

Contemporary Bioethics and the Question of the Beginning of Personhood and Metaphysical Solutions Thereto

*Kateryna Rassudina**

Summary

This article presents some answers to the question on the moment of the emergence of personhood, particularly answers based in metaphysics. The author points out the disadvantages and advantages of certain statements and analyses the arguments upon which they are based. Conception, implantation of the fetus into the uterine wall, and observation of brain activity are considered to be the probable moments marking the beginning of personhood.

Keywords: *person; fetus; individualization; consciousness; potentiality*

Introduction

Philosophers have long been interested in the beginning of new entities. This is evident, for instance, in the works of ancient Greek thinkers such as Anaximander, Heraclitus, Parmenides, Empedocles or Aristotle. The most interesting case of beginning and change is that in the human person: a two-week-old fetus is extremely different from a mature professor; the embryo whose brain has just begun to form possesses more animal traits than human, especially since rationality — one of the key characteristics of the person — is not inherent in the pre-embryo. It is noteworthy that the more facts the natural sciences discover about the processes of fertilization and development of new organisms, the more problematic becomes the issue on the moment when personhood begins.

In practice, this concerns, first of all, the moral sphere, as the following question arises: from which moment in time must we take into account the human embryo as a moral subject, to treat its basic rights as being equal to our own rights. Simply put, determining the status of the fetus at different stages of its development is key to establishing certain bioethical rules, such as the prohibition

* Kateryna Rassudina, Ph.D., St Thomas Aquinas Institute of Religious Sciences in Kyiv. Address: Derevlanska 13, Kyiv Ukraine, 04 119. ORCID iD: <https://orcid.org/0000-0001-6704-185X>. E-mail: rassudina.k@gmail.com

of abortion after a certain point in pregnancy, the permissibility of experiments with pre-embryos, and so on.

Thus, the problem of clearly defining the term from which we can treat a human being as a person becomes acute. Its complexity lies in the fact that we need firstly to accept a certain concept of the person in order to determine which characteristic of the person is crucial — rationality or individuality — and then to detect when individualization occurs and consciousness is formed.

Among the philosophers who sought an answer to the question of the beginning of personhood in view of bioethical issues, we can name the following: D. J. Callahan, E. J. Furton, R. George, G. G. Grisez, H. Kuhse, P. Lee, M. Lockwood, W. May, J. McMahan, D. S. Oderberg, Th. A. Shannon, P. Singer, B. Steinbock, Ch. Tollefsen, M. Tooley, J. J. Walter, and others.

The aim of this paper is to demonstrate possible answers to the question of the beginning of personhood, as well as to point out the disadvantages and advantages of certain approaches. In applying critical and comparative research methods, we try to understand the arguments of those philosophers who propose to consider the moment of personalization to be conception, implantation of the pre-embryo and fixation of brain activity. One more important aim is to illustrate the impact of these searches on interpretations of the status of the human fetus.

It should be noted that the paper demonstrates the methods of philosophical argumentation, and not theological. Although thinkers whose texts it takes into account are representative of the position of the Catholic Church, the paper does not make references to the relevant documents of the Magisterium regarding the status of the lives of unborn children.

1. The development of the human fetus and the question of its moral status

At first glance, it seems obvious that a new human being begins to exist when its parents' gametes cease their separate existence. This approach is, in particular, the basis for the argument in favour of protecting the life of the fetus from the moment of fertilization. As we will show, in fact, determining the beginning of the human being and, moreover, of personhood is very problematic.

The difficulties that arise here are due, firstly, to the fact that conception (fertilization) is a process, and secondly, there is the problem of monozygotic twins. Thus, according to the Catholic moralist W. May, who generally speaking defends the protection of human life from the moment the zygote is formed, »the only persons who do not begin at fertilization are some monozygotic twins or triplets, etc., of whom one may come into existence after fertilization, whereas another [...] was in being from fertilization onward« (May, 2013, 159).

