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Personal Identity as a Principle of Biomedical Ethics

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Preface to the English Edition

The German edition of this book elicited, upon its release 15 years ago, a favorable and at the same time critical echo. The favor consistently referred to the attempt of combining fundamental questions of practical and theoretical philosophy with central questions of biomedical ethics. The thus targeted level of analysis allowed on the one hand to differentiate between problems examined in biomedical ethics and current questions and advancements in the natural sciences and new possibilities of action made possible through technology, so that the considerations submitted here must not be viewed as out of date (leaving aside that one might find them wrong or implausible). On the other hand, it allows for the fulfillment of the requirement of relating the selected questions of biomedical ethics to a more general philosophical foundation, in crossing over to the discussion of this basis again and again. While doing so, as the reader will note, many central questions of practical and theoretical philosophy had to be addressed. The argumentation carried out here accepts premises from these areas without they themselves being exhaustively justified. The argumentation assumes certain burdens of proof that cannot be met in a single study. I have tried to fulfill some of these burdens in publications that have appeared in the last 15 years (now and again, I will refer to these in the following two sections). I am painfully aware of this inadequacy, but I tried in every instance to explicate the terms I used, to lay bare my premises, and, where detailed justifications or connected questions could not be dealt with, to identify the burdens of proof my argumentation entails.

A leading force in this study was the question of how far, if at all, and in what sense a conception of personal identity could be shown to be the principle of biomedical ethics. Due to this question, what needed to be clarified was whether assumptions regarding the diachronic identity of human persons are assigned an orientating or justifying function in everyday contexts or in philosophical considerations of biomedical ethics. From an evaluative point of view, it needed to be justified whether, how far, and in which sense a plausible philosophical conception of personal identity as the principle of biomedical ethics should be acknowledged and utilized. It is obvious that the central question not only lays the focus on the question of biomedical ethics discussed in this book but also calls for an explication of

the whole argumentation that is the basis of the conception of personal identity. In the first part of this introduction, I will roughly depict the structure of this book gained by these questions and concerns. Subsequently, I will, in the second part, address central criticism that has been brought forward against the proposal developed here. Furthermore, I would like to use this opportunity to address current research contributions that have a certain proximity to my thoughts concerning diachronic identity of human persons. Both will, I hope, contribute to a better understanding of the developed argumentation and facilitate a better categorization.

Shortly after the appearance of the German edition, I developed the wish to also make my contribution to the discussion available in English. Not only was it sensible from the point of view of overcoming the language barrier that is increasingly impeding the reception of German research contributions, but as the frame of reference of the developed argumentation in this study was analytical philosophy, especially the literature concerning personal autonomy on the one hand and the basis of biomedical ethics on the other, it made sense to address the target directly.

When David DeGrazia then published his book *Human Identity and Bioethics* in 2005, I decided to realize the plan of an English version of my book. Apart from some small differences concerning details and a fundamental difference regarding the ontology of organisms, we came to almost exactly the same results entirely independently of one another. The basic decision to differentiate strictly between the question of diachronic identity of the human individual on the one hand and the question regarding the narratively or biographically composed personality of human individuals on the other is to be found in both studies. Due to this, it is not particularly surprising that also the questions we chose regarding biomedical ethics discussed in both studies coincide to a great degree. Naturally, the concrete argumentation of two philosophers will differ in details, even if they have a similar basic conception and pursue a similar central question. As these differences are philosophically illuminating, I did not draw the conclusion from David DeGrazia's book that an English version of my own study has thus become redundant. On the contrary, it has encouraged me in my conviction and my plan to engage in the English debate with this English version of my study. That it has taken so long from the appearance of my book to reach this insight is due to many things that John Lennon called life: what happens to you while you are busy making other plans.

I.

This book's goal is confirming that man's ability to lead a personal life and its forms of realization can and should play a role in biomedical ethics. The central thesis is that with the help of diachronic identity of human persons, we have an ethical principle of medium profundity, which de facto guides our everyday ethical intuition in many contexts and should also guide an adequate form of biomedical ethics. At the same time, this thesis aids the fundamentally skeptical thesis developed in this book. The philosophical question with regard to diachronic personal identity is not aimed

at a consistent phenomenon in the case of human persons and is thus misleading. The question must be broken down into four complexes of questions and respectively their answers; that being done, these can then be put into relation to one another. Thereby, a whole complex of philosophical explication of the personal life form of human individuals emerges that can do the complexity of the respective phenomenon justice. The four questions that must be kept separate in my study concern person-making characteristics that are needed for the analysis of personhood, the question of the narrative or biographical structure or personality (meant as the individual form the human individual gives his personality in life), as well as the synchronous unity and diachronic persistence conditions of human persons. The conception that is developed in its basic features in this book consists in answering the question relating to unity and persistence conditions with the help of the concept of human individual in the sense of a biologically specific organism and forgoing the concept of person here. The concept of person is then replaced in a second step by the two concepts of personhood and personality, which I then draw on to analyze the personal life form of human beings. In other words, in my overall conception, there are human individuals (organisms of a specific biological type) due to which they are recognized as having personhood, which they realize in their life in the form of personality.

