. This will be crucial for humanity if it is not to succumb to new ideological forces that seek to hijack biotechnology and transform it into a mechanism that transfigures the human condition only for those who are deemed worthy in a closed society. As Bergson reflects "Mankind lies groaning, half crushed beneath the weight of its own progress. Men do not sufficiently realize that their future is in their own hands" (Bergson 1986 p371). I am convinced that a step towards this is achieved by taking a closer look at some fundamental attitudes regarding what makes a person a person. For this reason, I will examine the concept of person in the next chapter in order to discern whether it belongs to the static morality of a closed society or to the dynamic morality of an open society.

⁴⁵ This does not mean to suggest that helping health care professionals to develop critical tools of reflection is not a valuable and indeed a crucial aspect of the work of the philosopher

CHAPTER TWO

2. Concepts of Person

2 1 Introduction – Korperwelten

Some time ago, in Stuttgart, Germany, I had the opportunity of visiting Gunther von Hagens' Korperwelten ("Body Worlds"), which is an anatomical exhibition of real human bodies In the aesthetic spirit of Renaissance, the exhibition displayed part and full body specimens, which had been preserved through the technique of plastination The various specimens gave me the opportunity of viewing the inner workings of the human body and its organs, including the digestive system, the nervous system and the brain I could even detect the life-styles of some specimens, from blackened diseased lungs due to abusive smoking to enlarged infected livers owing to years of heavy consumption of alcohol This would have indeed fascinated any medical student or lay enthusiast It provided a window into the inner sanctuary of the human body Needless to say, Korperwelten prompted much debate about whether it was ethical to have the remains of the dead plastinated and exhibited in a museum. Yet what struck me was the popularity of the exhibition in spite of this It has been shown all over the world, from Britain to Japan, where over 16 million people have already seen it (Body Worlds 2005) In Stuttgart, the exhibition was originally opened during day hours, but because of the large numbers of people, the Stuttgart Town Hall decided to allow the exhibition to open for twenty-four hours a day Even with this, thousands upon thousands of people queued for up to ten hours to see it Some were even willing to queue all night to get into the exhibition in the early hours of the morning 1

Personally, as I was viewing the various specimens, I never fully realised that what I was observing was once a living human being, who was probably married, had children and who belonged to a social network. Some defence mechanism told me that I was looking at plastic models instead. Perhaps, this was what actually helped me through what would have been otherwise an even more challenging experience. Still,

¹ For an illustration of the Korperwelten, appendix A p238

the exhibition stimulated a desire within me to gain greater knowledge about the complexity of my own body while, at the same time, it made me face the reality of its vulnerability. For instance, one of the posed plastinations was that of a man holding his skin in his hand. It was not only very impressive as a "work of art" but it also demonstrated the vulnerability of humanity without skin. It showed that the skin is an organ protecting our bodies from the outside world and communicating sensation to the brain.

Without a doubt, the argument could be made that we can use plastic models to educate people about the workings of the human body. Then again, von Hagens suggests (2002) that each human body is unique and plastic same-for-all models cannot capture this distinctiveness (pp32-35). Nonetheless, could it not be maintained that this uniqueness points to the "mystery" of the human body, i.e. although every human body has the same basic anatomical structure, each body has its own unique differences? Furthermore, if no two bodies are completely the same, surely no two persons are completely the same – although they may have the same ontological properties, they will inevitably have different personality traits, various levels of intelligence and degrees of self-awareness. Yet, in medicine and philosophy, for example, we tend to use structures to pinpoint the quintessential characteristics and properties of the human body and the human person in our quest to understand them better. In medicine they help us to navigate our way through the many biological intricacies of the body and in moral philosophy they help us to make informed ethical judgments about whether someone is a human being or a person.

In daily hospital life, nurses and other health care professionals go about their work without much problem concerning what constitutes a person. They attempt to provide the best care, as far as possible, regardless of the fact that the patient in front of

² This is not to imply that we have to accept Cartesian dualism

them may only be a human being but not a person Perhaps, there is no conscious distinction made by the practitioners. Some practitioners are quite surprised and shocked when they are informed that there is a distinction to be made between human being and human person. However, as it has be shown, the issue has become more and more pressing in the context of the creative progress of medicine and technology, which allows us to do what was impossible before. When the creative revolution in health care is tarnished by ideological consciousness within a closed society, it inadvertently makes the patient more vulnerable.

2 2 Why Use the Concept of Person?

There is no universally accepted definition of the concept of person and the leitmotif of personhood is something that is often confused by philosophers and ethicists alike when deciding who has a right to life and who has a right to death (i.e. to die with dignity) within the construction of new exigent moral problems induced by the creative feat of medicine and biotechnology. In an effort to deal with such difficulties philosophers and ethicists become architects of new moral principles. For instance, the paradigm shift from the value of human biological life to the value of personal life becomes a stratagem for dealing with new moral problems. Therefore, the immediate purpose of the philosophical analysis regarding what constitutes a person is one avenue to provide an apparatus to examine new moral problems facing health care and civic society.

What should be established at the very outset is that this distinction between human being and person has not found universal acceptance among some health care practitioners, ethicists and philosophers alike There are those who argue that a concept of person is incoherent and even obsolete (Dennett 1988 p146) In the British context,

³ A detailed analysis of this argument is given previously in chapter one

when examining the issue of reproductive technologies, the Warnock Committee chooses not to use the term "person" and sidesteps the issue by examining how we ought to ethically treat human embryos instead. The Committee states, "although the questions of when life or personhood begin appear to be questions of fact susceptible of straightforward answers, we hold that the answers to such questions in fact are complex amalgams of factual and moral judgements. Instead of trying to answer these questions directly we have therefore gone straight to the question of how it is right to treat the human embryo" (Warnock 1985 p60) 4 Mary Warnock (1987) believes that the word "person" only leads to confusion 5 The question therefore remains as to whether the concept of person is helpful overall. Why not simply stick to "human being"? Would it not be less complicated to jettison the concept of person and preserve human being? By using the concept of person as something extra or even opposed to human being, are we not creating unnecessary difficulties? As Peter Allmark (1994) points out " using the 'person' approach to justify abortion has provided a definition of 'person' which will not exclude far more humans from moral consideration that they originally desired" (p33)

However, to decide to ignore the distinction between human being and person does not necessarily answer the accusation of moral discrimination based on species membership, which is the argument proposed by some philosophers including Peter Singer ⁶ In other words, even if we discard the notion of person and concentrate on human being, we are opening ourselves to the objection that we favour our species over another in the moral domain. In some way this is the nemesis of not accepting the

⁴ Ronald M Green (2001) makes a related point when he argues that "all these [ethical] problems stem from the failure to realize that the judgments of 'humanity', 'personhood', or any similar determination of moral protectedness are not a matter of definition, of finding the intrinsic biological property of an entity that makes it morally protectable, but are instead the outcome of a complex moral choice involving many competing considerations" (p49)

Warnock (1987) writes "Personhood is a notoriously difficult and ambiguous concept" (p1)

⁶ See general introduction to thesis pp5-6 and pp74-78 of this chapter

distinction between the concept of person and human being. It is also a clear sign of a closed society's approach by excluding entities from the moral domain that is only enjoyed by human beings because human beings biologically possess cells with fortysix chromosomes 7

In contradistinction to Warnock and Allmark and others who do not favour the concept of person, there are philosophers who argue that the concept plays a critical role in ethics (Tooley 1979 p83). For some, the question regarding what a being must be like in order to be a person, is one of the most remarkable and contentious subjects in contemporary philosophy (Goodman 1996 p443) 8 The debacle of personhood is the central and most crucial problem of our time (Corcoran 1982 p5) Yet, Michael Tooley (1979) rues the fact that the importance of the concept of person is, at the worst of times, overlooked and, at the best of times, taken for granted (p83)

Although the fifteenth-century Copernican revolution jettisoned the notion of man being at the centre of the universe, it is accepted in some intellectual circles that persons, not necessarily human beings, are at the centre of the medical and moral universe "Persons are central to morality The very world of morality is sustained by persons" (Engelhardt 1996 p239) 9 If persons are at the centre of ethics and health care. the need to understand what we mean by the concept of person and to whom that category can be applied, becomes increasingly important. In light of this, the thematic focus of this chapter will be on various concepts of person that underlie our thinking concerning what makes a person a person ¹⁰

⁷ For an analysis of the closed society, see chapter one pp41-42

⁸ Stanley Rudman (1997) writes that " the story of 'personhood' is rich and complex and contains a number of unresolved challenges for philosophers and theologians, not least in the field of ethics" (p13) ⁹ Engelhardt (1996) writes "Medicine is concerned with persons in the strict sense of moral agents

⁽p240) He also states that 'medicine is concerned as well with humans to whom a portion of the rights and prerogatives of persons, in general secular terms, is imputed" (ibid). So, medicine is not concerned with human beings per se but with persons and with those who are deemed to be persons in some social sense

¹⁰ The Oxford English Dictionary (1989) offers several definitions for the word "person" Firstly, it refers to a character assumed or sustained in a drama, secondly, to an individual human being - man, woman or child, thirdly, to a man or woman of distinction or importance in the sense of personage, fourthly, to the

2 3 Concepts of Person

2 3 1 The Puzzle of the Concept of Person

There is a vast intellectual landscape concerning the issue of what constitutes a person Along with this, there remains the bemusing question as to whether animals, or indeed hypothetical aliens from other planets, could be or are in fact persons. The inquiry pertaining to what makes a person a person is intertwined with history, theology, philosophy and culture Accordingly, it has received many definitions and redefinitions Today, there are various schools of thought regarding the essential traits and properties of personhood Here, I will concentrate on two major approaches The scholastic approach, as represented (and placed within a modern analysis) by Bernard Lonergan, and the contemporary approach, as represented by Michael Tooley, Peter Singer and H Tristram Engelhardt Jr 11 The former places the locus of personhood in the inherent rational nature of the Homo sapiens, whereas the latter situates the epicentre of personhood in self-consciousness and the exercise of rationality ¹² It is with them (1 e Tooley, Singer and Engelhardt) that the use of the concept of person reaches its greatest intensity when deciding who should benefit from the creative feats of technology The concept of person now becomes a device for helping health care people to settle issues raised by technology including what to do with someone in a persistent vegetative state (PVS) - should you keep him/her alive or not? The concept of person

living body of the human being, fifthly, to the self or the personality of the man or woman and sixthly, to a human being, body corporate having rights and duties recognised by law. These are just some of the definitions given (pp596-597). It defines "personhood", on the other hand, as the "quality or condition of being an individual person" (p604).

Obviously, these are not the only two approaches to the concept of person and to the beginning of human life. There are other approaches including the genetic and developmental schools. According to the genetic school, human life begins at the moment of conception or shortly after, whereas for the development school, although conception may establish the genetic basis of human life, further development is required before one can justifiably speak of the life of an individual human being (Pastrana 1977 p248 and p259). See Gabriel Pastrana (1977) for an extensive list of various positions regarding personhood (p264).

There are other philosophers who also stress self-consciousness as the master key that unlocks personhood For instance, according to Robert C Solomon (1983), it is self-consciousness that confers personhood on what otherwise might be just another biological organism (p210)

thus becomes the key to solving the problems posed by the success of technology in health care

2 3 2 The Concept of Person Where does it come from?

Philip Allott (2001) persuasively contends that the way in which we understand the past influences the future (p62). Our understanding of the past affects the way in which we understand the potentialities of the future. It also has an impact on the way in which we understand our moral responsibility in relation to the future. In a similar way, I believe that it is beneficial to look at the history of the concept of person to tap the resources of what has been said in order to elucidate the issues confronting us now. Evidently, to do justice to the history of the concept of person, a full analysis would require much more detail and erudition on the subject. However, this is not the focus of this dissertation. Nevertheless, I am convinced that having some historical background helps to place the concept of person in some context.

Firstly, it is often claimed that the original Latin root of "person", *persona*, literally meant a mask, especially in the context of theatrical performance ¹³ However, some scholars question whether *persona* is from a sound Latin root (Mauss 1985 p15). It would appear that the term *persona* could be traced back to Etruscan origin (ibid) ¹⁴. Nonetheless, it was the Romans who gave it the specific meaning that we have today in the case of legal institutions. Still, today there are *personae*, *res* and *actiones* in law (ibid.)

¹³ Marcel Mauss (1985) argues that this usage can be dated back to the beginnings of Latin civilisation (p13) The Oxford English Dictionary (1989) defines persona as a mask used by a player (p596)

¹⁴ Rudman (1997), too, argues that etymologically, 'person' is connected with the Latin word 'persona', whose derivation is disputed. The medieval derivation from 'per se una' is certainly false 'Personare', meaning 'to sound through', which is related to the use of the mask in the Roman theatre, is more probable, but not entirely certain. Modern philology links 'persona' with the Etruscan word 'persu', a word found written beside a representation of two masked figures" (pp125-126). Webster's Third New International Dictionary (1971) also makes a similar point that the word "person" comes from the Etruscan word for mask, phersu (p1686).

Secondly, according to John Habgood's research, by the time of Cicero (106-43 BC), *persōna* had four strands of meaning

- 1 Appearance, as in the case of dramatic performance
- 2 Role or status, as in professional work or social life, pertaining to a certain social order
- 3 The individual attributes required by a role. Here we find the initial stages of the using the word to refer to the inner self.
- 4 Dignity and privilege, a meaning that eventually "crystallizes" around the word "personage" (personage) (Habgood 1998 p35) 15

Thirdly, in the fourth and fifth centuries, the question regarding what constitutes a person becomes a critical issue in both philosophy and Christian theology. Here, the concept of person takes on a definite meaning within the context of the Christological and Trinitarian debates. For St Augustine, the meaning of person is heuristic. It represents the three persons in the Trinity, i.e. the Father, the Son and the Holy Spirit (Lonergan 1974 p199). It is during the next nine centuries that theology and philosophy advance beyond the concept of person as a heuristic notion to various definitions.

It would hardly be an exaggeration to say that most discussions about the concept of person refer back to Boethius as he represents the first significant attempt at giving a philosophical definition of the term. He defines person as *subsistens distinctum* rationalis naturae, i.e. "an individual subsistent being of rational nature" (Boethius 1918 p85). It is generally agreed that Boethius was primarily motivated by religious

¹⁵ Personage is a French word So it would appear that the word persona seems to have been modified when translated into French Now it includes the stature of the person (The Oxford English Dictionary 1989 p598)

¹⁶ For Mauss (1985), the contemporary notion of the human person is still basically Christian (p19)

¹⁷ C J De Vogel (1963) argues that no philosophical definition of person is found before Boethius (p20)

concerns when attempting to proffer a definition because he wanted to make the doctrine of the Trinity explicit. Nonetheless, Boethius remarks many times that human beings are also persons because they are also rational individuals (Teichman 1985 p180). In her critical inquiry on Boethius, Jenny Teichman concludes that Boethius' philosophical definition is capable of a number of interpretations. For instance, it might imply that the person must be rational or self-conscious or both. Then again, it could insinuate that the person belongs to a species, which is characterised by rationality or by self-consciousness or by both (ibid. p181). Conversely, other philosophers have less sympathy for Boethius' position, because he inadvertently directs our attention from the dialogical nature of the person and gives new importance to their separateness and individualism (Habgood 1998 p62). With this short expose, we have to conclude that even as early as Boethius, there have always been many difficulties in coming to terms with the concept of person.

The Christian theologian and philosopher St Thomas Aquinas advances another key development in the concept of person. For Aquinas, the human person is a being whose rational and physical natures are inseparable. There could never be an animal that had the physical appearance of a human being, while not being one. A being with a human nature is informed by a rational soul. The "soul is defined as the actualization of an organized physical body, for it is soul that gives body its organized existence." (Aquinas 1993 p191). In other words, to have a human body is to have a rational nature. A person is not just a thing of nature, it is a thing of a particular nature, i.e. rational nature (Doran 1989 p15).

¹⁸ Paul Mudathotty (1993) also critiques Boethius' definition by arguing that his "definition neglected the aspects of freedom, action, relationship, beauty, goodness and dignity" (p2)

the aspects of freedom, action, relationship, beauty, goodness and dignity" (p2)

19 Doran (1989) elucidates this by stating that (1) Every person is a hypostasis/subsistent, but not every hypostasis or subsistent is a person, even though both terms are used frequently particularly of persons, and (2) every finite person, as subsistent or hypostasis, being composed of matter and form, has an essence which signifies it But this is not to suggest that the essence is the person [Essence needs existence, therefore essence is not the person] The essence corresponds to the species which does not itself subsist. The person is an individual subsistent of the species, having that essence as its principle" (p17)

2 3 3 Updating the Concept of Person

There are numerous interpretations of Aquinas' position Personally, I find Bernard Lonergan's one both useful and insightful ²⁰ Lonergan explains that a person is a distinct subsistent being of a rational nature, which is finite (Lonergan 2002 p59) By "person", he understands the particular being of operation, the "thing", i.e. the *id quod*, that which the thing is By "distinct", he emphasises that it is one thing and not another, i.e. it is distinct from other things By "subsistent", he contends that it is undivided in itself and is divided from everything else By "rational nature", Longeran takes it to mean that its intrinsic principle of operation is rational By "finite", he concludes that it is a being-by-participation, or a being whose existence is not its essence. If a person is a distinct subsistent in an intellectual nature, then creatures that belong to a non-intellectual nature are not persons. What Lonergan has in mind here are animals, plants, and minerals (ibid p41). Lonergan gives a clear succinct summary of his position by explaining the following.

Person a distinct subsistent in an intellectual nature

Subsistent that which is, a being in the strict sense, that which is simply both undivided in itself and divided from everything else

Distinct things are distinct when one is not the other

Nature the intrinsic principle as related to operation

Intellectual a nature that can operate throughout the entire range of being

Finite a being by participation, a being whose act of existence is not its essence (ibid p59)

²⁰ Some Thomasts take assue with Lonergan's general interpretation of Aquinas (Connell 1996 pp61-72)

According to Lonergan, to constitute a finite person, s/he requires, firstly, a substantial essence of an intellectual nature, otherwise there would be no person Secondly, an act of existence is needed, otherwise there would be no subsistent, no "that-which-is" Thirdly, an act of existence by participation received in an essence – presumably from a divine source – otherwise the person would not be finite Fourthly, a proper act of existence is necessary, otherwise it (i e the person) would have another's act of existence and could be neither "undivided in itself" nor "divided from everything else" (ibid p61)

Although Lonergan is not writing in the context of life and death issues affecting contemporary health care, at this stage the question still emerges as to whether the embryo is a distinct subsistent being of a rational nature, i.e. a person ²¹ Is the embryo undivided in itself and divided from everything else? Up to the point of gastrulation, the cells that will eventually develop into the embryonic membrane (i e the chorion) and the placenta, for example, are indistinguishable from the cells that will form the embryo per se (Smith 1996 p87) Although, such cells have a vital function in the development of the embryo - and later the foetus - their functions come to a conclusion soon after birth Furthermore, due to the totipotential - or pluripotential - nature of its cells, the embryo has the potential to divide into two separate entities, up to about the fourteenth day (i e before the primitive streak stage) 22 This is demonstrated by the phenomenon of monozygotic twinning For Lonergan, a being is a composite consisting of essence (1 e what it is) and existence (1 e that it is) (Lonergan 2002 p15) A being is an undivided entity and is distinct from another. Therefore, can we really say that the embryo is a thing since it can shed some cells and split up into two separate entities? In answer to this, it has been argued that cell division and cell splitting does not place at

²¹ Aquinas held the position that the process of ensoulment took place after forty days for males and after ninety days for females (McMahan 2002 p13)

²² For a detail analysis see Cioffi (1995 p166) Smith (1996 p97) and Stoppard (2000 p33)

risk the very integrity of the "thingness" of the embryo because "organically" the embryo "knows" where it is going. As Teresa Iglesias (1986) puts it, "the law of its organic finality is dynamically written within itself at every stage of its existence from the moment it is formed as a conceptus when fertilization is completed" (p6) Perhaps it is the very fact that the embryo can execute its programme of division of cells—enabling it to continue on its path of development—that points to very core of the embryo's "thingness"

As it will be shown, the exercise of rationality plays a major part in contemporary versions of the concept of person. Before examining such accounts of the concept of person, it is helpful to investigate what Lonergan understands by intellectual nature and the exercise of rationality

In his major work, Insight, Lonergan (1978) writes

Man, then, is at once explanatory genus and explanatory species. He is explanatory genus because he represents a higher system beyond sensibility. But that genus is coincident with species, for it is not just a higher system but a source of higher systems. In man there occurs the transition from the intelligible to the intelligent (p267)

As Kevin Doran (1989) explains, intellectual activity is the actualisation of the potency for this act. A potency is inherent in the rational nature of the person (p91). In the knowing process, the person can move from what is experienced to what is known. This implies that there is intelligibility – that which can be understood and known – and that the person can understand, know and therefore be intelligent. However, intellectual

activity is not the nature of the person, but rather a manifestation of the person's nature.

The sensitive and intellectual operations of a finite being are accidents ²³

I think that it is helpful to examine this intellectual activity against the background of Lonergan's cognitional analysis. His foundational methodology involves three successive stages. Firstly, there is a cognitional theory, which answers the question What am I doing when I am knowing? Secondly, there is an epistemology that answers the question On what grounds is doing that (i.e. the operations of knowing) really knowing? Thirdly, there is a metaphysics which answers the question. What do I know when I know something (Longeran 1990a p25)? Lonergan attempts to show that knowing is not like looking, and that the "real" is not just the "already-out-there-nowto-be-looked at" When we know something we have to undertake a series of intentional operations that will help us to know what is true and what is real, regardless of how we personally feel about it Lonergan's cognitional analysis is based on performance, i.e. on what you are doing when you are engaged in the knowing process. He demonstrates. through resolving various mathematical problems, that human consciousness consists of a set of interrelated intentional operations that unite to achieve cognitional and real selftranscendence They include experiencing, understanding and judging (see Lonergan 1978) Therefore, Lonergan demonstrates that knowing is a structure which is given in consciousness. It is a structure because it consists of a set of interrelated parts or operations He explains that no part of the operations can be dispensed with Each part is related functionally to each other and not through similarity. When we begin to know something, we automatically begin a process of interrelated operations that have a definite structure characterised by experiencing, understanding and judging (Lonergan 1990a p146)

²³ Aquinas argues that " existence actualizes, so to say, a thing's essence, whereas activity actualizes its active powers and dispositions to be actual essences must exist but powers must act So we are forced to conclude that soul's abilities are not its essence" (Aquinas 1993 p125)

Experiencing consists of seeing, hearing, tasting, touching, smelling, imagining, etc. Without prior experience there is nothing for the person to understand and reflect on Furthermore, knowing consists of understanding the experience.

Understanding includes wonder, inquiry, insight, conceptualisation and formulation I wonder and inquire into the experience and through this I grasp a pattern in the experience called an *insight*. This insight becomes conceptualised within my consciousness and when I attempt to articulate it, I formulate the insight in language-symbols

However, knowing is not just a combination of experience and understanding. It also requires reflection. On reflection, I assemble and check out the evidence. Firstly, I marshal the evidence I have before me, and then I weigh it and make a judgment concerning my insight, proving it to be true or false or probable or possible and so I start the process again. Knowing, then, as indicated by Lonergan, is not experience alone, it is not understanding alone, it is not judgment alone. It is a combination of these three activities. Lonergan's analysis of knowing shows that the person has a capacity to self-transcend him/herself intellectually. In this sense, knowing is a capacity to reach a truth which is independent of the knower.

Lonergan explains that consciousness is the interior experience of oneself and one's acts (Lonergan 2002 p158) Consciousness is the awareness of the activities of seeing, hearing, tasting, etc. He clarifies this by stating that "experience" may be taken in a broad or a strict sense. In the broad sense, it is the same as ordinary knowledge. In the strict sense, it is a preliminary unstructured sort of awareness that is presupposed by intellectual inquiry and completed by it. Following the cognitional process through self-appropriation, human consciousness is divided into empirical, intellectual, rational and moral operations.

In sense perception, we become conscious of our empirical acts and ourselves For instance, in the act of seeing a colour, I do not only become aware of a colour but I also become aware of myself as a subject who sees and who experiences the act of seeing. When we engage in intellectual inquiry and in acts of understanding, we become conscious of ourselves as intelligent subjects operating acts of intellectual inquiry and acts of understanding For example, in the act of understanding, I do not only grasp the intelligibility in the object but I also become aware of myself as a subject who understands and who experiences the act of understanding. When we begin to reflect, to examine, to weigh and to judge the act of understanding (i e the insight) according to the evidence in front of us, we become conscious of ourselves as rational and reasonable subjects For example, in the act of judging that a certain thing exists, I do not only become aware of the existence of the object, but I also become aware of myself as a subject who judges and who experiences the act of judging (ibid pp159-161) Finally, in the act of moral deliberation, we become conscious of ourselves as moral subjects when we go beyond what is intellectually known to consider the moral demands it has on us (ibid pp165-167)

Lonergan argues that sensitive and intellectual operations are accidents, which are manifestations of the substance of a being ²⁴ He writes " a subject is really and truly rendered conscious through accidental operations. As it belongs to an accident to exist in a subject, so also it belongs to a subject to be perfected through its accidents" (ibid p185). The person is really and truly rendered conscious through accidental operations. In this way, the person is perfected through his/her accidents. Therefore, being "unconscious" does not negate the very being of the person. To put it another way, being "conscious" adds nothing to the being of the person (ibid.) An

²⁴ An accident is the way in which a substance of a being is manifested. According to Aristotle, there are nine classes of accident. Quantity, quality, relation, time, place, posture, action, passion and habit (See Aristotle 1998).

"unconscious" state is simply being at a lower level of perfection, and so Lonergan argues that bodily processes including the growth of hair, the circulation of the blood and the metabolism of cells are unconscious. At the same time, he maintains that "consciousness" is simply being at a higher level of ontological perfection (ibid p187)

The argument that human nature is rational does not imply that the person actualises that rationality in each moment of existing. The exercise of rational consciousness is an accident to the substance of person. This certainly appears to be an extreme position that points to the difference between speaking in the abstract about the substance of what constitutes a person as opposed to a living person. Clearly, the exercise of rationality is not accidental to the life of a person.

2 3 4 The Modern Concept of Person – Locke

The subject of the active exercise of rationality and self-consciousness has a pivotal role in much of the contemporary literature on the concept of person in health care ethics. For many philosophers self-consciousness and the display of rational thought work as a kind of benchmark when deciding whether a human being is a person or not, and thus it is crucial for giving some guideline on how we ought to treat those who have not yet developed these capacities (e.g. foetuses) or who have lost these capacities (e.g. PVS patients). Indeed, Ben A. Rich (1997) argues that " if consciousness were not necessary most of the discussion of the subject of personhood would become completely unintelligible, as well as much of moral philosophy" (p216).

This change in emphasis from the substance to the active display of the accidents of a person including consciousness and rationality can be traced back to the English philosopher John Locke, who was one of the major founding fathers of the Enlightenment philosophy and its emphasis on reason. Locke turns away from the

scholastic tradition and embraces the "new philosophy" - as represented by René Descartes – that exploits scientific observation and mathematics in the study of nature (Yolton 1968) Locke rejects the traditional metaphysical notion of being and confines the capacity of human knowing by anchoring philosophy and morality in the then popular mechanistic model of the material world 25 In this context of empiricist and mechanistic world-view, Locke reflects on the term "person" and questions the possibility of personal identity. For him, consciousness is something attached to the body, i.e. consciousness is that which constitutes personal identity by uniting the memories of past and present states and actions Following on from this, the term "person" becomes detached from the metaphysical view of a subsistent being of a rational nature, and becomes a "forensic term", which is appended to beings. Thus, "person" is " a Forensick Term appropriating Actions and their Merit, and so belongs only to intelligent Agents capable of a Law, and Happiness and Misery" (Locke 1975) Book II §26 p346) A person is a thinking intelligent being that has the ability to reason and to reflect and that can consider itself as a self in different times and places (ibid §9 p335) ²⁶ "Person" is now a forensic term that we can apply to those who qualify In Locke's eyes, qualification is based on whether one is actively intelligent and can be held morally responsible and accountable From now onwards, philosophers begin to define "person" in terms of signs of rationality and self-consciousness (de Vogel 1963 p24) It is not enough to belong to the species *Homo sapiens*, the entity must show signs of rationality and consciousness of who they are Logically then, being a human being is not a necessary condition for being a person. In other words, you do not have to be a human being to be a person. The sufficient condition for being a person is having the

 25 I examine the implications of this mechanistic view of reality and of the person in the chapter three pp92-99 and chapter four pp146-149

Teichman (1985) claims that Locke is motivated by the same kind of philosophical issues that compelled Boethius Locke also attempts to sort out the connection between the ideas of God, substance, body living thing, man consciousness, and person The end result of his endeavours is to hold up

ability to reflect on oneself, to be conscious of oneself as a self and to show outward signs of rationality. Therefore, it now becomes possible for those who were once not considered as persons, namely animals that display signs of rational behaviour and a sense of self, to make an application for the concept of person ²⁷

If we move from Locke to today's situation, we can observe at least two major strands of thought concerning the concept of person. There is an ontological strand that outlines a descriptive account of properties including consciousness, free will and rationality. It is often described as "metaphysical personhood". There is also the moral strand that outlines a normative account of properties including moral agency, rights and obligations. It is sometimes described as "moral personhood" (see Strong 1997 p53)

I will now examine Tooley, Singer and Engelhardt's work because I think that they provide helpful examples of philosophers who follow in the tradition of Locke and who bring together the metaphysical and the moral strands

2 3 5 Tooley on the Concept of Person

Michael Tooley examines the concept of person in the context of the right to life debate. The argument as put by Tooley (1988), sketches three indispensable conditions for personhood.

1 An entity cannot have a right to life unless it is capable of having an interest in its own continued existence,

Boethius' understanding in a general way but to pulverise the connections between the notions of thinking substance and person (p180)

²⁷ Although, they cannot make this application by themselves. They need philosophers among others to do it for them

- 2 An entity is not capable of having an interest in its own continued existence unless it possesses, at some time, the concept of a continuing self, or subject of experiences and other mental states,
- 3 The fact that an entity will, if not destroyed, come to have proper ties that would give it a right to life does not in itself make it seriously wrong to destroy it (p111)

According to Tooley, for any entity to share in the right to life, it must be capable of having an interest in its own existence. For this to be possible, the entity must have a concept of self. In other words, the entity must have self-consciousness. This condition is at the core of Tooley's concept of person.

Although, Tooley states that he will treat the concept of person as a purely moral concept – free of all descriptive content – he apparently moves from a metaphysical premise to a moral conclusion (see Tooley 1972 p40). He raises the question concerning what properties are required in order to be a person and, thus, have a serious right to life. He responds to his own question by stating that "an organism possesses a serious right to life only if it possesses the concept of a self as a continuing subject of experiences and other mental states, and believes that it is itself such a continuing entity" (ibid p44). He believes that self-consciousness is the basic capacity in support of the conditions of personhood (ibid.) In another context, he highlights this point when he argues that "—it is capacities such as self-consciousness and the ability to envisage a future for oneself and to have desires about that future that serve to distinguish persons from sentient beings that are not persons" (Tooley 1979 p80). Therefore, having a right to life presupposes that one has a concept of self and that one is capable of desiring to continue existing as a subject of experiences and other mental states. This, in turn,

presupposes both that one has the concept of such a continuing entity and that one believes that one is such an entity (see also Tooley 1988 p44)

It could be maintained that the apex of Tooley's argument lies in the interface between desires and rights. A desire has a relationship to the states of consciousness Therefore, it is claimed that a machine, which is not capable of being conscious, and consequently of having desires, cannot have any rights (Tooley 1972 p45) Tooley puts forward the following expansive equation "A has a right to X' is roughly synonymous with 'A is the sort of thing that is a subject of experiences and other mental states, A is capable of desiring X, and if A does desire X, then others are under a prima facie obligation to refrain from actions that would deprive him of it" (ibid) So an entity that lacks such a consciousness of itself as a continuing subject of mental states does not have a right to life (ibid p49) Tooley also believes that the term "right to life" is "misleading" (ibid p46) He goes on to explain that " since what one is really concerned about is not just the continued existence of a biological organism, but the right of a subject of experiences and other mental states to continue" (ibid) Following this thought, it would be illogical to speak of a patient in a PVS as having a right to life, if s/he cannot enjoy this right because s/he cannot be a subject of experiences and other mental states 28

Tooley develops the discussion by giving a hypothetical example of a cat. The kitten has not a serious right to life. The reason for this is explained by the fact that it

Tooley (1983) develops his thought regarding the interrelation between desires and interests. Interests, in the morally relevant sense of the term, presuppose desires. According to Tooley, "nothing at all can be in an entity's interest unless it has desires at some time or other" (p120). Tooley makes the case that an individual cannot have a right to life unless it is in his or her interest to continue existing. However, this does not imply that an entity has a right to life simply because it may be in its interest to exist. In other words, it cannot be maintained that an embryo, for instance, has a right to life because it is in its interest to develop into a baby and eventually into a young adult. The embryo has no concept of this. Tooley, thus, reiterates his basic philosophical argument. An entity must have a concept of a continuing self in order to have a right to life (ibid p121). Therefore, it would not be possible to claim that the embryo has a right to life simply because of its future interests (ibid p118). Tooley writes "A subject of interests, in the relevant sense of 'interest', must necessarily be a subject of conscious states, including experiences and desires" (ibid pp118-119). From this, he maintains that "persons are to be identified with entities that have desires that are interrelated in such a way that the entities can be viewed as subjects of non-momentary interests" (ibid p134).

does not possess the concept of a self Nevertheless, the kitten has a right not to be tortured. The desire not to suffer pain can be ascribed to something without assuming that it has any concept of a continuing self. Tooley contends that "while something that lacks the concept of a self cannot desire that a self not suffer, it can desire that a given sensation not exist" (ibid p63)

Tooley believes that a newborn baby does not possess the concept of a continuing self any more than a newborn kitten possesses such a concept. Thus, he accepts the fact that his argument does not rule out the possibility of the moral acceptability of infanticide (ibid.) He states that infanticide during a time interval shortly after birth must be morally acceptable. The practical moral problem can thus be satisfactorily handled by choosing some period of time, such as a week after birth, as the interval during which infanticide will be permitted. This interval could then be modified once psychologists have established the point at which a human organism comes to believe that it is a continuing subject of experiences and other mental states (ibid. pp63-64). So, infants do not have a serious right to life but, in a similar way to a kitten, they do have a right not to be tortured. As a consequence, "—it may well turn out that human infants are not persons, since it is far from clear that human infants possess self-consciousness or that they are capable of envisaging a future for themselves and of having desires about such a future" (Tooley 1979 p80)

2 3 6 A Non-Species Concept of Person

Tooley (1972) is persuaded that "once one reflects upon the question of the *basic* moral principles involved in the ascription of a right to life to organisms, one may find himself driven to conclude that our everyday treatment of animals is morally indefensible, and that we are in fact murdering innocent persons" (p65, also see Tooley 1979 p67) According to him, membership in a particular biological species is not in

itself morally significant because " basic moral principles will not involve the concept of species membership, nor terms referring to particular species" (Tooley 1983 p77)

In a similar vein to that of Tooley, Peter Singer has a non-speciesist vision of ethics and does not consider human life to be an absolute value. Singer argues that barely anyone believes that all human life is of equal worth (Singer 1994 p190). The value of human life inevitably varies. Therefore, we should take the quality of life of the individual as well as other factors including consciousness, physical, social and mental capacity into consideration (ibid.)

Singer contends that what has the most value is the life of being a person. A person is a rational and self-conscious being ²⁹ Consequently, there are some human beings who are not persons because they are not rational and self-conscious, whereas there are some nonhuman animals who are persons because they are rational and self-conscious (Smger and Kuhse 1994 p133). Therefore, being a human being is neither a necessary nor a sufficient condition for being a person. In this way, not all members of the *Homo sapiens* species are persons and not all persons are members of the *Homo sapiens* species. For Singer, the right to life is not a right that belongs to members of the *Homo sapiens* species *per se* but to persons (Smger 1994 p202)

As I have already indicated, what is at the nub of Singer's philosophical enterprise is the critique of the doctrine of the sanctity of human life from a utilitarian ethical perspective ³⁰ In defiance of the sanctity of life doctrine, Smger argues that species membership itself is not sufficient for moral consideration and accuses such a doctrine as being a form of discrimination, not unlike racism. He refers to this bias as *speciesism* ³¹ As an afficionado of animal rights, Singer believes that we have to bring

²⁹ John Hymers (1999) makes the point that Singer is explicitly indebted to Locke (p127)

³⁰ For Singer's critique of the traditional western ethic, see general introduction to thesis pp4-5
³¹ A term accredited to Richard Ryder (Dawkins 1989 p10) Singer is not alone in his thinking about species membership For instance, Engelhardt (1983), too, is persuaded that the distinction between being

means to an end As well as that, we have to come to terms with the fact that profoundly retarded infants, for example, are only members of the species *Homo sapiens*, which in itself is irrelevant to how we should treat such infants morally (Singer 1979 p53) ³² What is relevant for moral consideration is whether the retarded infant is a person or not. It is doubtful that the retarded infant is rational and self-conscious, and is therefore a person. On another front, it is also doubtful whether the foetus is rational and self-conscious and therefore a person (see Singer 1993 p151)

John Hymers (1999) proffers a critical overview of Singer's work by seeking to untangle the structure of his argument. He believes that, contrary to appearances, Singer's argument seems to imply that only humans are born animals and become persons (p133). Singer does not ask us to refrain from killing humans, but rather from killing human persons. But, as indicated by Hymers, Singer never makes reference to "ape persons" (i.e. apes who qualify as persons in Singer's view), rather only to apes per se, which seems to imply that they are automatically persons (ibid.) Humans, apparently, must earn the title of persons, whereas certain animals (e.g. apes) receive it implicitly (ibid. p134).