As an alternative to conception, several more points on the “line” of development of the fetus are proposed. Firstly, it may be the full implantation of the pre-embryo into the uterine wall, after which its development becomes more

definite and predictable. Secondly, they point to the moment when the nervous system takes control of the whole organism and the ability to feel pain and pleasure (the potentiality of mental states) emerges. Thirdly, philosophers discuss the stage at which the fetus is able to survive outside of the mother's body and fourthly, the birth (Hołub, 2009, 36). Each of these moments, for one reason or another, is considered crucial for the fetus to obtain a moral status that corresponds to the human person.

The main characteristics of the human person are unique individuality and rationality. Accordingly, in search of its origin, philosophers focus primarily on two events: the loss of totipotency by cells of the pre-embryo and the fixation of brain activity as a basis for the emergence of consciousness. Each of these points can be seen as the limit beyond which abortion becomes murder.

2. Individuality as a criterion of personhood

In expressing a religious view on the origin of the human being, the Polish bioethicist T. Ślipko writes that the transformation of the material zygote into an independent, indivisible entity (person) is realized by the soul as a substantial and immaterial element. It is here that »the phenomenon of individualization serves as the final and reliable sign that animation has become a fact« (Ślipko, 2012, 149). Even if we do not accept the religious explanation and accept the scientific one, according to which the presence of an individual is evidenced by genetic uniqueness, as well as singleness, the question arises as to what point in the development of the pre-embryo they emerge. Genetic uniqueness occurs when the process of fertilization is completed, while singleness — only after the loss of totipotency. Thus, the real individual begins in the second or third week of pregnancy. If we consider individualization a necessary condition for personalization, it turns out that by this time we are dealing with an entity that possesses only ontic, but not moral value.

Singleness, as a condition for individualization, is important because the genome indicates, rather, the belonging of an entity to the human race (cloning, for example, involves its reproduction). Although the human organism is always changeable, they emphasize the moment when its cells lose the ability to divide, causing the emergence of new organisms with their own characteristics and abilities, including consciousness. This moment is considered the beginning of the individual.

An alternative approach emphasizes that individualization is coincident with conception: after the uniting of the sperm and egg a new, separate (though not finally) from the parents, organism comes into being. Thus, even before the loss of totipotency, we are not dealing with an aggregate of cells, but with a multicellular organism as an integral one.

This view is criticized primarily by those philosophers who deny the identification of the person with the organism (e. g. J. McMahan, 2002, 4). Another argument against individualization which coincides with conception is based on

the fact that fertilization is a process. It usually takes twelve to twenty–four hours (Oppenheimer & Lefevre, 1984, 176).

In this case, we should either reject the use of the term “moment of conception”, or clarify it. As Walter & Shannon (2005, 74) write, »one could understand ‘moment’ metaphorically as referring to the process as a whole, or if it is meant to convey an instant in time, then it would seem to refer to either the end of the process of biological conception when the zygote has become an embryo, or to some prior stage of development that has been reached in which this human life form (fertilized egg, zygote, or pre–embryo) has acquired a distinct set of properties.«

As we can see, they point to the moment in the development of the fetus, when it receives all the required potential to become a human person. It should be noted, that Walter & Shannon (2005, 79) distinguish between active and passive conception, between the union of egg and sperm, on the one hand, and animation in the body, the formation of which, on the other hand, coincides with this union.

The beginning of human (even if not personal) life at the moment of conception is also emphasized by those who refer to the continuity of development, namely the biological. It proceeds so consistently and smoothly that it is difficult to single out a definite point in the process that would be crucial: neither birth, nor the formation of the brain, nor implantation fits it. There is only the moment when the germ cells of the parents cease to be separate entities. Only such a change can be called — in Aristotle’s terms — substantial: when one form changes into another, and therefore something fundamentally new, with an identity of its own arises. Any other changes that occur in the process of the development of the human being are only accidental. The fact that the zygote divides over time, forming two new zygote formations, does not mean the loss of substantial unity. After all, it is difficult to justify the process at the beginning of which we see one thing, a zygote, then only a group of cells (morula, blastula), from which a single organism develops again.