Two fundamental objections which are based on misunderstandings have been brought forward against this conception: on the one hand, this is the *first* one; it has been criticized that with such a conception, the human person is naturalized and “person” reduced to a purely biological concept. But this is by no means the case. That the concept of the person, due to the characteristics that are named in this study, is not suitable for the answering of questions regarding synchronous unity and diachronic persistence is a thesis – that human individuals do not have personhood or personality or if so only in a naturalistic sense is an entirely different claim. Not only is this latter claim not made in the book, but it is also in fact implicitly rejected through the differentiation into the four questions. The aspects of personhood and personality and their respective features are part of our social life form and are to my mind as ontologically robust as those aspects of the human life form that can be captured in the natural sciences. Only if one assumes that these dimensions of human existence can be ontologically graded can there be any misunderstanding of the submitted conception. It is correct that the following argumentation regards the strict division of these two dimensions and the four referred-to questions as important. But this does not happen with the intention of eliminating one of the two dimensions or reducing one to the other. On the contrary, its goal is to philosophically explicate the complex internal connection between human- and personhood of the human individual.

On the other hand, this is the *second* fundamental objection; it is argued that my skeptical thesis expresses that I do not recognize the concept of person as having ontological or metaphysical dignity and do not believe it to be able to assist in answering basic metaphysical questions. The allegation amounts to the point just identified that ontological questions can only be answered along the lines of unity and persistence. But in my opinion, that is neither a necessary consequence nor are there good reasons for such a narrowing of ontology and metaphysics. The explica-

tion of personhood and personality in the sense of socially constituted aspects of our life form neither denies its existence nor its philosophical significance. *Or* this objection makes use of the limited conception of metaphysics that restricts the latter to an ontology using only the model of things and properties. That a human person cannot be captured adequately by such ontology or metaphysics is however a thesis that indeed is fundamental for my considerations. But from this only follows that such a narrow frame of such an ontology should not be accepted. This insight can be found, unfolded, and justified by such different philosophers as Hegel, William James, or the later Wittgenstein. It is true that the hereby-named philosophical tradition remains in the background in the book (the argumentation is already very complex and would have been thereby overloaded). It is unfounded that my skeptical thesis expresses a metaphysically or ontologically deflationary concept of person or indeed denies the ethical significance of the personal life form. For human existence, the opposite is true: leading the life of a person significantly matters! It is true however that the concept “person” is not suitable for the answering of certain ontological questions (as is the case the other way around for some concepts of the natural sciences that are unsuitable for the answering of other questions). But these questions (concerning synchronous unity or diachronic persistence) do not exhaust philosophical ontology, much less philosophical metaphysics.

The first chapter provides further distinctions, next to the differentiation of the four central questions that are needed for the explication of the whole conception and the answering of the four questions. The further path of the argumentation follows imperatively on my view from the just sketched basic setting of the course. I illustrate this argumentation in the fourth section of the first chapter, and it needs no repetition here. This is why I wish to pass on to the central objections raised against some of the theses in this book that do not concern the overall position of this book but the execution thereof.

II.

The first fundamental *Weichenstellung* (in the sense of a strategic decision in direction) of this book’s conception was made in differentiating the classical question regarding personal identity into four distinct questions. The second *Weichenstellung* was made in showing that these four questions can be divided into two problem areas. The questions regarding synchronic unity and those regarding the diachronic persistence of human persons are answered through the use of the biologically understood concept of “human organism” from the epistemic-methodological point of view. The questions relating to being a human person are answered using the concepts “personhood” and “personality” from the epistemic-methodological point of view of a participant/agent.

For this reason, for the central question of this investigation into two epistemic-methodological perspectives, the following is the consequence: “personal identity” has a double role in biomedical ethics when being used as a justifying principle.

When understood as a synchronic entity or as the diachronic persistence of the human organism, *indirect* ethical consequences arise wherever ontological questions become ethically relevant. This is the case at the beginning of life and in the case of death; this function is indirect because the question concerning the beginning of life and those concerning death can be viewed as ontological problems. If, for instance, an ethical difference is acknowledged between abortion and contraception, ethical consequences arise from this criterion for the beginning of the existence of a human individual. And as long as the ethical status of a living, albeit dying, human is different to that of a corpse, this criterion will also have indirect ethical meaning in defining a human being's death.