Singer (1994) also refers to a community of chimpanzees – living in Arnhem Zoo, near Amsterdam – as "people", the colloquial plural word for person (pp162-163) He argues that evidence of personhood is most conclusive in the great apes whereas other animals such as whales, dolphins, elephants, monkeys, dogs and pigs may qualify for personhood if it can be shown that they are conscious of their own existence and that

human and being a person is not arbitrary. Being human is purely a biological designation and only indicates membership in the species *Homo sapiens*. What is of prime moral interest is not species membership, but whether an entity is in fact a person (pxv)

³² Singer was invited to give a talk at the 1989 European symposium on "Bio-engineering, Ethics and Mental Disability" However, his invitation was withdrawn because of mounting pressure from the coorganizers of the conference, *Lebenshilfe*, who represent the interests of people with special needs and who did not agree with Singer's understanding of personhood, and its implications for those who have mental disabilities and special needs. Singer, himself, recalls how *Lebenshilfe* took offense to his claim

they can exercise rationality (ibid. p182). Therefore, it might not be completely accurate to charge Singer with the view that apes automatically qualify as persons: They need to show signs of self-consciousness and rationality. Although, it may appear that Singer tends to refer to apes as if they were persons *per se*, is it not true that we do the same vis-à-vis human beings, i.e. we tend to speak about human beings as if they were automatically persons?

It could be argued that Singer's argument about the concept of person is cathartic in nature: It attempts to encourage us to rethink our views about animals and about the sanctity of human life doctrine, rooted in the traditional western ethic.³³

Following the principle of equality – as expounded by Jeremy Bentham – Singer also maintains that our concern for others should not depend on what they are like or on their abilities but on their capacity to experience suffering. Therefore, it could be contended that our interest in not having them suffer should not depend on whether they are rational and self-conscious (ibid. p182). Singer (2002) writes:

If a being suffers, there can be no moral justification for refusing to take that suffering into consideration. No matter what the nature of the being, the principle of equality requires that its suffering be counted equally with the like suffering – insofar as rough comparisons can be made – of any other being. If a being is not capable of suffering, or of experiencing enjoyment of happiness, there is nothing to be taken into account (p85).³⁴

that killing a "defective" infant is not morally equivalent to killing a person. Singer defended his claim by asserting that this statement was taken out of context of his understanding of what constitutes a person ³³ Singer argues that "the doctrine of the sanctity of human life ... has at its core a discrimination on the

basis of species and nothing else" (Singer 1979 p48).

³⁴ Therefore, if the embryo does not experience suffering and pain, then the principle of sentience cannot protect it from being discarded or mistreated. Singer and Kuhse (2002) believe that "...the minimal characteristic needed to give the embryo a claim to consideration is sentience, or the capacity to feel pleasure or pain" (p197). However, for them, "the early embryo has no brain, no nervous system. It is

However, Singer contends that the term "person" is not purely descriptive but has moral standing (Singer 1994 p182) He writes, " killing a person against her or his will is a much more serious wrong than killing a being that is not a person" (ibid p198) 35 Thus, there is a moral difference between killing a person compared to a nonperson (ibid p198)

H Tristram Engelhardt also follows the tradition of Locke and accepts the distinction between the concept of person and human being. However, as it will be seen, Engelhardt allows those entities that are not strictly persons to be included in some social understanding of personhood

2 3 7 The Strict/Social Concepts of Person

Firstly, Engelhardt points to the fact that there are many competing philosophical perspectives in ethics today. For example, the various modern and contemporary ethical theories, including Emotivism, Intuitionism, Utılıtarıanısm, Deontological Ethics, Virtue Ethics, Ethics of Care, Justice-Based Ethics and Rights-Based Ethics, seek to guide people in their quest to do what is morally right ³⁶ Yet, depending on which ethical theory they follow, they can end up with vastly different answers to the ethical problems posed ³⁷

Secondly, Engelhardt acknowledges the fact that the Enlightenment project of discovering a "content-full rationality" has not succeeded 38 Thus, what we have are

³⁸ MacIntyre (1985) offers a devastating critique of the Enlightenment project (pp51-61)

reasonable to assume that, so far as its mental life goes, it has no more awareness than a lettuce" (ibid

p194)
³⁵ Elsewhere he argue that " to take the lives of persons is, in itself, more serious than taking the lives of non-persons" (Singer 1993 p118)

³⁶ Stephan Darwell (1998) provides a good introduction to the various ethical theories. It is argued that there are not only differences in various moral theories but also differences in ethical decision-making processes among health care practitioners. From their study regarding how doctors and nurses form moral judgements, Kathleen Oberle and Dorothy Hughes (2000) sum up their findings by stating that "the key difference between the groups was that doctors are responsible for making decisions and nurses must live with these decisions" (p707 and p709)

³⁷ Engelhardt (1996) argues, "moral diversity is real. It is real in fact and in principle. Bioethics and health care policy have yet to take this diversity seriously" (p3) L Levy (1997) describes the present state of affairs as a proliferation of different types of ethics that emerge from the necessity of the situation (p36)

"moral strangers", 1 e people with whom we do not share a common moral vision or common moral principles. He writes

One encounters moral strangers, peoples with whom one does not share sufficient moral principles or enough of a common moral vision to be able to resolve moral controversies through sound rational argument or an appeal to moral authority. When one attempts rationally to resolve such controversies, the discussions go on and on without a final conclusion. Rational argument does not quiet moral controversies when one encounters moral strangers, people of different moral visions (Engelhardt 1996 p8)

We are therefore left with two options Either the "content-full" morality that "moral friends" share or the "procedural" morality that merely binds "moral strangers" (ibid p11)

Engelhardt places the concept of person in the context of his analysis concerning moral strangers seeking to reach moral consensus (ibid p136). He begins his analysis by making the claim that human beings have no intrinsic worth. All that can be acknowledged is the moral authority that can come from persons (ibid p239). He argues that "— it is because general secular morality derives its authority and scope from the permission of persons that persons as moral agents, as permission givers, are central" (ibid p136). Persons constitute the very possibility of a moral community because of their capacity to be self-conscious, to be rational and to be concerned with blame and praise. Therefore, the concept of person should be defined within this context of a moral community that is made up of moral strangers seeking consensus on moral issues. "This concept of person—is thus defined wholly within the practice of moral strangers."

resolving moral controversies by agreement, by giving and withholding morally authoritative permission" (ibid)

Engelhardt argues that the distinction between human being and person is valid "Not all instances of human biological life are instances of human personal life" (Engelhardt 1988 p171) Furthermore, not all humans are persons and not all persons are humans Angels, entities from other planets, which are not human, may still be persons 39 What makes an entity a person is the capacity to be self-conscious, to be rational and to be agents capable of moral responsibility (Engelhardt 1996 p138) In light of this, Engelhardt makes a distinction between the social and the strict sense of person On the one hand, person, in the strict sense, is a moral agent who is selfconscious, rational, self-determining and morally accountable 40 Normal human adults represent the best examples of persons in the strict philosophical sense. On the other hand, person, in the social sense, is not a moral agent who is self-conscious, rational and morally accountable For example, foetuses, infants and the mentally retarded are not persons in the strict sense of the term. Indeed, they cannot act as constituents of a secular moral community (ibid p136) Engelhardt writes " fetuses are not rational. self-conscious beings – that is, given a strict definition of person, fetuses do not qualify as persons" (Engelhardt 1988 p173) However, foetuses, infants and the mentally retarded can be included in the social sense of the word, and thus are given some moral standing in society, which is mainly a result of utilitarian and other consequentialist motives (Engelhardt 1996 p147 and p150) 41 He writes

³⁹ Ben A Rich (1997) places the moral weight of personhood on consciousness. He points to the important distinction between human biological life and human personal life. He argues that there are many cases in which human personal life comes to an end long before human biological life. There are also cases in which human biological life comes into existence long before personal life (p206, p210, p211 and p214)

p211 and p214)
⁴⁰ Englehardt (1996) writes "What distinguishes persons is their capacity to be self-conscious, rational, and concerned with worthiness of blame and praise. The possibility of such entities grounds the possibility of the moral community" (p138). Here, we can hear echoes of Locke's philosophical anthropology (see Engelhardt 1983 p185).

⁴¹ See also Engelhardt (1983b p207, 1973/74 p232)

Since this sense of person [social sense of person] cannot be justified in terms of the basic grammar of morality (i.e. because such entities do not have intrinsic moral standing through being moral agents), one will need rather to justify a social sense of person in terms of the usefulness of the practice of treating certain entities as if they were persons (ibid p147) 42

As it can be seen, the social sense of the term "person" is certainly more inclusive than the strict sense Persons, in the social sense, have rights but no moral duties (Engelhardt 1988 p177). In the case of the one-month-old infant there is no evidence that a person in a strict moral sense is present. But, there is the possibility that it may develop. Human beings who are now senile and demented were once persons in the strict sense, but now they qualify as persons in the social sense, whereas the permanently comatose no longer qualify as persons neither in the strict nor social sense because they cannot experience suffering and pain (Engelhardt 1996 pp148-154)

2 3 8 The Concept of Person and Human Being

With the advent of the modern vision of the concept of person, as represented by Locke, Singer, Tooley and Engelhardt, there is both a break and continuity in the scholastic understanding of personhood Firstly, there is a break in the understanding of rationality and consciousness For Boethius, Aquinas and Lonergan, rationality is the defining nature of the *Homo sapiens* species. Human beings are rational and therefore intrinsically persons. For Locke, Singer, Tooley and Engelhardt, it is the actual exercise of rationality together with the concept of self that constitutes a person. Compared to the scholastic approach, the modern and contemporary concepts of person accept that there

⁴² Engelhardt (1988) contends that " one treats certain instances of human life as persons for the good of those individuals who are persons strictly" (p177)

is a metaphysical and a moral divide between person and human being. Secondly, there is continuity between both the scholastic and modern periods. Both accept the possibility that not only human beings but also other entities can be persons. This was accepted by early Christianity and was important for it in order to show logically and analogically how Jesus Christ could be a divine person with two natures, human and divine. It suited their cause to make a distinction between person and human being. For example, theologically God is a person but not a human being. Jesus Christ is a divine person but not a human person. So, the original philosophical distinction between human being and person was introduced not for health care ethical reasons but primarily for theological reasons. It helped to resolve some of the issues facing the early Christian Church at that point and silence some of the "heresies" floating around. But, it inadvertently opened a Pandora's box. Although the philosophical understanding of the concept of person has a Christian origin. The modern and contemporary interpretations of that concept have made it backfire on the Christian view that human beings belong to a higher ethical realm compared to animals.

2 3 9 The Concept of Person A Static Morality of a Closed Society?

With the philosophical analysis of static and dynamic moralities and closed and open societies, the question arises as to whether the contemporary concepts of person (as represented by Tooley, Singer and Engelhardt) reflect the static morality of a closed society or the dynamic morality of an open society. The closed society's static morality naturally views those outside its social boundary in a certain restricted way. As

⁴³ It was the search for a theological doctrine, which would adequately explain both the mystery of the trinity and the incarnation, that prompted the development of the philosophical meaning of the concept of person. As Clarke (1993) notes "But the most urgent pressure came from the Christian theologians to explicate more precisely the two central Christian doctrines of God as Triune (one God, with one divine nature possessed equally by the three 'owners' or persons), and the Incarnation (God become man in Jesus Christ, so that the human nature of Jesus is not a person on its own but is 'owned' by the Second Divine Person, the Son, who now possesses two natures, one divine, possessed from all eternity, the other human, taken on in time). Thus Christ is one Divine Person owning two natures, whereas God in himself

maintained by the Russian writer Alexsandr Solzhenitsyn (1975) "Man has from the beginning been so constituted that his view of the world his motivations and scale of values, his actions and his intentions are all defined by his experience as an individual and as a member of a group" (p562) It is part of who we are that makes us form groups which set us apart from other groups and makes us exclude those who do not belong to our social realm. The static morality justifies this exclusion and spurs us on to look out for the interests of our social unit. It seems quite natural for us to categorise people into groups and sub-groups Blacks are different to Whites, men are different to women and the Irish are different to the English We naturally set up boundaries between social groups Therefore, it could be argued that the closed society is at the root of racism and other forms of discrimination, which exclude various participants from the moral and social realm because they are perceived not to belong to the social group. For example, it could be argued that the Christian crusades' abusive treatment of non-Christian prisoners, the exploitation of Latin American peoples by the Spanish conquistadors and the apartheid regime in South Africa, were all driven by a static morality of a closed society

Certainly with Tooley, Singer and Engelhardt, there is a move towards basing the concept of person not on species membership but on certain traits and properties. In this way, more entities have the potential to be included in the concept of person, which could point to the dynamic morality of an open society. The concept of person becomes a non-restrictive property because now animals that qualify as persons can be given the moral respect that was once given to human beings only. At the same time, the concept of person becomes a restrictive property because not all human beings can qualify. As it has been demonstrated, the static morality of a closed society has the social unit as its goal, whereas the dynamic morality of an open has all of humanity as its goal

is one divine nature owned by three distinct Persons" (p26) This shows that it is possible to be a person and not to be a human being at the same time

Therefore, it is difficult to justify how the concept of person could be an example of a dynamic morality if it does not have all of humanity as its goal. Additionally, the concept of person tends to end up excluding many entities, not only those who belong to the human species, but also those who belong to the animal species. Yet again, this seems to be more in keeping with the mechanics of the static morality.

With certain concepts of person the case can be made that in general hospitals there are many human beings who are not persons. So is it a misnomer to say that the person (or the colloquial plural "people") is at the core of health care? This would not be the case according to Engelhardt's analysis. For him, medicine is primarily concerned with persons in the strict sense of moral agents. In other words, patients are persons (in the strict sense) when they are able to discuss their problems with their physicians and come to agreements about treatment (Engelhardt 1996 p240). Nonetheless, he admits that the full consequences of this have yet to be realised in health care policy (ibid p140). If there are human beings in our hospitals, who do not qualify as persons, then we must face the question as to why continue treating them

Engelhardt's distinction between the social and the strict sense of person certainly widens the parameters of the concept of person. In this way, it could be seen as an act carried out on behalf of humanity and therefore creating an open society in health care ethics. However, Engelhardt, himself, argues that we may include foetuses, infants and the mentally retarded in the social sense of person for consequential or utilitarian motives (ibid p147 and p150). For me, this does not appear to be an example of dynamic morality. The problem with this is, as I see it, that the social sense of person may not have much of a moral position in one particular society compared to another. One society might choose not to include infants in the social sense of person, precisely because of consequential or utilitarian considerations. It might be seen to play against their interests. For example, the argument could be posed that more money could be

spent on real persons in general health care by diverting it from other health care services that do not treat persons in the strict sense. Of course, other societies might decide to include infants in their understanding of personhood. It might be useful to have infants in order to have a sufficient range of potential blood and organ donors, for example The social sense of person may work very well within a culture that is open to all human life but not in a culture where all human life has to be justified. For those in one particular closed society, the social sense of person may therefore not have much of a moral position

If we turn our attention to Singer's concept of person, it is clear that - in a similar fashion to Engelhardt – it invites critique because of its implication for health care However, one could argue that Singer has had a dynamic experience of the universal value of all life – whether human or animal – which transcends the western sanctity of life doctrine that was solely confined to human persons 44 If this is correct, then Singer creates an open society in health care ethics, whereby the criteria of personhood is no longer based on species membership

However, I think that his dynamic experience of the universal value of all life, whether human or animal, ends up excluding a large number of human beings - and animals too – when codified in a definition of personhood. So, I think his view has a tendency to become more of a closed rather than an open society's approach to the concept of person in health care ethics. Perhaps, this is not Singer's intention, but his codification lends itself to be, at least, misread

⁴⁴ Some Christian ethicists and philosophers take issue with Singer's interpretation of the sanctity of life doctrine For example, Gordon Preece (2002) claims that "despite Singer's argument that Christianity has devalued animals, the doctrine of creation sees each part of creation as originally and intrinsically good (Gen 1), though it is after the creation of humanity that the whole creation is pronounced 'very good' (Gen 1 31) (p39, see also Wilson 2002 p119) Donal O'Mathuna (1995) makes the case that "Genesis 1 26-30 declares that being an image of God confers a certain role on every human each is to be God's representative on earth It is therefore the responsibility of humans to act as God would have them act This includes dominion over the earth, but not that of an absolute master" (p203) According to O'Mathuna, it is because human beings are made in the image of God that they have certain moral responsibilities towards their neighbour and to the rest of God's creation "When humans act as God

With Tooley's concept of person, newborn babies would certainly not be persons, in fact some animals may be nearer to full personhood than they are It may even turn out to be perfectly acceptable to kill infants since they only belong to the species *Homo sapiens*. They have not yet developed a concept of self and they have no explicit desire or interest to live. Thus they have no right to life. I think that most parents would find this morally repelling. Certainly, Tooley's understanding of the right to life seems to be of help when deciding whether or not to allow those who will be born with some abnormality to live. But it is difficult to claim that infanticide would be acceptable in an open society because it seems to go against the very grain of the dynamic morality.

In the context of the creative revolution benefiting the world of health care, it would appear that the above contemporary concepts of person risk becoming boundary concepts that are used to include only those who appear to be eligible for the creative feats of humanity. The concept of person risks being used in ethical discussions to justify why certain individuals should reap the benefits of the creative revolution and why particular individuals should not. Undoubtedly, the distinction between human being and person in the literature on health care ethics provides a novel battleground that creates a moral insecurity for those who are not yet deemed to be persons or who are no longer deemed to be persons. For example, it may now be clear that the embryo is not yet a person and is therefore not a subject of rights and moral responsibilities. It has a lesser or no moral claim on us. The embryo may belong to the biological species human being but not to the metaphysical and moral category of person. Thus, it has no intrinsic right to life. We may choose to bestow a right to life on the embryo, but this has nothing to do with the fact that it is biologically human. It may now be clear that the

would have them act they present an accurate image of him to the rest of creation and thus bring glory to him. This is part of the value and responsibility of being an image of God" (ibid.)

⁴⁵ This is not to imply that all closed societies would allow infanticide. Due to its natural static morality, a closed society may be prompted to protect all its members, regardless of the fact that they are not persons

patient in a PVS is no longer a person and is therefore not a subject of rights and moral responsibilities. It has a lesser or no moral claim on us. The patient in a PVS may belong to the biological species human being but not to the metaphysical and moral category of person. Thus, s/he has no intrinsic right to life. We may choose to bestow a right to life on the PVS patient, but this has nothing to do with the fact that it is biologically human.

2 4 Conclusion – Towards an Aesthetic and Instructive Presentation

As it has been shown, there is a plethora of viewpoints regarding the concept of person. Although Tooley, Singer and Engelhardt, for instance, put forward rather robust positions, they do not tend to proffer the same arguments completely. The upshot of this is that there is no really unifying concept of person. With Lonergan, the exercise of rational consciousness is an offspring, as it were, of the rational nature of *Homo sapiens*. Thus, personhood is not something acquired but is a given. With Tooley, Singer and Engelhardt following in the tradition of Locke, there is a shift in the metaphysical and moral goal posts. Self-consciousness and rational exercise of thought become the prerequisite for personhood. Therefore, personhood is something that is achieved. Although they set out to have a more refined concept of person that is not based on species membership and is therefore potentially more inclusive, their concepts end up reflecting a static morality of a closed society rather than a dynamic morality of an open society.

The positive effect of the contemporary concepts of person is that they allow those who were formerly excluded (i.e. animals that show rational manifestations) to be included in the moral domain, and therefore they provide an antidote to the former "sanctity of life" doctrine that, in effect, viewed animals as "second-class moral citizens" So, the concept of person still has the potential to be inclusive rather than

exclusive That is why I think we do not need to abandon the concept of person but we need to find a more open and dynamic concept that fits into a dynamic morality of an open society

In conclusion, when speaking about the mysterious nature of art, Solzhenitsyn (1975) said "Who would dare to say that he has defined Art? Or has enumerated all its aspects?" (p558) In a similar vein, I would venture to ask. Who would dare to say that they have given a full definition of the concept of person and have enumerated all its characteristics? Perhaps, it is this very reality that has led to such fecundity on this subject Even though concepts attempt to provide a window onto the enigma of personhood, I still believe that it is important to bear in mind that what we are dealing with is something that keeps escaping us. In this sense the concept of person is a trajectory of thought. It is almost impossible to grasp and spell out the totality of personhood As indicated by Beauchamp (1999), "the concept of person is simply not orderly, precise, or systematic in a way that supports one general philosophical theory to the exclusion of another" (p319) Nonetheless, as I have mentioned, concepts of person inform our thinking, thus they are crucial in the face of ideological thinking within the closed society's mentality that is infiltrating our culture of creativity in health care Therefore, I am convinced that, however difficult it may be, it is important to take some steps toward providing a more inclusive concept of person

Finally, according to von Hagens (2002), the goal of *Korperwelten* is the "aesthetic and instructive presentation of the body's interior" (p32) ⁴⁶ In the following chapters, I attempt to move from a static to a dynamic concept of person in order to provide a more inclusive concept. To that end, I outline, what I describe as, an aesthetic and instructive presentation of the concept of person.

⁴⁶ This is concretised not only by the exhibition itself but also by the numerous educational resource materials, including workbooks and videos

CHAPTER THREE

3. An Aesthetic Presentation of the Concept of Person

3 1 Introduction – The Sufi Parable

The Sufi "Parable of the Blind Born" recounts the story of a king in the north of India who orders his servants to gather together all the people born blind living in that town. When they are all assembled, he places an elephant in front of them. Then, he makes some of them touch the elephant's head, others the ear, the tusk, the foot and the tail hair. Afterwards the king asks them "What does an elephant look like?" Those who touched the head answer. "It is like a pot", those who touched the ear. "It is like a woven basket", those who touched the tusk. "It is like a ploughshare", those who touched the foot "It is like a pillow", those who touched the tail hair. "It is like a brush!" After hearing everyone's reply they begin to argue among themselves about what the elephant is or is not like. From a distance, the king looks upon them arguing and he begins to laugh!

The "blind born" confuse parts of the elephant for the elephant itself. They cannot "see" that the overall reality of what makes an elephant an elephant is much greater than its parts. In their "blindness" they presume that the part of the elephant they touched is the most important property that is intrinsic to what constitutes an elephant. They cannot even agree on what the elephant looks like. It is no wonder that the king laughs at them, as it is their very "blindness" that causes them to arrogantly uphold their positions against one another.

I think that the message of the parable mirrors what is presently taking place in the investigation of what makes a person a person. The concept of person is placed in front of us and there is a tendency to concentrate on certain aspects of it (e.g. exercise of rationality, a concept of self, a sense of past, present and future) and to claim that it is this (or these) which constitute(s) a person. By grasping parts of the reality of

¹ There are many variations of this story It originated in the Buddhist tradition and subsequently became very popular in the Islamic tradition. Therefore, the parable has many interpretations concerning appearance and reality, which points to its richness. I have interpreted it in this way, while at the same

personhood and by presuming that it is the whole, we could be accused of acting like the "blind born" Therefore, in order to avoid falling into the trap of "blindness", I will make the case for the need to examine the concept of person from the perspective of an aesthetic presentation. By aesthetic presentation, I understand an appreciation of the concept of person from the context of reality, which is mediated by meaning and constituted by significance ²

Firstly, I will consider the present context of "blindness" by employing Charles Taylor's critique of mechanism in the contraposition of facts and meaning. Secondly, I will use Bernard Lonergan's analysis of the three distinct worlds of meaning interfaced with Taylor's work on significance, language and human agency. Although the two Canadian philosophers' backgrounds are different – Lonergan attempts to reach up to the mind of St Thomas Aquinas, whereas Taylor is influenced by Martin Heidegger and Ludwig Wittgenstein – they offer a helpful guide through some of the confusion surrounding contemporary thinking on the person and they provide a context for me to delineate an aesthetic presentation of the concept of person. As I will demonstrate, Taylor's use of the word "meaning" is at times more refined than Lonergan's, whereas Lonergan's analysis of our access to meaning is more systematic. Finally, I will add a further dimension to this aesthetic presentation by examining the reality of dependency and vulnerability in the preparation for my definition of person.

time I have tried to be respectful to the spirit of its originating tradition. See Backstein (1992) for one version of the story

² The Oxford English Dictionary (1989) defines "aesthetic" as " a special appreciation of what is beautiful " (p206) In this chapter, I use the word "aesthetic" in a wider sense to refer to the world mediated by meaning and constituted by significance as a preparation for my definition of the concept of person

3 2 The Disenchanted World

3 2 1 Zellwald - An Exhibition of Human Cells

Since the scientific revolution of the seventeenth century, the pursuit to understand and to explain the functioning of human beings, of other living organisms and of the world has accelerated Similar to the creative revolution in health care, the new discoveries, facilitated by science and technology, have helped in our quest to enhance our understanding of life, which has also brought numerous benefits for humanity Many of these achievements can be observed in the *Deutsches Museum*, which is situated in Munich, Germany Through its fifty exhibitions, covering a floor space of over 46,000m², it testifies to and traces the historical development of science and technology, from hydraulic, locomotive and marine engineering to various scientific instruments, energy technology, telecommunications and so on

Interestingly, there is an exhibition devoted to pharmacy, which represents a new venture to include "life sciences" into a museum largely devoted to technical and mechanical enterprises. The motto of the pharmacy exhibition is "Alles Leben ist Chemie"! ("All life is chemistry!") (Deutsches Museum 2000 p7)³ It shows how life goes back to biochemical processes by demonstrating (a) how biochemical reactions take place in the body, (b) how interruptions of these reactions can lead to health problems and (c) how chemically active substances of medicine (i.e. medical products) can restore the body into balance (ibid p8). In this sense, the body is pictured as a scale. When one part of it is tipped and put off balance through "interruptions" caused by viruses or bacteria, it can be brought back into equilibrium by medical products which owe their natural source to herbs and plants.

The focal point of the pharmacy display in the museum is the *Zellwald* ("Cell Forest"), which shows, twenty-five times bigger than normal, seven out of the two

³ Translated by Alan J Kearns

hundred different specialised cell types of the human body ⁴ This *Zellwald* explains that the cell is the basic unit of life in which biochemical reactions occur. It demonstrates the exchange and conversion of chemical substances, energy and information (via the nerves) as well as the advancing of genetic codes during cell division. Here, it is possible to travel into a world that is out of reach to daily experience, but which exists a billion times larger when seen through a microscope. For instance, it is possible to observe the various nerve cells, the body's swift communication system, transmitting information from outside the body through various sensations as well as conveying orders from the brain to the rest of the body. It is possible to examine storage cells, which we often struggle against, and see how they can become extremely enlarged when too much is stored. In addition, the *Zellwald* illustrates the white blood cells defending the body from foreign matter and the red blood cells transporting oxygen from the lungs to the various bodily tissues.

What struck me about the Zellwald was its maxim regarding cells "Alle Zellen sind gleich und doch verschieden" ("All cells are the same and yet dissimilar!")⁵ To put it another way There is one variety with numerous variations (ibid p55). All cells in our bodies have, in principle, the same basic structure consisting of nucleus, mitochondria and other cellular organisers. However, depending on their functions, their forms and sizes vary respectively. Hence, the Zellwald acknowledges that the theoretical compartmentalizing of cells is not always faithful to the cell itself. On the other hand, the Zellwald places the understanding of the human body and its corresponding need for medicine in the context of technical and mechanical endeavours. Perhaps, it is not mappropriate to examine "the body", as opposed to "one's own body" in this way. A mechanistic perspective on the working of the body can provide a helpful educational tool for both medical and health care professionals and also for the average

⁴ For an illustration of the Zellwald, see appendix B p235

⁵ Translated by Alan J Kearns

non-specialist when seeking an understanding of their body. Yet, as I have mentioned in chapter two, for von Hagens - in the context of the Korperwelten - no two bodies are completely the same ⁶ For that reason, von Hagens attempts to capture the intricacies and wonders of the body through the technique of plastination as an educational tool in Korperwelten Furthermore, it could be argued that the human body is much more than a composition and collage of cells but has meaning and significance, a point argued by Leon R Kass (1985) when he says " how the body works can only be learned by mechanistic analysis But what the body is and especially what it means can be grasped, if at all, only by looking on it whole [sic], as we encounter it" (p24) It is claimed that there is an inappropriate tendency in medicine to treat the body like a machine. As noted by David Le Breton (2003), "medicine thus becomes the science of the sick body, not the sick human being But subtracting the person from the body, and seeing the latter as a mere machine, empties the body of meaning and value Without its symbolic dimension, all that remains of the body is a complex of parts, a cluster of functions" (p47) In response, it could be suggested that the "sick body" is different to the "sick human being" Although a broken leg may cause many inconveniences to me, it does not question the very integrity of my being "human" Although, it might affect my sense of self, if I am a professional athlete, for example

3 2 2 The Person Forest – A Mechanistic Treatment

Taking this example of an exhibition from every day life, I began to wonder whether there were any links that could be made to the present state of affairs regarding the treatment of the concept of person. Certainly I think that at the moment the philosophical pendulum has swung towards an outlook that encourages a tendentious

⁶ See a summary of the work of Korperwelten in chapter two pp54-55

⁷ There is the risk that this may lead to dualistic thinking concerning the body and the self

intellectual habit of treating the issue of the concept of person mechanistically 8 The various concepts of person – that were examined in the previous chapter – are almost like a forest of concepts As with the analysis of cells in the Zellwald, the concept of person is analysed and broken up into various components and properties and various entities are judged as to whether they fit this concept or not. Even if we could present a real exhibition on concepts of person, like with the Zellwald, would it be philosophically authentic to divide the concept into properties and to display them by enlarging them twenty-five times bigger? For instance, supposing in a guided tour of our "Person Forest" museum self-consciousness, as one of the key properties of possessing personhood, was emphasised and represented by showing an amplified example of brain activity that was recorded by an electroencephalogram (EEG), would there not be a danger of falling into the snare of the "blind born"? In other words, perhaps this would encourage us to think that the reality of personhood corresponds to the inspection of properties shown in our "Person Forest" exhibition From this, we might ask ourselves, why there is a tendency to itemize the person by various descriptive properties - that follow from a concept of person - and to declare those properties to be intrinsic to what constitutes a person? Could we be accused of acting like the "blind born"?

As well as that, even if we agree on the exercise of rationality and the display of self-consciousness as the key which unlocks personhood, surely the *Zellwald's* maxim also seems to apply here. There is one variety with numerous variations¹⁹

⁸ One exemplar of this mechanistic thinking is the work of Richard Dawkins (1989), although he speaks mainly about human beings. In his introduction to *The Selfish Gene* he proposes the argument that human beings, and all other animals, are in fact machines shaped by genes (p2)

⁹ Perhaps the state of pre-or un-consciousness is a variation of consciousness (Strawson 1964)

3 2 3 The Roots of Mechanism

I think that Charles Taylor's magnum opus, Sources of the Self, helps to shed light on the issue of approaching the concept of the person in a mechanistic way when tracing the various sources of the self and morality throughout history (Taylor 1989 p3) He uses the word "disenchantment", coined by Max Weber, in the sense of the loss of experience of the cosmos as having a meaningful order, direction and focal point. The world no longer holds intrinsic meaning that is to be discovered and according to which we can attune our lives (ibid p17) In view of this, Taylor attempts to untangle the disenchantment by tracing its roots to the philosophical climate of the time of the seventeenth century scientific revolution, which was mainly inspired by Rene Descartes In his assiduous quest for certainty in the face of doubt, Descartes was deeply influenced by the reflexive inward turn of St Augustine and his emphasis on the inner self through reflection and autobiographical expression (see St Augustine 1961) But, Descartes and his empiricist enthusiasts took the Augustinian model and turned it into something radically different when they sought to understand the universe mechanistically This steered a disengagement of the person, thus releasing him/her from subjective error For instance, Descartes' Discourse on Method (1999) encourages us to dismantle problems into parts until no further division is possible. In his Treatise on Man (1972), he applies the same method of compartmentalization to the human body when he examines the body like a machine 10

The upshot of this new enlightened philosophical pursuit of absolute certainty, freed from any subject-related bias, promoted a bifurcation between the world of facts, which can be proven – to some extent – from the world of meaning, which cannot be proven in the same way but can only be pointed to by philosophy, poetry, literature and

¹⁰ Grant Duncan (2000), however, makes the argument that Descartes concedes the human body to be a creation of God and therefore more complex than any man-made machine (p492)

It is open to question to what extent is the world of facts provable, especially when we examine the debates between the anti-realist, naive-realists and critical-realists

aesthetics, for example The world is no longer understood to be enchanted with meaning but is enthralled by neutral facts to be scientifically observed. This disenchanted world has a threefold effect

Firstly, the "person" is disengaged from both the natural and the social worlds. In other words, persons are no longer participants immersed in reality but only have the ability to examine reality as an object from the point of view of an external impartial spectator. This emerges from the dualism encouraged by Descartes' philosophy, where the person's mind and body are understood to be separate entities. This separation between the mind and the body persuades people to study their own body as an object. Although dualism's influence on the contemporary world is not as robust as it was, the pursuit of objectivity and neutrality when understanding human life has become more and more prevalent (Taylor 1989 pp144-145).

Secondly, the "punctual view" of the self has also evolved from this disenchanted world. This is a view of the self that is free and rational to treat itself and the world mstrumentally ¹⁴. Humanity's quest to understand nature is no longer connected with an aspiration to be attuned to the inbuilt moral order but to manipulate nature for its own purposes. This punctual view of the self continues today in the incredible weight that instrumental reason has on social policy, on politics and on medicine (ibid p173). With this punctual view of the self, human reason takes on a key role in the mechanistic outlook on the world and the person and subsequently becomes central in offering a definition of personhood (ibid.) ¹⁵ It is precisely in the execution of

¹² In contrast to this position, one of Voegelin's central theses is that human existence is a partnership in the community of being, which is a quaternarian structure comprising of God and man, world and society (Voegelm 1956 p1)

¹³ Although Cartesian dualism may have lost ground, mechanism seems to have become more and more

¹³ Although Cartesian dualism may have lost ground, mechanism seems to have become more and more credible, according to Taylor's research (Taylor 1993 p324) Also see Christopher Kirwan's (2001) analysis of dualism and mechanism (p131)

¹⁴ Taylor (1989) traces this punctual self to Locke's work on the person (pp159-176)

¹⁵ Taylor (1989) states that " the modern conception of reason is procedural. What we are called on to do is not to become contemplators of order, but rather to construct a picture of things following the canons of rational thinking" (p168)

instrumental reason that the person gains his/her dignity Reason is primarily understood as the epicentre of control and instrumentalization, which persons can utilise in order to manipulate nature (Kirwan 2001 p102). In this way, the person him/herself becomes "master" of this instrumental manipulation. Taylor (1970) is quite critical of this instrumental outlook on reason and argues that our civilization ought to be "indicted for its narrow vision of reason, which is reduced to the intelligent calculation of means to ensure the end of production" (p63). Reason is not understood in the Platonic sense as that faculty which helps us to illuminate reality and connects us to a moral order, symbolised by the Good, i.e. the *Agathon* (Plato 1987 pp316-325, BkVI 514-521). Consequently, in the act of knowing we do not grasp the ideal form of the really real, because there is none. Knowing things rather means grasping how things are put together into various classes (Taylor 1985a p225).

Thirdly, Taylor upholds the view that the logical social consequence of instrumental reason in this disenchanted world is an "atomistic" understanding of society that is justified in terms of individual purposes. He explains atomism as the "condition in which everyone defines his or her purposes in individual terms and only cleaves to society on instrumental grounds. "(Taylor 1989 pp413) ¹⁶ Ultimately, then, the more we learn to treat things in a rationalistic fashion, the more we are inclined to accept the perceived corresponding view of how things "really" operate (Taylor 1993 p321). Following the example of mechanistic clarification and the corresponding view of the disengaged, punctual person living in an atomistic society, the concept of person is no longer understood within the context of meaningful reality but in the context of a mechanistic structure.