3. *The problem of totipotency*

As already mentioned, an alternative to conception as the beginning of the human person may be implantation — the process in which an embryo makes contact with the uterine wall and remains attached to it until birth. The process from ovulation to implantation can take seven to ten days. The process of attaching the embryo itself takes about forty hours. Therefore, implantation is completed no later than the end of the second week of pregnancy.

Until implantation is completed, as a blastocyst, the embryo is able to divide, forming not only new body tissues, but also several new entities. This ability of cells to form a whole organism is called totipotency (Condic, 2014, 796). In this regard, J. McMahan mentions two interpretations of the processes that occur with the fetus before implantation. According to the first, which we support, when

they divide, a group of cells together form an individual: despite the following divisions, the single-celled zygote, becoming two-celled, four-celled and so on, the entity remains the same. It just evolves. Thus, fertilization can be considered as the moment of the beginning of an individual.

The second interpretation implies that »when the initial single-celled zygote divides, there is nothing that continues to exist. [...] Similarly, when each of the daughter cells divides, it ceases to exist and is replaced by its own two qualitatively identical daughter cells. [...] Only when the cells begin to be differentiated, to take on specialized functions, and to be organized together in an integrated way do they together constitute a further individual« (McMahan, 2002, 27).

An argument in favour of the second interpretation is the fact that during the first two weeks after conception the cells are weakly grouped under a transparent shell, they are independent of each other and, at least until the stage of the eight-celled organism, each of them is totipotent. However, this ability also characterizes those cells that were formed as a result of the first divisions. Totipotency is gradually lost, and at the time of implantation, is no longer present.

Using the metaphysical terminology of Duns Scotus, Shannon (2005, 115) argues that in the totipotency stage, the pre-embryo is not incommunicable, at least in a material, biological aspect. It is impossible to call it an individual, because »individuation means that a single being cannot be divided into a whole other; rather it can be divided only into parts«. The matter is complicated by the fact that at the initial stage of development the two formed zygotes can merge into one organism.

So, if the pregnancy is a singleton pregnancy, the recognition of the individuality of the fertilized egg seems justified. Twins, which emerged as a result of totipotency, are another matter. If we divide the process of their emergence into fragments, we find that at some point one thing ceased to exist, and two others appeared in its stead. Thus, the beginning of twins as individuals does not coincide with fertilization. One could say that in the case of twins, the zygote has “two souls”, or the potential to become two people, but this decision is not consistent with the concept of hylomorphism, because »it is the soul, not the organic substrate, that determines the ontic being and identity of this existence« (Ślipko, 2012, 139). Similarly, the merging of two zygotes formed during fertilization, if we recognize their original individuality, may mean the abolishment of one of them.

One way to solve the problem of twins is to apply Aristotle’s theory of change. In this case, the zygote and the following forms of its development (morula, blastula) are a substantially constituted structure, a human being, because the zygote originates from human persons and goes on to the formation of the personal being, and so on. Instead, the emergence of monozygotic twins, or their recombination in one individual, can be explained as substantial changes (Ślipko, 2012, 147–148). This however, implies firstly the destruction of the original entity, and secondly, postpones the moment of individualization, and therefore the possible personalization of the twins. One of the explanations for the division of

the zygote and the formation of twins, which would not require the destruction of an entity, is the hypothesis of asexual reproduction (cloning) (Kieniewicz, 2010, 171). Thus, only some human individuals emerge not as a result of fertilization, but a little later. However, this does not mean that in the first days of pregnancy we are not dealing with a human being; after all, at least one embryo has existed since the moment that fertilization was completed (Hořub, 2011, 113).