Understood as personhood and personality, the principle of "personal identity" gains *direct* ethical relevance. This is de facto the case in our ethical practice in which the status of personhood, the integrity of personality, and also a human being's personal autonomy are acknowledged as ethically relevant. In every ethical (and metaethical) conception, which attributes relevance to being a human person, this aspect of our ethical practice can be philosophically justified. In this book, I explicate the connection between the narrative condition of the human personality and the principle of respect of autonomy. Beyond that, I show what the material content of this conception consists of, using the fundamental questions regarding the right to a self-determined death, the ethical bindingness of advance directives, and the possibility of justifying a certain form of paternalism in the context of medical action.

In the previous section, I rejected two fundamental objections, whose goal was the aforementioned *Weichenstellung*, on the grounds of them being misinterpretations of my conception. In this section, I wish to address some further fundamental objections that cannot simply be removed by unmasking them as misunderstandings. They can be placed in two groups: the first point of criticism regards the first *Weichenstellung*. The other objection is aimed, in contrast, at assumptions that I lay claim to in the context of answering the questions concerning synchronic unity and diachronic persistence of human organisms. The two groups are not entirely independent of one another, but to better identify the burden of proof, it is helpful to distinguish the two. I will begin with the latter group, because its objections are to constitute the argumentative points, which undercut my choice of course. In their monograph, *Menschliches Leben*, Sebastian Knell and Marcel Weber depict a biological approach that I outline in this book, and they then subject it to an in-depth critique. First of all, I wish to state that their depiction is factually correct and fair in every respect. They repeatedly say that my argument was not particularly developed and that central conceptions remain underdetermined. Saying that, I neither, and this is true, address in detail the concept of functional integration, which is central to my conception, nor do I explicate of which type the biological laws that I presume are to be. Their central point of criticism, if I understand Knell and Weber correctly, can be summed up thus: for an analysis of the concept of a biological organism, the concept of functional integration is indispensable. This though, and both authors agree with me on this point, leaves room for a range of different grades of being functionally integrated. This range is a distinguishing feature of the biological world, which causes a blurring of both the borders to the existence of individual organisms and –

here Knell and Weber refer to John Dupre's analyses in *The Disorder of Things* – those of species. This however causes, such is the conclusion Knell and Weber come to, the ontological condition of the biological to be such that the ontological burden, which my conception of diachronic persistence is to carry, becomes too heavy. The authors delineate their position clearly and unambiguously: whether a biological organism belongs to a specific species depends on pragmatic criteria, as much as the decision regarding certain criteria for the beginning and the ending of the existence of an individual organism. Thereby, however, my first *Weichenstellung* becomes misleading, because it – as I wish to put it – presupposes a distinction between the biological and the social, which is not tenable. In other words, “The concept ‘life’ does not refer to a natural kind; it is permeated by practical and evaluative intricacies of meaning” (p. 54, my translation). I have no retort to bring forward against the fact that, up to this point, there only exists a rough sketch of a thesis. But it is possible however to offer an explication of why I do not believe Knell and Weber's argumentation to be inescapable (leaving aside the fact that the burden of proof ascribed to me has not yet been fulfilled). This attestation is however helpful for the understanding of my own conception, as it helps in identifying some of the premises of Knell and Weber's criticism which I do not share. Firstly, they work with a strong conception of essentialism and natural types that I make no claim on. Neither am I obliged to assume that the determination of essential properties or natural types is wholly independent of epistemic efforts nor does it follow from the vagueness of the biological species that the borders between the biological and the social need to be dissolved. If reality is vague, then we must indeed draw on pragmatic criteria, if we wish to use our concepts unambiguously in all cases. It does not follow from this that there are no unambiguous cases and the normative aspects that go along with the use of concepts and with the constructing of theories can be, as I do, clearly acknowledged. From this, it cannot be deduced that the difference between the interest in cognition and methodological approach is dissipated. In fact, the opposite is true as a central argument for my first *Weichenstellung* lays in a criteria-guided and, therefore, pragmatic catalogue of requirements for the analysis of the conditions for the diachronic persistence of organisms. If there is vagueness in my suggested theory frame concerning the exact definition of the beginning or end of the existence of a (human) organism, then I can allow for such isolated cases or even types of cases. As I acknowledge with regard to the question of ascription of potentiality, these do not work in all contexts. To deduce from this fact however that they are useless in all cases is neither necessarily the case nor plausible. Hard cases make bad laws!