The world of health care has not escaped from this disenchanted world. This is an issue acknowledged by David Le Breton (2003) when he explores the question of

¹⁶ It could be argued that, from a Bergsonian perspective, this "atomistic" stance poses a threat to the static cohesion of society

personal identity in the context of the aftermath experience of receiving an organ transplant (pp41-49) As maintained by Le Breton, "it is not true, as a mechanistic view of the human body would suggest, that taking an organ from a dead person and transplanting it to a living person, is a psychologically neutral exercise" (ibid pp41-42) ¹⁷ For those who receive a new kidney it is not simply like fixing a part of their body A striking example of this is of a young man who, after suffering for some time from renal failure, received a new kidney after it became available on the death of a donor due to a road accident. Two years after the transplant, the young recipient still did not want to know something about the identity of the donor and the circumstances of his death He said "One can't forget it It's an odd feeling I know he didn't mean to die I sometimes wonder if his parents know his kidney's still alive" (ibid p44) He still feels partly responsible for the death of the donor. His feelings of guilt confirm that the experience of transplantation and the after-effects are shot through with meaning. The person is not like a machine in need of a spare part. Consequently, transplantations do not take place in a vacuum but in a context immersed in meaning Equally, as it will be shown, the concept of person is not situated in a void but in a context of meaningful reality In view of this, it is important to reflect on what we mean by "meaning" and by "meaningful reality" It is to Lonergan's work that I will now turn in order to elucidate the meaning of "meaning"

¹⁷ Le Breton is convinced that " the heart is not a pump, the kidneys are not a purifying plant, and the lungs are not a pair of bellows. If they were, human beings would indeed be machines, with interchangeable parts, and transplants would raise no psychological or ethical problems, beforehand or afterwards — would be as morally neutral as changing the wheels in a broken clock. The corporeal element that becomes part of the recipient's substance is not neutral it is charged with values and fantasies. "(Le Breton 2003 p47)

3 3 The Meaning of "Meaning"

3 3 1 The World of Meaning

In the disenchanted world what is often bypassed, or perhaps forgotten, is that there is not only the world of immediate experience but also the world mediated and constituted by meaning 18 Sometimes, the argument is put forward that there is no difference between reality and meaning Meaning is reality However, Lonergan (1988) argues that the distinction between the two (reality and meaning) is valuable because people engage in various acts that mediate and create meaning when they experience, understand, affirm and deliberate about what is real (p232) Our access to the world of meaning is to be found in conscious acts, i.e. through the very dynamism of intentional consciousness, as shown in the performance of the cognitional structure of consciousness, when we know and evaluate The source of meaning is to be found in intended contents, i.e. what is reached through experience (i.e. the data), through understanding (i.e. intelligibility), through judging (i.e. truth), through deciding (i.e. value) (Lonergan 1972 p73) 19 Accordingly, Lonergan presents a critical realist account of meaning by distinguishing between the world of immediate experience, the world mediated by meaning and the world constituted by meaning, which I will now explain

3 3 2 The World of Immediacy

The "first world" is what Lonergan names the world of immediacy, the world of immediate concrete experience. It is the infant's world that is experienced by touch, by what can be grasped and sucked and by what can be seen and heard. For the infant, this world is no bigger than the nursery. It is also the world of immediate experience to which adults return, for example, when enjoying the sun with their heads empty of

¹⁸ From time immemorial, the question regarding the meaning of "reality" has had a pivotal place in the history of philosophy Juxtaposed with this has been the question concerning the meaning of "meaning" (see Cassidy 2004)

19 For an outline of cognitional structure, see chapter two pp65-69

thoughts Here, meaning is confined to the world of experience, to the world of pleasure and pain, to the world of hunger and thirst. As Lonergan notes, " it is the world of immediate experience, of given as given, of image and affect without any perceptible intrusion from insight or concept, reflection or judgment, deliberation or choice."

(Lonergan 1988 pp224-225) In other words, there is no complete cognitional activity. There is experience, but no understanding and judging. So, what is "experienced" is also what is "meant". In the case of infants, Lonergan states.

When first hearing and speech develop, they are directed to present objects, and so meaning initially is confined to a world of immediacy, to a world no bigger than the nursery, and seemingly no better known because it is not merely experienced but also meant. Then, to all appearances, it is quite correct to say that reality comes first and meaning is quite secondary (ibid p232).

3 3 3 The World Mediated by Meaning

In the world of immediate experience, it would appear that reality comes first and meaning is quite secondary (ibid). Notwithstanding this, there is a reversal of roles—as the infant develops for example—vis-a-vis reality and meaning, which leads to the "second world", i.e. the world mediated by meaning. This world begins as an enlargement of the world of immediacy. In other words, the infant experiences the world beyond the nursery, which is facilitated by pictures, stories, language and other channels of meaning. As Lonergan explains

So we come to live, not as the infant in a world of immediate experience, but in a far vaster world that is brought to us through the memories of other men, through the common sense of the community, through the pages of literature,

through the labors of scholars, through the investigations of scientists, through the experience of saints, through the mediations of philosophers and theologians (1bid p233)²⁰

In this world, language does not only bring into focus what is present to the infant, but also what is past and what is still to come. It makes present what is absent and brings into the infant's horizon what is beyond him/her. As well as that, the infant begins to discover the difference between what is fact and what is merely fiction, between what is just a story and what really and truly is the case. This leads to the second aspect. This world mediated by meaning is not the total of immediate experiences. We are naturally compelled to ask questions and search for answers in order to discover for ourselves what is true and real and not merely hearsay As indicated by the act of self-appropriation described in the previous chapter, the human intellect follows its own dynamic process towards understanding and judging through a process of wonder, inquiry and questioning, with various spontaneous persistent questions that naturally arise ²¹ These questions include "What is it?" (experiencing), "Why is it?" (understanding), and "Is it so?" (judging) Thus, this world conveyed through meaning cannot be grasped by experience alone but only by the combination of experience, understanding and judgment (ibid p225) In this way, meaning is an "act" that goes beyond what is experienced What is "meant" in the act of mediating meaning is not only "experienced" but also "understood" and "affirmed" (ibid p233 and Lonergan 1990a p77)

²⁰ The Deutsches Museum is one example of this. It gives us access to the achievements of the past, and in effect, the accomplishments of the past are immortalised.

²¹ See chapter two pp65-67

3 3 4 The World Constituted by Meaning

Finally, there is the world constituted by meaning. Here, we reach the fourth level of intentional consciousness where we decide what actions ought to be done Through deliberation and choosing we confer particular actions, institutions, symbols and cultures with specific meanings. As Lonergan (1990a) puts it "Just as language is constituted by articulate sound and meaning, so social institutions and human cultures have meanings as intrinsic components" (p78) Languages, art, literature, poetry and belief systems involve acts of bequeathing meaning. For instance, the meaning of a golden wedding ring does not lie in the quality of the metal but in its symbolic value representing a loving bond and commitment between a man and a woman. The meaning of the exclusive relationship is acknowledged by society either through a religious rite or state event or even both Of course, the ring can (partly) lose its meaning when there is a breakdown in the relationship. Then, it no longer represents the loving union between the couple, although they may be still acknowledged as lawfully married in the eyes of the religious community and/or in the eyes of the state. A court of law is also constituted by meaning – a meaning that cannot be detected by the type of building in which justice is pronounced. The meaning underpinning a country's constitution cannot be measured or calculated Yet, it provides a milieu of meaningful order for the lives of its citizens, although it may be changed or reinterpreted and constituted with new meaning, which can often be either transparent or opaque

In this world where meaning is bestowed, emotions play a considerable part Although in *Insight* (1978) Lonergan confines feelings to the first level of cognitional consciousness, there is a shift of emphasis in his later work, especially in *Method in Theology* (1990a) In this work, feelings have a more prominent place when it is acknowledged that they orient us in a dynamic way in this world shaped by meaning Feelings help us to "apprehend" values "Intermediate between judgements of fact and

judgements of value lie the apprehensions of value Such apprehensions are given in feelings" (ibid p37). Thus, feelings establish the existential horizon within which our constituting judgements of value, deliberations, choices and deeds take place. Instead of seeking answers to questions such as "What is it?" and "Is it true?" there is a new set of questions in preparation for moral deliberation and action, including "Is it worthwhile?", "What am I to do about it?", "What must be done to make my world a more valuable place?", which intend a different array of answers. A judgement of fact, which is achieved on the third level of cognitional performance, is an affirmation of what is understood, whereas a judgement of value is an affirmation of a value. In other words, we judge whether a particular action is or is not worthy. The judgement of value is concerned with what is truly meaningful and worthy of action.

It is through the act of knowing that I constitute myself as a knower within the world mediated by meaning. It is through the act of evaluating, that I constitute myself as a moral subject and a moral agent performing actions motivated by value within the world constituted by meaning. We constantly constitute ourselves and our world through moral choices and actions. As Lonergan puts it, "the development of knowledge and the development of moral feeling lead to the existential discovery, the discovery of oneself as a moral being, the realization that one not only chooses between courses of action but also thereby makes oneself an authentic human being or an unauthentic one" (ibid p38). Therefore, this affirmation of value is intrinsic to the world constituted by meaning.

The world mediated by meaning points to the fact that the world has meaning that is capable of being experienced, understood and judged respectively. It can therefore be communicated and interpreted through language. The world constituted by

²² See Doorley's (1996) analysis of feeling (p74) For Doorley, there is a difference in intentionality regarding a judgment of fact and a judgement of value. He writes, "the intention of a question for reflection is reality. The intention of a question for deliberation is value whether such value exists or not."

meaning and motivated by value, points to the fact that the world is capable of being valued. In some current epistemological and moral debates, for instance, the very act of mediating meaning is placed in doubt in the search for absolute certainty freed from any subjective errors. As well as that, the world constituted by meaning regarding moral values is seen as our projection onto a world that has no basis in reality itself. The perennial debate between the moral realists and anti-realists reflects this problem. Conversely, if we follow Lonergan's critical realist approach to meaning, it would appear that in our interaction with reality, we are involved in acts of mediating and constituting meaning — a perspective from which we cannot simply escape from in a quest for neutral, value free facts about the world and the person

To summarise Lonergan's thought, our first contact with the world is through the world of immediate experience. This is later mediated by meaning, whereby our contact to the world is extended and enriched. Furthermore, this world is also shaped by meaning and stirred by value. Following from this, as it shall be explained later, an aesthetic concept of person does neither rely merely on the world of immediacy nor on the world mediated by meaning, but must be placed in the context of the world constituted by meaning and motivated by value. However, Lonergan's dual use of the word "meaning" – that which is mediated and constituted – can at times appear a little indistinct and therefore difficult to grasp. Thus, in order to throw light on his work and to provide another avenue towards an aesthetic presentation of the concept of person, I will turn to Taylor's work on significance, language and human agency. I think that Taylor is more refined than Lonergan in his use of the term "meaning". He tends to use the word "meaning" for the meaning that is mediated (for example, meaning that is

However, Doorley quickly avoids the charge of subjectivism by arguing that although discovery of value is subject dependent, the content of value is not (ibid pp74-75)

The moral realists are committed to the view that moral knowledge is grounded in moral facts and

The moral realists are committed to the view that moral knowledge is grounded in moral facts and properties, which are independent of people's beliefs and attitudes concerning what is morally right and wrong. In contrast to this approach, the moral anti-realists argue that moral claims do not really make assertions about objective facts but rather they express the agent's attitudes or feelings. They argue that

mediated through language) and uses the words "significance" and "import" instead to describe the meaning that is constituted. This can be observed in his examination of the representative and significance views of consciousness, to which I now turn.

3.4 Significance, Human Agency and Language

3.4.1 The Representative and Significance View of Consciousness

Firstly, Taylor acknowledges the contemporary understandings of the concept of person. He states that the person is defined as a thinking, feeling, deciding and relating being with moral status, who is a bearer of rights (Taylor 1985a p97). Indeed, at the backbone of his/her moral status are certain capacities. The person is a being who has a sense of self, a notion of the future and the past, and who can make choices. However, Taylor is more nuance that Tooley, for example, in that he believes that a person must be the kind of being who possesses these capacities, at least, however damaged those capacities may be in practice (ibid. p97 and p103).²⁴

Secondly, Taylor argues that the various contemporary concepts of person place emphasis on the representative perspective of consciousness. This representative perspective purports consciousness to be a faculty that enables us to form inner representations of objects; to represent different life plans, to consider different options and to envisage different possibilities (ibid. p104 and Taylor 1985b p261).²⁵ It stresses the person's capability of strategic planning and herein lies the striking superiority of persons compared to non-persons. The person can frame a representation of something, which is there independently of his/her depiction of it (Taylor 1985a p104). So, a person

moral statements can neither be true nor false because there are no moral facts or true moral claims which exist independently of the agent. See also Taylor's (2000) study for more information about this debate.

24 For an outline of Michael Tooley's philosophy of the person, see chapter two pp71-74.

As maintained by Taylor's (1975) investigation, this stance is rooted in the seventeenth-century epistemological view of the person. Namely, the person is a being with consciousness, and consciousness is understood to be a power that represents objects in the act of knowing (p8).

is a being with consciousness and consciousness is understood to be a faculty that makes representations of things

One consequence of this is that the representative view of consciousness ignores the fact that persons are agents who are constituted by significances and who constitute experiences with significance Taylor calls this the significance view of consciousness This is the work of consciousness, not in the sense of representing objects, but rather in the sense of forming and being formed by experiences, which have significance. In other words, persons are agents who have certain ends towards which they are inclined and which contribute to their sense of meaning (Taylor 1985b p218) ²⁶ This viewpoint places emphasis on the person being an agent with intrinsic purposes. S/he has certain ends towards which s/he is inclined and which contribute to his/her sense of meaning. In other words, persons are beings who have particular purposes that have special significance for them Thus, the significance view focuses on the nature of human agency 27 What is crucial about agents is that things do matter to them, i.e. they can attribute purposes, desires, as well as aversions to objects. It gives them a perspective to understand the world and themselves In this way, consciousness, from the significance aspect, enables persons to have an articulated view of themselves and of their world when it presents issues of concern that seem to be unique to them as persons Interestingly, Taylor writes that "consciousness – perhaps we might better here say language – is as it were the medium within which they [human concerns] first arise as concerns for us The medium here is in some way inseparable from the content, which our self-understanding in this domain is constitutive of what we feel" (Taylor is why

²⁶ Taylor (1985a) acknowledges that "this alternative conception of meaning that I now want to look at is the one that comes to us through Herder and Humboldt, in different ways also through Hamann, and has been taken up in our day by Heidegger and others. I could call it the 'Romantic' theory, or family of theories, I could call it 'expressive,' which is a term I have used elsewhere. But maybe the best policy is to avoid any descriptive mode of reference, and call it simply the triple-H theory" (pp255-256)

Here we can observe the influences of Heidegger and Wittgenstein on Taylor's work According to Charles Guignon (1990), Taylor's reading of Wittgenstein and Heidegger is in line with the overall direction of their thought (pp649-672)

1985a p103) In this sense, consciousness-cum-language is constitutive of these matters of significance. In other words, the very structure of our thinking and the words we use to express our thinking shape the way we value the world. Thus, we are made for significance. I think that this is well illustrated in Paul Auster's (1989) thought-provoking novel *Moon Palace* — albeit perhaps not a deliberate reference to Taylor's work — when the main character Marco Stanley Fogg realises that "the world enters us through our eyes, but we cannot make sense of it until it descends into our mouths" (p124)

3 4 2 Self-Interpreting Animals

Taylor elucidates this significance view of consciousness by explaining that when persons establish the significance of X they do not determine a neutral fact about it For instance, when they attempt to describe their emotions, persons try to make sense of the situation. They experience the situation as not having a neutral property but as having a particular significance for them Taylor describes this non-neutral property as an import, i.e. something m the situation, which persons identify as being important to their desires or purposes, aspirations or feelings. Something that makes them feel the way that they do (Taylor 1985a p48) An import is " a way in which something can be relevant or of importance to the desires or purposes or aspirations or feelings of a subject, or otherwise put, a property of something whereby it is a matter of nonindifference to a subject" (ibid) Imports include the feeling of shame, dignity, guilt, pride, admiration, contempt, moral obligation, remorse, unworthiness, self-hatred and, perhaps, self-acceptance (ibid p59) When persons identify the import of a situation they pick out something in the situation that provides the basis for their feelings (ibid p49) Imports are subject-referring because they refer uniquely to persons, incorporating a sense of what is important for them. However, this does not necessarily imply that the

relation between the emotion and the import is one of simple equivalence (see ibid p50) For instance, I can feel ashamed, even though I clearly understand that the feeling is unfounded Conversely, it is not the case that there is no relation between the emotion and the import at all As Taylor explains, " it is that experiencing the emotion is experiencing our situation as bearing a certain import, where this is compatible in some cases with recognizing that the situation does not bear this import, and withholding intellectual assent from the judgement that it does" (ibid.) Thus, persons feel compelled to explain to themselves why they are affected by the situation and whether their feelings have any justification or a rational basis. When persons articulate a subjectreferring import, their emotions partly change. Their emotions are partly transformed by their language As Taylor puts it, "Verstehen is a Seinsmodus" ("Understanding is a mode of being") (ibid p72) 28 Persons are deeply engaged with their lives. That is why articulation of the emotion(s) is extremely important for them

Following on from this, Taylor highlights the fact that the human person is a self-interpreting animal (ibid p45) 29 Persons are partly constituted by selfinterpretation, that is, by their experience and interpretation of the imports which have an affect on them (ibid p72) 30 Language characterises what they feel and, at the same time, it attempts to be loyal to that very feeling Persons choose words and expressions that most accurately describe their emotions. Consequently, emotion is indivisibly connected to speech and vice versa Feelings are partly constituted by meaning articulated through speech and this articulation, in turn, can shape the meaning of the feeling, i.e. they are formed by the language in which they are disclosed. To put it another way, our becoming more aware of what we feel alters what we feel Taylor clarifies this by giving the example of the feeling of guilt. We can overcome some

²⁸ Translated by Alan J Kearns

²⁹ Taylor (1985a) acknowledges his source to be Martin Heidegger (p45)

³⁰ Taylor (1985a) writes that "human life is never without interpreted feeling, the interpretation is constitutive of the feeling" (p63)

confused or inchoate feeling of guilt when we talk about it and realise, perhaps, that it is unfounded Thus, we begin to feel different about it. The quality of the feeling of guilt can change and it may disappear altogether. If it remains, it does not have the same hold on us as before In this way, understanding the emotion enables us to transform the emotion 31 As well as that, each person can acquire and develop an extensive word power, and accordingly his/her understanding and experience of his/her emotions can change and become more refined. This does not imply that people simply change because their ideas about themselves change. However, when we articulate the feeling of affection such as "I love you" or "I am jealous", this articulation does not only express the emotion but also partly forms the emotion (ibid p71) I think that another example which demonstrates this is the experience of sickness that is often articulated by the term "common cold" We can change the significance of how this affects us personally by using various speech acts such as "I have a terrible cold!" compared to "I have a cold" The intensifying adjective "terrible" amplifies the negative experience of having a cold The act of interpreting an emotion is not an optional extra but is an indispensable component of our existence ³²

Ontologically, the human person is a self-interpreting animal because this articulation-cum-interpretation flows from his/her very being. Therefore, the act of self-interpreting shows that there can be no "pure" empirical access to human reality, which is not clothed in an interpretative framework. Human reality is an interpreted reality whereby the world has normative and evaluative aspects (Hallamaa 1994 p243)

In this case, the representative theory of consciousness cannot apply because we cannot represent the emotion of guilt in the same way as an object (Taylor 1985a p101 and p270) Taylor claims that " when we come to articulate a feeling in a new way, it frequently is true to say that the feeling also changes It is just that one change is essentially linked to the other, because self-understanding is constitutive of feeling" (Taylor 1985a p270) Lonergan (1990) also acknowledges that emotions, although primarily spontaneous reactions, can be clarified, endorsed or controlled when they are articulated He says that " once they [feelings] have arisen, they may be reinforced by advertence and approval, and they may be curtailed by disapproval and distraction" (p32)

³² This is not to imply that all emotion is sensory. In his analysis of the apprehension of value by feeling, Lonergan places emotion on the fourth level rather than on the first level of consciousness.

Emotions only have imports for agents who aspire to dignity and who aspire to be accepted in society. The import "shameful" would have no meaning in a world in which there were no beings that could experience it. In other words, the experience and articulation of an emotion can reflect the moral situation. A feeling cannot be one of remorse unless there is a sense of having done wrong.³³ For that reason, some understanding of what is morally right and wrong is built into the experience of remorse. For that reason, it is not possible for persons to have an impartial awareness of what is morally good or true. For instance, remorse presupposes that persons can apply the terms "right" and "wrong"; shame requires that persons can apply terms "worthy" and "unworthy". In this way persons use a vocabulary of worth (Taylor 1985a p24).³⁴ The feelings of guilt, shame and remorse encompass an articulation, implying an interpretation, which may demand further articulation. As with the feeling of guilt, the feeling of remorse may dissipate if we come to see that it is tenuous or it may be modified depending on how we come to understand it (ibid. p63). Nonetheless, this is not to suggest that people are always aware of what is remorse and what is shameful.³⁶ The quality of awareness depends on the attunement of their affective awareness, which brings us to the next part in Taylor's philosophical anthropology: The ability to evaluate desires.

33

³³ As has been already shown, for Bergson this is the static morality of the closed society. See chapter one pp37-42.

³⁶ As Taylor (1985a) notes: "I may be lamentably insensitive to it" (p53).

Taylor (1985a) acknowledges that where there is articulacy there is the possibility of a plurality of visions. It follows from this, of course, that people with very different cultural vocabularies have quite different kinds of feelings, aspirations, sensibilities, experience different moral and other demands, and so on (p271). However, the interpretative framework from which we operate is universal. Taylor (1988) writes: "I believe that what we are as human agents is profoundly interpretation-dependent, that human beings in different cultures can be radically diverse, in keeping with their fundamentally different self-understandings. But I think that a constant is to be found in the shape of the questions that all cultures must address" (p299). This proffers a possible answer to the objection that if moral realism was true, then there would be no plurality of ethics.

As maintained by Arne Johan Vetlesen (1994), self-interpreting animals are "... beings partly constituted by the way that being is interpreted by that being itself" (p172).

3.4.3 The Act of Strong Evaluation

As contended by Taylor, persons do not only articulate and interpret emotions but they evaluate them as well. With this, he distinguishes between "weak" and "strong" acts of evaluation (ibid. p16).³⁷ With the former (i.e. weak evaluation), persons are concerned with the outcome of their actions; with the latter (i.e. strong evaluation), persons are concerned with the moral worth of their motivation to act. For instance, in the weak evaluation scenario, I may choose a holiday in the south of France and forego buying a new BMW, not because there is something more worthy about a relaxing holiday in France than being able to have a luxury car, but because I have more desire for it (ibid. p17). With weak evaluation, one desired alternative is set-aside on the grounds of its contingent incompatibility with a more desired one. Taylor rues the fact that this weak evaluation is employed by our "rationalist" society when it turns practical reflection into calculation (ibid).

Strong evaluation, on the other side of the coin, takes a different route. Here, there is the recognition of goods that have intrinsic worth, i.e. goods that are not valued insofar as they are objects of choice or desire but that are valued because they are ends towards which we ought to seek (Taylor 1985b p266).³⁸ I may choose to refrain from committing some cowardly act, although very tempted to do so, not because the act at this moment would make any other desired act impossible, as a holiday would make a new car unfeasible, but rather because the act itself is cowardly. Therefore, emphasis is placed on the moral worth of the motivation itself and not on its contingent

³⁷ As Taylor (1989) remarks, there is an "...essential link between identity and a kind of orientation. To know who you are is to be oriented in moral space, a space in which questions arise about what is good or bad, what is worth doing and what not, what has meaning and importance for you and what is trivial and secondary" (p28).

Taylor (1985b) acknowledges that he is influenced by Harry Frankfurt's analysis of second-order desires (pp65-66). Frankfurt (1971) describes strong evaluation as "second-order" evaluation. In Frankfurt's analysis, evaluation entails possessing second-order desires whereby we evaluate our first-order desires, i.e. we evaluate our primary desires as being morally good or bad. Frankfurt maintains that "someone has a desire of the second order either when he wants simply to have a certain desire or when he wants a certain desire to be his will. In situations of the latter kind, I shall call his second-order desires

compatibility with other options. In the act of strong evaluation, the language of evaluative distinctions is used by which different desires are described as either being good or bad, moral or immoral (Taylor 1985a p19 and p65). On this basis, qualitative discriminations between desires and goals, between what is good and dishonourable can be made

3 4 4 Language and Public Space

As it can be seen, language has a vital role to play in Taylor's analysis of the concept of person as a self-interpreting agent ³⁹ He illustrates that persons cannot avoid using language when they think about their lives, their relationships and when they make various life plans. What Taylor's examination shows is "to study persons is to study beings who only exist in, or are partly constituted by, a certain language" (Taylor 1989 pp34-35). According to Taylor, language facilitates those human emotions. It makes it possible for emotions to be experienced more deeply and to be expressed. As a result, Taylor points to two major approaches to the study of language. Firstly, the designative approach that contends that words have meaning by virtue of their pointing to what they designate. Secondly, the expressive approach maintains that language expresses thought and perception (Taylor 1985a p218). In the designate approach we relate the sentence about the object it designates, whereas in the expressive approach we relate the sentence to the thought it expresses (1bid pp218-219). For example, from the

'second-order volitions' or 'volitions of the second order' Now it is having second-order volitions, and not having second-order desires generally, that I regard as essential to being a person" (p10)

The question of meaning not only penetrates the enterprise of philosophy but also the study of language Taylor (1985a) states that "the twentieth-century concern for language is a concern about meaning" (p216) Allott (2001) claims that "although the role of *language* in the formation of human reality was an obsessive subject of study in the twentieth century, the general problem of the nature and origin of language is as old as philosophy, and as crucial as ever in humanity's never-ending search for self-awareness. The human world is a world of words. Nouns and names rule our minds. We live and die for words" (p66)

In Taylor's (1985a) eyes, "language is no longer merely the external clothing of thought, nor a simple instrument which ought in principle to be fully in our control and oversight. It is more like a medium in which we are plunged, and which we cannot fully plumb. The difficulty is compounded in that it is not just the medium in virtue of which we can describe the world, but also that in virtue of which we are capable of the human emotions and of standing in specifically human relations to each other" (p235)

designate perspective, the sentence "The book is on the table" answers the question, "Where is the book?" From the expressive perspective, the sentence "The book is on the table" answers the more anxious question "Where have I left that book?" Therefore, the statement "The book is on the table" does not only designate a book and a table in relation but it also expresses my perception that the book is on the table (ibid.) The designative and expressive theories are not mutually exclusive, but rather they answer different questions (ibid. p220). As Taylor notes, "expressions—make our feelings manifest, they put us in the presence of people's feelings" (ibid. p219). The view that feelings are partly transformed to some extent by the act of self-interpretation is rooted in this expressive theory of language. As it has been shown, if we express our feelings, we give them a reflective dimension that realises and partly transforms them (ibid. p233)

Taylor's study demonstrates that language has been traditionally understood to be a tool for designating and communicating information about objects. In contrast to this, according to Taylor, we should appreciate language as a medium through which "public space" is exposed. Language enables us to place the phenomena that surround us into focus and into perspective (ibid p264). Taylor clarifies this by giving the example of a crammed full bus. If I get onto a crowded bus on a hot day and say to a fellow-passenger, "Hot, isn't it?", my statement is neither a communication of information nor is it a question. Instead, it expresses that experience which is shared between us. The hotness of the day that is intensified by the uncomfortable condition of standing in a bus (ibid p259). The expression fosters a kind of rapport between us by pointing to the existential space that is shared between us and in which we stand (Guignon 1993 p662). This is one of the ways language enables us to put things into public space. When I express something, the matter in question is no longer confined to me, or to my private world, but it is made public and becomes an issue for all of us.

Accordingly, it provides the medium through which some of our most important concerns can be discussed openly (Taylor 1985a p260) ⁴¹ The designative view fails to take this into account

In the mechanistic view of reality, as with human reason, language is instrumentalised and subsequently has an effect on how the world and the person are understood. Language is now understood to be an instrument of control by which ideas and things of the world are grouped together into different classes of designations (ibid p224). Words have meaning insofar as they designate something. Consequently, language is seen as an instrument of control in gaining knowledge of the world through an objective scientific process. In order to be objective, language must be totally transparent and devoid of any "mystery" (ibid p226). With expressivism, language is not envisaged to be a collection of words but rather the capacity to express and therefore to realise that which is expressed. In concrete terms, persons can express experiences that are endowed with significance and, by virtue of this expression, they can partly constitute experiences with new significance. Thus, in this way, what is expressed is realised. For example, the expression, "I love you" – if it is really meant – does not only

⁴¹ That is why, for Taylor (1989), the "self" exists in, what he describes as the "web of interlocution", because when we express something we do not only place it into focus for clarification, but we take it from our private world and we place it into public space, thereby creating a community of common understanding (p36) As Wittgenstein once remarked, 'to imagine a language means to imagine a form of life" (cited in Taylor 1985a p281)

⁴² By "mystery", Taylor (1985a) means the fact that human beings are the only language animals who create music, art, dance and other symbolic activities (p248) Taylor acknowledges Herder's *On the Origin of Language* as one of the principal texts that established expressivism Taylor points out that, according to Herder, it is Condillac who presupposes "das ganze Ding Sprache schon vor der ersten Seite seines Buches erfunden "[The whole thing language has already been invented before the first page of his book] His explanation amounts to saying "es enstanden [sic] Worte, weil Worte da waren, ehe sie da waren" [There words came into existence, because there were words before they were there] (ibid p227) Translated by Alan J Kearns

Conversely, not only does language learning presuppose a general capacity, but this capacity presupposes the possession of a language, placed within the language community. In fact Taylor (1985a) contends that "language as a whole is presupposed in any one of its parts." In other words, language must cohere with the established convention of the language community so that it can be communicated and understood (p230). Taylor also states, "what then does language come to be on this view? A pattern of activity, by which we express/realize a certain way of being in the world, that of reflective awareness, but a pattern which can only be deployed against a background which we can never fully dominate, and yet a background that we are never fully dominated by, because we are constantly reshaping it" (p232). Personally, I think that it is correct that we do not invent the capacity for language. But we constantly develop, invent, reinvent, the content of a particular language.

express the experience that is constituted with the significance of affection but it may place the experience onto a new level.

3.4.5 Against Speciesism

The objection is raised that this connection between human agency, significance and language is a type of speciesism. Are only human language animals capable of feeling shameful and undignified? In response to this objection, Taylor (1985a) makes the argument that it is a community of conversation, whether potentially or actually, which enables persons to express feelings partly shaped by language (p69). Secondly, human language animals have an array of significances that have no counterpart in animals (Taylor 1985b p263). For instance, shame is one import that is not shared by animals. This is not because human language animals possess greater self-awareness compared to animals but rather that the feeling of shame is something that is felt as a "standard" and only humans possess this feeling (ibid. p264). By naming something as shameful, we universalise it, to some extent, so that others can recognise their emotion as an instance of shame. Thus, it becomes a standard (ibid.). As we have seen, language helps us to put our feelings and thoughts into focus. Now, it is exactly this articulated focusing that enables us to be conscious of certain standards. Moreover, the essence of the act of strong evaluation is grounded in the ability to be sensitive to certain standards, which are markedly human. Our sense of self is the sense of where we stand in relation to these standards. But, in order to be open to these standards we have to have language (Taylor 1985a p262). 44 Therefore, the expressive function of language is threefold: (1) it articulates the import and makes it explicit; (2) it places the matter (e.g. shame) out in

⁴⁴ However, this is not to imply that individuals are always aware of themselves evaluating certain goods as morally good or reprehensible. For Taylor, strongly evaluated goods can have an affective influence on human behaviour regardless of whether or not they are made explicit through articulation. See Ruth Abbey's (2000) commentary on this issue (pp9-54). For her, there is a tension "...between Taylor's concession that individuals can be moved by moral judgements that they are not fully aware of and his

the open, in public space and becomes a standard and (3) it discriminates between what is fundamental to human concerns, and hence opens us to these concerns (ibid p263). Thus, we can recognise an instance of shame and acknowledge it to be a human concern

Animals do follow standards as well, but in a weaker sense Taylor gives the example of his cat that refuses to eat fishmeal that is below a certain quality (ibid p261) In this sense, Taylor's cat has a certain standard However, it is misleading to say that the cat itself is aware of the standard of the fishmeal as a standard "Below quality", for example, is an expression that is employed to place the situation into focus Thus, animals are agents in a weak sense because they are not aware of standards as standards (ibid p102)

Like human beings, animals have strong original purposes — things that do matter to them. In this sense, it can be said that animals have purposes that are intrinsic to the nature of their very being. It is this, from the point of view of agency, which distinguishes both humans and animals from machines. There are things that do matter to persons and to animals but not to computers, for instance. In this way, both humans and animals are agents. Yet, human beings are different to animals in their mode of agency. Human beings have qualitatively different concerns that are not shared by animals. There are certain matters of significance for human beings, which are especially human, and have no counterpart in animals. Those include pride, shame, moral goodness, evil, dignity, the sense of worth, friendship and the various human forms of love.

Compared to humans and animals, machines are not directed to strong original purposes. However, humans attribute different purposes to different machines (ibid

claim that one of the ways in which the capacity for strong evaluation distinguishes humans from animals is by according them some responsibility for who they are" (p21)

p104) ⁴⁵ As Bergson's work shows, human beings invent and develop new technologies to fulfil their needs, which drives the creative revolution in health care

For Taylor, human purposes have an ontological dimension. They flow from our very humanity. Therefore, what distinguishes humans from animals and machines, cannot merely be intelligence – animals can perform activities which are intelligent and machines can perform pre-programmed tasks that are intelligent. But the very *being* of humans provides a source of unique purposes that finds no parallel in the animal kingdom and in the world of technology.

To summarise Taylor's thought, some of our emotions involve import ascriptions, i.e. matters of significance. Some of these emotions are subject referring, i.e. only human linguistic animals have them. These feelings are constituted by our articulations because the articulations are *de facto* interpretations. Consequently, language is essential because it enables persons to articulate their feelings and to make them clearer and more refined. From this viewpoint, language captures and partly constitutes emotion. Persons interpret their emotions at the same time as they experience them. Thus, the person is a self-interpreting animal.⁴⁷

3 5 The Concept of Person within an Aesthetic Presentation

3 5 1 Towards an Aesthetic Presentation

Having presented Lonergan's and Taylor's work regarding the meaning of "meaning" and the person's capacity to access reality communicated and shaped by meaning, I am now in a position to interface their philosophies in order to provide a

⁴⁵ However, Abbey (2000) points out that Taylor would accept the fact that technology can shape our purposes But she qualifies this by stating that "the difference is that, no matter what historical influences shape them, humans are the originators of purposes for themselves in a way that machines are not" (p63)

⁴⁶ For Taylor, only human agents can be moral beings on whom moral obligations can be placed An animal can take the place of a moral addressee and, thus, be given some moral standing, although it is not a moral agent

⁴⁷ For a picture-view of Taylor's philosophy of the person, see appendix C p236

context for an aesthetic presentation of the concept of person the recapturing of the concept of person in the context of meaningful reality

Although they approach the issue of meaning from different perspectives – Lonergan from the point of view of intentional analysis and Taylor from the point of view of agency and language - their work points to universal aspects from which a concept of person can be developed On the one hand, Lonergan places the access to reality mediated by meaning on the first three levels of intentional consciousness vis-avis experience, understanding, judging, as formulated by his cognitional theory. This is consciousness from the representative view, which enables us to form inner representation of objects On the other hand, when Lonergan speaks about reality constituted by meaning, he is speaking about the affective apprehension of values through feeling that is evaluated by the workings of the fourth level of intentional consciousness. This enables us to deliberate, choose and act morally. We have seen that Taylor uses the terms significance and import to describe this meaning that is constituted Thus, this is consciousness from the aspect of significance Taylor, like Lonergan, also acknowledges the central aspect that emotions have for agents when detecting an import in a situation. The language we employ to articulate and to interpret emotion, which in turn shapes this emotion and the agent experiencing it, constitutes the ımport

For Lonergan, the person is open to meaning, not only by way of immediate experience, not only by way of mediated meaning but also by way of meaning that is constituted. For Taylor, the person is open to meaning not only by way of prearticulated experience, not only by way of representative consciousness but also by way of the significance view of consciousness. Persons are not only interpreters of experiences, but by virtue of interpreting, they themselves become partly interpreted. As

⁴⁸ Taylor (1985a) states "We experience our pre-articulate emotion as perplexing, as raising a question And this is an experience that no non-language animal can have" (p74)

it has been stated, the person articulates what s/he feels by using words and expressions, and, yet at the same time, his/her language attempts to be loyal to those feelings. These articulations do not only interpret the emotion but partly constitute it as well. This articulation-cum-interpretation pours forth from the very being of the person.

From this aesthetic presentation of the concept of person – the concept of person in the context of reality mediated by meaning and constituted by significance – it can be said that the person is a self-interpreting animal immersed in meaningful reality. The person interacts with reality by constituting experiences and by being constituted by the same experiences. The person takes part in strong evaluation whereby s/he identifies the import of those experiences that have intrinsic worth by employing language of evaluative distinctions and standards that are unique to him/her including dignity, shame and guilt. Therefore, from the perspective of an aesthetic presentation of the concept of person, being a person is not grounded solely on the capacity to construct and intend reality as an object in the exercise of rational consciousness, but being a person is to be involved in reality that is meaningful. The concept of person is an interpretive reality (both mediated and constituted). It is not a value-free concept and cannot be analysed in a vacuum.

