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## **Egalitarianism, moral status and abortion: A reply to Miller**

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Abstract:

*Calum Miller recently argued that a commitment to a very modest form of egalitarianism – equality between non-disabled human adults – implies fetal personhood. Miller claims that the most plausible basis for human equality is in being human – an attribute which fetuses have – therefore, abortion is likely to be morally wrong. In this paper, I offer a plausible defence for the view that equality between non-disabled human adults does not imply fetal personhood. I also offer a challenge for Miller’s view.*

*Keywords: Abortion – Induced; Ethics- Medical; Fetus; Infanticide; Moral Status*

### **Introduction**

Calum Miller argued that a commitment to a very modest form of egalitarianism, that is the equality between non-disabled human adults, implies fetal personhood.<sup>1</sup> He claims that the most plausible basis for human equality is in being human. That is an attribute that fetuses have, thus making a case for the immorality of abortion.

In this response, I raise a challenge to Miller’s claim that fetuses are moral persons. But first, I propose a defence for the view that equality between non-disabled human adults does not imply fetal personhood.

### **Equality between human adults does not imply fetal personhood**

Arguably, those who hold the view that abortion is morally permissible think that non-disabled adult humans have equal moral status with each other, but that fetuses do not have the same moral status as non-disabled adult humans. Miller thinks this view is untenable. He thinks that either fetuses have equal moral status with non-disabled adult humans or not all non-disabled adult humans have equal moral status.

The problem – which has been discussed in different contexts<sup>2</sup> – is explained by Christopher Kaczor as follows.

If our moral rights are based on deigned characteristics, then the more we have of the value-making characteristic, the greater the value we have and

the greater the right to life we would have. But this contradicts the widely held notion that all human persons have fundamentally equal rights. So, whatever it is that makes human beings count as a person cannot be a quality that comes in degree.<sup>3</sup>

However, there is a natural explanation for the belief that all non-disabled adult humans have an equal right to life – yet fetuses lack such a right to life. That is the threshold view of moral status. It can be illustrated with the following analogy.

For a license to study at a university one needs to pass an entrance examination. Some applicants will pass the exam with high marks, and others just barely pass it. Still everybody who reaches that certain bar will be accepted and get full and equal rights as a student. It doesn't matter if one passes the test just barely and the other with full scores, they both have equal and full rights as a student. Similarly, there is a threshold that every being has to pass to count as a person. After passing that threshold, any further increases in the degree of relevant capacities does [sic] not make one more of a person, because anyone who crossed the threshold is already fully a person. This means that we can accept the equal moral status of persons even though we believe that person-making characteristics or capacities come in degrees.<sup>4</sup>

Miller, however, objects to this threshold view of moral value by the following reasoning.

[I]f the threshold for personhood were at 5 units of intelligence, rather than just a non-zero degree of intelligence. [Then it] is especially difficult to understand why it is that one's value increases as one becomes more intelligent up to a point, and then intelligence suddenly becomes irrelevant to one's value beyond that point. It is worth noting that most, if not all, plausible non-humanist theories of personhood are of this more challenging kind.

The reason why one's moral value increases up to a point but no further is simply because, after some point, any further increases in psychological capacities are irrelevant to the ability to flourish in life.<sup>1</sup> Consider, for example, self-awareness, reasoning ability, communication skills and so on and so forth. They are measures that are imperfect, yet they characteristically have a real relationship to the ability to flourish in life.<sup>5</sup> However, once you have enough of these characteristics you can flourish in life in the same *way* as others can – albeit perhaps not to the same extent. But if you do not have enough of those characteristics you cannot flourish in the same *way*. Just consider non-human animals and how they lack sophisticated psychological abilities and thus cannot flourish in the same way as humans do but can flourish in the way non-human animals flourish.

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<sup>1</sup> Human flourishing is, roughly, the ability to live a good life.

## **The moral status of human/non-human chimeras**

Miller claims that the membership of the human species is not the kind of thing that comes in degrees. He says that 'it is hard to imagine someone being more of a human being than the average member of our species.'<sup>6</sup>

It might be hard to imagine such a case, but it is not impossible. Suppose for instance, that scientists have found a way to incorporate non-human DNA into human DNA. Suppose, for example, that it is possible to create humans that have 99 % of human DNA and 1 % of pig DNA. Suppose further that it is also possible to create pigs that have 99 % of pig DNA and 1 % of human DNA. Suppose also it is possible to create beings that have any possible combination of human and pig DNA and the practice becomes so common that the average human has less than 100 % of human DNA.

There is nothing logically impossible to imagine such beings. Thus, there is nothing logically implausible in the claim that membership of the human species comes in degrees. More than that, it is plausible that science advances so that in the future we are capable to create human/non-human chimeras: beings that are partly human and partly other species.

What would be the moral status of such beings? It is difficult to say. Those – like Miller – who hold the view that membership of being a human species matters, morally, have a few options. They could deny the moral status of everyone with even a tiny part of non-human DNA. This, I think, would be implausible since a very tiny portion of non-human DNA would likely not matter for our phenotype. They could also say that even a slight portion of human DNA in a non-human animal would grant them full moral status. Again, at least for me, it seems highly implausible because only a very tiny portion of human DNA in a pig would likely not change the phenotype of the pig. The third option would be to say that moral status comes in degrees. If one adopts the degree view to moral status, then there are three options left. Either one says that beings with some human DNA have a greater moral status than those who have none but that such beings also have less moral status than human beings with 100 % human DNA. The second option would be to adopt a threshold view and say, for instance, that any being that has more than 50 % of human DNA has an equal moral status with normal human beings and any human/non-human chimera that has less human DNA than 50 % would have the same moral status as normal pig (and thus different moral status from normal humans). The third option is to draw the line somewhere else than 50/50, but the point remains. Membership of a human species could (in theory) come in degrees and thus poses a (theoretical) challenge for Miller's view.

## **Conclusion**

Moral status comes in degrees but once you have reached the threshold of full moral status any additional increases in status-giving characteristics (whatever they may be) do not give you additional moral status because all of those who have reached the threshold can flourish in life in the same way.

This view implies that it is crucial to find out where the threshold of full moral status lies. It seems to be unlikely that the threshold would lie at birth. If the threshold is not at

birth, then either infanticide is not morally wrong (if infants have not reached the threshold of full moral status yet)<sup>6,7</sup> or at least some late abortions could be morally wrong (if fetuses have reached the threshold of full moral status already).

Of course, the debate over the moral status of fetuses is somewhat theoretical because fetuses are growing inside women's bodies and people have a right to decide what happens in and to their bodies.<sup>8</sup> Any legal restrictions on abortion access are thus unjust and discriminatory.<sup>9</sup> While there is disagreement on whether the bodily-rights arguments on abortion are successful<sup>10</sup> if those who hold the pro-choice view are right *either* on the person denying arguments *or* on the bodily rights arguments abortion is morally permissible. But those holding the pro-life view must successfully refute both pro-choice arguments to conclude that abortion is immoral.

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