Jeff McMahan on Moral Status

David Edmonds: A stone on the beach, we assume, has no moral status. We can kick or hammer the stone, and we've done the stone no harm. Typical adult human beings do have moral status. We shouldn't, without a good reason, kick people. Often, contentious moral issues, such as embryo research, or abortion, or whether to turn off a life support machine, turn on disagreement about the moral status of the embryo, foetus, or individual - so the key questions are who or what has moral status, and why? Jeff McMahan takes on these tricky questions.

Nigel Warburton: The topic we're going to focus on today is humans and moral status. Let's start at the beginning - what is moral status?

Jeff McMahan: To have moral status is to have certain moral claims against others for one's own sake. Moral status is based on intrinsic properties possessed by an individual that ground moral reasons for treating that individual in certain ways – reasons that may differ from those deriving solely from the individual's interests.

Nigel Warburton: What do you mean by an *intrinsic* property? Could you give an example?

Jeff McMahan: Sure: the possession of the capacity for self-consciousness, or minimal rationality, or a moral sense. Usually the foundations of moral status are thought of by most people as psychological capacities of some sort, but some people of a religious inclination think it might be something like the possession of a soul.

Nigel Warburton: Does that mean that moral status is all-or-nothing; that you either have it, or you don't?

Jeff McMahan: There are different ways in which the term is used. Some people use it in that way. I prefer to think of moral status as a matter of degree and that some individuals have a higher moral status than others. You might think that there are some individuals who have a minimal kind of moral status - that is, they might have sentience, or bare consciousness, and this provides a basis for their having interests, and many philosophers think that our treatment of those beings should be governed solely by a concern for their interests. But their being sentient gives them a moral status that plants lack, though some philosophers claim that plants also have interests.

Nigel Warburton: So, what you're saying is that there is both a range of statuses that could be occupied by human beings, but also that there's a hierarchy. Not all human beings have equal moral status?

Jeff McMahan: That would be my view. A more common view is that all human beings have the same moral status.

Nigel Warburton: One finds the idea that people all have the same moral status in Christianity, in Immanuel Kant, and elsewhere: there are lots of philosophers who think that that kind of equality is a starting point for ethics. How do you reach the position that some individuals can have a higher moral status than others?

Jeff McMahan: One way to do it is to compare human beings with non-human animals. If you look at the candidate properties that people have suggested as the foundation or ground of human moral status, you will find that, in general, there are some human beings who seem to lack those properties, and there are some animals who seem to have them.

Nigel Warburton: Could you give me an example of two human beings who have radically different moral status?

Jeff McMahan: Yes. An adult human being with normal psychological capacities, in my view, has a higher moral status than a human foetus that hasn't yet acquired the capacity for consciousness. I think that an adult human being with normal psychological capacities also has a higher moral status than a late-term foetus that does have the capacity for consciousness. I also think that a normal adult human being has a higher moral status than a newborn infant.

Nigel Warburton: That makes everything much more complicated because if you've got a 'one size fits all' approach to moral status, you could say 'every human being has the same kind of rights, we're all equal', so when someone has something bad done to them, you know automatically that that is something that shouldn't have happened. It seems to be a consequence of your view that we have to know quite a lot about the victim of an abuse of rights before we can determine how bad the action is?

Jeff McMahan: Yes, and I think that's quite plausible, and consistent with most people's intuitions. Most of us believe, for example, that the killing of a ten year old child is a tragedy, but if we hear about an abortion that kills a foetus a month after conception, most of us won't think that the month-old foetus was the victim of grave wrongdoing, or of a terrible misfortune.

Nigel Warburton: We're talking in particular about *humans* and their moral status. When does a human start to exist as a human? Some religious people argue that sperm are sacred, but most people don't believe that. What about a fertilised egg? Is that a human? Don't we face a kind of Sorites problem when we try to identify the point that it becomes a human being? At what point does it start to have any rights at all?