If the "first world" of immediate experience where "experience" equals "meaning" is only accepted, then it could be misleading to think that the person is only a biological entity that has various biochemical processes enabling it to function. If we believe that what is real is mediated via rational consciousness, then we could be given the wrong impression that it is this very capacity for the exercise of rational consciousness – that enables persons to mediate meaning – for example, which makes a person a person. In this view, the person is the sum of his/her parts, i.e. in possession of consciousness, a concept of self and a sense of time. However, if one accepts the first two worlds together with the capacity to constitute and be constituted by meaning, then

one can see that the person is not only engaged in acts of meaning but also in acts of constituting and being constituted by significance. Here, one can appreciate that the person is an agent who is open to particular significances, which are uniquely human, and which are self-constituting

Before moving on to provide a definition of the concept of person, I would like to add a further dimension to this aesthetic presentation. What is often forgotten is that persons are not only independent but they are also dependent and vulnerable beings. The Scottish philosopher Alasdair MacIntyre (1999) reminds us that it is to others that we owe our survival. This awareness of our dependency on others for survival is heightened when we are struck by illness and/or injury. Then we become dependent on others for protection and sustenance in a very real sense. In this case, we also become vulnerable because we are automatically placed at risk to others, who may choose not sustain and protect but to debilitate and harm us. ⁴⁹ Dependency can expose us to the risk of being harmed by others, especially if we cannot defend or protect ourselves.

Our dependency and vulnerability is most explicit in childhood and in old age (MacIntyre 1999 p1). Yet, in our contemporary fast-moving world, it is difficult to accept the conditions of dependency and vulnerability. Indeed, this is most clearly witnessed by the language that is employed to describe the condition of disability that symbolises the most intense forms of dependency and vulnerability. There is a tendency to use the language of "them" as opposed to "us" when speaking of disability (ibid p2). For MacIntyre, this kind of discourse demonstrates that those with disabilities belong to a class separate from us. We do not see disability as a reflection of ourselves when we were dependent and vulnerable as children or when we become dependent and vulnerable in old age (ibid). With this thought, MacIntyre reminds us that there are periods in our lives when we find ourselves to be extremely dependent and vulnerable

⁴⁹ Derek Sellman (2005) argues that "vulnerability is part of the human condition" (p3) Indeed, it is a "self-evident truth" (ibid)

and, thus, we are "disabled" in different ways and in different degrees (ibid p73) He writes, " there is a scale of disability on which we all find ourselves Disability is a matter of more or less, both in respect of degree of disability and in respect of the time periods in which we are disabled. And at different periods of our lives we find ourselves, often unpredictably, at very different points on that scale" (ibid.) For MacIntyre, human beings are dependent and vulnerable animals. However, it is this very dependency and vulnerability that we find hard to accept in present-day society.

3 5 2 A Definition of Person

From this aesthetic presentation of the concept of person, I am now in the position to outline what I think ought to be included in a definition of the concept of person For me, the person is a self-interpreting-dependent-vulnerable animal living within a reality that is mediated by meaning and constituted by significance Firstly, this implies that the person interprets his/her experiences and is shaped by those interpretations. This act of interpretation is rational because it is the result of the person's cognitional activity, which does not only seek to understand the experience but also judges whether the understanding is correct. For instance, when s/he experiences an emotion and understands it to be an experience of shame, s/he can rationally judge whether the feeling is justified or not Furthermore, s/he has the capacity to decide what ought to be done about this experience Secondly, the person is dependent S/he cannot rely totally on him/herself but needs others in order to survive. This dependency takes many forms and demonstrates the vulnerability of human reality From the beginning of life to the early young adult years, and even beyond it, the person is dependent on his/her parents or guardians. The person is dependent on others for work and income The person is dependent on the environment A Person needs water, food and oxygen in order to survive S/he shares this dependency on the environment with others. Thirdly,

the person lives within a world mediated by meaning. The person is a language animal Persons communicate through verbal language and other non-verbal linguistic symbols and signs. Finally, persons inhabit the world constituted by significance. Persons constitute experiences with significance. Through self-interpreting persons shape the significance of their lives and give meaningful shape to cultures, languages and religions.

My definition of person as a self-interpreting-dependent-vulnerable animal living within a reality that is mediated by meaning and constituted by significance could be understood as a working definition. The individual does not necessarily have to activate all aspects of the definition completely in order to be deemed to be a person. Indeed, some individuals may only display shades of the ascription at any given time. For example, there may be times when the individual is not engaged in self-interpreting but is still a dependent-vulnerable animal living within a reality that is mediated by meaning and constituted by significance. The importance of this will be further analysed and spelt out in the next chapter.

3 6 Conclusion - The Need for an Instructive Presentation

The Sufi "Parable of the Blind Born" urges us not to reduce reality to a number of parts. In the case of the elephant, it is neither the trunk nor the tail that makes the elephant. In a similar fashion, in the investigation of the concept of person, there is a risk of concentrating on certain traits and properties and calling that personhood. In light of this, I have argued for an aesthetic presentation, which does not restrict the concept of person to certain traits but situates it in the context of our access to meaningful reality. I have demonstrated that human reality is an interpreted reality. How we understand ourselves and our world is quintessential to our self-identity and, therefore, to our existence. Since this self-interpretation has an impact on our actions,

we cannot examine the concept of person from the impartial neutral standpoint of a spectator. This is the weakness of a mechanistic quest for absolute certainty freed from possible subjective miscalculations. Self-interpretation is an ongoing, never-ending activity on the part of the person. Even the changes in the concept of person – from the scholastic to the modern and contemporary views – demonstrate that the understanding of personhood does not take place in a vacuum. The way one talks about personhood constitutes the significance of personhood. An articulation implies an interpretation. The Sufi parable reminds us that the reality of meaning and significance cannot be fully grasped or broken down into various categories.

In chapter two the question was raised as to whether the contemporary concepts of person (as represented by Tooley, Singer and Engelhardt) reflect the static morality of a closed society or the dynamic morality of an open society. My concept of person as a self-interpreting-dependent-vulnerable animal living within a reality that is mediated by meaning and constituted by significance also faces the same question. Does my concept of person mirror the static morality of a closed society? Does my concept of person risk falling into the trap of Sufi blindness? Can the so-called non-persons or those on the peripheral of personhood (e.g. embryos, infants and PVS patients) be included in my concept of person? In the next chapter, I tackle those questions in the context of, what I describe as, an instructive presentation of the concept of person

CHAPTER FOUR

4. An Instructive Presentation of the Concept of Person

4 1 Introduction – The Little Prince & A "Grumpy Old Woman"

Antoine de Saint-Exupery's timeless story of *The Little Prince* demonstrates, among other things, how the world is seen from the eyes of a child and from the eyes of a grown-up. For instance, when he was a child he showed his drawing of a "boa constrictor" having swallowed an elephant to a grown-up. He was initially worned that the grown-up would be frightened by his picture. However, his fear was surprisingly relieved when the grown-up asked him why anyone should be frightened by his drawing of a hat (Saint-Exupery 1999 pp5-6)! When he tried a second time to improve on his sketch by drawing an elephant inside the "boa constrictor", the grown-up advised him to study more useful subjects of "consequence" such as geography, history, arithmetic and grammar and not to waste his time drawing pictures. As a child, Saint-Exupery operated out of a world mediated by meaning through pictures but grown-ups found it difficult to understand his world. It would seem that the grown-ups restricted their reality to the mediation of meaning via academic studies that have "consequences". As Saint-Exupéry explains

Grown-ups love figures When you tell them that you have made a new friend, they never ask you any questions about essential matters. They never say to you, 'What does his voice sound like? Does he collect butterflies?' Instead, they demand 'How old is he? How many brothers has he?' Only from these figures do they think they have learned anything about him (ibid pp15-16)

One of the stories Saint-Exupery recounts from his encounter with the Little Prince is about the time when the Prince met a fox and discovered the importance of "taming" The fox explains to the Little Prince that unless he, the fox, is tamed by the Little Prince, he will be just like all the other hundred of thousands of foxes in the

world In the same way, although the Little Prince has met plenty of roses on earth, his own rose, which stands upon his small planet, asteroid B-612, is still unique and precious to him. The fox helps him to understand that it is because of "taming" that this one rose causes him to be concerned for its welfare while he is away.

Addressing a bed of roses, the Little Prince says

But in herself alone she is more important than all the hundreds of you other roses because it is she that I have watered, because it is she that I have put under the glass globe, because it is she that I have sheltered behind the screen because it is she that I have listened to, when she grumbled, or boasted, or even sometimes when she said nothing Because she is *my* rose (ibid p68)

From this, the Little Prince shares with Saint-Exupéry the fox's secret about "taming" "It is only with the heart that one can see rightly, what is essential is invisible to the eye" (ibid) Furthermore, the Little Prince realises that "the thing that is important is the thing that is not seen—" (ibid p82). This is a reality that cannot be proven but can only be, to some extent, pointed to. It is a reality that is constituted by significance. Although, the rose has a particular significance for the Little Prince, the experience of "taming" (i.e. forming relationships and being constituted by them) is a universal experience.

The story of *The Little Prince* tells us that the reality constituted by significance, the reality of the aesthetic, seems invisible to the eye and can only be experienced by the heart. The following story of a "Grumpy Old Woman" also captures this idea, i.e. that the world constituted by significance – the heart of the aesthetic reality – is not always visible to the human eye

"What do you see, you nurses, what do you see?

What do you think when you look at me - a grumpy old woman who isn't very wise? An old woman who is unpredictable with a dreamy look. Who can't eat properly anymore and who doesn't answer if you say in a loud voice. 'Try it at least!' The one who doesn't seem to see what you do for her. Who is constantly losing a stocking or a shoe. Who allows you, without protesting, to do what you want to her, to bath, to feed – simply that the long day just passes by

Is this what you think when you see me?

Then open your eyes because you haven't looked properly I tell you who I am when I sit here so quietly, when I get up because you ask me to and when I eat because you want me to

I am a small girl of ten years of age with a father and mother, with brothers and sisters, who love each other I am a girl of sixteen dreaming of Prince Charming I am a young woman of twenty, a bride – my heart is beating loudly when I think back about the vows exchanged A mother at twenty-five when I have my own children who need me in order to have a happy home. At thirty I see my children growing up, they are warm-heartedly linked to each other

At forty, I see my sons leaving home but my husband makes sure that I am not sad At fifty, there are again small children around me, who I can enjoy with my beloved husband. But then it gets dark around me, my husband is dead and I shudder when I think about the future. And the young people live their own lives and I think back to the nice years and my love

Now I am an old woman Nature is cruel and gets its kick out of turning old people into fools. The body decays, grace and vitality disappear, where my heart used to beat there is a stone now. And yet a young girl keeps living in this old body and from time to time my strained heart begins to swell in my chest when I

think back to the joy and to the pain and when I love again and live my life once more All the years, way too little and way too fast, but I know very well that nothing is long lasting. So open your eyes, you nurses, and don't see a grumpy old woman, look properly – see ME!" (Lobbecke 1999 pp88-89)¹

4 2 Self-Interpreters & "Other-Focused" Interpreters

In the last chapter we have seen, from the perspective of an aesthetic presentation of the concept of person, that persons are self-interpreting animals immersed in a world mediated by meaning and constituted by significance. The act of self-mterpreting, which partly constitutes persons through language, attempts not to miss the meaning of an emotion "Verstehen is a Seinsmodus" ("Understanding is a mode of being") (Taylor 1985a p72) ² Language captures and partly constitutes the experience T S Eliot (1979) echoes this conviction when he writes

We had the experience but missed the meaning,

And approach to the meaning restores the experience (p34)

The above story of a "Grumpy Old Woman" does not only demonstrate that persons interpret the meaning of their lives but that they also inexorably interpret their immediate surroundings, the society in which they live and the people who closely encircle them In this sense, persons are not only self-interpreters but also "otherfocused" interpreters in a world mediated by meaning and constituted by significance The particular pointedness of this "other-focused" interpretation is exemplified when we encounter other persons. We automatically attempt to understand and interpret them in the light of our own experiences. We also evaluate the quality and moral direction of

¹ Translated and adapted by Alan J Kearns

² Translated by Alan J Kearns See chapter three p110

their lives Not only that we, too, are part of their "other-focused" interpretation. We become objects of external "other-focused" interpretations

The "grumpy old woman" provides a very personal interpretation of her life By recounting the important stepping-stones in her life she offers a justification of herself and a riposte to her inner interlocutors — who represent her nurses. She reveals how she is not a grumpy old woman but in fact a person with a veritable life story. Clearly, her interpretation should take precedent over the external "other-focused" interpretations afforded by family-members, nurses, doctors and the wider society. Although, her interpretation may not be completely accurate or unbiased from an objective perspective, it is still a significant narrative for her

The nurses, too, engage in an "other-focused" interpretation of the woman's life from several vistas, but chiefly from the viewpoint of professional health carers working within the social context of a hospital. I am sure if the nurses were given the opportunity to write their understanding of the lady's situation it would be quite different to her story. Possibly they would narrate other aspects including, for example, that she is one of many patients or clients in their ward and that they have various personnel, time and financial constraints. Perhaps, they would claim that the old woman has misinterpreted how they actually perceive her. As with the case of the old woman, their external "other-focused" interpretation might not be completely accurate or unbiased but would be significant all the same.

If we study once more the original understanding of the term "person" as a mask in terms of dramatic performance, it seems to be close to the activities of self-interpretation and "other-focused" interpretation. The mask of the "character" is not only interpreted by the actor when s/he takes on a role but is also interpreted by the spectators who watch the show. Normally, there is a conventional interpretation of the character. For instance, if an actor plays Hamlet, his interpretation of the part would not

generally include playing him with an American accent Nonetheless, alongside the established version, there is room for a wide range of interpretations from the actor, the director and the audience. In view of the fact that there can be numerous interpretations of a mask worn – or a character – the person's self-interpretation and "other-focused" interpretation could also fall into the trap of the "blind born" in the Sufi story ³ In light of this, are we left with the question as to whether our very blindness is rooted in our acts of interpretation? Although they might be blind interpretations, as I will show, they are significant all the same

4 3 The Definition of Person An Act of Blindness?

As it has been shown, the contemporary interpretations about what constitutes a person have led both to an expansion and a contraction of the moral realm. It has led to an expansion insofar as those who were erstwhile excluded – such as nonhuman animals – can now be included. It has led to a contraction insofar as those who were formerly included – human beings without self-consciousness and/or rational exercise of thought – can now be excluded. The descriptive account of the concept of person with its baroque properties has led to a prescriptive account of moral obligations. My definition of person as a self-interpreting-dependent-vulnerable animal living within a reality that is mediated by meaning and constituted by significance is an attempt to reduce the myopia of traits and properties that are culled for both metaphysical and moral personhood in the current discussion.

The question arises as to whether all aspects of this definition have to be actualised in order to be a person. Evidently, there are problems in asserting that we need to exercise all these aspects to achieve personhood.

-

³ The Sufi "Parable of the Blind Born" is described in chapter three p90

⁴ See chapter two pp70-82

⁵ A mind map of the definition is provided in the appendix D p242

Regarding the act of self-interpretation, it can be argued that there are times in a person's life when s/he is not actively engaged in self-interpretation. Many people seem to go through life without reflecting on their experiences and evaluating them and therefore doing exactly what Eliot (1979) rebuked Having the experience but missing the meaning (p34) Furthermore, there are also many times when people interpret their experiences and emotions incorrectly Perhaps, the "grumpy old woman" is in fact grumpy Nonetheless, acts of self-interpretation are rational although they may be misguided or simply incorrect. We cannot escape from the fact that we belong to the species Homo sapiens - even though this has no moral relevance for some philosophers ⁶ The *Homo sapiens* species is characterised by rationality, the exercise of which can take many forms For example, traditionally it was accepted that people's intelligences were fixed and that learning took place in sequential steps, i.e. from simple to complex forms of understanding. It is now accepted that learning does not only involve conscious receptivity of knowledge but also unconscious receptivity of the environment in which learning takes place The educationalist Howard Gardner (1993) argues that there is not merely one type of intelligence but that there is a multiplicity of intelligences Mathematical, linguistic, aesthetic, musical, bodily-kinesethetic, spatial, interpersonal and intrapersonal

Persons experience dependency and vulnerability in various degrees. It is clear that wars, ideologies, political and economic crises, environmental and ecological disasters plague the human reality and make people dependent on a defence force and vulnerable to attack

Persons live in a world mediated by meaning, which takes different forms

Persons are immersed in a world of meaning mediated through common sense,

literature, science, philosophy and so on However, there may be times when the person

⁶ See chapter two pp74-78

chooses to live in his/her own world or chooses not to accept the mediated world outside – sometimes this is not by choice, e.g. for those who suffer from intellectual and emotional disorders. There are people who can speak many languages and who have a more developed linguistic capacity than others in our society. But could it really be said that they have more personhood than others? There are those who cannot engage in verbal linguistic communication but who can still communicate with various forms of non-verbal linguistic means, for instance, through sign language

The person also lives in a world that is constituted by significance. S/he has certain significances towards which s/he naturally tends, although some might never be evaluated and constituted. For instance, how is it that those who commit terrorist attacks appear not to feel any kind of human remorse? There can be a number of reasons for this. They may feel they have done their work for a superior cause. Thus, although they have no feelings of remorse, they have feelings of pride in what they see as their heroic act of justice. As Taylor reminds us, we do not only interpret our emotions but we ethically evaluate them as well. Clearly, some persons are more attuned to this than others. So if we take the case of "normal" persons, there are various degrees of self-interpretation, dependency and vulnerability. If we apply the motto of the *Zellwald* (i.e., "all cells are the same and yet dissimilar!"), we can claim that all persons are the same and yet dissimilar because each person has his or her unique sense of how they live in a world that is mediated by meaning and is constituted by significance.

Even if I accept that there are variations in how people exercise all aspects of the definition of person, can I still escape completely from acting like the "blind born" Am I pointing to properties and traits of personhood like the "blind born" or am I just expanding more properties and traits? In other words, is my definition in danger of

⁷ For a description of the Zellwald see chapter three pp92-94

concentrating on one part of the elephant and forgetting about the whole elephant? This becomes all the more important when I apply the definition to groups on the periphery

Does an embryo fit into the concept of person as a self-interpreting-dependent-vulnerable animal living within a reality that is mediated by meaning and constituted by significance? On the level of immediate experience, the embryo is open to various biological and physiological processes. By the end of six weeks into pregnancy, the vital functions of the embryo are already in place. There are rudimentary eyes and ears, a brain, a beating heart, a bloodstream, a digestive system, a liver and kidneys (Kitzinger 1997 p69). Thus, it could be argued that the embryo is open to immediate experience on a biological level. Of course, it could be also contended that the embryo is also open to the immediate experience of the outside environment. For instance, when the mother talks to the life growing within her or plays music to it (see Deliege and Sloboda 1996, Hepper 1991).

The embryo starts out as a mass of cells belonging to the human species From the point of view of representative consciousness and from the world of facts, this collection of cells might not be deemed to be a person. On the level of reality mediated by meaning, the embryo is not engaged in mediation of meaning. Still, the later foetus becomes an intended object when we try to make sense of his/her stages of development.

The embryo does not display any signs of rationality in its early days. It has an ambiguous position because it belongs to the species *Homo sapiens*, which is generally defined by rationality. For some philosophers, this membership has some moral relevance (see Warnock 1987 p10)

The embryo is immersed in a world constituted by significance. Not only does the embryo have certain significances towards which it is inclined – if it successfully develops – but also the significance of its life is partly constituted and ethically

evaluated by the mother, father and health care people, for example ⁸ Although, it may not participate in self-interpretation and therefore in the constituting of meaning, it takes part in our reality of constituting significance. We can constitute the embryo's significance and the embryo can constitute ours

The embryo is certainly dependent on its mother for nutrition, hydration and other acts of nurture including biological and psychological ones. The embryo is also dependent on the expertise of the health care practitioner and on the social milieu for its protection In the IVF process, part of the significance of the embryo depends on whether it can be successfully implanted. However, it is debatable as to whether the embryo actually experiences this dependency in a subjective sense. The life of the embryo is vulnerable. Its life is prone to biological and genetic hazards including chromosomal abnormalities The embryo's stem cells could be used for research The embryo could be frozen or discarded However, it is questionable as to whether the embryo actually experiences vulnerability or whether it is a mere object of vulnerability According to Clarke and Driever (1983), vulnerability is "the subjective perspective of the individual "(p210, cited in Sellman 2005 p7) People are vulnerable when they perceive themselves to be vulnerable Following this line of thought, the embryo is not vulnerable because the embryo does not perceive itself to be vulnerable Sellman (2005) takes issue with the claim made by Clarke and Driever and argues that people can still be vulnerable without necessarily perceiving themselves to be vulnerable (p6) To take an example, the people who went to work in the World Trade Centre on the 11th of September 2001, did not perceive themselves to be vulnerable to any kind of terrorist attack Yet, in retrospect, they were objectively vulnerable to attack. Therefore, I think it

⁸ On a related front, MacIntyre (1999) maintains that parents of children who are severely disabled do not only affect the lives of the children but the children affect the lives of parents too. As well as that, through their never-ending work as parents, they provide a model of parenting, not only for other parents in similar situations but also for parents whose children are not disabled. As indicated by MacIntyre "the parents of children who are in fact severely disabled do of course sometimes need to be heroic. They have undertaken one of the most demanding kinds of work that there is But it is the parents of the seriously disabled who are the paradigms of good motherhood and fatherhood as such, who provide the model for and the key to the work of all parents" (p91)

can be reasonably claimed that the embryo can be vulnerable although it may not be aware of its own vulnerability

The embryo is immersed in a world of the mother and father, the world of the health care institution that is mediated by meaning. It depends on how they understand the "life" within the womb, its stage of development, i.e. is it a cluster or a blob of cells, is it at one stage of human life or is it a potential person? The embryo is not capable of communication, although many parents engage in some form of communication by talking, by playing music and by singing to the life within the womb (see Hepper 1991)

From the perspective of an aesthetic presentation, the embryo may be included in the concept of person because it has the potential to develop its latent capacity for self-interpretation, experiences of dependency and vulnerability and to participate more fully in the world mediated by meaning and constituted by significance

This, of course, points to the potentiality debate and occasions a discussion Daunting as it may be, the idea of an embryo having the potential to become a person or to develop its personhood merits the greatest attention. To take an example, Joel Feinberg (1984) puts forward a very persuasive argument against the potentiality line of reasoning. He begins by giving a provocative example.

In 1930, when he was six years old, Jimmy Carter didn't know it, but he was a potential president of the United States. That gave him no claim *then*, not even a very weak claim, to give commands to the U.S. Army and Navy Franklin D. Roosvelt in 1930 was only two years away from the presidency, so he was a potential president in a much stronger way (the potentiality was much less remote) than was young Jimmy Nevertheless he was not actually president, and he had no more of a claim to the prerogatives of the office than did Carter (pp147-148)

Applying this analogy logically to the case of an embryo, although it has the *potential* to become a person, it does not necessarily imply that it is a person and, therefore, ought to be morally treated as a person – although we might decide to morally treat it as if it were a person in the case of Engelhardt's social sense of person ⁹. However, as Engelhardt himself points out, if X is a potential Y, then logically put, it is clear that X is not yet a Y (Engelhardt 1996 p142). Therefore, we ought not to confuse the present state of the embryo with its potential future state. What Feinburg and others, including Engelhardt, emphasise is this hiatus between present and future states in the potentiality debate, which unduly furnishes the potential state of the embryo with the same value as the (actual) state of personhood. When we claim that the embryo is a person because it has the potential to be rational in the future, we blur the present with the future condition of the embryo and inappropriately displace the value of the future actuality (Engelhardt 1973/74 p228). Thus, if embryos are potential persons, it follows that they are not yet persons. Consequently, Engelhardt chooses to speak about the embryo as having a probability of developing into a person (Engelhardt 1996 p142).

On the reverse side of the com, there are schools of thought that claim that potentiality has more significance than probability. For Massimo Reichlin (1997), the very fact that an embryo actually has the potential to become a person has significance (p12). Using the work of Aristotle, Reichlin makes a distinction between active and passive potentiality. The former refers to the being's inherent capacity to autonomously develop itself, whereas the latter refers to the capacity to undergo modifications from external agents (ibid p4). An active potentiality signifies what is inherently active, whereas passive potentiality denotes what is dependent on external triggers. An embryo has an active potentiality to develop – given, of course, a benign environment – whereas the ovum and sperm have a passive potentiality. They need an external cause to bring

⁹ For an outline of Engelhardt's distinction between the social and strict sense of personhood, see chapter two pp78-81

about fertilization. In this way, the sperm and the ovum are not even potential embryos because they do not contain active potentiality, i.e. the potential to become an embryo is not an intrinsically active potentiality within the gametes (ibid p13)

This argument about active and passive potentiality has not managed to convince opponents of the potentiality dispute. For instance, Michael Lockwood (1988) argues that in so far as a fertilised human ovum in vitro has an active potential to develop into a person, so do the contents of the petri dish prior to fertilisation. If X has an active potentiality to become X, and Y has an active potentiality to become X, then it must follow that X also has an active potentiality to become X (p197). To put it simply, it can be claimed that the gametes have also an active potentiality and this is where the plausibility of the argument from potentiality breaks down. The apposite question we ought to ask ourselves, according to Lockwood, is whether there now exists any individual for whom the development of this embryo into a person would constitute a direct benefit (ibid. p200).

Reichlin would probably answer Lockwood's utilitarian question by claiming that the argument from potentiality can only be appreciated within the area of ontology, almost certainly Aristotelian. The potentiality of a being is concerned with the very ontological quality of that being, not with some empirical future state (Reichlin 1997 p11). Therefore, when the embryo develops into a foetus – and into a baby and so on – and acquires new capacities, it develops and completes the nature it already has possessed (ibid p12). However, Reichlin admits that even if we accept this argument, it does not necessarily imply that there ought to be no difference in the way we should

¹⁰ Following a similar line of thought, Singer and Wells (1984) argue that "everything that can be said about the potential of the embryo can also be said about the potential of the egg and sperm when separate but considered jointly" (p91)

Commenting on Lockwood, R M Hare (1988) argues that "The embryo still had the potential, and this potential, it might be argued, imposed on them a duty at least to consider the interest of the person whom they *could* bring into existence. It was in Lockwood's interest that they should implant the embryo that turned into him, although he did not at that time exist" (p217)

show moral respect to a fully developed human adult person and to a human embryo (1bid p23)

For some philosophers, the fly in the ointment of the potentiality debate is that every potentiality is an actuality *per se*. For instance, the person's potentiality to cross the road is itself an actuality that a flower does not possess (Joyce 1988 p202). A woman's potentiality to give birth to a baby is an actuality that a man does not have, although she may never become pregnant

These arguments have some merits when examined from a scientific perspective. The embryo has all the genetic information – the DNA – needed in order to become the person it will likely become, given the right environment. As Le Fanu (1999) puts it

The single-cell conceptus, immediately after fertilization, contains within its nucleus this trillion times miniaturised forty-three Webster volumes' worth of genetic information, which over the next few months will replicate itself billions of times. Somehow the genes 'know' how to instruct the individual cells, first, to form the basic structure of the foetus with a back and front, head and limbs, and then to instruct the cells to fulfil the specialized functions of a nerve or a muscle or a liver cell, and then to instruct the specialised cells to grow through childhood and adolescence to adulthood and, in this process, to link up and interact with each other to form the functioning organs of the brain, the heart and the liver (p279)

If we accept this premise in the form of a higher mathematical formula, it can be logically concluded that the answer is contained in the formula, although the working out of details has to be done. In this sense, the actuality is contained in the potentiality

or the potentiality is contained in the actuality. The potentiality argument is indeed beset with problems. Thus, the very least we can say is that the embryo has the potential to develop into a person, but the amount of moral worth that ought to be given to it cannot be settled easily. Following my definition of the concept of person as a self-interpreting-dependent-vulnerable animal living within a reality that is mediated by meaning and constituted by significance, an embryo has the potential to develop these capacities. The moral worth that will be given to the embryo will depend on our worlds of mediated meaning and constituted value.

Perhaps the next question to naturally arise is whether or not an infant is a selfinterpreting-dependent-vulnerable animal living within a reality that is mediated by meaning and constituted by significance Firstly, does the infant engage in selfinterpretation? If we return to the infant's first world of immediate experience, it could be claimed that his/her interpretation is his/her experience. The experience is the interpretation Still, the infant belongs to a greater range of external "other-focused" interpretations and evaluations made by his/her parents, grandparents and the extended family and community If we again follow Engelhardt, the infant is not a person in the strict sense of the word, but s/he could belong to the social sense of person. In view of this, it can be argued that because the infant belongs to our interpretation of what a person is, s/he can have, at least, a social standing as a person. But, as it has been said, the infant's self-interpretation is also his/her experience, so the infant is not just part of our mediated and constituted world of meaning but has an active role in the world of immediate experience, although the infant has not yet acquired the ability to differentiate meaning and experience through cognitional performance ¹² To be precise, although the infant has not yet developed his/her act of self-interpretation, it does not imply that s/he is not engaged, to some extent, with the world of meaning. It is clear that

¹² See chapter two pp66-67 for Lonergan's outline of cognitional structure and chapter three pp100-106 for the corresponding three worlds of meaning

at this stage in the development of a child they are like a "linguistic sponge" that can soak up words at accelerated rates day after day (see Chomsky 1988). It is a well-established fact that children learn languages quicker than adults. They have initial problems with grammatical structures of sentences, but clearly they already have the linguistic ability to develop their inherent linguistic capabilities.

Is the infant rational? The infant has not, as of yet, developed complete cognitional performance but this does not necessarily imply that s/he is not rational. His/her rationality is clearly developing. The same can be said about all normal human adults. Rationality is generally not stagnant but developmental.

The infant is certainly dependent on his/her parents, which make him/her vulnerable. The infant may not be aware of this dependency and vulnerability as an experience of dependency and vulnerability but s/he experiences both nonetheless. So we can claim that the infant has the potential to develop more as a self-interpreting-dependent-vulnerable animal living within a reality that is mediated by meaning and constituted by significance.

Does a patient in a persistent vegetative state (PVS) fit into the concept of person as a self-interpreting-dependent-vulnerable animal living within a reality that is mediated by meaning and constituted by significance? Apart from certain biological processes, it is debatable to what extent patients in a PVS are susceptible to immediate experience, although it has been reported that some do recover to partial awareness ¹³

Obviously, the PVS patient may not be deeply engaged in his or her life. On the level of reality mediated by meaning, the patient in a PVS is not engaged in the mediation of meaning. Still, they may become an intended object when we try to make sense of his/her condition and levels of awareness.

¹³ Keith Andrews (1993) points to a study of 30 patients in PVS. Five of them recovered awareness and two recovered to a level where they could not only communicate but read and write. He points out that "the first sign of awareness recorded was usually eye tracking. Some experts regard this as a reflex pattern, and it is therefore debatable whether this is a true sign of awareness. The more useful sign of responding to commands occurred between four and 12 months after brain damage" (p1599)

The patient in a PVS has lost the capacity to engage in self-interpretation. This may continue in the legal sense of a living will or an advance directive. There are some difficulties with this because there may be a change in the self-interpretation from the time s/he made the will to the time of the PVS. However, up to the point of the PVS, the patient's life has been marked by a number of self-understandings in the form of past history, dreams and aspirations.

The PVS patient is immersed in a world constituted by significance. Although, s/he may not actively participate in self-interpretation and therefore constituting meaning, s/he still takes part in our reality of constituting significance. We constitute their significance and they constitute ours. For instance, the health care practitioner's ethical response, in the form of care, can contribute to determining the significance of the lives of such PVS patients (although, health care professionals may never know the full extent of this). PVS patients, in turn, can also affect the significance of the health care worker's life to some extent.

The PVS patient is also the object of numerous external "other-focused" interpretations and evaluations, which still continue long after his/her self-interpretation/evaluation has ceased. Like with the story of the "grumpy old woman" we are reminded to see the "ME" in the patient in a PVS. But is there any "ME" left? This is not particularly clear to us (see Andrews 1993).

¹⁴ The ethical quandary that emerges from this is whether the patient X^1 at time Y has the same desires as patient X^2 at time Z^2 In other words, will the person have the same desires when they are no longer rational and conscious? In this case, although they made their advance directives when they were fully competent and autonomous, at the time that the advance directive should come into play, they may have different wishes and desires. In this way, although they are treated as autonomous individuals in lieu of the advance directive, if we follow their directives their own past act of autonomy might interfere with their present desire

On the flip side of the coin, if doctors decide to forego the patient's wishes as expressed in the advance directive, they will clearly be violating the autonomy of patient X^1 at time Y but not necessarily patient X^2 at time Z. In fact, they may be honouring the patient X^2 new wishes. Take the case of a person who writes a living will stating that if she becomes mentally incapacitated, then her life should be terminated because she thinks her life will be without dignity. Let us suppose that she develops Alzheimer's. Now that she is in that condition, she cannot comprehend why she once held such a view or why she issued an advanced directive (Davis 2002 p132). In this example, there is a gap between patient X^1 and patient X^2

¹⁵ An experience acknowledged by Susan S Phillips and Patricia Benner (1994 pix)

As it has been observed, the person interacts with reality, articulating and interpreting it and thereby constituting meaning through various language-symbols Language, in turn, shapes the significance of what the person experiences I think a similar argument can be made if we study how terms such as "human being" and "person" are used when making difficult ethical decisions in health care. Although, there is a philosophical distinction, among others, between person and human being, such terminology in speech acts can affect the significance of a patient's (or a potential patient's) life, from the perspective of their relatives and from the perspective of the hospital staff. So, the feeling of compassion for a patient in a PVS, for instance, provides access to the import, to use Taylor's word, of the situation, e.g. suffering. This, in turn, may lay a moral claim on us to respond by providing appropriate care However, when we begin to articulate this experience and use terms such as human being and person in contraposition to each other, then our feelings begin to change and to take on a new meaning. The moral demand of the situation therefore changes. For instance, with the statement "people in PVS are no longer persons", we may no longer experience the import of a person in need but experience someone who has less of a moral standing and less of a moral call on us 16 This could lead to a closed society's approach in health care by excluding those who are not deemed to possess moral standing, i e those who are not persons

However, the objection could be raised that PVS patients are no different to objects, which have particular significances for us For example, my piano is clearly not engaged in self-interpretation but is still precious to me. Therefore, what is the difference between the piano and the PVS patient since both can be objects of our interpretations? A possible answer could be - if we go back to Taylor's thought - that

¹⁶ Patricia Benner (1994) believes that living in a meaningful world is the ground for perceptions and provides concerns and direction for persons. She writes "caring means that people, interpersonal concerns and things matter. Caring shapes language and makes questions and issues visible for public debate" (p44).

because the PVS patient is a human being, s/he has strong original significances that are ontologically – and therefore qualitatively – different to a piano or any object or any animal, although s/he can no longer interpret such significances or (partly) re-define him/herself in relation to those significances. As Taylor (1985c) argues, "consciousness in the characteristically human form can be seen as what we attain when we come to formulate the significance of things for us. But things matter to us prior to this formulation. So original purpose can not be confused with consciousness" (p100). Although, it might appear that Taylor is jettisoning the essential work of consciousness by arguing that significance is somehow ontologically prior, he accepts that it is consciousness which enables us to be open at a deeper level to human significances and to constitute them (ibid pp104-105).

There can be no doubt that the patient in a PVS is heavily dependent on his/her family, friends and on nurses and doctors. Furthermore, his/her reality has become extremely vulnerable to the economic demands of the market place – especially if there is a scarcity of hospital beds. His/her bed could be used more "productively" for other patients who have a better chance of recovery. Thus, the significance of his/her condition is partly constituted and evaluated by his/her family and by the health care community. Like in the case of the embryo, the experience of vulnerability and dependency may be more objective than subjective

If we turn our attention to the animal world, we might ask ourselves whether a chimpanzee is a *self-interpreting-dependent-vulnerable animal living within a reality that is mediated by meaning and constituted by significance?* On the face of it, one could conceivably argue that some animals – such as chimpanzees – do qualify under this definition. For instance, the higher apes seem to take part in some form of self-interpretation. They express signs of rationality. They have some form of linguistic

¹⁷ See Singer (1994) example of a community of chimpanzees living in Arnhem Zoo, near Amsterdam (pp159-161)

communication They are dependent and they are at times — even more so than humans — vulnerable to research and experimentation They take part in a world of mediated meaning — in so far as we understand the animal world — and are constituted by significance the significance that they have for us, for example Then again, we have to ask ourselves whether animals constitute their own significances in self-interpretation?

