Substantial Identity, Future States, and Human Worth

Some Introductory Problems

The philosopher Don Marquis criticizes an argument for the right to life made by Francis Beckwith, Patrick Lee, and Robert George. The argument, which he dubs the BLG, is as follows.¹

The BLG

1. All individuals with the basic natural capacity for rational agency have the right to life.
2. All human beings are individuals with the basic natural capacity for rational agency.
3. Therefore, all human beings have the right to life.

Marquis, however, does admit that the BLG has an advantage over an argument with the following form.

The Common Meaning Argument (CMA)

1. Given the common meaning of “person,” all human beings are persons.
2. All persons have a right to life.
3. Therefore, all human beings have a right to life.

The CMA, he notes, faces the charge of speciesism, since many dispute its first premise.² To my mind, this charge is odd in that we have no clear evidence of non-human persons, and each human person develops in the context of his or her humanity.

In any case, the BLG’s major premise focuses on rational agency rather than species. The BLG is also in harmony with “the substance identity view” (SI) to which proponents
of the BLG are committed. This thesis affirms that intrinsic human worth stems from the individual rational substance\(^3\) that grounds our human identity.

Nonetheless, Marquis thinks that the friends of the BLG have their work cut out for them.\(^4\) Given its major premise, they need to explain what it is to have a basic natural capacity for rational agency. But the more serious problem is that the BLG’s minor premise seems false. For what are we to say about anencephalic infants or those in an irreversible coma or those who are clinically brain dead? Can such human beings have the basic natural capacity for rational agency?

Marquis’ complaints seem plausible. Yet its proponents rightly defend the BLG’s minor premise; each human being retains his or her identity throughout the course of life, regardless of cognitive deficiencies. The basis of this identity is the individual substance, as expressed in a range of properties, which makes us who we are. Marquis, misreading the character of this substance, thinks that certain cognitive defects eliminate basic human worth. My case against Marquis comes in stages; it first considers what it is to have a human capacity.

**On Human Capacities**

We can begin with a distinction. Some capacities are immediately exercisable (or nearly so). For example, if I am asked whether I speak English, my answer is yes. I have the immediately exercisable capacity to do so. But if I am asked whether I speak Frisian, my answer is no. Still, I have the capacity to speak this noble language, though probably not well. The capacity to learn a language stems from one’s basic natural capacity for rational agency.
Peter Singer famously claims that one is a person only in virtue of certain immediately exercisable capacities. This claim ignores most of the history of the concept of personhood (see handout). Patrick Lee and Robert George suggest a *reductio ad absurdum* to show that such revisionism undermines equal human rights.

**The Equality Argument (EA)**

1. Personhood and its intrinsic worth are based on, and proportional to, immediately exercisable capacities. (by assumption)
2. Such capacities are not equally distributed among human beings.
3. Therefore, human beings are not of equal intrinsic worth.
5. Therefore, we do not have equal human rights.
6. Yet we do have equal human rights.
7. Therefore, (1) is false.

To his credit, Marquis does not require immediately exercisable capacities. For him, the stumbling block is that in cases of anencephaly, of irreversible coma, and of brain death, there is no future cognitive capacity. It follows that in such cases humans lack any capacity for rational agency.

But Marquis’ conclusion is unwarranted. To suffer under the conditions he cites is to be gravely defective in the exercise of one’s cognitive faculties. But one cannot suffer such a defect unless one’s natural order of being is damaged. Da Vinci’s *Mona Lisa*, though priceless, cannot suffer a cognitive defect. Neither can the Grand Canyon. No, to suffer such a defect and its harm requires one to have the kind of being in which reason is rooted by nature. Moreover, we can only speak intelligibly of human trauma and its
effects, for example, irreversible coma or “brain death” or (early on) anencephaly, if the one who suffers the trauma is the same one who sustains its effects. The defect changes neither the numerical nor personal identity of the one it damages.