4. The emergence of consciousness criterion

Many, if not most of modern scientists, associate the beginning of our existence with the emergence of consciousness, the very ability to think rationally. At first glance, it seems that this statement corresponds to the Christian (mainly Thomistic) idea of animation as the forming of the body by an intelligent soul. The Cartesian identification of the soul with the mind (subject of consciousness) can also be of help here.

In criticizing the concept of hylomorphism, J. McMahan notes an inconsistency: if the human soul is characterized by intelligence, it cannot form the body from conception, i.e. long before the formation of the brain as the physical basis of consciousness. Otherwise, we should see in the soul, not a spiritual but a biological element. In addition, the fetus in the early stages of development does not differ much from the fetus of another mammal (in particular, not being able to think rationally). It turns out that the soul of the fetus is animal, not human (McMahan, 2002, 9 & 12–14).

The way out of this difficult situation could be to recognize that animation occurs simultaneously with the formation and fixation of brain activity. Based on this, for example, in the United States in the 19th century, abortion was allowed in the first trimester of pregnancy. Nowadays, neurologists usually agree that consciousness becomes possible somewhere in the twelfth week of pregnancy, when the first synaptic connections are formed between the neurons of the cerebral cortex, or even later — about the sixth month with the functioning of the nucleus (Korein, 1997, 25–26). In other words, personhood begins, not at the moment of conception, but only when the ability to generate consciousness is formed. Thinkers who explain a person's identity by the presence of psychological or quasi-psychological connections will agree with this statement also. According to them, a certain person emerges when there is a being, connections with which he or she could eventually trace, which is impossible until the emergence of consciousness.

The concept of potentiality helps to avoid references to the formation of the brain and consciousness. According to this concept, the embryo possesses an active potentiality, i.e. abilities that are actualized at a certain time under the influence of internal factors. There is also passive potentiality. Patrick Lee notes the difference between them. The actualization of the passive potentiality often leads to the emergence of a completely new substance. Thus, oxygen possesses a potentiality to become water when combined with hydrogen. In turn, active

potentiality is called the being of the substance that possesses it, the same as after actualization (Lee, 1997, 26–27). Not only the embryo but also the infant possesses an active, though not yet actualized, potentiality for rational choice and rational communication, although he or she has both a brain and consciousness.

The concept of active potentiality can be found, for example, in the thought of Bonaventure, who suggested that — in the Aristotelian sense — the substantial form is educed from the potency of matter (Walter & Shannon, 2005, 82). In other words, from the beginning of a thing, even before the actualization of its essence, it already has a certain form that organizes it, that is, a structure. Both the facts and the laws of logic do not allow us to claim that one form replaces another as soon as the first signs of brain activity are observed in the fetus; instead, the original form was already part of that which has now revealed itself more fully, just as a rose bud becomes a flower.

In the language of modern science, this statement is expressed by George & Tollefsen (2008, 53): »the human embryo possesses all of the genetic material needed to inform and organize its growth. The direction of its growth is not extrinsically determined, but is in accord with the genetic information within it. Moreover, unless deprived of a suitable environment or prevented by accident or disease, the embryo is actively developing itself to maturity. Thus, it not only possesses all of the necessary organizational information for maturation, but it truly possesses an active disposition to develop itself using that information.«

5. *The problem of potentiality*

The assertion that a human being must be respected even when he or she does not manifest signs of personhood, leads to the question of so-called potentiality. We have already mentioned it, in speaking about the status of the fetus before observing the activity of its brain. Now we should take a closer look at this concept: firstly, because of its importance in understanding the status of the fetus, and secondly, due to its ambiguity. In everyday terms, that is, when we do not think about it and do not look for theories that would explain the emergence of the human person at one point or another on the line of fetus development, we already assume that it possesses the potential to become a being like ourselves. This is due to its origin and chromosome set. However, the notion of potentiality remains vague. Explanations are also often not helpful, because there are many, and they are contradictory. There is usually talk of active potential — the ability of the zygote to develop under certain conditions into an infant and then into an adult. From a technical point of view, this definition seems correct, however, when applied, it may lead one to draw the wrong conclusion, as if, for example, an embryo that is not implanted in the uterus (in the case of miscarriage) did not possess such potential. An interpretation of the potentiality, according to which it is the statistical probability of continued development, leads to similar results. Potentiality can be understood as the logical possibility of becoming a person, however every egg possesses it, regardless of whether it is fertilized or not. Fi-

nally, potentiality can be the most necessary condition for the development of the fetus, including physical and chemical processes in the body of a pregnant woman (Machinek, 2007, 149).