Following Taylor, it is only humans who have this ability because they can use various standards including "shame," "dignity," "moral obligation," etc 18 One major problem is the difficulty of accessing the animal world that is mediated by meaning and constituted by significance. At least it can be claimed that their world is constituted by the significance of instinctual survival Furthermore, Wolfgang Kohler's (1931) study of chimpanzees shows that animals demonstrate diverse and wide-ranging expressions similar to that of human beings, for instance, rage, terror, despair, grief, desire, playfulness and pleasure (pp305-306) Still, it is disputed how much chimpanzees really understand these expressions and emotions 19 Nevertheless, one could also argue that some animals, in general, take part in our "other-focused" interpretation and evaluation People talk to their pets and talk about them For some, their animals have a moral worth that in some way belongs to what Engelhardt understands as the social sense of person Yet, generally we tend not to call animals "persons" - not even in the social sense But some people's feelings towards animals are not altogether different from their feelings towards human beings who are not strictly persons either, following the criteria of Tooley, Singer and Engelhardt What I mean by this is that, normally, we would not be inclined to hurt a baby or promote infanticide Why? What moral claim does a baby have over us? We might find it difficult to understand this question because of our moral sensibilities. When pressed, we might claim that although the baby is not

¹⁸ See chapter three p108

¹⁹ Augros and Stanciu (1988) contend that "it is one thing to recognize that an animal hears, sees, remembers, imagines, and has emotions, another to understand *what* it sees, what its perceptual world is like The theoretical capacity of the sense organs themselves does not define an animal's world, but rather the interpretation of perceptions by the animal on the basis of instinct and previous experience" (p57)

fully a person, s/he still experiences sentience, so s/he should not have to experience pain Likewise, why should we not torture cats? Clearly, it could be argued that it is also a subject of sentience, although not a person, and therefore, in normal circumstances, it would go against our moral sensibilities to torture it. Of course, on the other side of the ledger, some people like Singer believe that the higher animals have the necessary characteristics to qualify as persons in the strict sense of the word.

I think that animals have an ambiguous position. They do not fully meet the criteria of person from the perspective of my definition but they do have a role as "persons" for some people in their world constituted by significance. For example, from my experience, if you ask nurses whether animals are persons, many will probably say no, but they will talk about their pets as if they were persons. However, some would argue that the same could be said for embryos, infants and patients in a PVS. They are not persons but we still talk about them as if they were — but we just would not call them "persons"

Or would we? From examining whether the above groups fit my concept of person, it would appear that my definition is in danger of becoming another blind member of the importunate commentary on personhood Perhaps I have inadvertently left the aesthetic world and have entered the world of facts

44 Towards an Instructive Presentation

441 Escaping from Blindness – Simple Acts and Complex Structures

There is a need to understand the significance of being a person inhabiting a world of immediacy, a world mediated by meaning and constituted by significance, in order to calm such questions about who qualifies as a person and to begin to escape from acting like the "born blind" I find that Bergson's philosophy provides an instructive tool for helping to grasp this aesthetic presentation of person in the face of

blindness His magnum opus, *Creative Evolution* (1998), presents a vibrant and deeply philosophical interpretation of evolution that reaches its acme in a metaphysical vision. His work is chiefly concerned with demolishing certain aspects of Darwinian, neo-Lamarckian and Spencerian theories of evolution ²⁰ It is, however, Bergson's explanation of simple acts and complex structures that is helpful for this specific part of the study I find his example of the eye particularly instructive

There are two striking aspects to the working of the human eye. Its complexity in terms of structure and its simplicity in terms of function. On the one hand, the organ is infinitively complex. The eye consists of various interrelated complex parts including the sclerotic, the comea and the retina (Bergson 1998 p88). Each element has its own particular intricacy and task. On the other hand, the very act of seeing is one simple and undivided act. We just open our eyes and see. In spite of this, if there was a sudden variation in any one part of the complexity of the eye, it would not be capable of functioning properly as a whole. Therefore, if there is a change in any part of the structure of the eye it must be accompanied by the appropriate changes in the rest of the structure.

A mechanistic explanation of the eye will give details of the precise workings of each of its parts, but it will be unable to explain how all the components work together in one unified and straightforward act of vision ²¹ This simplicity of vision belongs to the eye itself, whereas the mechanistic complexity of the eye belongs to our understanding of the inner working of the eye Although we can use concepts and language-symbols to explain its internal structure, we cannot intellectually penetrate the simple act of seeing and therefore we must treat it cautiously. The act of opening our

²⁰ Bergson's (1998) masterpiece work on evolution is far too vast for me to summarise in any comprehensive way here without doing a grave injustice to it. One thing to note is that Darwin argues that it is the accidental variations of species that makes them compete with one another for the survival of the fittest. For Bergson, what lies behind these variations towards higher levels of complications is an *elan vital* (vital impulse). He says that "this impetus, sustained right along the lines of evolution among which it gets divided, is the fundamental cause of variations, at least of those that are regularly passed on, that accumulate and create new species (p87)

²¹ I analysis the mechanistic approach in general in chapter three pp92-99

eyes and seeing is experienced by us as one simple and indivisible action. It is only when this action is scrutinised from the standpoint of an impartial observer that it appears extremely complex. This is where, what Bergson calls, the mechanistic and finalistic theories break down. Mechanism looks at the mechanics that set the eye in motion and finalism looks at the goal of the mechanics, i.e. the production of sight. Both are incapable of explaining how the act of seeing belongs to the reality of the eye, or how this simple act of vision defines what the eye is (ibid. pp90-91). As it has been pointed out in chapter three, mechanism attempts to achieve objectively neutral knowledge from an independent standpoint, which goes against the grain of current quantum mechanics. As Physicist John Wheeler (1977) observes "what philosophy suggested in times past, the central feature of quantum mechanics tells us today with impressive force. In some strange sense this is a participatory universe" rather than a mechanistic universe (pp5-6).

The act of vision is more than just the mutual coordination of the component cells of the eye. If we asked someone what it was like to see and s/he told us about the inner workings of the eye, we would feel a little short-changed. In other words, no matter how you explain the mechanism of the eye, it can never be a substitute for the experience of seeing.

Such simple acts and complex mechanisms can also be applied to human consciousness. When we become conscious of ourselves, do we experience consciousness as being one or manifold? For instance, when we sit still we find an array of various voices and concerns arising in our consciousness, especially about things we have put on the "long finger". When we attempt to answer all voices and concerns we find that, at best, we can only deal with one thing at a time. We are, therefore, " a unity that is multiple and a multiplicity that is one." (Bergson 1998 p258). Yet, unity and multiplicity are categories that we use to understand the inner complexity of

consciousness, but consciousness itself is one simple act, which cannot be captured by categories "It is true that no image can reproduce exactly the original feeling I have of the flow of my own conscious life" (Bergson 1999 p27) ²² Lonergan's cognitional analysis demonstrates that, within human consciousness, dynamic interrelated operations are at work in the knowing process. Human consciousness consists of a set of interrelated intentional operations, which include experiencing, understanding and judging. However, we are not normally aware of such intentional operations. Indeed, Lonergan's *Insight* (1978) is an invitation to resolve various mathematical problems in order to attain self-appropriation, i.e. to become aware of the different operations in human consciousness

4 4 2 Intellectual Sympathy

The tendency to employ mechanistic categories to vision or to consciousness is, according to Bergson (1998), due to the fact that we use the "manufacturing" as opposed to "organizational" methods to explain composite structures behind simple actions (p92). The manufacturing model creates complexity where there is simplicity, whereas to organise is to move from the simple to the complex. This simple and complex approach to the phenomenon that surrounds us is the progeny of two chief directions in consciousness. The intellect and intuition. The heart of the distinction between intellect and intuition is made explicit in Bergson's *An Introduction to Metaphysics* (1999). Under the auspices of the intellectual way of knowing we approach objects from an external perspective and we utilise language-symbols in order to articulate our findings, as we have witnessed with the mechanistic account of the eye. The intellect complicates, however, what is simple (ibid p24). The knowledge ascertained is relative in the sense that it depends on the point of view of the observer

Luhmann captures a similar thought when he claims that the world we perceive is "verletzt" ("wounded") by distinctions (Luhmann 1992 pp119-137, cited in Rossbach 1996 p249)

and on the language-symbols used to articulate his or her observations. The intuitive way of knowing approaches objects by way of engaging with them. We "enter into" the object and we identify ourselves with it by a kind of "intellectual sympathy" (ibid pp23-24). This intellectual sympathy is, what Bergson calls, intuition. The purely intellectual way is the method of science, whereas the intuitive way is the method of metaphysics, according to Bergson.

For the purpose of this work I will refrain, as far as possible, from using the term "intuition" and instead use "intellectual sympathy" because of the philosophical baggage attached to intuitionsm in the history of twentieth century ethical discourse ²³ Intellectual sympathy is an act or rather a series of acts of direct participation in the immediacy of experience (ibid p12). It yields cognition of reality that is different to concepts derived from the intellect. The reality experienced by intellectual sympathy does not fit nicely into intellectual concepts. Concepts are the result of "the scientific study of the object in its relations to other objects", whereas intellectual sympathy is the "metaphysical investigation of what is essential and unique in the object" (ibid pp28-29). Therefore, we need other circumlocutory symbols to express what is unique and essential to each object (ibid p28). For that reason, Bergson is in favour of using "fluid representations" together with metaphors (ibid p30).

Intellectual sympathy provides a passport into the original experience. It fathoms the inner nature of living reality. By comparison, the intellect tends to falsify the living reality by translating it into static concepts. An analysis of living reality is a "translation" A representation of reality from various successive points of view that is developed into concepts and language-symbols. Concepts abstract and generalise. They represent a specific property of the object. This representation helps us to compare the

²³ The word "intuitionism" is often associated with the work of GE Moore, HA Prichard, WD Ross and H Sidgwick In general, the intuitionists argue that moral claims have simple properties that cannot be defined Intuitionism argues that a) "good" is indefinable, b) there are, however, objective moral truths, and c) such moral truths are self-evident to the mind See Mary Warnock's (1966) discussion about multionism Bergson (2002) himself, also had some hesitation using the word "intuition" (p30)

object with similar properties of other objects. For instance, when we analyse an object, we can compare our new concept of that object with old concepts we already possess for other objects (ibid p24). In this way, an analysis complicates what is simple in reality. It infinitively multiplies the number of perspectives from which to examine an object. In spite of this, the concepts that are used in analysis retain part of the reality of the object examined. The common properties analysed are shared by other objects, which helps us to illuminate what is unknown by comparison with the already known. When we compare concepts with other concepts, we point towards what is shared between the objects. Consequently, we could easily become convinced that by setting concepts beside concepts we can reconstruct the whole of the object with its parts. For example, we might think that if we can place the concepts of the various aspects of an elephant side-by-side we will get a perfect representation of an elephant. Yet we have not the faintest idea what it feels like to be an elephant, which is, to the elephant, a simple act

Once it is abstracted from the originating object, the concept can transcend the object and it can begin to include other objects that have similar properties. But, as Bergson claims "the different concepts that we form of the properties of a thing miscribe round it so many circles, each much too large and none of them fitting it exactly" (ibid p29). So when we analyse the word "person", we abstract certain properties from it and generalise them into a concept of person. The new circle(s) of the concept of person increase(s) and begin(s) to include many other life forms—such as animals—or many other properties such as rationality but none of them seems to fit exactly. As Bergson notes "A representation taken from a certain point of view, a translation made with certain symbols, will always remain imperfect in comparison with the object of which a view has been taken, or which the symbols seek to express—the original and not its translation, is perfect, by being perfectly what it is" (ibid p23). The

object's inner nature can only be reached through intellectual sympathy, everything else falls within the scope of analysis. For Bergson, the illusory nature of this kind of intellectual analysis arises from its inability to capture what is unique to each living object.

Intellectual sympathy reminds us of the fact that we cannot get out of our skins. We are not impartial spectators, as a mechanistic view of the world would hold. Bergson gives the example of an artist's impression of the city of Paris, to illustrate his line of reasoning (ibid pp32-33). An artist can attempt to capture an experience of this effervescent city by an external and schematic representation. Accordingly, we can have an infinite number of representations of Paris because the experience is capable of crystallizing into many representations. Still, we can never move from this representation to the initial pulsating experience that the artist had of the Parisian Latin Quarters. In other words, the painting is no substitute for the vital experience. Although, we can move from our own personal experience of Paris to a painting, we cannot move from a painting to an experience of Paris. We can only move from intellectual sympathy to analysis, but not vice versa to capture the originating experience. Conceptual analysis seeks the very heart of the experience of Paris, but by translating it into concepts, we move away from that very experience.

4 4.3 The Power of Concepts?

The latter part of the twentieth century is celebrated for the rapid transition from the industrial age to the knowledge age (see Cardwell 1994). In this knowledge era there are " no limits to the numbers of ideas we can generate, and the ways we can weave them together into not only products and services, but visions of the possible" (Savage 1999 p215). We seek knowledge for particular ends. The discipline of philosophy gives us the intellectual apparatus to critically examine and reflect on life, death and ethical

issues. In some intellectual circles, this is not done for the sake of love of wisdom but for the sake of a practical goal. In the circle of health care, Edwards (2001) admits that most nurses who become interested in philosophy do so in the hope that there will be some eventual benefit for nursing practice (p18). Perhaps that is why concept analysis seems more practical and goal-orientated than intellectual sympathy. As Bergson (1999) comments "To try to fit a concept on an object is simply to ask what we can do with the object, and what it can do for us" (p39). Possibly, this is one of the reasons for the ebullience and ubiquity of concept analysis in nursing. However, this has faced some critical inspection in recent years by philosophers working within the health care sector. John Paley (1996), for instance, is especially critical of analysing concepts in anticipation of theories. For him, this places the cart before the horse (p572)

For Paley, the work of concept clarification is to elucidate the meaning of a word in an attempt to say something interesting about the word (ibid.) Then again, the preciosity of concept clarification is foredoomed because when we etch away at concepts through analysis, we discover that they have interminable meanings. This testifies that we can never achieve an unambiguous meaning of a term (ibid.) Paley makes the argument that the meaning of a word is made specific when it becomes part of a specific theory. Theories determine the meaning of a term (ibid. p577). A word that means one thing in the context of theory. A can mean something different in the context of theory. B, and the difference can be more or less subtle. Theories are word-structures, and the place assigned to any word within the structure is that which gives the word its meaning. Concept analysis, in nursing, leaps into the turmoil of the interminability of concepts, without consideration of theory. The lurking entrapment of murky concepts blocks our thinking. According to Paley, it is wrong to claim that concepts are the "building blocks" from which theories can be assembled. Concepts are not like bricks, they are rather like niches. They are lacunas within theory. The only way to clarify a

concept is to explicitly adopt a theory that determines what its niche will be (ibid) The prerequisite for concept analysis, in order to put off the shackles of ambiguity, is therefore theory. If we pepper concepts with theories we will get out of the chaos – at least for a while. A stepwise approach is to begin first with theory, because we can only ratify our concepts within theory.

Paley gives the example of the nurse "expert" and argues that the concept of "expert" is less ambiguous within Benner's theory of nursing (see Benner 1984) But what about the concept of "good" Do we have to place this into some theory before we can brush off any ambiguity? Can the concept of "person" be understood outside a theory of person? Does Paley make theory a sort of aviary for concepts? The epiphenomenon of Paley's depiction of the interface between concept and theory for ethics is the diminished task of metaethics ²⁵ I do not think it is necessary to have a diremption between theory and concepts But, are concepts so paralysed without theory?

If we return to Bergson, the question arises as to whether Paley (and metaethics) does go far enough According to Gallagher's (1970) analysis of Bergson, the "knowledge through concepts is always a knowledge of the *already-made*, whereas intuition [intellectual sympathy], being a direct contact with, or vision of, the inner flow of things, is a knowledge of the *being-made*" (p35) Concepts are like a net that attempts to capture living reality primarily in order to utilise that reality and not necessarily to attain internal (metaphysical) knowledge of it

The question arises as to whether the artist's representation of Paris can evoke the original moment when a person entered the primary, vivacious, experience of Paris Is it not possible for some representations to be more efficacious than others, i.e. can some representations enable the person to enter into the creative impulse of the

²⁴ Paley (1996) believes that there can be no conceptual clarification without theoretical commitment (p577)

In general, metaethics is understood as the study of ethical concepts, either from an epistemological or a metaphysical perspective (Deigh 1995 p247)

engendering experience? Certainly, a plain map of Paris will not, but what about Monet's depiction of Paris? Bergson does not draw the line between the affectivity of one representation compared to another But, clearly some representations are better than others at resurrecting the novel impulse of the original experience. If we take the example of Ruth Baja Williams' (2001) autobiographical novel Detour Berlin, it seems to capture the vital current of Berlin much more than an ordinance survey map could ever do If we then spend some time in Berlin, the creative current passed on by Williams to us via Detour Berlin might be confirmed. Although we cannot return to Williams' original creative emotion, there is a residue of it in her account of the city But this may not always be the case Clearly a map of Germany will not be able to communicate the various vital aspects of German culture and life in the same way as a novel But, after having spent some time there, when I look at a map of Germany it can spark my memory and I can re-experience many fond memories. This is because I bring my intuitive memory to the map Then again, with a certain amount of research I can learn about the majestic Zugspitze, Germany's highest mountain, by gleaning as much information as I possibly can But it will never capture the personal witness of the mountain's Olympian splendour and its cornucopia of views of the Bavarian Alps The overflowing nature of the originating experience of the mountain is pulled down by the inert, common coinage, of the written word in the world mediated by meaning Some metaphors and images of the mountain may provide an aperture to the richness of the experience while cliche words will disarm it by desiccating the experience

Nevertheless, we live in the world of matter, of meaning that is mediated. We live in the world and not out of it. Therefore, Bergson concedes that concepts will have to be employed in the communication of knowledge. In short, we possess the faculty of intellectual sympathy but we must live productively in the world and for that reason the utility of the intellect has more of a standing in a world of mediated meaning.

Bergson (2002) admits that comparisons and metaphors are more helpful than abstract concepts because they tend to suggest what cannot be expressed (pp118-120). As he earlier maintains, "many diverse images, borrowed from very different orders of things, may, by the convergence of their action, direct consciousness to the precise point where there is a certain intuition to be seized" (Bergson 1999 pp27-28). This is because experience is like a flowing river. The current of the experience can pass from the source through many tributaries to our parallel river. But the river moves on Therefore, Williams' depiction of Berlin is an experience that has long moved on So, although, my river may connect with her stream through the tributary of a personal story, the intuitive experience that I grasp will not be the pristine original. Yet, it might relight some of the spark from the still warm ashes of the experience.

For instance, if I look at the picture of the man with a dog collar in the Abu Ghraib prison in Iraq, I can enter into the experience of shock and indignation (see Wikipedia 2005) In this case, it can be an occasion where I enter into the flowing stream of the experience But the originating experience has long passed away. The man and the woman in the picture have moved on and changed. The picture is more affective than abstract concepts, it can still instigate a response, yet it is not as perfect as the engendering life experience.

The human intellect represents the ever-changing reality in a set of abstract and static concepts, which can be controlled and influenced. The intellect finds itself at home with what is static Paradoxically, it will seek to represent the living of the flowing reality in abstract concepts that, in turn, will demobilise the experience of that very reality. The intellect abstracts stability and regularity from what is unstable and irregular and gives order to the stream of reality. The ever-recurring novelty of reality is a perturbation to the order of the intellect. In order to compensate for this upset, the

²⁶ As Bergson (1986) poetically describes "But let us stir the ashes, we shall find some of them still warm, and at length the sparks will kindle into flame, the fire may blaze up again" (p50)

intellect seeks to understand what is new by comparing it to what is old. We place old concepts onto new experiences. I communicate my experience of the *Zugspitze* by using ready-made concepts, which are convenient for me. Nonetheless, it can be frustrating because the old concepts cannot cope with what is a novel experience. If I was a poet or an artist, I could escape from my frustration by writing or by painting. But, I do not possess these skills. I can only use concepts or music. Now, clearly a piece of music will capture the flow of the experience of the *Zugspitze* more profoundly than the concept of its height – 2963 meters. As Bergson (2000) writes "reduced to this form, bottled as it were the moment it comes from the spring, the original intuition will then become superlatively insipid and uninteresting. It will be banal in the extreme" (p120)

If we follow this line of reasoning, we can begin to understand why the "blind born" are blind. The intellect segregates and detaches elements of reality and narrows our lenses so that we can concentrate on what is of interest to us "we put on blinders, that we look neither to the right, nor to the left nor behind us, but straight ahead in the direction we have to go" (ibid p137) 27 But, the artist and the poet seem to be able to penetrate reality and thereby see more than those who only deal in concepts. Although they appear to live "less" in reality compared to the practical person who deals in concepts, they tend to see "more" of this flowing reality. For Bergson, the job of the philosopher is to capture this reality that is debarred from our functional vista. Therefore, philosophers try to do what the artists and poets do What would happen if we placed a philosopher or an artist amongst the "blind born" Could they grasp what the elephant really is?

²⁷ According to Rossbach (1996), when attempting to remove a blind spot, another blind spot can inadvertently be created (pp250-251)

4 4 4 The "Current"

Compared to intellectual analysis, intellectual sympathy helps us to grasp the immediacy of the experience "There is a reality that is external and yet given immediately to the mind" (Bergson 1999 p49). Bergson admits that intellectual sympathy does violence to our usual way of thinking. We have to reverse the direction of the way we habitually think. This does not imply that we discard the world mediated by meaning – we need it. In order to penetrate reality through intellectual sympathy we need to have confidence in the world mediated by meaning. In this way, intellectual sympathy may not negate the nebulosity of personhood but it may provide a portal into an inclusive concept of person even if it remains a partially opened door

If we apply the same apparatus of understanding the eye to an understanding of the person, we observe that there is also a complexity to the inner workings of the person. As we have seen, this complexity is set out by various definitions and properties. But the act of being a person is simple. Persons are persons. So, in order to reach an aesthetic presentation of the person, we need to focus on the simple act of personhood through intellectual sympathy rather than through intellectual analysis, which can miss the forest for the trees.

The incarnate meaning of a person – in the sense of the articulated and written meaning of a person's life – can be understood by concepts and language-symbols in the world mediated by meaning and constituted by significance. Nevertheless, really "knowing" a particular person can only be obtained by experiencing that person through intellectual sympathy in the world of immediate experience. This is the living meaning that resides in each person. It is true that in everyday life, we know what persons are. As Howsepian (2000) maintains, what could be more familiar to us than persons (p15)? It is almost like there is a deep-seated "current" between persons. We know what persons are because our "current" reacts to the "charges" of the other person and therefore we

can acknowledge the "current" of the other person. As maintained by Augros and Stanciu (1988) " we ourselves are the key to understanding life and living things" (p83). We, as persons, are the key to understanding other persons. Perhaps this is because of the "current" that reacts to our "charges" can be experienced with intellectual sympathy. Of course, as soon as I begin to conceptualise it with the words "current" and "intellectual sympathy", I lose the engendering experience and begin to hypothesise with concepts.

With intellectual sympathy, there is a return to the world of immediate experience, where reality is not intended as an object but is simply "meant". Through intellectual sympathy, we can "connect" with another person and grasp the significance of a living person. We can have an immediate experience of persons in the world constituted by significance. It is an experience that can be entered into and apprehended by intellectual sympathy We call them "persons" in our world of significance In the world of mediated meaning we attempt to express the significance of persons. As soon as we grasp their significance we use language-symbols to articulate their significance for us, thereby their significance is partly constituted by our language. Thus, in order to communicate the significance of personhood we articulate it and make it meaningful in the world mediated by meaning through the concept of person. From this it can sweep into our world of immediate immediacy. For instance, depending on the languagesymbols available at the time and how they partly constitute the experience, they can gradually impinge on the original "current" in the immediate experience. Therefore, it can be argued that the various concepts of person, for example, have a constituting role in the moral life. They constitute a particular meaning of what it is to be a person. If we follow Lonergan's thought, it could be contended that this meaning permeates from the fourth level (1 e deliberating and choosing value) down to the other various levels (1 e judging, understanding and experiencing) It takes on a constituting role in our acts of moral deliberation, whereby we decide how persons and non-persons alike ought to be morally valued and treated. It affects our judgment, whereby we judge certain people to be persons. It shapes our understanding, whereby we understand certain properties to be essential to personhood Finally, it attempts to shape our experience of what is a person and what is not Thus, the concept of person has a constituting role Changes in the meaning of this concept can have an affect on how we treat persons and non-persons Therefore, we begin to use the counter language-symbol of "non-person" to distinguish those who do not belong to the original "current" In this world we can articulate the significance or non-significance of non-persons. In time, this can permeate the original current and so we now only connect with certain beings that are deemed to be "persons"

Language partly shapes the significance of the experience, as we have seen in the last chapter ²⁸ There are words that have more significance for us than others For instance, the word "dignity" generally has more significance than the word "gear stick"²⁹, and yet it is more difficult to define and pin down what we mean by dignity compared to what we mean by gear stick Dignity is more "fluid" than gear stick Nonetheless, in the world of immediacy, the dignity of the person is something that we can recognise without having to articulate it first. It is part of the "current" that connects us with others Of course, this "current" can be blocked by prejudices and ideologies in the context of the closed society because the closed society also inhabits the world mediated by meaning and constituted by significance Yet, dignity is nearer to our intuitive sense although we find it difficult to intellectualise it with concepts, whereas gear stick is further from our intuitive sense, although we find it easier to intellectualise it with concepts. As this demonstrates, the world of mediated meaning is more complex than the world of immediacy

See chapter three pp108-111
 Although it could be maintained that a gear stick has much more significance for the motorist

4 4 5 Intellectual Sympathy and the Closed & Open Societies

If we apply the above framework to the closed and open societies, it can be argued that the closed society, spurred on by the static morality, will decide who is to be deemed a person and how they are to be morally treated. The closed society will use language-symbols in the world mediated by meaning to outline who belongs to the social pale and who does not. On the level of immediate experience, the "current" between persons will be confined to members of the social group in the closed society. So intellectual sympathy can be refined according to the needs of the closed society. This experience can then permeate the various levels in cognitional consciousness from experiencing, understanding and judging to deliberating and choosing. It shapes our experience of what is a person and what is not. It affects our understanding of what it is to be a person. It impinges on our judgment, whereby we judge certain people to be persons. It takes on a constituting role in our acts of moral deliberation, whereby we decide how persons and non-persons alike ought to be morally valued and treated

The open society, spurred on by the dynamic morality, will have a more inclusive approach to who is deemed to be a person. It will use language-symbols in the world mediated by meaning to delineate its universal embrace. On the level of immediate experience, the "current" between persons will go beyond the social pale to reach out to all of humanity. This experience can then permeate the other levels in cognitional consciousness from deliberating and choosing, down to judging, understanding and experiencing. It takes on a constituting role in our acts of moral deliberation concerning how persons ought to be morally valued and treated in an open society. It impinges on our judgment concerning those human beings who were once not deemed to be persons. It therefore changes our understanding of what it is to be a person.

Although the "current" felt between persons in a closed society will be naturally strong because of its genetic force, the "current" felt between persons outside the closed society might provide the initial foundation for an experience of dynamic morality. Indeed, it could be argued that the dynamic morality, that gives expression to an inclusive concept of person, finds its spark in the experience of living persons – as opposed to abstract concepts – connecting with each other in immediate concrete experiences. It is such experiences of "connecting" with those who do not belong to our closed society that inspires a dynamic emotion. A dynamic emotion that moves great moral personalities in history who, through their embodied message, attract others to live within an open society.

4 5 Conclusion - Intellectual Sympathy An Instructive Presentation

As I have shown, through the "blindness" of intellectual analysis, my concept of person as a self-interpreting-dependent-vulnerable animal living within a reality that is mediated by meaning and constituted by significance risks reflecting another static morality of a closed society, especially when it is used as another benchmark for deciding who belongs, and who does not belong, in the moral realm. However, by way of intellectual sympathy, my concept might escape "blindness" and mirror a dynamic concept of an open society. It is through intellectual sympathy that we can recognise another as a self-interpreting-dependent-vulnerable animal living within a reality that is mediated by meaning and constituted by significance. It is through intellectual sympathy that we can enter into the experience of the "current" that flows from one person to another. By relocating the concept of person within the world of significance and by entering into its original engendering experience through intellectual sympathy in the world of immediate experience, my definition of person as a self-interpreting-

³⁰ See chapter five pp171-176

dependent-vulnerable animal living within a reality that is mediated by meaning and constituted by significance might point us in the direction of the dynamic morality of an open society. By having universal humanity as its aim, my concept of person will reflect a dynamic rather than a static morality

It could be claimed that intellectual sympathy is inherently simple. But when we engage in self-interpretation and "outward-focused" interpretation, this simplicity becomes lost. Persons are self-interpreters and it is this very fact that turns the simple act of being a person into a complex operation. But, the different concepts of person cannot seem to capture this simple act.

As it has been shown, a concept in general places a limit on something that is a trajectory of thought. The aesthetic presentation of the concept of person, codified in a definition, only affords small pockets of light onto the full reality of personhood. Therefore, I believe that the aesthetic presentation of the concept of person can only be grasped through intellectual sympathy in the world of immediacy. As I have said, intellectual sympathy points to the "current" that helps us to recognise the "charges" of another human being's personhood in immediate experience. When we attempt to crystallise this in a definition, we automatically move from a simple act to a complex structure. We move from the world of immediate immediacy to the world of mediated meaning. However, intellectual sympathy provides an instructive presentation towards the aesthetic presentation of the concept of person and helps to prevent it becoming another static concept of a closed society.

The question that is now faced is whether the aesthetic and instructive presentation of person can help with ethical problems created by the creative revolution in health care, especially with difficult and controversial cases. Firstly, regarding whether the embryo is a person, the potential mother may experience a "current" between herself and the embryo she is carrying. There will be recognition of its

humanness, of its potential personhood, or indeed its actual personhood, which may cause her to act in support of it and to nurture it. Evidently, this "current" may have different vibrations. Some will experience the embryo as a threat or as something foreign to the body, while some will experience the embryo as being the centre of their lives.

Secondly, regarding patients in PVS, the "current" between PVS patients and us can be confused. Some people do not find it easy to accept that the PVS patient is no longer a person. Some do not find it easy to stop administering artificial nutrition and hydration. They feel that the patient in a PVS is there and is not there at the same time. They will not want to prolong the "suffering" of the PVS patient or the low quality of life. But when it comes to letting go and letting the individual die, it is not an easy moral decision.

The definition of person as a self-interpreting-dependent-vulnerable animal living within a reality that is mediated by meaning and constituted by significance demonstrates that there can be aspects of the aesthetic presentation of personhood shared by those hard cases. Whether it be levels of self-interpretation, dependency, vulnerability or whether it be the very fact that they enter or leave a world that is mediated by meaning and constituted by significance

In the general health care setting, persons constitute the significance of each therapeutic and non-therapeutic action through understanding, interpreting and evaluating Clearly, if treatment is seen as aggressive rather than remedial, many other factors would need to be taken into account in this self-interpretation and evaluation the patient's personal and medical history, family views, professional health care and medical advice If the patient (or a representative of the patient) comes to a decision that is in conflict with the established ethical ethos of the hospital – that is mediated by meaning and constituted by significance – their self-interpretation may need to be

revisited or they may simply choose another hospital. Of course, their interpretations may be objectively incorrect, but still significant. The health care institution, too, might have to re-examine its own time-honoured ethos. This is why as many aspects as possible concerning various interpretations (might) need to be taken into consideration before deciding on what action is to be taken in the face of difficult ethical situations. In those situations where the patient cannot make a decision or engage in self-interpretation the family and the health carers will have a major role in the ongoing interpretation/evaluation of the patient's condition in the face of treatment and palliative care.

With such hard cases, there are no straightforward answers in the aesthetic and instructive presentation of the concept of person. Yet, in the wake of the static morality of a closed society and the various ideological forces that try to limit the benefits of the creative revolution to a selected group, it may be wise not to accept such yes/no-answers, especially when we have the potential to fall outside the closed society's membership

Some health care professionals, especially nurses, seem to be more open to this aesthetic and instructive world. Taylor (1994) contends that nurses are more sensitive to the compartmentalisation of persons compared to others in the health care profession (pp174-187). I think that being aware of its importance in a reflective manner will help them to face the challenges of new moral questions and new ideological thinking of the closed society penetrating our world.

In the next chapter, I examine one practical implication of the aesthetic and instructive presentation of the concept of person I demonstrate how the concept of person as a self-interpreting-dependent-vulnerable animal living within a reality that is mediated by meaning and constituted by significance experienced in the world of

immediate experience may prevent the new European Charter of Patients' Rights from becoming a static code of a closed society

CHAPTER FIVE

5. The Implications of the Concept of Person for the European Charter of Patients' Rights

5 1 Introduction

This chapter does not aim at settling the perennial debate concerning whether rights in general have any substantial philosophical or ethical foundations. Instead, this section of the dissertation offers a review of the recent European Charter of Patients' Rights in the light of the thematic focus of the dissertation, i.e. the concept of person 1 My primary goal here is to draw attention to the potential static morality of such a charter by highlighting the fact that the rights outlined can be logically denied to some human beings because they do not fit the various contemporary criteria of personhood In this way, the Charter is an example of how the concept of person can be used in the context of a closed society to exclude certain entities. Initially, this may seem surprising because it is often taken for granted that a charter of rights seeks to be inclusive rather than exclusive A rights-based approach in health care seeks to protect the most vulnerable in society by giving them a platform to voice their protest against any form of injustice carried out against them. In light of this, I will make the case that general "inalienable rights" in health care may find their source in the dynamic morality but that particular charters of rights may be more rooted in the static morality of a closed society One possible route to counteract this tendency is to utilise a more inclusive definition of person such as the one that I have outlined in chapter three, i.e. a selfinterpreting-dependent-vulnerable animal living within a reality that is mediated by meaning and constituted by significance

52 The Local and the Global

521 No Longer Moral Strangers

On the fateful day of December 26th, 2004 the earth's axis literally trembled when two tectonic plates met and spawned a seaquake causing an omnivorous tsunami

¹ The various rights of the Charter are outlined in appendix E pp242-243

that towered over and beleaguered the inhabitants of Thailand, Indonesia, Sri Lanka and other surrounding countries in South East Asia. The voracious tsunami unhinged a swirl of events that brought extensive devastation of homes coupled with the dissolution of livelihoods. The tsunami led to an almost biblical-like humanitarian disaster, of proportions never witnessed before in the history of the modern world.

In retrospect, such a seismic catastrophe bears witness to the natural vulnerability of the world in which we live However, like the impact of the enormous tidal wave, the alacrity of the humanitarian response from the rest of the world to the plight and the frantic outcry of those who lost their families and homes in the disaster-stricken region was unprecedented. There was an extensive flowering of collective sympathy to the human crisis that seemed to pervade every society around the world. Through the medium of television, the calamity, which took place thousands upon thousands of kilometres away, was brought into our living rooms. This, in turn, produced an extraordinary new wave of global sympathy, which vented itself in aid relief and in a dazzling array of financial donations from people around the world. This global act of sympathy accumulated in an untrammelled response of solidarity

Reflecting on the tragedy and on the badly needed road to reconstruction, the British Chancellor of the Exchequer, Gordon Brown (2005) made the pertinent point that although people from around the developed world were separated from the disaster by geography, they were brought together by a mutual purpose to help and to care It could be argued that the tsunami and the worldwide sympathetic response threw off the shackles of the various closed societies in our contemporary world ³ Although Brown may not have been thinking of Bergson's philosophy, his remarks seemed to reflect the

² For example, on 14 March 2005, BBC News reported that Germany gave \$1 1bn, the EU - \$628m, Japan-\$500m, France-\$115m (BBC News 2005b) On 18 March 2005, Patsy McGarry, from *The Irish Times*, reported that Ireland gave almost €75m (McGarry 2005)

³ An examination of open and closed societies can be found in chapter one pp37-45

desire for a dynamic morality of an open society A morality that embraces all of humanity (Bergson 1986 p267) To quote in toto from Brown

When I delivered the CAFOD lecture a few weeks ago about the economic, social and moral case for us now seeing people we have never met and may never meet in other continents not as strangers but as neighbours, I argued that what impelled us to action where there is need was not just enlightened self interest that recognises and acts upon our interdependence - our dependence each upon the other for our sustenance and our security - but, even more important, a belief in something bigger than ourselves our shared moral sense that moves human beings even in the most comfortable places to sympathy and solidarity with fellow human beings even in far away places in distress. And the worldwide demonstration in the last few days not just of sympathy but of support shows that even if we are strangers, separated and dispersed by geography, even if diverse because of race, even if differentiated by wealth and income, even if divided by partisan beliefs and ideology - even as we are different diverse and often divided - we are not and we cannot be moral strangers (Brown 2005)

Personally, I think that the cardinal example of the tsunami and its resulting global sympathetic response and world-wide climate of solidarity that reached beyond geographical, political and religious borders, reflects the fact that there is something new in this (almost) universal response to help people we do not know. This experience of common concern brings us together, from being "moral strangers" to becoming "moral friends" or at least "moral acquaintances" ⁴ Although we might be working from

⁴ See Engelhardt's analysis of "moral strangers" in chapter two pp78-79

different belief systems and theories of ethics, there is a common goal that can bind us, i.e. human solidarity, in time of crisis

5 2 2 The Two Sources Revisited

As we have already seen in chapter one, Bergson refers to two sources of morality the static and dynamic ⁵ This bifurcation engenders two fundamentally different kinds of human social organisation the closed (or what we might today call the local) and the open (or what we might today call the global) As we have seen, static morality has its genesis in societal instinct, which is enforced and guided by social pressure. Nature installs in us a compulsive and an obligatory force that compels us to conform to the needs of society. The moral fabric of dynamic morality, on the other hand, is attractive and inspirational rather than naturally compulsive. In other words, we have the choice of following it in an active rather than in a passive sense. Therefore, the moral weight of dynamic morality does not lie in compulsion but in an appeal

The adhesive closed society has society as its aim. It is anchored in social cohesion. The moral landscape of the open society has humanity as its aim. The static is a morality of obligation, the dynamic is a morality of universal love. The closed society is not capable of precipitating a universal feeling of solidarity. It is beyond its concern of maintaining local social cohesion. The dynamic morality then is an anomaly. It represents a departure from the norm of the closed society by breaking the held orthodoxy of moral beliefs.