Given the link between even a grave cognitive defect and human identity structure, it is unwarranted to say that such a defect erases one’s intrinsic worth or the human rights which it grounds. However grave such defects are, they are accidental rather than essential. The claim that such differences constitute a difference in kind is mistaken—and leads to a confusion about what is and is not an arbitrary distinction.

On Degrees and Thresholds

Whatever his missteps, Marquis’ challenge to think carefully about what is and is not arbitrary is important. He also rightly reminds us that rejecting as arbitrary a supposed basis for human rights is a negative strategy. It is better to construct a positive account. With both points in mind, Marquis considers, but then rejects, Lee and George’s discontinuity-and-continuity argument (DCA). It is as follows.

The Discontinuity-and-Continuity Argument (DCA)

1. We can rightly treat entities in radically different ways only if the entities are radically different in morally relevant ways.

2. Differences that develop gradually are merely quantitative.

3. But merely quantitative differences are not morally relevant differences.

4. Therefore, we cannot rightly treat entities in radically different ways based on merely quantitative differences.

Now friends of the pivotal BLG think that the DCA, like the equality argument, strengthens their position. But Marquis counters that neither does so.
The DCA, he writes, fails to consider that an unborn baby does not show any progress in actualizing a natural capacity for rational agency. Thus the argument does not afford human rights to the unborn. The equality argument, he adds, faces a like problem. Since it fails to recognize that an unborn baby shows no development of a natural capacity for rational agency, an uneven distribution of immediately exercisable capacities is irrelevant.

But there is still another matter that the equality argument overlooks. Someone who requires immediately exercisable capacities for personhood and its intrinsic worth might ask only that a candidate meet a threshold level of such capacities. Consider, for an analogy, the ranking of a pair of A-level exams and a pair of B-level exams. Let’s say that the first A-level exam is superior to the second but that the second reaches a threshold of excellence that neither of the B-level exams reaches—though one of these is superior to the other.

Notice, too, that one might also introduce the threshold strategy with respect to the basic natural capacity for rational agency. Might not that capacity come in degrees? And might rankings of the worth of different human beings be based on comparable threshold considerations? Marquis concludes that friends of the BLG argument and the related SI thesis need to rethink their commitments. The need to do so is especially strong, since prohibiting abortion limits the good of reproductive freedom.

Let me address Marquis’ fresh concerns in order. Human development is organic and holistic. To the extent that the epigenetic primordia for the natural capacity for rational agency are in play, the natural capacity is already undergoing actualization. An embryonic human being lacks the external manifestations of many human capacities; but
it does not follow that these capacities are not already developing. Moreover, it is the coming to be of this natural capacity, rather than a specific degree of its development, that gives us a principled basis for recognizing human worth and its rights.¹²

Turning next to threshold criteria: they are relevant to deciding a grading scale or, more broadly, for evaluating an artifact or skill. It is an altogether different matter when the task at hand is an ontological account of a natural kind, for example, an account of the substantial identity over time of a rational agent. Again, it is rational agency itself, and not the degree of its actualization, that grounds human worth and its rights.

Finally, whether reproductive freedom is a good depends on how we understand this freedom. We cannot separate true freedom from the goods for which we characteristically strive. One such good is the nurturing bond of sexual community, and it is a good that abortion denies.

To be sure, Marquis admits the role of basic intrinsic goods in the moral life, and he is willing to consider that role in the context of what he terms a “future of value” analysis.¹³ But now it is time to turn directly to a robust argument for human rights based on the intrinsic good of life. We can present it as follows.

**The Intrinsic Good of Life Argument (IGLA)**

1. Whatever defects a human being (or any person) might suffer, the good of life itself is a basic and intrinsic good that is incommensurable and non-fungible.

2. Corresponding to every such basic and intrinsic good there is an inviolable universal human right.

3. Therefore, corresponding to the basic and intrinsic good of life there is an inviolable universal human right to life.
Marquis rejects this argument for three reasons.