My impression is that Knell and Weber's critical argumentation rests on the assumption that my suggested first *Weichenstellung* is only sustainable if it is supported by a metaphysical realism and a concept of natural types and one of biological organisms that is free of any vagueness. Such a conception, this is at least how I understand Knell and Weber, can only carry the required metaphysical weight, if it forgoes any pragmatic reasons for the use of concepts, epistemic achievements, and theory building in its development. It is obvious that one should not accept these strong requirements. However, I have never done so (although it can be attributed to my very brief sketch of my conception, as it invites critics to fill in the gaps with their own

preconditions). With John Dupre, I am of the opinion that one can develop a conception of species that can function without the essentialism assumed by Knell and Weber.

The rejection of the criticism brought forward by Knell and Weber remains a defensive one, because it rests on rejecting certain preconditions, without which their objection cannot be formulated. The conceptual space thus held open must be filled by my own contribution of a theory, so as to justify the conception I have brought forward. As long as this has not been achieved, the objection raised by Knell and Weber remains aimed at problems and gaps in my own conception on a very fundamental level. This is different in the case of the criticism directed at my justification of the criterion for brain death. In contrast to the suggested criterion for the beginning of existence, my defense of the criterion for brain death was criticized in the context of organ donation. This debate, which is just now flaring up in Germany again, is one I do not wish to go into here. Instead, I will leave it at the indication that arguments that are brought forward against these two specific theses (the criterion for the beginning of existence and the criterion for the end of existence of a human organism) are not automatically objections against this book's conception of persistence of biological individuals. Neither is it the case that these criteria can only be justified on the grounds of my conception nor that my conception collapses, if the suggested criterion for the beginning and ending of existence cannot be supported. As I admitted above, this would be different for the objections brought forward by Knell and Weber. The burdens of proof, on which I went into detail on in the study submitted relating to a conception of the (human) organism, have as yet not been delivered (this would require a further book). I have named the reasons for which I am optimistic, despite the challenges to my conception that they can still be delivered. Anything further remains to be seen in the course of further development.

In view of the conception of personal life forms of the human being and in a narrower sense bioethical questions that are addressed in this book, the situation looks different. On the one hand, I have tried to fulfill those burdens of proof in my book *Person* which appeared in German in 2007 (an English edition of the monograph is in preparation at the moment, so that I wish to delay the discussion of the objections that need to be addressed to a future occasion). On the other hand, I have participated in the last two decades in bioethical debates on assisted suicide, euthanasia, and advance directives and was part of many publications on medical paternalism. The objections brought forward against my theses in these contexts do not, analogously to those against the criteria for the beginning and ending of existence, seep through to my suggestion of the personal life form of the human being. For this reason, they need not be addressed here.

III.

In the introduction to the German edition to this book, I thank colleagues who supported me during that time in Münster. As my gratitude is still as current as ever, I wish to repeat my thanks.

The years in which I was able to study and do research at the philosophical seminar in Münster were informed by a cooperative atmosphere, a lively exchange of thoughts, and a constant willingness from all to have conversations and discussions. The productive environment ensured that the execution of my research never became a lonely undertaking.

Special thanks go to my academic teacher Ludwig Siep. Without his compassionate help and assistance, I could not have put my project into effect. Many friends and colleagues commented on this book in its different stages and in doing so freed it of many deficiencies: Johann Ach, Kurt Bayertz, Tom Beauchamp, Dieter Birnbacher, Jürgen Blühdorn, Birger Brinkmeier, Bernward Gesang, Christoph Halbig, John Harris, Martina Herrmann, Angela Kallhoff, Jussi Kotkavirta, Helga Kuhse, Arto Laitinen, Johanna Macher, Barbara Merker, Sibille Mischer, Rosemarie Rheinwald, Peter Rohs, Erzsébet Rózsa, Hans-Christoph Schmidt am Busch, Dieter Sturma, Christian Suhm, Manfred Wetzel, Marcus Willaschek, and Andreas Vieth. To all of them, I wish to extend my thanks.

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This only leaves me to thank those who significantly contributed to the realization of the English edition. First and foremost, I wish to thank David Schweikard and Faith Puleston Jones for the translation of the manuscript. I also wish to thank Anna Maj Blundell for the editorial revision of this text and the incorporation of my updates. My thanks also go to Tris Engelhardt for accepting my book into his series and thereby giving me the opportunity of fulfilling my wish of finally realizing an English edition. I too wish to thank the anonymous reviewers for their helpful suggestions for improvement. And finally, I thank the Springer Publishing Company for attending to this project over the last years with precisely the right amount of pressure and patience.

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Michael Quante

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