The question then is how do we reach beyond the tunnel vision of the closed society Firstly, the open (global) society could be described as that which is beyond the ultimate circumference of a group of concentric circles. The individual is at the centre of these concentric circles. From the individual to the open society, there are numerous

⁵ See chapter one p37

circles representing various groups to which s/he belongs, for example, his or her family, friends, colleagues, community and/or nation. However, for Bergson, the transition from the closed society of the local to the open society of the global is not one of degree but of kind. It involves a new way of seeing the world.

The dynamic morality of an open society signifies a new kind of solidarity. It is no longer a local group-based solidarity but a universal-based solidarity. This universal solidarity has another source compared to the static morality. Its source is dynamic. The static morality is automatic in nature, whereas the dynamic morality is a vital order created by ingenious individuals (Emmet 1933/1934 p232) The static morality is the work of nature, dynamic morality is the work of the moral creativity of individuals For Bergson, it is the life and work of exceptional people who incarnate dynamic morality He writes, "in all times there have arisen exceptional men, incarnating this morality Before the saints of Christianity, mankind had known the sages of Greece, the prophets of Israel, the Arahants of Buddhism, and others besides" (Bergson 1986 p34) Their great examples of charity, for example, inspire other people to imitate them. They are "moral creators" in Bergson's words, who give witness to a new social and moral atmosphere They issue an invitation to the rest of humanity to live within an environment in which life can be more worth living (ibid p80). Such individuals do not merely articulate a new code of morality They live a life that is in someway different and they embody a new way of acting morally " the bearers of open morality are not necessarily teaching a new code of rules or principles, they are sensitive to life in new kinds of ways, and others may catch their inspiration "(Emmet 1933/1934 p236) 6

⁶ It would appear that we seem to remember people better than their ideas Of course, it is often the case that it is their ideas that make people famous. The following experience may put this into concrete terms. Recently, I was watching a documentary on BBC 2's *Horizon* (20 January 2005) about the life and work of Albert Einstein. A friend, who was watching it with me at the time, made the comment that most people know that Albert Einstein is a very famous scientific thinker but only a few know his theories. I think that it can be accepted that most people will have heard of Einstein and not necessarily know in great detail his theory of relativity.

I think that it is reasonable to accept that charismatic people can revolutionise people's world-views and life-styles. The exceptional moral nature of individuals creates a moral revolution and imbues others in society to follow this new dynamic moral vitality. Socrates is a prime example of someone who, as far as we know, has never written about his ideas and yet has inspired many people and has had a major influence on the history of philosophy. His life and death enthused Plato to write in his name in order to awaken Athenian society from moral corruption. Plato finds it difficult to come to terms with the fact that a society can condemn a man simply because he tells an unwanted truth. Consequently, Plato takes over the struggle, begun by Socrates, to awaken society from corruption. Plato is inspired to continue the work of Socrates. Socrates exemplifies an outstanding individual, who introduces others to a new emotion. They, in turn, are enamoured by this new emotion that has significant moral consequences because it goes beyond the accepted and unquestioned social norms.

Bergson (1986) compares the experience of being caught up in this new emotion to listening to a musical symphony. He writes, "when music weeps, all humanity, all nature, weeps with it" (p40). The symphony does not simply produce a feeling in us but introduces us to the feelings of the score "as passers-by are forced into a street dance" (ibid.) We are attracted by the emotion stirred within us because we are introduced to something totally new a morality that has a universal dimension. But, this is not a passive reaction on our part. It is an active and willing response. We are enthralled by the dynamic morality it is appealing. Bergson notes, "— if the atmosphere of the emotion is there, if I have breathed it in, if it has entered my being, I shall act in accordance with it, uplifted by it, not from constraint or necessity, but by virtue of an inclination which I should not want to resist" (ibid. p48). In a similar vein, people are caught up in the new moral atmosphere, they breathe it in not because they are forced to

⁷ Justin Oakley (1992) argues that "emotions occupy a fundamental place in our moral lives" (p38)

do so but because they are attracted to it. To take a simple example, traditionally many people entered the professions of teaching and nursing because people already working in those professions attracted them. Indeed, the work of Florence Nightingale inspired many individuals to follow her example of dedication to the sick and needy and her desire to reform hospital sanitation.

There is a creative emotion with such individuals. A dynamism that inspires others to follow suit. As it has been said, the emotion is new in that it goes beyond the feeling of social obligation and breaks through social compulsion to take in the whole of humanity. One cannot really judge whether the new emotion inspired by Socrates, for instance, is the same as that of other exceptional individuals who break down the walls of the closed society by their experience of love for universal humanity, i.e. humanity that is beyond the immediate local pale. But, it can be said that the common denominator is a creative emotion that lies at the heart of the dynamic morality, just as creative emotion is the soul of art and invention.

This kind of dynamic fresh emotion is not produced by an intellectual representation, although it is translated into ideas through the work of the intellect. For example, we use concepts, some old and others new, to express our horror at the tsunami. The concept of "charity" is already a well-established concept that can encapsulate, to some extent, our response to a crisis. Yet, the word "tsunami", although not an entirely new word, acquires a new emotional response. Certainly, it is a word that was not particularly known by many people—apart from earthquake specialists. But now it enters our common currency of discourse with a significant meaning and affectivity.

Yet, what is different about this new feeling of sympathy and solidarity in the case of the South East Asian adversity is that the recent outpouring of generosity is not

⁸ "Tsunami" is a technical term that is made up of two Japanese words *Tsu* meaning "port" and *nami* meaning "wave". The term only came into general use in the English language in the 1960s (Murr et al 2005 p28).

instigated by a person but by a natural disaster, which nonetheless depicts the vulnerability of our shared humanity. The tsunami, rather than one individual, provides a portal into an emotion of (universal) sympathy and solidarity for people outside our immediate society. The emotional appeal of the tsunami invites us not to remain impartial spectators but to be emotionally involved in the tragedy. It is, however, a half-opened door through which we can decide to enter or not. Like the musical symphony, we are introduced to the emotion, but we are still free to choose to listen to it and to be enraptured.

As it has been stated, intellectual sympathy is an act, or rather a series of acts, that enable(s) us to have direct participation in the immediacy of experience where reality is not intended as an object but is simply "meant" With the tsunami there seems to be an immediate experience of persons in desperate need. Although the tragedy is communicated via the world of mediated meaning, we do not need to know the South East Asian peoples' language (i.e. their world of mediated meaning) nor their culture (i.e. their world of significance) to enter into the immediacy of their serious situation. Indeed, the communication of their tragedy is made possible by the fact that those who have witnessed their plight first-hand, have entered into their catastrophe through intellectual sympathy and have used language-symbols to articulate the significance of their plight. Not only did the medium of television provide us with the immediate experience of the tsunami m a visual way, it was also accompanied by a script that reflected the meaning and significance of the experience. The various pictures that were screened on our televisions were more affective in prompting an immediate response than any abstract concept.

In the last analysis, perhaps it was the "current" between persons living in various parts of the globe – enabled by the experience of intellectual sympathy – that

⁹ See chapter four pp146-152

led to an experience of a dynamic morality reaching out in charity to those outside our borders, thereby creating an open society ¹⁰

5 2 3 From Closed Justice to Open Justice

Bergson fleshes out his understanding of open and closed societies with an example of the transfiguration of justice from a static morality to a dynamic morality (ibid pp75-81) He argues that, from time immemorial, justice has been an obligatory requirement within the social unit Justice derives its force from the social pressure imposed on the individuals that make up society. However, within the context of the dynamic morality of an open society, justice takes on a new meaning that transcends the obligatory character demanded by the closed social unit. The transition from closed justice to open justice is not that of a step-by-step nature (nor by default) but by a radical transfiguration. Yet, the new experience of universal open justice is not given a new concept but is codified by using the same well-worn word (ibid p79) Open justice is therefore not a relic of closed justice. The old concept is laced with a new moral emotion The meaning of the word appears to be the same, but is fundamentally different Bergson admits that this radical transformation is not easily discernable. We are inclined to think that open justice is a mere progression and renovation of closed justice We might be inclined to think that open justice has its seeds in closed justice However, he argues that "things assume this form only in retrospect, the changes were qualitative and not quantitative, they defied all anticipation" (ibid p267) Closed justice is confined to the immediate social group and their needs. However, there is an experience of the "impetus of love" for humanity beyond the social pale, which universalises justice and gives it a new moral impetus, thus creating open justice (ibid

¹⁰ For an explanation on the "current" between persons, see chapter four pp158-160. The emotion that was inspired by the tsunami must be distinguished from that which inspired the atrocities in Rwanda in the 1990s. An emotion that leads to human rather than social solidarity and which has humanity rather than society as its aim, can be an example of a dynamic morality. A hysteria that leads to the destruction of countless millions of people cannot be an example of a dynamic morality.

p96) The new universal and open justice could not be achieved by merely expanding the social group to include those outside its fence. Such an idea is anothema to the closed society

The qualitative change in the meaning of the word "justice" can be witnessed, to some extent, when we examine how its parameters widen to include those not recognised by society's civil law in the history of rights. There is a qualitative change in the meaning and application of the word "justice" within the context of the discovery of natural rights and their moral force that is grounded in natural law. With the 5th century tragedians, there is the emerging view that the justice promulgated in the laws of society may not be entirely fair The Greek playwright Sophocles tells the story about Creon – the new ruler of the ancient Greek city of Thebes - who announces that the dead body of Eteocles will be honoured while the dead body of his brother Polyneices, who fought on the opposite side, will be disgraced Antigone, the sister of the dead soldiers, feels that this action is unjust, although the civil law does not support her. In defiance of the law she decides to risk her own life by taking the body of Polyneices in order to give her brother a decent burial With Antigone, we see that civil justice can be morally questionable As well as that, we have the seeds of the belief that there is a higher justice that is above the law of society. According to this higher justice, it is proper to give someone a decent burial, even though he may have betrayed his king (see Sophocles 1994)

We can observe Sophocles' embryonic notion of a higher justice developing within the context of the Greek Stoics' idea of the natural law (see Schneewind 1995 p520) The Stoics, too, acknowledge the possibility that human laws might be unjust. In the face of this, the Stoics believe that a natural law exists that is above and beyond human law. They root this law in their cosmogony, i.e. in their study of the universe. For them, the universe has a rational structure that follows its own inbuilt rational

laws ¹¹ This natural law that governs the universe also governs human beings because they are rational beings. Consequently, the natural law is articulated through human reason. It is a universal law, although an unwritten law, according to which human beings should act. The ensuing principles of this law are not dependent on any particular culture but are grounded in the natural moral order of humankind.

With the Stoic's idea of a natural law, there is an inkling of open justice. A dynamic morality that embraces all of humanity and that is not based on one social custom or convention. However, the Stoics do not manage to make a complete break with the closed society of Greece and take a leap into universal open justice. It would appear that the idea that there is a universal justice that applies to all of humanity does not seem to completely penetrate the walls of Greek society. Even Plato, who had taken the right steps, never makes the complete leap. For example, although he includes "man" in his theory of Ideas, this universal man does not seem to apply beyond Greek society nor does it influence social laws within Greek society. The practice of slavery continues and the idea that foreigners are barbarians remains (Bergson 1986 p77)

According to Bergson, the Greeks never managed to capture the moral imagination of the rest of humanity in the same way that Christianity did do In Bergson's eyes, it is Christianity that engenders the transition from closed justice to open justice For him, "humanity had to wait till Christianity for the idea of universal brotherhood, with its implication of equality of rights and the sanctity of the person, to become operative" (ibid p78) ¹² With Christianity, justice in the context of natural rights is no longer confined to the Greek citizen or to the Stoic member, but to all of humanity The new Christian moral revolution drives a global ethical universal mission. The Christian community adapts the idea of the natural law and makes the theological

¹¹ For the Stoics, the universe is intelligible otherwise we could not begin to question its structure because it would simply be meaningless

¹² Bergson is not alone in this view. The Irish political scientist David Walsh (1999) also argues that it is within Christianity that the transcendent finality of each person is given its most total augmentation (p19).

case that the natural law is part of the eternal law of God According to the thirteencentury Christian theologian St Thomas Aquinas (1963), the basic precept of the natural law is that good should be done and evil should be avoided. He writes

intelligent creatures are ranked under divine Providence the more nobly because they take part in Providence by their own providing for themselves and others. Thus they join in and make their own the Eternal Reason through which they have their natural aptitudes for their due activity and purpose. Now this sharing in the Eternal Law by intelligent creatures is what we call 'natural law' (Ia2ae, 91, 2)

The natural law highlights the fact that rights are not arbitrarily conferred on the person but are natural to him or her. Therefore, open (or natural) justice is not based on the person's position in society. Open justice is universally applicable. Today, the Christian vision of the natural law, which is at the backbone of much of the thinking regarding human rights, is not necessarily endorsed by people who champion such rights. As Roger Trigg (2005) notes, "moral campaigns are often couched in the language of human rights. At a time when natural law itself is often neglected." (p39)

The transition from closed justice to open justice in the context of the development of rights shows that only the great moral personalities bring about this transfiguration by mspiring others to follow their lead. Although, it could be argued that the Stoics and the classic Greek philosophers only had a shadowy notion of open justice compared to the Christian enterprise, they were still architects of a dynamic morality that provided the lenses through which to see justice in a new light

As we have seen, emotion is at the root of moral progress in the transition from the static to the dynamic. It is an emotion that is creative and novel. It is an emotion that enables the person to break free from the inner fences of the closed society and to cross borders. Indeed, it might require that individuals defy the closed society, especially if their moral codes and customs clash with the new universal morality. In the context of moral perception influenced by society, Vetlesen (1994) argues that "the task for individuals qua moral agents becomes that of *resisting* what their society prescribes in the fields of moral perception, judgment, and action. It becomes their task—and their irrevocably *individual* one at that—to reject the upheld social moral codes rather than successfully internalise and go along with them" (p192). It is often the case that the great moral figures in history lose their lives because they go against the norms of society. For example, Socrates is forced to drink poison because he is charged with corrupting the youth with his new moral teaching concerning justice (see Plato 1993).

5 2 4 From Dynamic to Static Morality

Although there is an expansion with open justice promulgated with rights, such a dynamic experience can easily be dragged down into stale codes, declarations and charters. The work of the great visionaries of universal justice can get lost in static codes of conduct. For instance, it is often claimed that Thomas Jefferson, one of the founding fathers of the United States, one of the principal authors of the American Declaration of Independence (1776) and one of its original signers, represents *par excellence* the American vision of liberty (see Holmes 2002). Yet, one can wonder whether his ideals of liberty are undermined in American politics today? According to Noam Chomsky (1999) – a well-known critic of U.S. foreign policy – the United States is one of the greatest abusers of human rights in the modern world. He makes the argument that the great beacon of liberty does not uphold many of the provisions of the

UN Declaration of Human Rights (1948) For instance, Article 13 (2) of the Declaration states "Everyone has the right to leave any country, including his own" (The UN Declaration of Human Rights 1948) Chomsky claims that this right has been passionately invoked every year on Human Rights Day on December 10th in America For example, people demonstrated and condemned the Soviet Union when it refused to allow Jews to leave the country However, Chomsky points to the fact that when the US employs this aforementioned quotation of the UN article it deliberately omits the following sentence "and to return to his country" (Chomsky 1999 p17) Chomsky contends that the significance of this redundant part of the sentence was outlined the day after the ratification of the Declaration when the General Assembly passed Resolution 194 affirming the right of Palestinians to return home. Thus, the Declaration has been undermined by a self-serving relativism that selects passages in order to continue the political status quo in Israel and Palestine and to use it as a weapon against its enemies – in this case the then Soviet Union (ibid p5) In this way, even in America, the UN Declaration remains an "optimistic vision" rather than a description of "existing realities" (Annan 2003) The dynamic morality codified in the UN Declaration has not completely penetrated the political and social structures of the modern world Perhaps, this is partly due to the fact that its dynamic source is pulled down into a code that becomes cliched and misused through acts of self-serving relativism

53 The EU Charter of Patients' Rights

5 3 1 The Rights Approach

Today, the ethical principles of justice and human rights are not foreign to us because we live in an age of rights (Bobbio 1996) ¹³ The language of rights is a kind of

¹³ It is generally accepted that the development of rights in modern times can be divided into three separate generations. The first generation focuses on civil and political rights such as the right to security, the right to property and the right to political participation, which is at the heart of both the American Declaration of Independence (1776) and the French Declaration of the Rights of Man and of the Citizen

lingua franca of contemporary ethics. It could be contended that universal rights attempt to break down the barriers of the various closed societies in our world in order to make way for the open society. There can be no doubt that the historical unfolding of rights is quite complex. In this history, a new addition has been recently added in the context of health care in Europe, i.e. the 2002 European Charter of Patients' Rights, to which I will now turn.

The new European Charter attempts to encourage health care systems across Europe to deliver a programme of care that is fully patient-centred, that upholds the autonomy of the patient, and that is, in the last analysis, driven to protect the vulnerability of the patient. The Charter provides a platform for the voice of patients and empowers them in the care for their health, beyond the encroaching influences of paternalism and the economic market forces that can restrict the delivery of sound nursing care and medical intervention ¹⁵

It could be contended that the Charter is an offshoot of other ethical landmarks inspired by people after various historical atrocities that came to light when the Second World War was brought to a close Indeed many of the codes of ethics in health care, including the *Nuremberg Code* and the *Declaration of Helsinki* find their seed in the first international military tribunal held at Nuremberg after the war (Cascais 1997 pp10-11) In Nurnberg's Palace of Justice twenty-one leading officials were put on trial for crimes against peace (*Verbrechen gegen den Frieden*), for war crimes

⁽¹⁷⁸⁹⁾ The second generation of rights concentrates on socio-economic rights including the right to welfare, the right to education, etc, and it lies at the core of the UN declaration. The third generation of rights centre on more collective rights including rights to national self-determination, the right to clean environment, etc (see Freeman 2002 pp14-31, pp32-42 and pp114-127)

environment, etc (see Freeman 2002 pp14-31, pp32-42 and pp114-127)

14 This charter was put together by the Italian patients' rights organisation, Cittadinanzattiva-Active Citizenship Network A legal, ethical and social review of the Charter is provided from the perspective of the present Irish health care system (O'Mathuna et al 2005)

15 Paternalism comes from the Latin pater, which means, "father" See Beauchamp's and Childress'

Paternalism comes from the Latin pater, which means, "father" See Beauchamp's and Childress' analysis of the term (Beauchamp and Childress 1994 pp271-284) In general, paternalism denotes a kind of fatherly approach to patient care. However, this father tactic is usually viewed as something that is quite negative, especially in light of the appalling circumstances of twentieth century medical research. In contradistinction to paternalism, there has been a shift in emphasis in health care. Instead of the health care professionals (especially the medical profession) taking on a fatherly role and knowing "what is best" for the patient, there is more of a partnership between patients and nurses/doctors.

(Kriegsverbrechen) and for crimes against humanity (Verbrechen gegen die Menschlichkeit) (Muller-Balhn 1995 pp9-12) Shortly after this tribunal the UN declaration was drawn up and a plethora of various codes of ethics came into existence In addition, various conventions on human rights took place, including the 1953 European Convention for the Protection of Human Rights and Fundamental Freedoms as well as the 1966 International Covenant on Economic, Social and Cultural Rights The various codes and declarations are grounded in the belief in a universal moral order and in a universal humanity, possessing dignity and equal moral status

In the preamble to the European Charter of Patient's Rights, it is stated that the Nice Charter of Fundamental Rights is the bedrock and the mam point of reference to the fourteen rights (European Charter of Patients' Rights 2002 p1). It also states that the rights set forth by the Charter are also connected to other international declarations made by the World Health Organisation (WHO) – "The Declaration on the Promotion of Patients' Rights in Europe" (1994) and the Council of Europe – "The Convention on Human Rights and Biomedicine" (1997) (ibid p3)

The present European Charter places us right in the centre of the patients' often forgotten orbit. It acknowledges that despite the various health systems within the European Union, the same rights among patients of all nationalities are at risk (ibid p1). In this way, the Charter offers a bulwark against the perceived risks that patients face in our hospitals. In view of this, the central goal of the Charter is twofold. Firstly, to strengthen the protection of patients who find themselves in differing national circumstances and secondly, to work as an instrument for the harmonisation of the various national health systems, in lieu of free mobility among people throughout the Union (ibid.)

¹⁶ The 2002 European Charter of Patients' Rights outlines fourteen rights that are presently at risk throughout Europe. This catalogue of rights includes, for example, the right to preventive measures, access, information, consent, free choice, innovation and compensation (European Charter of Patients' Rights 2002 p1)

When looking at the Charter of Rights, in the context of the theme of the dissertation regarding the concept of person, a number of questions arise. Does this charter reflect the static or the dynamic morality? What are the implications of the various concepts of person for this Charter? Finally, what are the implications of my definition of person as a self-interpreting-dependent-vulnerable animal living within a reality that is mediated by meaning and constituted by significance for this Charter?

5 3 2 The Charter An Example of Static or Dynamic Morality?

At the outset it can be said that there is nothing terribly new in critiquing a charter of rights. Indeed, the rights-based approach in moral philosophy has not always been fully accepted without criticism. For instance, Jeremy Bentham (2002) believes that "natural rights is simple nonsense natural and imprescriptible rights, rhetorical nonsense, nonsense upon stilts" (p330). For him, the nature of rights goes against the gram of the utilitarian outlook of seeking to maximise the greatest amount of happiness for the greatest number of people in society. If one accepts this principle, then there cannot be any impenetrable rights. To put it another way, a right could and should be abolished if it prevents society from achieving the greatest benefit for the greatest number of people.

If we move from the nineteenth century and arrive at today's situation, we still meet some thinkers who are not very persuaded by the philosophical basis of the modern rights approach. For example, in his critique of the contemporary state of moral discourse, the Scottish Aristotelian philosopher, Alasdair MacIntyre equates rights to a cheque that has no one to honour it. For MacIntyre (1985), "there are no such rights, and belief in them is one with belief in witches and in unicorns" (p69). The reason for this is that rights are the child of the eighteenth century Enlightenment project that failed, according to MacIntyre, to provide a rational justification for morality. What we

are left with is a battle between two divergent schools of thought, i.e. a battle between bureaucratic individualism (which vents itself through the language of rights) and bureaucratic organisation (which vents itself through the language of utility) (ibid p71)

As it can be seen, the philosophical foundations of rights are a contentious subject among philosophers and ethicists alike. In a similar vein to the above misgivings, I would like to offer a critique of the Charter from the perspective of the two sources of morality as outlined by Bergson 17. On a surface level, the current European Charter of Patients' Rights seems to be a medley of both static and dynamic moralities. This would be in keeping with Bergson's thought as he maintains that exemplars of these moralities can no longer be separately found in a pure primitive state. Following this, it could be argued that the Charter could be understood as an offshoot of a dynamic source that seeks universal open justice for all of humanity and that is codified in other historic ethical landmarks and codes, for example, the UN Declaration of Human Rights. However, it could also be argued that the aspiration of universality echoed by the UN Declaration is at risk of being pulled down by a charter of rights because charters tend to be designed for specific groups of people rather than for universal humanity.

This phenomenon of charters being designed for specific groups has been acknowledged and critiqued before. For instance, Thomas Paine (1970) points to the fact that charters tend to be statements of privilege for particular groups in society. Charters grant rights to some and take rights away from others. He writes, "it is a perversion of terms to say that a charter gives rights. It operates by a contrary effect—that of taking rights away. Rights are inherently in all the inhabitants, but charters, by annulling those rights in the majority, leave the right, by exclusion, in the hands of a few. They do not give rights to A, but they make a difference in favour of A by

¹⁷ See chapter one pp37-45

taking away the right of B, and consequently are instruments of injustice" (pp300-301) In light of Paine's remarks, it could be argued that one of the obvious dangers of a rights approach, codified in a charter, is that by giving patients particular rights, we risk curtailing, for instance, some of the general rights of health care professionals. This may drive a feeling of a "them and us" situation between patients demanding that their rights be upheld and the health care professionals feeling more and more defensive. For example, the rights to complain and to compensation may make some health care professionals more anxious about being open to potential litigation and some may feel inhibited by it

Although the European Charter of Patients' Rights refers to universal codes of ethics, it would appear that with it the boundaries of the closed society could be redrawn Patients instinctively generate a closed society because it is in their interest to put forward rights that favour their cause. In this way, it could be contended that the Charter has the society of patients, rather than universal humanity, as its aim. It is anchored in patients perceiving themselves to be "at risk" in our health care institutions In this way, the static morality of the closed society (i.e. the rights of patients) pulls down the dynamic morality (i.e. the rights of universal humanity) of the open society However, it could be contended that this Charter attempts to explicate the dynamic morality of an open society. In other words, it attempts to articulate what we consider to be important for any individual who engages in the health care service. We live within the world of mediated meaning Therefore, a charter of rights is one medium to express the dynamic morality of an open society. However, by codifying the dynamic morality into a charter or any kind of moral code, the intellect naturally pulls down the creative originating impulse underpinning the dynamic moral aspirations Nevertheless, intellectual sympathy can enable us to recapture the original dynamic experience that inspired people to write such codes for the cause of universal humanity

With this present-day Charter of Rights, we might be tempted to leave the open society and move to a concentric circle of patients in society. As I have said, static morality is automatic in nature. It is not surprising then that patients, who form one group in society, would automatically want to protect themselves against any sort of poor health care. In general, when a patient engages in the service of a hospital, they automatically become "clients". They become involved in the life of the hospital, with its regulations and goals. Although the autonomy of the patient is often understood as a central goal in the delivery of health care, patients often need to dispense a certain amount of control over their lives in the hospital setting (Lowental 1985 p28). Therefore, patients will seek ways to protect themselves from poor access to health care and from poor quality health care.

Solzhenitsyn's (2000) novel *Cancer Ward* gives a moving example of the "them and us" created by the closed society phenomenon. He tells the story of terminally ill patients awaiting death in a Russian hospital. In fact, there are really two parallel worlds in this narrative. The world of the individual patient's battle with cancer and the world of modern Russian society's battle with communism. In both scenarios, each group seeks to protect itself, whether it be through fighting a malignant cancer or through fighting a corrupt ideological regime in a virulent environment. The two states of affairs are tainted by a vision of who belongs to the social circle and who does not. This circle is sometimes transparent, but most of the time, inchoate. The Soviet police consider those who are anti-establishment to be outside the parameters of justice and, thus, are to be treated as criminals. The nurses and the medical staff in the hospital ward carry out their work from the perspective that the people in their care are not autonomous human beings. In the face of this, the patients feel that their dignity is infringed by the nursing and medical staff. Solzhenitsyn exemplifies this through the voice of Kostoglotov. In

Lowental (1985) argues that a "patient's best interest require that we disregard his self-determination" (p28) Health professionals "must perform a painful change of dressings or a cystoscopy or a lumbar puncture, despite patients' painful outcries or their pleading for mercy" (ibid)

one scene, Kostoglotov struggles to uphold his right to dispose his life. He questions the nurse on duty and the rest of the medical world's deportment towards him and others. He makes an emotional appeal

You see, you start from a completely false position No sooner does a patient come to you than you begin to do all his thinking for him. After that, the thinking's done by your standing orders, your five-minute conferences, your programme, your plan and the honour of your medical department. And once again I become a grain of sand, just like I was in the camp. Once again nothing depends on me (p86)

Kostoglotov's remarks are very difficult to accept for the nurse, especially when he almost equates life within the hospital to life within a Russian labour camp because in both contexts he feels reduced to a "gram of sand"

If we turn to the contemporary situation in our Irish hospitals and other health care institutions, certainly it is not the same as the one Kostoglotov describes. Yet, the closed society phenomenon is still alive in different ways. For instance, the hierarchical structure within the health care professions sometimes lends itself to this natural "them and us" mentality between various departments and positions. Between doctors and nurses, nurses and care attendants, care attendants and porters, for example

The idea of patients forming a closed society may therefore be understood and appreciated. In the Irish context with its two-tier health care system consisting of public and private funding, it is clear why patients might feel drawn together to form a group to protect themselves. As a result of complex historical factors, the provision of the public health service in the Irish State is operated by the government through the tax system that ensures that (public) health care is open to all members of society. The

provision of the private health service is operated by (almost) private insurance companies through which people choose to reap some extra benefits that are not offered through the public system, e.g. private rooms in hospital wards. Some writers compare this twofold system of health distribution to an apartheid administration, when those, who can financially afford it, skip the queue of a surgical waiting list (Wren 2003 p143). Access to proper health care facilities are often curtailed when budgetary forecasts do not deliver, and when there is a tug of war between other competing public services. In light of this, it is understandable that patients would form a closed society to attain proper access to health care.

5 3 3 Towards Individualism

The language utilised by the Charter also suggests an individualistic outlook regarding the provision of health care. The Charter speaks about the "individual" rather than the person belonging to the European Union. However, rights one, two, three, four and six speak about "every individual" which might suggest a more collective idea compared to rights five, seven to fourteen, which speak about "each individual" Nonetheless, the use of the word "individual" is the common denominator in all rights announced in the Charter (European Charter of Patients' Rights 2002 pp4-8)

Some rights set forth in the Charter may be unduly biased towards an individualist outlook, e.g. the right to free choice, the right to personalised treatment and right to complain. However, this might be self-defeating in the long-term. One could argue, for example, that the right to compensation undermines the feasibility of the right

¹⁹ However, in response to this comparison to apartheid, it could be argued that if some people can skip the queue and undergo surgery for example, then clearly more "public" patients have the opportunity to move up the list and to be seen. Then again, there are a finite number of operations on a given day. Therefore skipping the queue might only shuffle the order.

For example, the right to preventive measures states "Every individual has the right to a proper service in order to prevent illness" (European Charter of Patients' Rights 2002 p4)

For example, the right to respect of patients' time states "Each individual has the right to receive necessary treatment within a swift and predetermined period of time" (European Charter of Patients' Rights 2002 p6)

of access If someone is left physically or mentally impaired due to hospital negligence, then clearly in terms of corrective justice, s/he ought to be compensated. But can we claim that this is a moral right if it leads to multiple litigation cases for all kinds of circumstances, which, in the end, bankrupt the health service? There is this constant risk that the hospitals will become rife with litigation, especially if the Charter is translated into a legal mandate. Following the *letter* of the Charter may have the potential to wall-off health professionals from the potential *spirit* of the Charter through possible litigation.

Rights are generally fuelled by an infringement on an individual's liberty and are therefore used as "trump" in liberal democracies (see Dworkin 1984) Indeed, according to Jeremy Waldrom (1987), a theory of rights is in essence an individualistic theory (p185) For Karl Marx (1994), "none of the so-called rights of men goes beyond the egoistic man, the man withdrawn into himself, his private interest and his private choice, and separated from the community as a member of civil society" (p17) Mary Glendon (1991) also highlights the individualistic nature of rights when she argues that " the language of rights is the language of no compromise. The winner takes all and the loser has to get out of town" (p9) This may be a little exaggerated on Glendon's part but there can be no doubt that the needs of the individual rather than the wider concerns of the community are highlighted with the language of rights. Trigg (2005), too, raises some concerns about rights and its vision of society "Talk of human rights grows out of an individualist vision of society, which views society not as an organic whole but as a collection of separate atoms, which are liable to collide with each other" (pp45-46)

The question then is whether this Charter of rights could lead to a certain kind of individualism where people pursue their own interests rather than the interests of society, whether local or global. This would seem to militate not only against the open

society but also against the closed society in the long-term. Rights may give people the rational justification not to cohere to the demands of society voiced through the social pressure of moral obligation

5 3 4 The Implications of the Concept of Person for the Charter of Rights

The immediate implications of the concept of person may not be apparent in the present European Charter of Patients' Rights In the opening section concerning fundamental rights, the Charter states that the Nice Charter of Fundamental Rights is the main reference point of the present European Charter of Patients' Rights (European Charter of Patients' Rights 2002 p2) The Nice Charter affirms some inalienable universal rights The various EU organs and Member States can neither limit nor waive these rights Regarding these inalienable rights, the Charter of Patients' Rights states that "these rights transcend citizenship, attaching to a person as such" (ibid) It then goes on to assert that " the general articulation of these rights is enough to empower persons to claim that they be translated into concrete procedures and guarantees" (1bid) ²² This statement seems fair since it maintains that only persons are patients ²³ However, the Charter does not explicitly distinguish between "human being" and "person", nor is there an acknowledgement of this distinction. Apart from this section and as I have shown above – the Charter uses the language of "individual" rather than person perhaps in order to avoid this controversy (see ibid pp4-8) Yet, much is taken for granted regarding the custodians of these fourteen rights. If the "individual", to which the Charter refers, is to be a possessor of rights, s/he must display the essential characteristics of what is deemed a person. She must be capable of exercising rationality and have a consciousness of a self Presumably, since this is a charter of

²² The Charter is also linked to "The Declaration on the Promotion of Patients' Rights in Europe (1994) This document states that "everyone has the right to respect of his or her person as a human being" (emphasis mine) (Article 1 1)
²³ See general introduction to the thesis p8

rights in the context of health care, the individual is someone who is, at least, a human being, with sufficient cognitional abilities to be capable of knowing and voicing their rights. In the rights approach, in general, it is taken as read that rational beings have rights and are capable of exercising those rights. Rational beings are autonomous beings that can exercise their autonomy through claiming a right. Indeed, the principle of autonomy lies at the heart of this Charter of Patients' Rights In general, the philosophical principle grounding the idea of autonomy is derived from Kant He outlines a rational basis for respecting the autonomy of persons. One of the central maxims of his categorical imperative is at the core of the principle of autonomy "Act in such a way that you treat humanity, whether in your own person or in the person of another, always at the same time as an end and never simply as a means" (Kant 1993 p36) Persons should never be treated merely as means but as ends For Kant, persons do not only have free wills and are capable of deciphering the universal moral law but are also intrinsically valuable. This dignity of the person is not dependent on the person's social or political circumstances in which they find themselves. Only rational beings (i.e. individual persons) ought to be treated as ends in themselves rather than as mere means Rational human beings are governed by the universal moral law and therefore can act from a duty to that law Therefore, not to pay attention to a person's autonomy is morally questionable. In this way, Kant is seen as the philosophical maestro of human rights (Campbell 2003 p25)

Only rational beings can be the custodians of rights. As I have demonstrated, some concepts of person logically disallow a number of entities from being regarded as moral agents and therefore from being regarded as bearers of rights and responsibilities. If one does not qualify as a rational being (i.e. a person), then one cannot be a possessor of rights. If this is accepted, then we can only logically claim that the rights of the Charter belong to rational adults, who are persons. It is difficult to claim that they

belong to foetuses, PVS patients and even to "normal" healthy children, who are not yet fully rational persons. However, it may be accepted that some of these non-persons do have rights, but this may be due to the fact that we decide to include them in the rights domain In this context, it is worth recalling Engelhardt's remarks about the social and the strict senses of person. Person, in the strict sense, is a moral agent who is selfconscious, rational, self-determining and morally accountable. On the other hand, a person, in the social sense, is not a moral agent who is self-conscious, rational and morally accountable ²⁴ In the strict sense of the term, some patients who do not exercise any signs of self-consciousness, rationality and who cannot be morally accountable, are not persons and therefore cannot be said to possess rights. Therefore, they cannot strictly belong to the remit of the Charter of Rights 25 However, such people can be included in the social sense of person. Bearing this in mind, we could argue that social persons can be included in this Charter because we can decide to give them some moral standing One obvious problem with this social sense is that it is culturally dependent Therefore, one closed society might decide not to include them ²⁶ They may even justify this on the basis of scarce resources in health care, which seems entirely plausible

In the Charter, the right to consent states that those who are considered "minors" or legally incompetent, and who have legal representation, must still be involved in the decision-making regarding their health (presumably to the degree to which they are able) (European Charter of Patients' Rights 2002 p5) In this way, full, active participation is encouraged at all levels of intellectual competency, which might seem almost impossible This right does not take into account whether the minors can actually engage in meaningful decision-making. This is certainly a major assumption, which seems to go against Tooley's position regarding what constitutes having a right to life,

²⁴ See chapter two pp80-81

²⁶ See chapter two pp84-85

As I have already emphasised, according to Engelhardt, only persons (in the strict sense) are at the centre of the medical and moral universe. See general introduction to thesis p8

for instance ²⁷ If we recall Tooley's concept of self, which shows that only persons are capable of having an interest in their own continued existence, then we must accept that this Charter is only for persons. The person must desire to exist in order to have a right to life and must be a subject of experiences and other mental states. Logically then, in order for the person to qualify for any of the rights expressed in the Charter, s/he must desire them and have a concept of self. Therefore, only persons are capable of desiring access to proper health care and only persons are capable of having a sense of who they are when desiring such a right For example, they must have a desire not to be put in danger by the fourteen risks currently present in our hospitals across the European domain Tooley's analysis demonstrates that logically these rights belong to a normal, fully functioning conscious entity

From Singer's point of view, perhaps it could be maintained that the Charter is intrinsically discriminatory because it focuses on human beings to the exclusion of animals ²⁸ But, I suppose we would have to concede that in terms of health care we are mainly concerned with the health care of humans rather than with animals, although persons, not human beings, are at the centre of the moral and medical universe, according to Engelhardt ²⁹ However, with Singer's thought, we can conclude that this Charter cannot include the severely mentally handicapped, i.e. those with no selfconsciousness and who cannot exercise rationality because the Charter is only for "real" persons

The Charter does not face the issue of whether it can include foetuses, PVS patients and other so-called non-persons into its remit, nor is there any sense of the debate about this difficult philosophical issue, which has far-ranging ethical implications As I have outlined by using Engelhardt's, Tooley's and Singer's thought, the criteria for personhood are usually based on clear manifestations of active

²⁷ See chapter two pp71-74
²⁸ See chapter two, pp74-78

²⁹ See general introduction to thesis p8

rationality, self-consciousness and a sense of past, present and future Following this, the argument can be made that the foetus cannot be logically considered to be a person. Therefore, it can be argued that individual rights outlined by the Charter cannot be logically applied to foetuses, although we might include them as moral addressees.