First, he cannot imagine why he would care about the good of his life if he were in an irreversible coma. Nor, he supposes, would most other people care about so grim a life.

Second, a human life with potential is a basic intrinsic good. We cannot devalue that life without devaluing its potential. Yet it does not follow that a human life without potential is an intrinsic good. Its status remains at issue.

Third, a human life without potential can still undergo harm, and in this way such a life has a residual intrinsic good. Nonetheless, this is true of any organism, and so minimal a good cannot ground a serious right to life.

Yet Marquis’ objections are far from compelling. Beginning with the first, people ordinarily care greatly about their intrinsic goods. In extreme cases, however, they might very well not; and those who suffer from a false consciousness often do not. Tragically, it is possible to cling to one’s slavery, to one’s addiction, and even to one’s mental imbalance. Were one in an irreversible coma, one would not be able to appreciate the good of one’s life but neither could one reject it. What matters most is that one would remain a member of the human family and on the basis of one’s intrinsic worth. And if we cannot now imagine the good of such solidarity, then in light of our past failures in solidarity we might do well to educate our imagination.

Turning to Marquis’ second objection, the lost potential to which he refers, now shut off to a damaged human being, is a range of welcome but still accidental properties. He suggests that it is these accidental properties themselves that bring distinctive intrinsic worth rather than the actual life of the damaged human being. His suggestion invites a reply in the form of a reflection on the object of love.
Allow me to offer a pair of accounts of that object. The first is from Jacques Maritain. Disputing what he supposes to be an error, Maritain writes

Love is not concerned with qualities. They are not the object of our love. We love the deepest, most substantial and hidden, the most *existing* reality of the beloved being. This is a metaphysical center deeper than all the qualities and essences which we can find and enumerate in the beloved. The expressions of lovers are unending because their object is ineffable.\(^{15}\)

A caution: Maritain does not think that this metaphysical center is ever without properties; it serves rather as their source. But when these properties change for the worse, the change ought not to defeat our love.

Robert Spaemann offers us a second way to love’s object. It is a thought experiment that shows the limits of accidental qualities, however attractive. In his book *Persons: The Difference between ‘Someone’ and ‘Something’*, he writes

Suppose the place of someone we love were taken by a double—a perfect double, equipped with all necessary information about the memories we had in common. The deception might escape our notice, but as soon as we were told, as soon as we realized that this other person’s past was not the one we shared with someone else, we would feel betrayed. The substitute would not be the person we loved.\(^{16}\)

For Spaemann, this thought experiment illustrates that we identify the object of our love indexically as a particular rather than qualitatively as a type, and we do so because love’s true object cannot be ontologically in doubt.\(^{17}\)
Together, Maritain and Spaemann call attention to the relational dimension of the human person. It works in tandem with our substantial nature, and each helps us to understand the richness of the other.\textsuperscript{18} In contrast, Marquis’ analysis leads us to the reductively one-dimensional.

This relational dimension also counters Marquis’ claim that any intrinsic good left to the gravely damaged human being, since it is only the good of survival, would be no greater than that of a mosquito.\textsuperscript{19} To be sure, we can speak of degrees of intrinsic good. John Paul II, in \textit{Sollicitudo Rei Socialis}, teaches that the categories of beings, even the inanimate, should not be dismissively instrumentalized. “On the contrary,” he writes, “one must take into account \textit{the nature of each being} and of its \textit{mutual connection} in an ordered system, which is precisely the ‘cosmos’.”\textsuperscript{20} Within this cosmos we find the unique community of human persons characterized by rational and moral agency. Such an agency enables it to love even its most damaged members.

Now, by way of taking stock, I do not know how Marquis would answer my reply to his multi-faceted dismissal of the BLG argument. He does, however, propose his own argument, so far noted only in passing, that abortion is seriously wrong whenever the unborn baby has the potential for a decent future. It is time to consider his argument.