Jeff McMahan: Most people believe that people like you and me began to exist at conception when a new living entity comes into existence as a result of the fusion of a sperm and egg cell. It's really quite implausible, metaphysically, to suppose that I ever existed as a sperm or as an egg. However, there are also good arguments against the idea that we began to exist at conception. My view is quite radical. I don't think that we are

human organisms at all. I think that we begin to exist when a conscious subject begins to exist in association with the human organism, which occurs about five months into pregnancy. My view is that before that time there is a living human organism, but that living human organism, in my case, wasn't me, but was the vehicle through which I came into existence. So I take the same metaphysical and moral view about early human embryos that many people take of a sperm and egg pair prior to conception. I think that an early human embryo is just the physical materials out of which someone like you or me may develop.

Nigel Warburton: That's interesting. That's not unlike what John Locke says about the difference between being a person and being a man, as he put it - by which he meant man or woman. The man is the animal, what you call the organism, which may or may not go together with consciousness. But it's the consciousness that makes us a person, and the consciousness which makes us morally significant to each other.

Jeff McMahan: That's right. I see my view as being in the Lockean tradition. The view that I hold implies that there are actually two distinct entities sitting in the chair that I'm sitting in at the moment. There's a living human organism and there's me, and if you want to ask 'Well what am I?', I'm not a soul or an immaterial substance or something like that. I am actually a part of my organism. I am the part of my organism that generates consciousness and mental activity. I am, in effect, those parts of my brain in their active, or potentially functional, state that are capable of generating consciousness and mental activity. It's on the basis of that metaphysical view that I believe that we come into existence a little after the middle of pregnancy.

Nigel Warburton: Well, we come into existence then as conscious beings, but we have the potential to do so before consciousness emerges - and lots of people think that it's the potential that's important. So they may accept your metaphysical account of what it is to be fully human, but still believe that the organism that is the precursor to the conscious being has rights just because it has the potential to become this full human being.

Jeff McMahan: Well, the organism becomes me only in a rather peculiar sense. It doesn't ever become me in the sense of ever being identical with me; it becomes me in the sense of co-existing with me. The form of potential that is at issue here is what I call 'non-identity potential,' where the thing that has a certain potential actually never will be identical with the thing it has potential to give rise to. Think of the wooden chair that I'm sitting on. If we were to put it through a grinding machine and turn it into sawdust, we might say before that that the chair has the potential to become a pile of sawdust. But once it has fulfilled that potential, it has actually ceased to exist. What exists after we've run the chair through the grinder is a pile of sawdust, not a chair. Now, that doesn't happen in the case of the human organism and the person. The human organism continues to exist in association with the person. It gives rise causally to the existence of the person, but the person, or the conscious subject is, in my view, never actually identical with the organism. So the organism doesn't

have the relevant kind of potential in its relation to the later person to have rights on that basis. The relevant kind of potential is what I call 'identity preserving' - it's the kind of potential that Prince Charles has to become the King of England. If Prince Charles becomes the King of England, the King of England will then be identical with Prince Charles in a way that this wooden chair would not be identical with the pile of sawdust that it has the potential to become.

Nigel Warburton: What does your view entail about the moral status of an early embryo?

Jeff McMahan: An early embryo, at least after about a fortnight after conception, is a human organism that is in a quite literal sense unoccupied. That is, it's an organism that is not host to a conscious subject or a person like you or me. It is devoid of any intrinsic moral status. It has the same moral status that an individual sperm or an individual egg has. So if one were to destroy a human embryo, one would not be killing or destroying anybody like you or me; one would be preventing one of us from coming into existence. The destruction of a human embryo is morally indistinguishable, I think, from contraception.

Nigel Warburton: Does that mean it would be morally acceptable to use, say, aborted embryos for experimentation – perhaps in preference to using sentient animals?

Jeff McMahan: Yes, that is actually an implication of my view that most people would find morally repugnant - but I think it's actually correct. It is permissible to experiment on embryos, provided they're never going to develop into persons; that is, provided that their maturation is stopped before they ever give rise to the existence of an individual who would have moral status.

Nigel Warburton: What of a parallel situation; what if somebody who has had the kind of sentience that you were talking about enters a persistent vegetative state? Does that mean that they then have the moral status of an embryo?

Jeff McMahan: Not entirely. Let me say something first about the metaphysical status of individuals in a persistent vegetative state, and then say something about the moral status of individuals in a persistent vegetative state.