Can the Charter be applied to those who are senile or possess Alzheimer's disease? Can people lose their individuality by not being able to actively engage in meaningful decision-making concerning their health? If they are no longer persons, in the strict philosophical sense, then they are not capable of making rational choices and being held morally accountable. Therefore, they cannot be possessors of rights. Of course, this is only the case if the bearer of rights is inextricably linked with full cognitive functioning.

If we apply such contemporary concepts of person to this Charter of Patients' Rights, it is clear that the Charter could end up excluding those who are deemed non-persons from the moral realm. In this way, I think that it could also reflect the static morality of a closed society rather than the dynamic morality of an open society.

5 3 5 The Implications of my Definition of Person for the Charter of Rights

I would like to turn now to the implications of my concept of person for the European Charter of Rights If we apply my definition of person as a *self-interpreting-dependent-vulnerable animal living within a reality that is mediated by meaning and constituted by significance*, it can be observed that the Charter has the potential to be more dynamic than static because this criteria of personhood attempts to be more inclusive than the strict sense of person as articulated by Tooley, Singer and Engelhardt

Firstly, the person is a self-interpreting animal. As I have outlined in chapter three, the representative view of human consciousness purports consciousness to be a faculty that enables us to form inner representations of objects. We represent different

life plans and we work out different options available to us. One consequence of this representative view is that it tends to ignore the fact that human beings are also agents who are constituted by significances and who constitute experiences with significance. Persons are not only interpreters of experiences, but by virtue of the act of interpreting, they themselves become partly interpreted. The person interacts with reality by constituting experiences and by being constituted by the same experiences. The person takes part in strong evaluation whereby s/he identifies the import (i.e. something meaningful in an event, which we identify as being important to our desires or purposes, aspirations or feelings) of those experiences that have mtrinsic worth by employing the language of evaluative distinctions and standards ³⁰. The act of interpretation is rational because it is the work of the intellect, which not only seeks to understand the experience but also judges whether the understanding is correct. Therefore, there is an evaluative element to this work of self-interpretation. From Bergson's perspective, the originating experiences that are embedded with meaning and significance are not primarily accessed by intellectual analysis but by intellectual sympathy ³¹.

Secondly, the person is dependent. She cannot rely totally on him/herself but needs others in order to survive. The Charter assumes that the people, for whom it is written, are dependent on health care services provided in various national states. They are therefore vulnerable to the perceived fourteen risks (European Charter of Patients' Rights 2002 p1).

Thirdly, persons communicate through verbal language and other non-verbal symbols and signs. This presupposes that what they communicate has meaning, i.e. it is understandable. The Charter exists in a reality that is mediated by meaning by using

³⁰ See the analysis of "import" in chapter three pp108-109

³¹ For a full discussion about the work of the intellect and the work of intellectual sympathy (or intuition), see chapter four pp146-152

³² See the "Preamble" to the Charter (European Charter of Patients' Rights 2002 pp1-2)

language symbols (e.g. English, French or German) of various countries within the European Union

Additionally, persons can also constitute meaning/significance through acts of self-interpreting. They can shape the significance of their lives and also give meaningful shape to cultures, languages and religions. The Charter is constituted by meaning, i.e. the meaning of having a right that is based on the idea of the universal dignity of humanity, which propels the rights-approach in ethics. Sometimes this rights-approach is often referred to as the rights-agenda, which tends to suggest that there is something that is hidden. Again, how we even use such terms including "rights-agenda" can shape the meaning of the rights-approach.

If I say that the Charter does not include the mentally handicapped, in our world of constituted meaning/significance, this might seem rather absurd, or at least it goes against the moral intuition of some people, especially for those whose moral thinking has been coloured by a Christian world-view. If they have not accepted this world constituted by Christian meaning, for example, then it might seem reasonably plausible not to include the mentally handicapped in this Charter. Of course, if we follow another ethical tradition – for example, virtue ethics with its emphasis on human flourishing – this statement might also appear to be absurd ³³ In other words, it is obvious that one does not need to be a Christian to include the mentally handicapped into any charter of rights. So, in our reality that is mediated by meaning and constituted by value, then the mentally handicapped might have a place in this Charter.

Regarding others who might be considered strictly non-persons, within my definition of person, they still take part in the same reality as fully functioning persons. As I have said, those who have no concept of self may not be engaged in their lives. On the level of immediate experience, they may be open to various biological and

³³ Someone following in the footsteps of virtue ethics might argue that the inclusion of the mentally handicapped in the Charter will help in the path towards human flourishing

physiological processes. On the level of reality mediated by meaning, they may not be engaged in the mediation of meaning. They are objects to which acts of mediation refer For example, we can still talk about PVS patients They become objects in our world of mediated meaning However, they may still take part in a world constituted by significance Although, they may not participate in self-interpretation and therefore create significance for themselves, they take part in our reality of shaping meaning. We can constitute their significance and they can constitute ours. In this world of meaning, they may become subjects or at least not mere objects. For instance, our ethical response, in the form of a Charter, can contribute to determining the significance of the lives of patients in a PVS ³⁴ By using this Charter, health professionals might attempt to ensure that PVS patients have a right of access to proper health care and that their right to consent is upheld - albeit through a proxy of some kind (European Charter of Patients' Rights 2002 p5) 35 Health care practitioners may nevertheless attempt to guarantee that such patients still have a right to safety, a right to avoid unnecessary pain and suffering Health care providers may also at times feel moved to bring the life of patients in such a condition to a close in a dignified manner. There can be no doubt that patients in a PVS are dependent on the care that we can provide for them and on our world constituted by significance If the Charter of Rights includes them in its remit, it may protect their vulnerability in this world

I think that from the perspective of static concepts of person, many vulnerable entities are excluded from this Charter Unfortunately, the Charter does not seem to acknowledge the risk it poses to them by using the language of rights, which tends to belong to rational human persons. My definition of person as a self-interpreting-dependent-vulnerable animal living within a reality that is mediated by meaning and constituted by significance attempts to knock down the arbitrary barriers that are erected

³⁴ Although, it could be argued that we may never know the full extent of this

As I have already said, the non-person's previous self-interpretation ought to be considered in exercising this right. See chapter four pp163-165

by the static morality in a closed society and point towards a more dynamic morality in an open society. However, I concede that this definition, although pointing to the world of value rather than of fact, is still at risk of becoming codified and static. For that reason, this understanding of personhood needs to be dynamically affective through intellectual sympathy rather than merely through intellectual analysis alone.

54 Conclusion - The Concept of Person within the Dynamic Morality of the Charter

The Nice Charter of Fundamental Rights - the main point of reference for the Charter of Patients' Rights - states that the moral justification of rights transcends any individual state or national sovereignty (ibid p2). The philosophical anthropology that underlies the Nice Charter is the dignity of the person, who has an invaluable worth against which the numerous EU organs and member states cannot impose any limitations. As well as that, it contends that the EU cannot dispense with any of these rights because they are not attached to persons *qua* citizens but are attached to individuals *qua* individuals (ibid p8). In other words, all health care rights stem from the fundamental human rights enjoyed by individuals. In this way, the universal dimension of the inalienability of human rights is grounded in a European document for European members. Against the background of the universal dimension of human rights, perhaps we need to ask ourselves why there is a need to give such universal rights a European twist. If universal rights mtrinsically transcend nation states, is it not contradictory to place them in a political constitution of a group of nation states that are mainly joined together for a common economic goal?

The original dynamic morality that inspired the universality of rights from the tragedians and Stoics to the emergence of the natural law can be pulled down into specific codes that become stale and can lose their dynamic appeal. Charters of rights

can lose their hold on the dynamic source that engendered the desire to uphold the universal dignity of men and women. It could be argued that the present Charter is a perspicuous example of society's way (whether closed or open) of articulating what they think is (morally) important for their members, especially when they are faced with illness and are required to engaged with a health care system

Bergson (1986) tells us that static morality is dictated by impersonal social requirements, whereas dynamic morality is a series of appeals made by persons who represent the best in humanity (p84). In the last analysis, the moral appeal of the current European Charter of Patients' Rights may lie in health care professionals who attempt to uphold the spirit of these rights in their care for people who are vulnerable. It may be the exceptional moral lives of individuals who will create a moral atmosphere in which such a charter will have real moral currency. In this way, the spirit of the Charter should radiate every nook and cranny of the hospital life and eschew becoming a stale mandate that quells the natural impulse to care for the patient by pinning health professionals to the legal walls of litigation. Naturally, only time will tell whether the Charter becomes a living source from which to draw moral guidance or rather a static code that walls off health professionals.

As I have argued, much is assumed about the custodians of the rights outlined in the new Charter. From the perspective of the contemporary concepts of person, many individuals are automatically excluded from this Charter. However, my definition of person as a self-interpreting-dependent-vulnerable animal living within a reality that is mediated by meaning and constituted by significance may provide another route through which so-called non-persons could be given a moral standing. This definition might help to halt the original dynamic morality of the Charter from becoming another static code of exclusion. My hope is that my definition will appeal to the health care practitioner's intellectual sympathy. That there is something more to persons than

certain contemporary criteria allow in a world that is constituted by significance and not only mediated by fact. This "more" may not always be grasped on the level of the intellect. As my analysis has shown, it is through the work of intellectual sympathy that the "current" of another person's personhood reacts to the "charges" of our personhood. The "current" of one self-interpreting-dependent-vulnerable animal living within a reality that is mediated by meaning and constituted by significance reacts to the "charges" of another. This "current" is the living meaning that dwells in each person. This does not take place in the world of mediated meaning (i.e. through concepts) but in the world of immediate experience (i.e. through intellectual sympathy). It may be through intellectual sympathy that we connect with other persons and grasp their living significance.

My hope is that my argument will alert health care practitioners to the intrinsic static moralities of some concepts of person and point them in the direction of the dynamic morality of an open society, by relocating the understanding of the concept of person within the world of significance and by experiencing this concept through intellectual sympathy in the world of immediate experience

CONCLUSION

6. General Conclusion to Thesis

This dissertation began with the argument that the creative feats of technology benefiting the world of health care today have a double-edged sword of both positive and negative effects. This is most clearly witnessed by the ethical issues raised from this creative revolution in health care. For example, the ability to prolong the life of a patient, who would have otherwise died, raises ethical questions concerning whether we should hold on to life at all cost or whether we should let go regardless of the cost. Having the technological and medical means to assist in the creation of new embryonic life raises ethical questions concerning the destruction of life that is often needed to create life (in the case of some reproductive techniques)¹ and to restore life (in the case of embryonic stem cell research that seeks to regenerate cells that have become dysfunctional).²

I have argued that this positive and negative dimension of the creative revolution in health care can find its source in an ideological pursuit of reaching human perfection within history that is generally confined to a select few at the expense of the many. I have also argued that this ideological drive is located in a closed society, which is spurred on by an inherent static morality that compels its members to sustain the group. In contrast to this, I have shown that an open society is spurred on by dynamic morality that is inspired by love for humanity beyond the pale of the particular group. From this analysis, I have maintained that the creative impulse of humanity is pulled down and utilised in a closed society for its own narrow objectives. When the creative inventions are used only for the good of a closed society, it tends to have negative consequences for those outside its borders.

Although the creative revolution within health care has the potential to greatly benefit many people, there is the possibility that the creative feats will be used for those deemed worthy in a closed society. In the literature on health care ethics, this criterion

¹ See chapter one p20.

² See chapter one pp20-21.

of worth is sometimes based on an understanding of the concept of person. Therefore, a distinction is made between the concept of person and human being. The concept of person can offer a point of reference for deciding whom to include in the moral domain. The concept of person is often employed in order to settle difficult ethical issues created by the technological revolution in health care. When forced to decide who should benefit from the amazing creative feats, the concept of person is a useful tool. Therefore, the concept of person becomes central in the ethical discourse prompted by the use of technology in health care.

Using the works of Tooley, Singer and Engelhardt, I have pointed to the fact that they confine the concept of person to those entities who possess self-consciousness, who display signs of rationality and who have a sense of past, present and future states. In this way, their concepts cannot only be applied to human beings but also to other entities that fit their criteria (e.g. certain types of chimpanzees). From this, I have questioned whether their concepts could be understood as an example of a dynamic morality of an open society, i.e. an open society consisting of all entities that display rationality and consciousness at a certain level, for example. However, by virtue of the fact that their concepts of person tend to result in the exclusion of a large number of human beings (and other entities, e.g. including certain animals), I believe that they reflect more the static morality of a closed society rather than the dynamic morality of an open society. Therefore, I have come to the conclusion that such aforementioned concepts tend to be static rather than dynamic because they can be used to justify the curtailing of the ensuing medical benefits of the creative revolution for those who are deemed morally worthy.

In order to move from a static to a dynamic concept of person, I have presented, what I described as, an aesthetic presentation of the concept of person by situating it within the context of the bifurcation between the world of facts and the world of

meaning I made the case that we do not only live in the world of immediate experience but also in the world of mediated meaning. In the world of mediated meaning we attempt to understand the world of immediate experience and we communicate our findings with each other through language and other meaningful signs. As well as that, the capacity to constitute certain experiences and certain objects with particular significance demonstrates that we also inhabit a world constituted by significance. In this world, we partly shape the meaning of our own lives through self-interpretation and evaluation. We also attempt to partly form the meaning that other people have for us

In outlining an aesthetic presentation of the concept of person, I have also pointed to the fact that in this world mediated by meaning and constituted by significance we often find ourselves dependent on others and therefore vulnerable to them. The level of dependency varies and can be due to different stages in our developmental process as human beings and/or because of illness and disability. From all these aspects, I outlined a concept of person as a self-interpreting-dependent-vulnerable animal living within a reality that is mediated by meaning and constituted by significance. My concept is offered as a step towards a more inclusive concept, i.e. a more dynamic rather than static concept.

Nonetheless, in view of the fact that my concept – by virtue of the fact that it is a concept – could be pulled down into a closed society by using it to exclude rather than include, I have outlined an instructive way towards preventing this concept of person from becoming the façade for a closed society

I have found that the analysis of the two chief directions in consciousness, namely the intellect and intellectual sympathy, offer a window onto the problem of concept formulation in general. The intellect tends to pull down original dynamic experiences into static concepts, whereas intellectual sympathy engages with the immediacy of the original concrete experience. From this analysis of the two major

directions in consciousness, I have maintained that it is through intellectual sympathy that we can recognise the "current" of someone's personhood reacting to the "charges" of our own personhood in immediate concrete experience. It is through intellectual sympathy that we can recognise another as a *self-interpreting-dependent-vulnerable animal living within a reality that is mediated by meaning and constituted by significance*, i.e. as a person. Naturally, the formulation of this concept of person is a result of the work of the intellect. It results from an intellectual odyssey due to the nature of the subject as well as due to the fact that we do not only live in a world of immediate experience but in a world of mediated meaning. Therefore, we cannot escape from the tendency of the intellect to use concepts that set boundaries between objects in order to utilise them successfully. However, it is through intellectual sympathy that we can attempt to recapture the original dynamic experience, which my concept of person attempts to encapsulate.

As I have stated, the intellect uses concepts to set limits and boundaries, and it can be morally driven by a static morality of the closed society. Intellectual sympathy transcends the limits and boundaries of concepts in order to penetrate the original immediate experience. Intellectual sympathy can be morally driven by a dynamic morality of an open society. The pull of the intellect and push of intellectual sympathy highlights the interface between dynamic and static moralities. Dynamic morality becomes intermixed with static morality when it is pulled down into concepts by the intellect. However, through intellectual sympathy, the original appeal for love of humanity outside the periphery of a particular society can be rekindled.

It is my contention that the concept of person as a self-interpreting-dependent-vulnerable animal living within a reality that is mediated by meaning and constituted by significance may act as an antidote to the static morality of a closed society, which tends towards exclusion rather than inclusion. In light of the fact that health care

professionals have both the faculties of the intellect and intellectual sympathy, and in the light of the fact that health care professionals work in various societies (both open and closed), the concept of person as a self-interpreting-dependent-vulnerable animal living within a reality that is mediated by meaning and constituted by significance will remain in tension between these various poles. For example, in view of the fact that health professionals can use the creative feats of technology to benefit and advance patient care, it is often difficult (if not impossible) for the health care professional to escape from the web of tensional demands brought about by the paradoxical situation of the creative revolution on the one hand and the finite context of limited resources on the other From my experience of teaching health care ethics, I have found some health care practitioners split between the pull of their intellects and the push of their intellectual sympathies With their intellects, they will weigh up the pros and cons of various types of nursing care and intervention in order to deliver the best and most appropriate patient care With their intellectual sympathies, they will also attempt to enter into the particular patient's personal need of care and attempt to match the delivery of care to that need as far as possible They may be driven by the static morality of seeking to maintain the normal procedures on the ward in order that the hospital can function favourably as a whole They might also find themselves wanting to transcend this if these hospital rules do not totally cater for the patient's personal needs

After applying my analysis to the present state of health care, I have argued that although the moral source of the new European Charter of Patients' Rights may be dynamic rather than static, there is the danger that the Charter may become a stale code in our health care institutions. It is my contention that the Charter has the potential to be pulled down into a static code in virtue of the fact that rights can be logically denied to those human beings who do not fit the abovementioned contemporary understandings of the concept of person. In view of this, I have made the case that the concept of person as

a self-interpreting-dependent-vulnerable animal living within a reality that is mediated by meaning and constituted by significance may provide one route to preventing the Charter falling prey to a static and closed mentality

The Beaune Hospices (*Hôtel-Dieu*) in France provides a perspicuous example of dynamic morality in these closing remarks (see Bruillot and Roels 1996). This hospice was established shortly after the Hundred Years' War in 1443, when there was widespread poverty and famine, as well as the plague. In response to the plight of the people, Nicolas Rolin (the then chancellor) and his wife, Guigone de Salins, felt moved to act for the people regardless of their status in society. They sought Pope Eugene IV's support to establish a new hospital in Beaune. This was a remarkable act of care in light of the fact that the poor had very little standing in the Middle Ages, therefore a hospital of this kind was quite exceptional. It was the experience of witnessing people dying before their very eyes that moved Rolin and his wife to morally respond by establishing a hospital for the *pôvres* (i.e. the poor)

If we ruminate on the actions of Nicolas Rolin and Guigone de Salins, it could be concluded that their accomplishments were enamoured by an experience of a dynamic morality to reach out to those living in the penumbra of society. They did not completely follow their intellects and accept that the poor were simply the $p\hat{o}vres$. Through their intellectual sympathies they entered into the immediate concrete experience of the $p\hat{o}vres$. It is difficult to accept that the rationale for such a move could be solely based on intellectual calculation. Indeed, perhaps the reasons given for such an act of charity would have had a brittle standing in the intellect's tribunal of evidence and would therefore have had to find another court of appeal

In conclusion, I think that the case can be made that the concept of person as a self-interpreting-dependent-vulnerable animal living within a reality that is mediated by meaning and constituted by significance will remain in tension between the closed and

the open, between the static and dynamic and between the intellect and intellectual sympathy

As I have already indicated, my concept of person does not take away from the fact that decisions have to be made in terms of prolonging life or not, for example I have argued that such decisions should take into account the self-interpretation and evaluation of the individual involved as well as the self-interpretation and evaluation of his or her family and health care community. For instance, a patient in a PVS will have a history of self-interpretations that will need to be taken into account

In the last analysis, my hope is that my discussion will provide a possible framework from which to understand the issue of the concept of person and will act as a sort of warning device to any unquestioning acceptance of contemporary concepts of person in health care ethics. My hope is that my definition of person as a self-interpreting-dependent-vulnerable animal living within a reality that is mediated by meaning and constituted by significance may work as a tutelary concept by providing an antidote to a closed mentality through appealing to the health care professional's intellectual sympathy

7. Bibliography

The following bibliography is divided into three sections consisting of books, articles and Internet resources. I follow the Harvard System of referencing, as adapted by Dublin City University

7 1 Books

Abbey, R 2000 Charles Taylor Teddington Acumen

Aiken, H D 1961 The age of ideology the nineteenth century philosophers New York The Mentor Philosophers Series

Aitchison, J 1994 Words in the mind an introduction to the mental lexicon 2nd edition Oxford Blackwell

Aquinas, T 1963 Summa Theologiae Law and political theology London Blackfriars

Aquinas, T 1993 Selected philosophical writings Timothy McDermot (ed) Oxford Oxford University Press

Aristotle 1998 The metaphysics London Penguin

Augros, R and Stanciu, G 1988 The new biology discovering the wisdom in nature Boston New Science Library

Augustine 1961 Confessions New York Dorest Press

Auster, P 1989 Moon palace Berlin Cornelsen

Backstein, K 1992 The blind men and the elephant New York Scholastic

Bandman, E L and Bandman, B 1995 Nursing ethics through the life span 3rd edition London Prentice Hall International

Barry, R L 1989 Medical ethics essays on abortion and euthanasia New York Peter Lang

Barsamian, D and Chomsky, N 2001 Propaganda and the public mind conversations with Noam Chomsky London Pluto Press

Beauchamp, T L and Childress, J F 1994 Principles of biomedical ethics 4th edition New York Oxford University Press

Benner, P 1984 From novice to expert excellence and power in clinical nursing practice California Addison-Wesley

Bentham, J 2002 Rights representation, and reform nonsense upon stilts and other writings on the French Revolution Oxford Clarendon Press

Bergson, H 1986 The two sources of morality and religion 3rd edition Indiana University of Notre Dame Press

Bergson, H 1998 Creative evolution 2nd edition Mineola Dover Publications

Bergson, H 1999 An introduction to metaphysics 2nd edition Indianapolis Hackett

Bergson, H 2002 The creative mind an introduction to metaphysics 3rd edition New York Citadel Press

Bobbio, N 1996 The age of rights London Polity Press

Boethius 1918 The theological tractates London Heinemann

Braine, D 1992 The human person animal and spirit London Duckworth

Bristow, P E 1997 The moral dignity of man Dublin Four Courts Press

Bruillot, D and Roels, A 1996 Beaune et ses hospices Montréal Editions du Parcours

Cardwell, D 1994 The Fontana history of technology London Fontana Press

Carrick, P 1985 Medical ethics in antiquity philosophical perspectives on abortion and euthanasia Dordrecht Reidel

Cassidy, E G 2004 The search for meaning and values Dublin Veritas

Charlesworth, M 1993 Bioethics in a liberal society Cambridge University Press

Chomsky, N 1988 Language and problems of knowledge the Managua lectures Cambridge MIT Press

Chomsky, N 1999 The umbrella of US power the universal declaration of human rights and the contradictions of US policy New York Seven Stories Press

Chomsky, N 2002 American power and the new mandarins 3rd edition New York The New Press

Cioffi, A 1995 The fetus as medical patient moral dilemmas in prenatal diagnosis from a Catholic perspective Maryland University Press of America

Clarke, W N 1993 Person and being Milwaukee Marquette University Press

Connell, D 1996 Essays in metaphysics Dublin Four Courts Press

Corcoran, M 1982 Person, and its formal constitutive factor, in the philosophy of Antonio Rosmini Rome Pontifica Universitas Gregoriana Facultas Philosophica

Darwell, S 1998 Philosophical ethics Oxford Westview Press

Dawkins, R 1989 The selfish gene 2nd edition Oxford Oxford University Press

Deliege, I and Sloboda, J (eds) 1996 Musical beginnings Oxford University Press

Department of Health and Children 2001 Quality and fairness a health system for you Dublin Stationary Office

Descartes, R 1972 Treatise on man Harvard Harvard University Press

Descartes, R 1999 Discourse on method and related writings London Penguin Books

Deutsches Museum 2000 Pharmazie Fuhrer durch die Ausstellung Munchen Deutsches Museum

Distel, B and Jakusch, R (eds) 1978 Concentration camp Dachau 1933-1945 Munich Comite International de Dachau

Dooley, D and McCarthy, J 2005 Nursing ethics Irish cases and concerns Dublin Gill & Macmillan

Doorley, M J 1996 The place of the heart in Lonergan's ethics the role of feeling in the ethical intentionality analysis of Bernard Lonergan Lanham University Press of America

Doran, K 1989 What is a person the concept and the implications for ethics Lewiston Edwin Mellen Press

Dyson, A 1995 The ethics of IVF New York Mowbray

Edwards, J C 1982 Ethics without philosophy Wittgenstein and the moral life Tampa University of Florida Press

Edwards, S D 1996 Nursing ethics a principle-based approach London MacMillan

Edwards, S D 2001 Philosophy of nursing an introduction New York Palgrave

Eliot, T S 1979 Four quartets London Faber & Faber

Engelhardt, H T 1996 The foundations of bioethics 2nd edition New York Oxford University Press

Fletcher, J 1979 Humanhood essays in biomedical ethics New York Prometheus Books

Ford, N M 1988 When did I begin? Conception of the human individual in history, philosophy and science Cambridge University Press

Franz, M 1992 Eric Voegelin and the politics of spiritual revolt the roots of modern ideology Baton Rouge Louisiana State University Press

Freeman, M 2002 Human rights an interdisciplinary approach Cambridge Polity Press

Fukuyama, F 2002 Our posthuman future consequences of the biotechnology revolution New York Farrar, Straus and Giroux

Gallagher, I J 1970 Morality in evolution the moral philosophy of Henri Bergson The Hague Martinus Nijhoff

Gardner, H 1993 The unschooled mind how children think and how schools should teach London Fontana Press

Gerson, L P 2003 Knowing persons a study in Plato New York Oxford University Press

Glendon, M A 1991 Rights talk the impoverishment of political discourse New York The Free Press

Gonsalves, A 2000 The beginning of the human individual a western and an Indian perspective PhD Thesis Rome Academia Alphonsiana Institutum Superius Theologiae Moralis

Green, R M 2001 The human embryo research debates bioethics in the vortex of controversy Oxford Oxford University Press

Gutierrez, G 1974 A theology of liberation history politics, and salvation London SCM

Habgood, J 1998 Being a person where faith and science meet London Hodder & Stoughton

Hall, J. K. 1996. Nursing ethics and law. Philadelphia: W. B. Sauders.

Hallamaa, J. 1994. The prisms of moral personhood: the concept of a person in contemporary Anglo-American ethics. Helsinki: Luther-Agricola-Society.

Havel, V. et al. 1985. The power of the powerless. London: Hutchinson.

Havel, V. 1991. Open letters: selected writings 1965-1990. New York: Knopf.

Hobsbawm, E. 1994. Age of extremes: the short twentieth century 1914-1991. London: Abacus.

Hoffmann, K. and Cole, M. J. 2001. Otto Hahn: achievement and responsibility. New York: Springer.

Holm, S. 1997. Ethical problems in clinical practice: the ethical reasoning of health care professionals. Manchester: Manchester University Press.

Holmes, J. (ed). 2002. Thomas Jefferson: a chronology of his thoughts. Oxford: Rowman & Littlefield.

Huxley, A. 1998. Brave new world. New York: Perennial Classics.

Jansz, J. 1991. Person, self, and moral demands: individualism contested by collectivism. Leiden: DSWO Press.

Jonas, H. 1984. The imperative of responsibility: in search of an ethics for the technological age. Chicago: The University of Chicago Press.

Kant, I. 1993. Grounding for the metaphysics of morals. 3rd edition. Indianapolis: Hackett Publishing.

Kass, L. 1984. Toward a more natural science. New York: Macmillan.

Kelly, K. 1994. Out of control: the new biology of machines, social systems, and the economic world. New York: Addison-Wesley.

Kirwan, C. 2001. The role of the person in society: a critical analysis of the philosophical vision of Charles Taylor as one approach to the application of Catholic social teaching as outlined in the encyclicals Laborem Exercens, Sollicitudo Rei Socialis, and Centesimus Annus of Pope John Paul II. PhD Thesis. Rome: Pontifica Universitas Lateranensis Academia Alfonsiana Institutum Superius Theologiae Moralis.

Kitzinger, S 1997 The new pregnancy and childbirth New edition London Penguin Books

Kohler, W 1931 The mentality of apes New York Harcourt

Krapiec, M A 1993 Person and natural law New York Peter Lang

Kuhse, H and Singer, P 1985 Should the baby live? The problem of handicapped infants Oxford Oxford University Press

Kuhse, H 1987 The sanctity-of-life doctrine in medicine a critique Oxford Clarendon Press

Lacey, A R 1989 Bergson London Routledge

Larsson, U (ed) 2002 Cultures of creativity the centennial exhibition of the Nobel Prize Revised edition Canton Science History Publications

Le Fanu, J 1999 The rise and fall of modern medicine London Abacus

Locke, J 1960 Two treatises of government Revised edition New York Cambridge University Press

Locke, J 1975 An essay concerning human understanding P H Nidditch (ed) Oxford Clarendon Press

Lobbecke, A (ed) 1999 Die Fundgrube für den Ethik – und Religions-Unterricht Das Nachschlagewerk für jeden Tag Berlin Cornelsen Scriptor

Lonergan, B J F 1968 The subject Milwaukee Marquette University Press

Lonergan, B J F 1974 A second collection London Darton, Longman & Todd

Lonergan, B J F 1978 Insight a study of human understanding Revised edition New York Harper & Row

Lonergan, B J F 1988 Collection Collected works of Bernard Lonergan F E Crowe and R M Doran (eds) Toronto University of Toronto Press

Lonergan, B J F 1990a Method in theology Toronto University of Toronto Press

Lonergan, B J F 1990b Understanding and being Collected works of Bernard Lonergan E A Morelli and M D Morelli (eds) Toronto University of Toronto Press

Lonergan, B J F 1993 Topics in education Collected works of Bernard Lonergan R M Doran and F E Crowe (eds) Toronto University of Toronto Press

Lonergan, B J F 2002 The ontological and psychological constitution of Christ Collected works of Bernard Lonergan M G Shields (ed) Toronto University of Toronto Press

MacIntyre, A 1985 After virtue 2nd edition London Duckworth

MacIntyre, A 1999 Dependent rational animals why human beings need the virtues London Duckworth

Marx, K 1994 Selected writings L H Simon (ed) Cambridge Hackett

McCormick, R A 1981 How brave a new world? Dilemmas in bioethics New York Doubleday & Company

McMahan, J 2002 The ethics of killing problems at the margin of life Oxford Oxford University Press

McShane, P (ed) 1972 Language, truth and meaning Notre Dame University of Notre Dame Press

Mill, J S 1985 On liberty London Penguin

Mudathotty, P 1993 Human person as an ethical being a study based on Max Scheler's philosophy PhD Thesis Rome Pontificia Universitas Gregoriana Facultas Philosophiae

Muller-Ballin, G 1995 Die Nurnberger Prozesse 1945-1949 Nurnberg Bildungszentrum Stadt Nurnberg

Mumford, L 1934 Technics and civilization London Routledge

Nelson, J L and Nelson, H L 1999 Meaning and medicine a reader in the philosophy of health care New York Routledge

Noble, D F 1995 Progress without people new technology, unemployment and the message of resistance Toronto Between the Lines

Noble, D F 1997 The religion of technology the divinity of man and the spirit of invention New York Knopf

O'Mathuna, D et al 2005 Health care rights and responsibilities a review of the European charter of patients' rights Dublin Irish Patients' Association

Oakley, J 1992 Morality and the emotions London Routledge

Paine, T 1970 The rights of man and other writings London Herron Books

Phillips, M and Dawson, J 1985 Doctor's dilemmas medical ethics and contemporary science Sussex. The Harvester Press

Plato 1987 The republic 2nd edition London Penguin Books

Plato 1993 The last days of Socrates Euthypho, Apology, Crito, Phaedo London Penguin Books

Preece, G (ed) 2002 Rethinking Peter Singer a Christian critique Downers Grove InterVarsity Press

Ricoeur, P 1986 Lectures on ideology and utopia New York Columbia University Press

Rudman, S 1997 Concepts of person and Christian ethics Cambridge Cambridge University Press

Russell, B 2002 Roads to freedom London Routledge

Saint-Exupery, A de 1999 The little prince London Mammoth

Senior, J E 1998 Marie and Pierre Curie Stroud Sutton Publishing

Shannon, T A 1997 An introduction to bioethics 3rd edition New York Paulist Press

Singer, P 1979 Practical ethics Cambridge Cambridge University Press

Singer, P and Wells, D 1984 The reproduction revolution new ways of making babies Oxford Oxford University Press

Singer, P (ed) 1985 In defence of animals Oxford Blackwell

Singer, P 1994 Rethinking life and death the collapse of our traditional ethics Oxford Oxford University Press

Smith, D 1996 Life and morality contemporary medico-moral issues Dublin Gill & Macmillan

Solzhenitsyn, A 2000 Cancer ward 3rd edition London Penguin Books

Sophocles 1994 The Theban plays Oedipus the king, Oedipus at Colonus, Antigone D Grene and R Lattimore (eds) London David Campbell

Steger, E E 1990 The many dimensions of the human person New York Peter Lang

Stoppard, M 2000 Conception, pregnancy and birth London Dorling Kindersley

Strawson, P F 1964 Individuals an essay in descriptive metaphysics London Methuen

Strong, C 1997 Ethics in reproductive and perinatal medicine a new framework New Haven Yale University Press

Sullivan, D J 1992 An introduction to philosophy the perennial principles of the classical realist tradition Rockford Tan Books

Talmon, S 1986 Eschatology and history in biblical Judaism Jerusalem The Hebrew University of Jerusalem

Taylor, C 1964 The explanation of behavior London Routledge & Kegan Paul

Taylor, C 1970 The pattern of politics Toronto McClelland and Stewart

Taylor, C 1975 Hegel Cambridge Cambridge University Press

Taylor, C 1985a Human agency and language philosophical papers I Cambridge Cambridge University Press

Taylor, C 1989 Sources of the self the making of the modern identity New York Cambridge University Press

Thompson, I E, Melia, K M, and Boyd, K M 1994 Nursing ethics 3rd edition Edinburgh Churchill Livingstone

Tooley, M 1983 Abortion and infanticide Oxford Clarendon Press

Trigg, R 2005 Morality matters Oxford Blackwell

Vetlesen, A J 1994 Perception, empathy and judgment an inquiry into the preconditions of moral performance Pennsylvania The Pennsylvania State University Press

Voegelm, E 1952 The new science of politics an introduction Chicago University of Chicago Press

Voegelin, E 1956 Order and history, volume I Israel and revelation Baton Rouge Louisiana State University Press

Voegelin, E 1957 Order and history, volume III Plato & Aristotle Baton Rouge Louisiana State University Press

Voegelin, E 1978 Anamnesis Columbia University of Missouri Press

Von Hagens, G 2002 Body worlds the anatomical exhibition of real human bodies 3rd edition Heidelberg Institut für Plastination

Waldron, J (ed) 1987 Nonsense upon stilts Bentham, Burke and Marx on rights of man London Methuen

Walsh, D 1995 After ideology recovering the spiritual foundations of freedom Washington The Catholic University of America Press

Walsh, D 1999 The third millennium reflections on faith and reason Washington Georgetown University Press

Warnock, M 1966 Ethics since 1900 London Oxford University Press

Warnock, M 1985 A question of life the Warnock report on human fertilisation and embryology Oxford Blackwell

Webb, E 1981 Eric Voegelin philosopher of history Seattle University of Washington

Webster's third new international dictionary of the English language 1971 P Babcock (ed) Massachusetts G & C Merriam

Williams, R B 2001 Detour Berlin Philadelphia Xlibris

Winston, R 1999 The IVF revolution the definitive guide to assisted reproductive techniques London Vermilion

Wordsworth, W 1994 Selected poems London Bloomsbury

Wren, M A 2003 Unhealthy state anatomy of a sick society Dublin New Island

Yolton, J W 1968 John Locke and the way of ideas Oxford Clarendon

7 2 Articles

Allmark, P 1994 An argument against the use of the concept of 'persons' in health care ethics *Journal of Advanced Nursing*, 19, pp29-35