\textbf{Marquis’ Future of Value Account}

Marquis grounds a right to life on the value of one’s future experience. Killing an innocent human being is wrong because it deprives him or her of all that would be of value in the life that has been taken. This is a loss that both the born and the unborn suffer.\textsuperscript{21} A corollary follows: such a right is weakened on the impairment of such a future.
But Marquis’ approach is fatally flawed. We cannot speak sensibly of the quality of just some (anonymous) future. The future is always the future of “some one” who is a person throughout life in virtue of being a relationally structured substance. Of course, there can be no relation without that which is related. Nor can we understand change or action apart from an enduring substance that changes and engages in action.

Some, like John Locke, introduce a kind of hypostasized consciousness. But such a chimera implies I am who I am only so far as my memory reaches. Moreover, any discontinuous memory segments over the course of a life would give rise to one human being fragmenting into multiple persons.

And what are we to make of the value of an hypostasized future? To make sense of a human future, we must specify the subject of that future as well as the subject of any consciousness of it. The primacy and worth of the subject-in-relation make such a consciousness identifiable and such a future of value. Marquis obscures this nexus.

Furthermore, Marquis acknowledges that his future value analysis does not support a universal human right to life. On his view in cases of deep anguish, where no other remedy is possible, the taking of life is required. But is it? Here a Christian thinks of redemptive suffering. Yet Marquis dismisses any theological argument against the taking of human life. There are too many theologies and too many religions. But his rebuke is not persuasive, and in reply I will venture a theological sequel.

A Theological Sequel

Many reject the stringency of foundationalism in either a Cartesian or positivist form. Although we cannot do without epistemic foundations, I submit that, in certain contexts, they can have a theological dimension. Nicholas Wolterstorff recommends “dialogic
As he sees it, agreement on first principles is not a requisite for dialogue though “it remains the goal.”

John Rawls, of course, sharply differs. To identify the principles of political institutions, we must put aside any theological argument. Indeed, we are to put aside any comprehensive philosophical perspectives. They are too many, and their differences run too deep! Yet Rawls relies on a *de facto* comprehensive liberalism which amounts to a new and stringent foundation.

In any case, I conclude with an *apologia*. Christianity is an historical and reasonable faith. It brackets neither history nor reason nor the God who reigns over both. To lose sight of God is to put humanity at risk. Christian thinkers, furthermore, ought not to deploy minimalist theist surrogates. Marilyn McCord Adams rightly urges us “to show the courage of our convictions by drawing on the wider resources of our religion” when we address the problem of evil.

In this spirit, a Christian who addresses human worth and its rights can look to the first and the last sacraments. The Church bestows Baptism only when its recipient is *capax Dei*, and any human being is such; she also bestows the Sacrament of the Anointing of the Sick to those who will not regain consciousness. Does not St. Paul teach that our bodies are temples of the Holy Spirit (1 Corinthians 6:19). The Church does not exclude the bodies of the most damaged.

Lastly, what are we to say of our deepest future of value? We await our bodily resurrection into an eternity that transcends every temporal good.

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3 Note: here “substance” refers to an Aristotelian internal nature rather than to a Cartesian body.


7 Ibid., p. 5.


11 On this development, see P. Ide, “Is the Human Embryo a Person?” as presented to the Twelfth General Assembly of the Pontifical Academy for Life.


14 Ibid., pp. 18-19.


17 Spaemann, *Persons*, p. 76.


20 John Paul II, *Sollicitudo Rei Socialis*, #34.
21 Marquis, “Why Abortion is Seriously Wrong: Two Views,” p. 3.


24 Ibid., p. 12 and p. 20.


26 Wolterstorff, Justice: Rights and Wrongs, xi.


29 On the implication of this practice, see Peter F. Ryan, S.J., “The Significance of the Ultimate End for the Feeding of PVS Patients: A Reply to Kevin O’Rourke,” in Bioethics with Liberty and Justice, pp. 89-90.