The reason for this ambiguity, as well as the fact that each of the interpretations leads to a limitation of the number of beings who possess the potential to become persons, is the rejection of the classical understanding of potentiality. According to the latter, it must be connected with the action, with the act. As Thomas Aquinas (s. a.; I, 16) wrote, »though a being that is sometime in potency and sometime in act is in time in potency before being in act, absolutely speaking act is prior to potency.« The fact that the fetus possesses potentiality does not deny its actual being. The act and the potency in the fetus are combined, moreover, in such a way that its future state follows directly from the previous, without denying it, as it would be in the transition from one entity to another (active potentiality as opposed to passive). According to this interpretation, the fetus cannot just become a person under certain conditions, but will become such necessarily; the only obstacle to this may be the complete destruction of the fetus, its death.

It is characteristic for the classical interpretation of the concept of potentiality to manifest itself as an internal principle: the tiny zygote already aims at becoming a mature person, and therefore already contains something of what it will be. The modern notion of potentiality, which has developed on the basis of the psychological and functional concept of the person, is reduced, rather, to being understood as an external factor, that is, the possibility of any change, even artificial. Thus, a cat would possess the potentiality to become a person, if only the human brain with its consciousness could be transferred to it. Or, conversely, we should consider every person as dead, because human existence manifests itself as “being–toward–death”. In addition, the application of such an approach inevitably raises the question of the moment of actualization of potentiality, because the latter is interpreted as a certain previous state. An analogy applicable here can be the change of seasons, when spring is, of course, not winter, and clear criteria for its beginning are needed — a certain temperature, the arrival of birds, the calendar date, etc.

The functional interpretation of potentiality raises the question of those human embryos that, for one reason or another, will not develop into fully–fledged autonomous individuals. This situation, according to McMahan (2002, 310), is comparable to severe drought, as a result of which the seed will never become a plant. In his opinion, negative climate change does not deny the potential. However, it seems that McMahan refuses to attribute the potential to become a person to fetuses suffering brain damage. At the same time, he is confused about the distinctions between internal and external potential, to which he refers. Drought is a typical example of the absence of external conditions (water and the nutrients it brings), while wheat seed is wheat regardless of whether it yields a crop or not. Similarly, the external potentiality for an unhealthy fetus would be the health of the mother and the application of treatment to the fetus itself.

According to his rationale, McMahan concludes that it is absurd to recognize the personal status of the fetus on the basis of its intrinsic potentiality. To do this, he performs a thought experiment with puppies which possess a similar but usually underdeveloped ability, and refers to the capacity for language acquisition or adaptation to a foreign culture which steadily diminishes (McMahan, 2002, 315–316). In both cases it is a question of external potentiality, while the personhood of a human being presupposes internal potentiality.

Even if they recognize the presence in each human embryo of the potential for development into a person, some researchers face a new problem. Is potential the basis for moral status and a person's rights? McMahan, as well as Singer, answer negatively. McMahan (2002, 308) proposes an analogy with a tennis player who has the potential to be a Wimbledon champion, but does not have a right to the trophy unless he realizes this potential; Singer (1997, 153) cites the example of Prince Charles, who does not claim royal authority. Both argue in favour of the lack of transition from potential to the rights of the developed being. Both, in our opinion, are mistaken. The tennis player, and also the Prince, really require that certain conditions be met (external factors, the manifestation of internal characteristics, and a certain desire) in order to move to the next stage of their "career". However, these researches overlook a much deeper fact: after becoming a champion, the tennis player remains a player, and the Prince after coronation remains a royal family member. Similarly, a successful programmer or mathematician continues to be the same baby that his mother once gave birth to. Unlike awards and titles, moral status is not merited.