Allott, P 2001 Globalization from above actualizing the ideal through law *IN* K Booth, T Dunne, and M Cox (eds) *How might we live? Global ethics in a new century* New York Cambridge University Press pp61-79

Anderson, F 1982 Human gene therapy, scientific considerations *IN* T C Beauchamp (ed) *Contemporary issues in bioethics* 2nd edition Belmont Wadsworth pp142-149

Andrews, K 1993 Recovery of patients after four months or more in the persistent vegetative state *British Medical Journal*, 306, pp1597-1600

Aveyard, H 2000 Is there a concept of autonomy that can usefully inform nursing practice? *Journal of Advanced Nursing*, 32 (2), pp352-358

Avorn, J 1982 A physician's perspective Hastings Center Report, 12 (3), pp11-12

Beauchamp, T L 1982 What philosophers can offer *Hastings Center Report*, 12 (3), pp13-14

Beauchamp, T L 1999 The failure of theories of personhood Kennedy Institute of Ethics Journal, 9 (4), pp309-324

Becker, L C 1988 Human being the boundaries of the concept *IN* M F Goodman (ed) *What is a person?* Clifton Humana Press pp57-81

Belshaw, C 1997 Abortion, value and the sanctity of life Bioethics, 11 (2), pp130-146

Bemporad, J 1978 From biology to spirit the artistry of human life *Journal of Medicine and Philosophy*, 2, pp74-87

Benner, P 1994 Caring as a way of knowing and not knowing *IN S S Phillips and P Benner* (eds) *The crisis of care affirming and restoring caring practices in the helping professions* Washington Georgetown University Press pp42-62

Bernat, J L 1998 A defense of the whole-bram concept of death *Hastings Center Report*, March-April, pp14-23

Billings, P and Koliopoulos, S 2001 What is the human genome? IN J-F Mattei (ed) The human genome Strasbourg Council of Europe pp19-27

Brock, D W 1992 Voluntary active euthanasia *Hastings Center Report*, March-April, pp10-22

Burzagli, S 1995 Euthanasia Global Bioethics, 8 (4), pp115-127

Callahan, D 1988 The 'beginning' of human life philosophical considerations *IN* M F Goodman (ed) *What is a person?* Clifton Humana Press pp29-55

Callahan, D 1996 The genetic revolution IN D C Thomasma and T Kushner (eds) Birth to death science and bioethics New York Cambridge University Press pp13-20

Campbell, A V 1999 Presidential address global bioethics – dream or nightmare? *Bioethics*, 13 (3/4), pp183-190

Campbell, C S 1992 Body, self, and the property paradigm *Hastings Center Report*, 22 (5), pp34-42

Campbell, T 2003 Human rights the shifting boundaries *IN* T Campbell, J Goldsworthy and A Stone (eds) *Protecting human rights instruments and institutions* Oxford Oxford University Press pp17-37

Cascais, A F 1997 Bioethics history, scope, object Global Bioethics, 10 (1-4), pp9-24

Cassell, E J 1996 The sorcerer's broom medicine's rampant technology *IN* D C Thomasma and T Kushner (eds) *Birth to death science and bioethics* New York Cambridge University Press pp177-189

Clarke, H F and Drever, M J 1983 Vulnerability the development of a construct for nursing *IN* P L Chinn (ed) *Advances in nursing theory development* Maryland Aspen pp207-220

Cohen, A 1984 Descartes, consciousness and depersonalization viewing the history of philosophy from a Strausian perspective *The Journal of Medicine and Philosophy*, 9, pp7-27

Cook, D 2003 The individual versus the common good *IN* Peter Morris (ed) *Transplants* Strasbourg Council of Europe pp69-87

Cranford, R E 1996 Modern technology and the care of the dying *IN* D C Thomasma and T Kushner (eds) *Birth to death science and bioethics* New York Cambridge University Press pp191-197

Crosby, J F 1993 The incommunicability of human persons *The Thomist*, 57 (4), pp403-442

Davis, J K 2002 The concept of precedent autonomy *Bioethics*, 16 (2), pp114-133

De Dijn, H 2002 Technology in health care a philosophical ethical appraisal *IN C* Gastmans (ed) *Between technology and humanity the impact of technology on health care ethics* Leuven Leuven University Press pp15-34

De Laguna, G A 1963 The Person The Review of Metaphysics A Philosophical Quarterly, 17 (2/66), pp171-186

De Vogel, C J 1963 The concept of personality in Greek and Christian thought Studies in Philosophy and the History of Philosophy, 2, pp20-60

Deigh, J 1995 Metaethics *The Cambridge dictionary of philosophy* Cambridge Cambridge University Press pp247-248

Dennett, D 1988 Conditions of personhood *IN* M F Goodman (ed) *What is a person*? Clifton Humana Press pp145-167

Dixon, N 1998 On the difference between physician-assisted suicide and active euthanasia *Hastings Center Report*, September-October, pp25-29

Duncan, G 2000 Mind-body dualism and the biopsychosocial model of pain what did Descartes really say? *Journal of Medicine and Philosophy*, 25 (4), pp485-513

Dworkin, R 1984 Rights as trumps *IN J Waldron* (ed) *Theories of rights Oxford Oxford University Press pp153-167*

Eberl, J T 2000 The beginning of personhood a Thomistic biological analysis *Bioethics*, 14 (2), pp134-157

Edwards, R G 1998 Introduction and development of IVF and its ethical regulation IN E Hildt and D Mieth (eds) In vitro fertilisation in the 1990s towards a medical, social and ethical evaluation Aldershot Ashgate pp3-18

Emmet, D 1933/1934 Some reflections concerning M Bergson's 'Two sources of morality and religion' *Proceedings of the Aristotelian Society*, N S XXXIV, pp231-248

Engelhardt, H T Jr 1973 The beginnings of personhood philosophical considerations *The Perkins School of Theology Journal*, 27, pp20-27

Engelhardt, H T Jr 1973/74 The ontology of abortion Ethics, 84, pp217-234

Engelhardt, H. T. Jr. 1983a. Introduction. *IN:* W. B. Bondeson, H. T. Engelhardt Jr., S. F. Spicker and D. H. Winship (eds). *Abortion and the status of the fetus*. Dordrecht: Reidel. ppxi-xxxii.

Engelhardt, H. T. Jr. 1983b. Viability and the use of the fetus. *IN:* W. B. Bondeson, H. T. Engelhardt Jr., S. F. Spicker and D. H. Winship (eds). *Abortion and the status of the fetus*. Dordrecht: Reidel. pp183-208.

Engelhardt, H. T. Jr. 1988. Medicine and the concept of person. *IN:* M. F. Goodman (ed). *What is a person?* Clifton: Humana Press. pp169-184.

Engelhardt, H. T. Jr. 1989. The context of health care: persons, possessions, and states. *IN*: T. L. Beauchamp and L. Walters (eds). *Contemporary issues in bioethics*. 3rd edition. California: Wadsworth. pp167-180.

Feinberg, J. 1984. Potentiality, development, and rights. *IN:* J. Feinberg (ed). *The problem of abortion*. Belmont: Wadsworth. pp147-148.

Feinberg, J. 1989. The rights of animals and unborn generations. *IN:* T. L. Beauchamp and L. Walters (eds). *Contemporary issues in bioethics*. 3rd edition. California: Wadsworth. pp154-161.

Foot, P. 1979. Euthanasia. *IN:* J. Ladd (ed). *Ethical issues relating to life and death*. New York: Oxford University Press. pp14-40.

Frankfurt, H. G. 1988. Freedom of the will and the concept of a person. *IN:* M. F. Goodman (ed). *What is a person?* Clifton: Humana Press. pp127-144.

Goodman, M. F. 1988. Introduction. *IN:* M. F. Goodman (ed). *What is a person?* Clifton: Humana Press. pp1-27.

Goodman, M. F. 1996. Person, concept of. *IN:* J. J. Chambliss (ed). *Philosophy of education: an encyclopedia*. New York: Garland. pp443-445.

Gordijn, B. and Janssens, R. 2001. New developments in Dutch legislation concerning euthanasia and physician-assisted suicide. *Journal of Medicine and Philosophy*, 26 (3), pp299-309.

Gove, P. B. 1971. Person. *IN:* P. B. Gove (ed). *Webster's third new international dictionary of the English language*. Massachusetts: G. & C. Merriam. p1686.

Gregersen, N. H. 2000. Varieties of personhood: mapping the issues. *IN*: N. H. Gregersen, W. B. Drees and U. Görman (eds). *The human person in science and theology*. Edinburgh: T & T Clark. pp1-20.

Guignon, C 1990 Philosophy after Wittgenstein and Heidegger *Philosophy and Phenomenological Research*, 1 (4), pp649-672

Haldane, J 2000 Being human science, knowledge and virtue *IN* J Haldane (ed) *Philosophy and public affairs* Cambridge Cambridge University Press pp189-202

Harcourt, W 1995 Reproductive technologies whose revolution? *IN* M Fransman *The biotechnology revolution*? Oxford Blackwell pp198-208

Hare, R M 1988 When does potentiality count? A comment on Lockwood *Bioethics*, 2 (3), pp214-226

Harris, J 1998 Rights and reproductive choice *IN J Harris* and S Holm (eds) *The future of human reproduction, ethics, choice, and regulation* Oxford Clarendon Press pp5-37

Have, H T 1994 The anthropological tradition in the philosophy of medicine *Theoretical Medicine*, 16 (1), pp3-14

Hawthorne, N 1974 The birth-mark IN W Charvat, R Harvey and C M Simpson (eds) Mosses from an old manse Ohio Ohio State University Press pp36-56

Hepper, P G 1991 An examination of fetal learning before and after birth *The Irish Journal of Psychology*, 12 (2), pp95-107

Hill, T P 1996 Care of the dying from an ethics perspective *IN* D C Thomasma and T Kushner (eds) *Birth to death science and bioethics* New York Cambridge University Press pp198-206

Hoor, M T 1947 The role of the philosopher *The Philosophical Review*, LVI, pp510-529

Houssin, D 2003 Historical background and ethical considerations *IN* Peter Morris (ed) *Transplants* Strasbourg Council of Europe pp19-38

Howsepian, A 2000 Toward a general theory of persons Christian Bioethics, 6 (1), pp15-35

Huby, P M 1990 Soul, life, sense, intellect some thirteenth-century problems *IN* G R Dunstan (ed) *The human embryo Aristotle and the Arabic and European traditions* Exeter University of Exeter Press pp113-122

Hymers, J 1999 Not a modest proposal Peter Singer and the definition of person *Ethical Perspectives*, 6 (2), pp126-138

Iglesias, T 1986 What kind of being is the human embryo? Ethics and Medicine, 2, pp2-7

Jennett, B and Plum, F 1972 Persistent vegetative state after brain damage *Lancet*, 1, pp734-737

Joyce, R E 1988 Personhood and the conception event *IN* M F Goodman (ed) What is a person? Clifton Humana Press pp199-211

Kass, L R 1985 Thinking about the body *Hastings Center Report*, February, pp 20-30

Keenan, J F 1999 'Whose perfection is it anyway?' A virtuous consideration of enhancement *Christian Bioethics*, 5 (2), pp104-120

Koch, L 1998 Two decades of IVF a critical appraisal *IN* E Hildt and D Mieth (eds) *In vitro fertilisation in the 1990s towards a medical, social and ethical evaluation* Aldershot Ashgate pp19-28

Koch, T 1999 Does the 'sanctity of human life' doctrine sanctify humanness, or life' Cambridge Quarterly of Healthcare Ethics, 8, pp557-560

Konopka, G 1992 The meaning of the holocaust for bioethics *IN* A L Caplan (ed) When medicine went mad bioethics and the holocaust Totowa Humana Press pp15-22

Kuhse, H 1993 Euthanasia IN P Singer (ed) A Companion to ethics Oxford Blackwell pp294-302

Kuhse, H 2002 Individuals, humans, and persons the issue of moral status *IN* H Kuhse (ed) *Unsanctifying human life essays on ethics* Oxford Blackwell pp188-198

Kuhse, H and Singer, P 2002 The moral status of the embryo *IN* H Kuhse (ed) *Unsanctifying human life essays on ethics* Oxford Blackwell pp181-187

Lacadena, J-R 2001 An ethical code for human genetics *IN* J-F Matter (ed) *The human genome* Strasbourg Council of Europe pp29-55

Lane, D A 1990 Eschatology IN J A Komonchak, M Collins and D A Lane (eds) The new dictionary of theology Dublin Gill and Macmillan pp329-342

Le Breton, D 2003 Identity problems and transplantations *IN* P Morris (ed) *Transplants* Strasbourg Council of Europe pp41-49

Levy, D J 1991 The life of order and the order of life Eric Voegelin and the problem of philosophical anthropology *Man and World*, 24, pp241-265

Levy, L 1997 Philosophical ethics meets technology a difficult state of affairs *Global Bioethics*, 10 (1/4), pp35-54

Lockwood, M 1988 Warnock versus Powell (and Harradine) when does potentiality count? *Bioethics*, 2 (3), pp187-213

Lockwood, M 1989 When does a life begin? IN T L Beauchamp and L Walters (eds) Contemporary issues in bioethics 3rd edition California Wadsworth pp136-141

Lowental, U 1985 Medical care the problem of autonomy *IN* A Carmi and S Schneider (eds) *Nursing law and ethics* Berlin Springer pp28-29

Luhmann, N 1992 Sthenographie IN N Luhmann et al (ed) Beobachter Konvergenz der Erkenntnistheorien? Munchen Fink pp119-137

Lustig, A B 2001 Theoretical and clinical concerns about brain death the debate continues *Journal of Medicine and Philosophy*, 26 (5), pp447-455

Luther, A R 1974 The articulated unity of being in Scheler's phenomenology Basic drive and spirit *IN* M S Frings (ed) *Max Scheler (1874-1928) centennial essays* The Hague Nijhop pp1-42

MacIntyre, A 1994 Critical remarks on *The sources of the self* by Charles Taylor *Philosophy and Phenomenological Research*, LIV (1), pp187-190

Manaranche, R 2001 Gene theraphy IN J F Matter (ed) The human genome Strasbourg Council of Europe pp69-83

Mattei, J-F 2001 Introduction *IN J F Mattei* (ed) *The human genome* Strasbourg Council of Europe pp11-18

Maurer, R 1982 The origins of modern technology in millenarianism *IN P T Durbin* and F Rapp (eds) *Philosophy and technology* Dordrecht Reidel pp253-265

Mauss, M 1985 A category of the human mind the notion of person, the notion of self *IN* M Carrithers, S Collins and S Lukes (eds) *The category of the person anthropology, philosophy, history* Cambridge Cambridge University Press pp1-25

Maxwell, N 2000 The mind-body problem and explanatory dualism *Philosophy*, 75, pp49-71

May, W. E. 1976. What makes a human being to be a being of moral worth? *The Thomist*, XL (3), pp416-443.

McKenny, G. 1999. Enhancement and the quest for perfection. *Christian Bioethics*, 5 (2), pp99-103.

McKnight, S. A. 1991. Voegelin's new science of history. *IN:* E. Sandoz (ed). *Eric Voegelin's significance for the modern mind*. Baton Rouge: Louisiana State University Press. pp46-70.

McMullin, E. 1972. What difference does mind make? *IN:* A. G. Karczmar and J. C. Eccles (eds). *Brain and human behavior*. Berlin: Springer. pp423-447.

Medicinhistoriska Museet. 2004. Stockholm.

Mitchell, B. 1990. The value of human life. *IN*: P. Byrne (ed). *Medicine, medical ethics and the value of life*. Chichester: John Wiley & Sons. pp34-46.

Mordacci, R. and Sobel, R. 1988. Health: a comprehensive concept. *Hastings Center Report*, January-February. pp34-37.

Munthe, C. 2001. Divisibility and the moral status of embryos. *Bioethics*, 15 (5/6), pp382-391.

Murr, A. et al. 2005. The tsunami threat. Newsweek, January 10, pp26-30.

Murray, J. A. H., et al. 1989. Person. *IN:* J. A. Simpson, E. S. C. Weiner, Henry Bradley, W. A. Craigie and C. T. Onions (eds). *The Oxford English dictionary*. 2nd edition. Oxford: Clarendon Press. pp596-597.

Nagel, T. 1993. Conceiving the impossible and the mind-body problem. *Philosophy*, 73, pp337-352.

Neuhaus, R. J. 1992. The way they were, the way we are. *IN*: Arthur L. Caplan (ed). *When medicine went mad: bioethics and the holocaust*. New Jersey: Humana Press. pp211-232.

Newton, L. 1974/1975. Humans and persons: a reply to Tristram Engelhardt. *Ethics*, 85, pp332-336.

Nortvedt, P. 1998. Sensitive judgement: an inquiry into the foundations of nursing ethics. *Nursing Ethics*, 5 (5), pp385-392.

O'Carroll, N. 1995. 'Right to die' arguments ignore a lesson love. *The Irish Times*. 13 August, p5.

O'Mathuna, D 1995 The bible and abortion what of the 'image of God'? IN J F Kilner et al (ed) Bioethics and the future of medicine a Christian appraisal London Paternoster Press pp199-211

Oberle, K and Hughes, D 2000 Doctors' and nurses' perceptions of ethical problems in end-of-life decisions *Journal of Advanced Nursing*, 33 (6), pp707-715

Olafson, F A 1994 Comments on sources of the self by Charles Taylor Philosophy and Phenomenological Research, LIV (1), pp191-196

Paley, J 1996 How not to clarify concepts in nursing *Journal of Advanced Nursing*, 24 (3), pp572-578

Parens, E 1998 Is better always good? The enhancement project *Hastings Center Report*, January-February, ppS1-S15

Pastrana, G 1977 Personhood and the beginning of human life *The Thomist*, 41 (2), pp247-294

Persson, I 2002 Human death – a view from the beginning of life *Bioethics*, 16 (1), pp20-32

Phillips, S S and Benner, P 1994 Preface IN S S Phillips and P Benner (eds) The crisis of care affirming and restoring caring practices in the helping professions Washington Georgetown University Press ppvii-xi

Puccetti, R 1983 The life of a person IN W B Bondeson, H T Engelhardt, Jr, S F Spicker and D H Winship (eds) Abortion and the status of the fetus Dordrecht Reidel pp169-182

Rachels, J 1999 Active and passive euthanasia *IN* H Kuhse and P Singer (eds) *Bioethics an anthology* Oxford Blackwell pp227-230

Reichlin, M 1997 The argument from potential a reappraisal *Bioethics*, 11 (1), pp1-23

Reinders, H S 2000 Mental retardation and the quest for meaning philosophical remarks on 'the meaning of life' in modern society *IN* J Stolk, T A Boer and R Seldenrijk (eds) *Meaningful care a multidisciplinary approach to the meaning of care for people with mental retardation* Dordecht Kluwer pp65-82

Report of the Ad Hoc Committee of the Harvard Medical School to Examine the Definition of Brain Death 1999 A definition of irreversible coma *IN* H Kuhse and P Singer (eds) *Bioethics an anthology* Oxford Blackwell pp287-291

Reuter, L. 2000. Human is what is born of a human: personhood, rationality, and a European convention. *Journal of Medicine and Philosophy*, 25 (2), pp181-194.

Rich, B. A. 1997. Postmodern personhood: a matter of consciousness. *Bioethics*, 11 (3/4), pp206-216.

Roa, A. 2002. The concept of mental health. *IN:* P. Taboada, K. F. Cuddeback and P. Donohue-White (eds). *Person, society and value: towards a personalist concept of health.* Dordrecht: Kulwer. pp87-107.

Rorty, R. 1994. Taylor on self-celebration and gratitude. *Philosophy and Phenomenological Research*, LIV (1), pp197-201.

Rosenberg, L. E. 1983. Toward an even newer genetics. *IN:* M. W. Shaw and A. E. Doudera (eds). *Defining human life: medical, legal and ethical implications*. Washington: Aupha Press. pp303-313.

Rossbach, S. 1996. Gnosis, science, and mysticism: a history of self-referential theory designs. *Social Science Information*, 35 (2), pp233-255.

Sakamoto, H. 1999. Towards a new 'global bioethics'. *Bioethics*, 13 (3/4), pp191-197.

Savage, C. M. 1999. The ethics of teaming: the key to the knowledge economy. *IN:* S. K. Chakraborty and S. R. Chatterjee (eds). *Applied ethics in management: towards new perspectives*. Berlin: Springer. pp215-222.

Schneewind, J. B. 1995. Natural law. *IN:* R. Audi (ed). *The Cambridge dictionary of philosophy*. Cambridge: Cambridge University Press. pp520-521.

Schultz, D. S. and Carnevale, F. A. 1996. Engagement and suffering in responsible caregiving: on overcoming maleficience in health care. *Theoretical Medicine*, 17 (3), pp189-206.

Seidl, H. 1987. The concept of person in St. Thomas Aquinas: a contribution to recent discussion. *The Thomist*, 51, pp435-460.

Seldenrijk, R. 2000. Meaning in medical care for people with mental retardation. *IN:* J. Stolk, T. A. Boer and R. Seldenrijk (eds). *Meaningful care: a multidisciplinary approach to the meaning of care for people with mental retardation*. Dordecht: Kluwer. pp85-99.

Sellman, D. 2005. Towards an understanding of nursing as a response to human vulernability. *Nursing Philosophy*, 6 (1), pp2-10.

Shewmon, A D 2001 The brain and somatic integration insights into the standard biological rationale for equating "brain death" with death *Journal of Medicine and Philosophy*, 26 (5), pp457-478

Singer, P 1979 Unsanctifying human life *IN J Ladd* (ed) *Ethical issues relating to life and death* New York Oxford University Press pp41-61

Singer, P 1982 How do we decide? Hastings Center Report, 12 (3), pp9-11

Singer, P and Kuhse, H 1994 Bioethics and the limits of tolerance *The Journal of Medicine and Philosophy*, 19 (2), pp129-145

Singer, P 1999 Is the sanctity of life ethic terminally ill? IN H Kuhse and P Singer (eds) Bioethics an anthology Oxford Blackwell pp292-301

Singer, P 2002 All animals are equal IN H Kuhse (ed) Unsanctifying human life essays on ethics Oxford Blackwell pp79-94

Smith, A L 2000 Personhood beginnings and endings Christian Bioethics, 6 (1), pp3-14

Solomon, R C 1983 Reflections on the meaning of (fetal) life *IN* W B Bondeson, H T Engelhardt, Jr, S F Spicker and D H Winship (eds) *Abortion and the status of the fetus* Dordrecht Reidel pp209-226

Solzhenitsyn, A 1975 Nobel lecture *IN J B Dunlop*, R Haugh and A Klimoff (eds) *Alexsandr Solzhenitsyn critical essays and documentary materials* 2nd edition New York Collier Books pp557-575

Spaemann, R 1996 Is every human being a person? The Thomist, 60 (1), pp463-474

Stolk, J, Boer, T A and Seldenrijk, R 2000 Meaningful care IN J Stolk, T A Boer and R Seldenrijk (eds) Meaningful care a multidisciplinary approach to the meaning of care for people with mental retardation Dordecht Kluwer ppix-xv

Stolk, J and Henk, K 2000 Parent's experiences of meaning IN J Stolk, T A Boer and R Seldenrijk (eds) Meaningful care a multidisciplinary approach to the meaning of care for people with mental retardation Dordecht Kluwer pp11-36

Taylor, C 1967 Mind-body identity, a side issue? The Philosophical Review, April, pp201-213

Taylor, C 1972 Conditions for a mechanistic theory for behaviour *IN* A G Karczmar and J C Eccles (eds) *Brain and human behavior* Berlin Springer pp449-465

Taylor, C 1985b The person *IN* M Carrithers, S Collins and S Lukes (eds) *The category of the person anthropology, philosophy, history* Cambridge University Press pp257-281

Taylor, C 1988 The moral topography of the self *IN* S B Messer, L Sass and R L Woolfolk (eds) *Hermeneutics and psychological theory* New Brunswick Rutgers University Press pp298-320

Taylor, C 1993 Engaged agency and background in Heidegger *IN* C B Guignon (ed) *The Cambridge companion to Heidegger* Cambridge Cambridge University Press pp317-336

Taylor, C 1994a Philosophical reflections on caring practices IN S S Phillips and P Benner (eds) The crisis of care affirming and restoring caring practices in the helping professions Washington Georgetown University Press pp174-187

Taylor, C 1994b Reply to commentators *Philosophy and Phenomenological Research*, LIV (1), pp203-213

Taylor, C 1995 Two theories of modernity *Hastings Center Report*, March-April, pp24-33

Taylor, C 1999 Sympathy *The Journal of Ethics*, 3 (1), pp73-87

Taylor, C 2000 McDowell on value and knowledge *The Philosophical Quarterly*, 50 (199), pp242-249

Teichman, J 1985 The definition of person *Philosophy*, 60, pp175-185

Thornton, J 1999 Killing, letting die and moral perception a reply to Grant Gillett *Bioethics*, 13 (5), pp414-425

Tooley, M 1972 Abortion and infanticide *Philosophy and Public Affairs*, 2 (1), pp37-65

Tooley, M 1979 Decisions to terminate life and the concept of person *IN J Ladd* (ed) *Ethical issues relating to life and death* New York Oxford University Press pp62-93

Tooley, M 1988 In defense of abortion and infanticide IN M F Goodman (ed) What is a person? Clifton Humana Press pp83-114

Toulmin, S 1972 The mentality of man's brain IN A G Karczmar and J C Eccles (eds) Brain and human behavior Berlin Springer pp409-422

Veatch, R M 1982 Definitions of life and death should there be consistency? *IN* T C Beauchamp (ed) *Contemporary issues in bioethics* 2nd edition Belmont Wadsworth pp142-149

Voegelin, E 1990a The eclipse of reality IN T A Hollweck and P Caringella (eds) The collected works of Eric Voegelin, Vol 28 What is history? And other late unpublished writings Baton Rouge Louisiana State University Press pp111-162

Voegelin, E 1990b Reason the classic experience *IN* E Sandoz (ed) *The collected works of Eric Voegelin, Vol 12 published essays 1966-1985* Baton Rouge Louisiana State University Press pp265-291

Voegelin, E 1990c Wisdom and the magic of the extreme a meditation *IN* E Sandoz (ed) *The collected works of Eric Voegelin Vol 12 published essays 1966-1985* Baton Rouge Louisiana State University Press pp315-375

Voegelin, E 1990d The gospel and culture *IN* E Sandoz (ed) *The collected works of Eric Voegelin Vol 12 published essays 1966-1985* Baton Rouge Louisiana State University Press pp172-212

Voegelin, E 2000a Gnostic politics *IN* E Sandoz (ed) *The collected works of Eric Voegelin Vol 10 published essays 1940-1952* Columbia University of Missouri Press pp223-240

Voegelin, E 2000b In search of the ground *IN* E Sandoz (ed) *The collected works of Eric Voegelin Vol 11 published essays 1953-1965* Columbia University of Missouri Press pp224-251

Walters, L 1989 Life, death, and personhood *IN* T L Beauchamp and L Walters (eds) *Contemporary issues in bioethics* 3rd edition California Wadsworth pp122-124

Warnock, M 1987 Do human cells have rights? Bioethics, 1(1), pp1-14

Wheeler, J 1977 Genesis and observership IN R E Butts and J Hintikka (eds) Foundational problems in the special sciences Dordrecht Reidel pp5-6

Wimmer, R 1997 Ethical aspects of the concept of person Biomedical Ethics, 2 (3), pp86-89

Woods, S 2000 Persons and personal identity Nursing Philosophy, 1 (2), pp169-172

Young, F 2000 A parent's search for meaning in family life IN J Stolk, T A Boer and R Seldenrijk (eds) Meaningful care a multidisciplinary approach to the meaning of care for people with mental retardation Dordecht Kluwer pp3-10

Zeman, A 1997 Persistent vegetative state Lancet, 350, pp795-799

7 3 Internet Resources

American Declaration of Independence [Online] 1776 Available from http://www.law.emory.edu/FEDERAL/independ/declar.html [Accessed 1 March 2005]

Annan, K 2003 Do we still have universal values? [Online] Available from http://www.weltethos.org/st_9_xx/9_151e.htm [Accessed 14 March 2005]

Atomkeller-Museum at Haigerloch 2005 (Homepage) [Online] Available from http://www.haigerloch.de/stadt/keller_englisch/EKELLER HTM [Accessed 12 April 2005]

BBC News 2002 Go-ahead for 'designer' baby [Online] Available from http://news.bbc.co.uk/1/hi/health/1836523 stm [Accessed 12 April 2005]

BBC News 2004 Ill baby 'should not be revived' [Online] Available from http://news.bbc.co.uk/1/hi/health/3723656 stm [Accessed 14 March 2005]

BBC News 2005a Q&A The Schiavo case [Online] Available from http://news.bbc.co.uk/go/pr/fr//1/hi/world/americas/4398679 stm [Accessed 20 April 2005]

BBC News 2005b Tsunamı aid who's giving what? [Online] Available from http://news.bbc.co.uk/1/hi/world/asia-pacific/4145259 stm [Accessed 14 March 2005]

Body Worlds 2005 (Homepage) [Online] Available from http://www.bodyworlds.com/en/pages/vergangene_ausstellungen.asp [Accessed 13 April 2005]

Brown, G 2005 International development challenges for 2005 [Online] Available from http://news.bbc.co.uk/go/pr/fr/-/1/hi/uk_pohtics/4151525 stm [Accessed 14 March 2005]

CNN 1999 Hand-transplant recipient can wiggle fingertips [Online] Available from http://www.cnn.com/HEALTH/9901/29/hand transplant/ [Acessed 12 April 2005]

Council of Europe 1997 The convention on human rights and biomedicine [Online] Available from http://assembly.coe.int/Documents/AdoptedText/TA97/eopi202.htm [Accessed 15 March 2005]

Deutsches Museum 2005 (Homepage) [Online] Available from http://www.deutsches-museum.de/ausstell/dauer/pharma/e_phar2 htm [Accessed 24 March 2005]

European Charter of Patients' Rights, 2002 [Online] Available from http://home.online.no/~wkeim/files/european_charter.htm [Accessed 14 March 2005]

European Parliament 1998 Resolution on human cloning [Online] Available from http://www.virtual-institute.de/en/hp/embryo/regional/cloning1998 html [Accessed 12 April 2005]

French Declaration of the Rights of Man and of the Citizen [Online] 1789 Available from http://www.constitution.org/fr/fr_drm.htm [Accessed 1 March 2005]

Human Fertilisation and Embryology Authority 2004 Evidence for the science and technology select committee inquiry on human reproductive technologies and the law [Online] Available from http://www.hfea.gov.uk/HFEAPublications/ ScienceandTechnologySelectCommittee/SelectCommitteeInquiryEvidence.pdf [Accessed 22 April 2005]

McGarry, P 2005 Irish people gave almost €75m for tsunami relief *The Irish Times* [Online] Available from http://www.ireland.com/newspaper/ireland/2005/0318/1286726892HM5TSUNAMI html [Accessed 20 April 2005]

R T E News 2004 Patients' group alarmed at MRSA prevalence [Online] Available from http://www.rte.ie/news/2004/1126/mrsa [Accessed 15 March 2005]

U N 1948 The U N declaration of human rights [Online] Available from http://www.un.org/Overview/rights.html [Accessed 15 March 2005]

UNHCR 1953 The European convention for the protection of human rights and fundamental freedoms [Online] Available from http://www.unhcr.md/article/conv.htm [Accessed 15 March 2005]

Wikipedia 2005 Abu Ghraib torture and prisoner abuse [Online] Available from http://en.wikipedia.org/wiki/Abu_Ghraib_prisoner_abuse [Accessed 19 April 2005]

World Health Organization 1948 Definition of health [Online] Available from http://www.who.int/about/definition/en/ [Accessed 15 March 2005]

World Health Organization 1994 The declaration on the promotion of patients' rights in Europe [Online] Available from http://infodoc inserm fr/ethique/Ethique nsf/ Ethique nsf/0/901e922bf0f1db42c12566ac00493be8?OpenDocument [Accessed 15 March 2005]

World Health Organization 1999 Cloning in human health [Online] Available from http://www.who.int/ethics/en/A52 12.pdf [Accessed 12.April 2005]

8. Appendix

8.1 Appendix A: Körperwelten





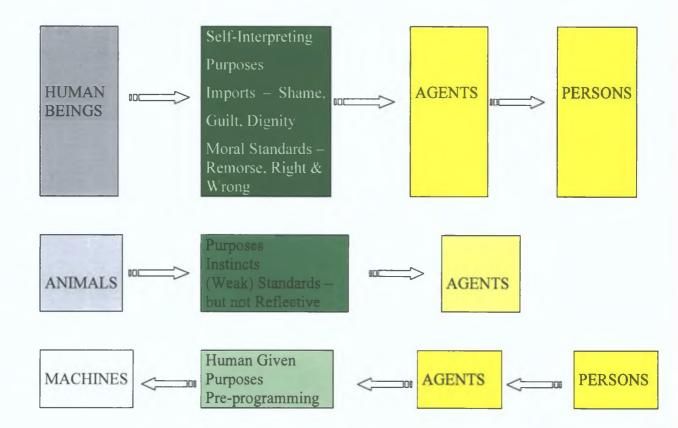
(Body Worlds 2005)

8.2 Appendix B: The Zellwald



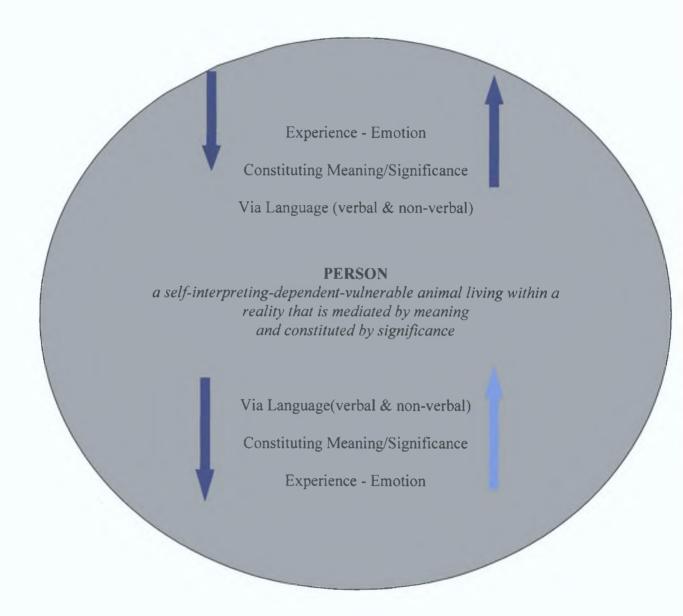
(Deutsches Museum 2005)

8.3 Appendix C: Diagram of Taylor's Philosophical Anthropology



8.4 Appendix D: Diagram of Definition of "Person"

REALITY



8 5 Appendix E 2002 European Charter of Patients' Rights

The following is the catalogue of rights outlined by the new European Charter of Patients' Rights

- 1 Right to Preventive Measures Every individual has the right to a proper service in order to prevent illness
- 2 Right of Access Every individual has the right of access to the health services that his or her health needs require The health services must guarantee equal access to everyone, without discriminating on the basis of financial resources, place of residence, kind of illness or time of access to services
- 3 Right to Information Every individual has the right to access to all kind of information regarding their state of health, the health services and how to use them, and all that scientific research and technological innovation makes available
- 4 Right to Consent Every individual has the right of access to all information that might enable him or her to actively participate in the decisions regarding his or her health, this information is a prerequisite for any procedure and treatment, including the participation in scientific research
- 5 Right to Free Choice Each individual has the right to freely choose from among different treatment procedures and providers on the basis of adequate information
- 6 Right to Privacy and Confidentiality Every individual has the right to the confidentiality of personal information, including information regarding his or her state of health and potential diagnostic or therapeutic procedures, as well as the protection of his or her privacy during the performance of diagnostic exams, specialist visits, and medical/surgical treatments in general

- 7 Right to Respect of Patients' Time Each individual has the right to receive necessary treatment within a swift and predetermined period of time. This right applies at each phase of the treatment
- 8 Right to the Observance of Quality Standards Each individual has the right of access to high quality health services on the basis of the specification and observance of precise standards
- Right to Safety Each individual has the right to be free from harm caused by the poor functioning of health services, medical malpractice and errors, and the right of access to health services and treatments that meet high safety standards
- 10 Right to Innovation Each individual has the right of access to innovative procedures, including diagnostic procedures, according to international standards and independently of economic or financial considerations
- 11 Right to Avoid Unnecessary Suffering and Pain Each individual has the right to avoid as much suffering and pain as possible, in each phase of his or her illness
- 12 Right to Personalized Treatment Each individual has the right to diagnostic or therapeutic programmes tailored as much as possible to his or her personal needs
- 13 Right to Complain Each individual has the right to complain whenever he or she has suffered a harm and the right to receive a response or other feedback
- 14 Right to Compensation Each individual has the right to receive sufficient compensation within a reasonably short time whenever he or she has suffered physical or moral and psychological harm caused by a health service treatment

(European Charter of Patients' Rights)