There are different types of vegetative state; in some cases the physical basis for consciousness in the brain has been irreversibly destroyed. In these cases, in my view, the individual person has ceased to exist. There is a living human organism, but metaphysically it is quite like the embryo in that it is a living human organism that does not sustain the existence of a person. In that kind of case, though, the moral status of the human organism isn't exactly the same as that of an embryo because the individual who once coexisted with that organism, and whose organism that was, may have had desires about what was to be done to that organism - and I think we have moral reason to honour those preferences in just the same way that we have reason to honour people's wishes about other matters after

they have ceased to exist. When a person ceases to exist, they don't cease to exert moral constraints on us, or moral pressures of certain sorts.

There's another kind of persistent vegetative state, however, in which the brain hasn't irreversibly lost the capacity to support consciousness. In that case the individual continues to exist, and is still there as a proper subject of moral concern and arguably, even if this individual has suffered certain sorts of brain damage, retains the same kind of status that he or she had prior to going into the persistent vegetative state . It follows that we should, to the best of our ability, do what's in this individual's interests and honour this individual's autonomous preferences, in so far as we can ascertain what they are.

Nigel Warburton: Getting these questions right really matters, because it could be somebody's life depending on it. How do you justify your account, which rests so much on this notion of sentience? How do you know you're right?

Jeff McMahan: You are right that these issues are extremely important. They are also extremely difficult, and a lot of people don't appreciate that. Most people have views about these issues. If you were to ask them to defend those views, they would give you a fairly simplistic response. It took me a more than 500 page book to give the arguments that support my conclusions here, so I'm not actually going to be able to give you the arguments. But that's what you should expect. If you ask me to explain to you the nature of physical reality according to quantum theory and the best contemporary physics, I wouldn't be able to do that simply in five minutes either. A lot of it has to do with the metaphysics. We need to understand when it is we begin to exist, and when it is we cease to exist. We can't understand that, in my view, until we understand what kind of thing we essentially are. Are we essentially living biological organisms? If I were to pose that question, most people would say yes – but actually most of them don't really believe it, because they believe that they will survive the deaths of their physical organisms. They believe that their physical body will die and disintegrate, but that they will continue to exist.

The view at which I have arrived is that we begin to exist when there is *someone* there rather than just *something* - someone who has the capacity for consciousness. One has to do some serious metaphysics to have defensible views about when we begin to exist and when we cease to exist. Until one has done that work, one really isn't entitled to strong moral views about the moral status of an embryo, or a human individual in a persistent vegetative state, or indeed a human individual who has been declared brain dead, but whose vital functions are still being maintained by means of minimal external life support.

Once one has done the metaphysics, then one has to confront challenges to the consistency of one's moral beliefs about the remaining cases. I believe that late-term human foetuses are individuals like you and me, although our natures were very different when we were late-term foetuses or newborn infants. Then our psychological capacities were no higher than those of certain non-human animals. Most people believe that a late-term human

foetus has a higher moral status than, say, an adult chimpanzee, even though the chimpanzee's psychological capacities are uniformly higher. They may claim, for example, that that is because the foetus has the potential to have higher capacities than those of the chimpanzee, as you suggested earlier. I don't think that mere potential confers moral status in that way. And in any case there are some human foetuses that lack that potential because their brains have failed to form in the necessary ways. But both the metaphysics and the morality are difficult and I can't be sure I've got them right.

Nigel Warburton: So, what you're saying is that before you can make a judgement about moral status, you have to understand the metaphysics of what it is to be a person. And a consequence of that is that most people aren't actually equipped to make judgements about moral status.

Jeff McMahan: Unfortunately, I think that that's correct. These are issues about human beings (and other animals) whose nature is in some sense non-standard: embryos, foetuses, newborn infants, adults with certain cognitive impairments or radical deficits. These are individuals about whose moral status we should not have confident intuitions and confident moral views. Questions about abortion, the termination of life support, euthanasia, and so on, are really very difficult. We are right to be puzzled about these issues, and people who think that they know the answers and have very strong views about these matters without having addressed the difficult issues in metaphysics and moral theory are, I think, making a mistake. They should be much more sceptical about their own beliefs, and much more tentative about what they are willing to impose on other people through political institutions.