McMahan (2002, 304) calls the potential for change in the career of the tennis player and the Prince identity-preserving potential. We may equate them to Aristotle's accidental changes. They can be contrasted with non-identity potential (which sperm and egg have — in order to become a zygote). The actualization of such potential is associated with substantial change. We agree that only the being with potential of the first type possesses moral status. We do not agree, however, that only a developed fetus possesses such potential. A zygote already possesses the capacity to develop itself, we can say, the general direction of development into a mature person exists; it is the same entity, if not quantitatively, then in essence.

Conclusion

In the modern world, some philosophers (Peter Singer and Jeff McMahan are probably the most famous of them) make efforts to justify the right to abortion. One of the ways to do this is to refer to the status of the unborn child as being lower than the status of the person. As it is neither intelligent nor autonomous, the fetus cannot even claim to be a moral subject. Due to the uncertain processes that occur in the body of the fetus, its personalization seems problematic. Neither fertilization nor implantation, nor any other points that could be associated with the emergence of an individual, are strict and unambiguous. An additional pro-

blem is seen in the totipotency inherent in the fetus in its first weeks of existence. This is the view of secular philosophers which can be countered by equally secular philosophical arguments in favour of the claim according to which human life demands respect from the beginning of its appearance.

The totipotency, as well as the fact that fertilization is a long process, does not deny the truth that after the union of sperm and egg, a new organism emerges which is integral and separate from the parents. Even if we admit that one of the twins does not emerge at the time of fertilization, or that the so-called animation occurs at a certain stage of fetal development, an entity that came to be in the fertilization process is the moral subject. Firstly, by acknowledging this, we emphasize respect for the person's body. Secondly, we avoid the ambiguity that arises as a result of the assertion that personhood characterizes only a certain stage of human development. The beings we consider to be persons when they are adults must have had the same status at the time that their potentiality already existed, but had not yet been actualized.

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Pitanje početka osobe u suvremenoj bioetici i metafizička rješenja

Katerina Rassudina *

Sažetak

Kao što ga ima svaki entitet, i ljudska osoba ima svoj početak. Kalkulacija toga trenutka ovisi o definiciji određenoga filozofa. Takva kalkulacija rezultira uporabom jednoga ili drugoga načina rješavanja moralnih pitanja koja se odnose na status fetusa. Ovaj članak govori o pitanju trenutka nastanka osobe, temeljeći se na metafizici. Autor ukazuje na nedostatke i prednosti nekih tvrdnji analizirajući one argumente na kojima se temelje. Začecé, implantacija fetusa u zid maternice i promatranje aktivnosti mozga smatraju se vjerojatnim trenucima početka osobe. Jedan argument u prilog početka osobe u vrijeme začecá kontinuitet je i dosljednost njezina razvitka. Oblikovanje zigota može se poistovjetiti bitnom promjenom kod Aristotelova pristupa, nastankom nove tvari, a to je osoba. Pristupom individualizacije koji predlaže Duns Škot, može se potkrijepiti teorija prema kojoj implantacija fetusa u zid maternice predstavlja početak nove osobe. Osim individualizacije, uvjet za postojanje osobe manifestacije su racionalnosti, što se događa samo nakon određenoga razvoja mozga. Tvrdnja suprotna toj teoriji koristi pojam aktivne potencijalnosti (npr. Peter Lee) čije ishodište pronalazimo u misli Bonaventure.

Ključne riječi: osoba; fetus; individualizacija; svjesnost; potencijalnost

* Dr. sc. Katerina Rassudina, Institut za religijske znanosti sv. Tome Akvinskog u Kijevu. Adresa: Derevlanska 13, Kijev, Ukrajina, 04 119. E-adresa: rassudina.k@gmail.com