

This essay is my personal approach to the question of what or who is a human individual deserving rights, in which I also consider also the rights of pregnant women. My strategy is to first discuss how we can define a human being, then to reflect on what human rights are, and finally to apply my propositions to the problem of pregnancy.

I. Definition of a Human Being

Although I do not doubt that almost all humans identify themselves as humans, I doubt whether any human knows what a human really is. I am not an exception; I can only intuitively understand the name “human,” but I cannot be sure what a human is.

However, I am not satisfied by knowing what a human is only nominally. If all a human is were only the stimuli sharing common characteristics in such a way that made me classify them as “human” in my mind, I would feel free to change the classification as I see fit. One day, I could classify some stimuli, such as the ones I usually call “a monkey,” as “a human,” because it would be my whim. Another day, I could deny this name to the stimuli that irritate me, such as the ones I usually call “my neighbor.”

Nor for a society it is satisfactory to collectively understand being a human in nominal terms only. No one would feel safe in a society where the definition of a human being changes with the whims of the current lawmakers. One day, an individual could be protected by law, like an innocent person in the modern United States. Another day, an individual could be denied the name “human” and be destined to death, like a Jew in Nazi Germany.

There is something in me that says that this would be wrong. I prefer to base my classification on something real. Or, at least, something perceived as real, even if reality did not consist of divisible beings. Therefore, let me assume, after Plato, that there exists a realm of ideas, which is the realm of true beings that underpin the structure of the world. Henceforth, I define “human” from the perspective of realism, and I consider my definition a *reconstruction* of a piece of reality, rather than a *construct* of my mind.

However, I believe in the concept of *tabula rasa*; I think that all my knowledge comes from the stimuli from the material realm. Thus, creating definitions that reconstruct the realm of ideas necessarily involves referring to some intuitive classifications, or *names*, of clustered stimuli, or *objects*. Therefore, the more intuitive concept of human in nominalist terms will be useful in the process of arriving at the concept of human in realist terms. Scientists, if not ordinary people, have no trouble intuitively classifying objects as belonging to species of names such as “homo sapiens.” From now on, I use “homo sapiens” to refer to the nominalist human, and “human” or “human being” to refer to the realist human.

It is important to realize that being associated with homo sapiens may not imply being a human. Is a homo sapiens liver a human? Is a buried body of homo sapiens a human? Is a homo sapiens fetus a human? In order to reconstruct the definition of a human from the realm of beings, it is critical to find a criterion that distinguishes beings. Intuitively, homo sapiens could be described by words such as visible, material, multiparticle, multicellular, mortal, rational, emotional, conscious, beautiful, symmetric, etc. From this arbitrary list of fundamental descriptors, the ones that strike me as the most unique are related to what traditionally is

associated with a soul: rational, emotional, conscious. Even if some animals, such as mammals with elaborate nervous systems, evince some of these traits, it seems that the homo sapiens easily surpass all other species to the extent that their “souls” seem to be of a higher order. While not strictly unique, these three descriptors have the potential to distinguish homo sapiens from other observable beings. From among them, let me proceed with “conscious,” as this seems to me a necessary (even if insufficient) condition for the other two.

Two crucial problems with applying the criterion for humanness to a particular object are whether I should consider humanness as continuous or discrete, and whether an object in question is human in the unconditional way or in the way conditional on actively fulfilling the criterion. That is, should humanness be measured percentagewise, in steps, or as a binary value? Should something be considered a human being only when in an active state of consciousness, like when solving math problems, or also in a passive state of consciousness, like when sleeping?

My preference is to treat humanness as a binary characteristic attributed to beings unconditionally.¹ With these assumptions, I already have a rough guideline of my classification: an object either is fully a human or is not at all, and once an object happens to exhibit high-order consciousness sometimes, it remains human at other times. When an object drastically changes into another form of being in a way that would require reclassification, then the object falls out of the definition of a human.

It seems that what distinguishes a passively conscious being from an unconscious being is the potential to be conscious, although it may be problematic to understand what the potential could be. Clearly, a homo sapiens during sleep or a comma has a potential to exhibit consciousness. A less clear case is a homo sapiens in a prenatal state or in a persistent vegetative state. That said, potentially everyone would agree that both examples could be classified as homo sapiens. It seems that the underlying reason is that all these objects in question possess a genetic material characteristic of the homo sapiens species.

However, possessing a homo sapiens genetic material by itself does not seem sufficient if I consider the examples of a human liver or a dead human body. The genetic material needs to be executed so as to give an object the potential to exhibit consciousness, or the criterion for humanness. An object that executes its genetic material to maintain some or all physiological functions could be called a living organism. Therefore, I propose the following definition of a human being: *a living organism built on its own homo sapiens genetic material*, where “living” means “maintaining some or all physiological functions.”²

II. Definition of Human Rights

Having established what a human is allows me to proceed to the question of human rights. Rights seem to me the laws that regulate what should be done or not to be done to an individual human being. Laws other than rights refer to what should be done to whom as a result of some actions or situations. Rights, however, seem to be defined regardless of actions or situations. Consequently, humans possess rights solely based on the fact of their existence as humans, and not based on (refraining from) some actions. Therefore, let me suggest a definition

¹ A justification of this preference could be a topic for another essay, and I consciously resign from providing it.

² A weakness of this definition is that it may be problematic in the case of conjoined twins built (until some point) on the same genetic material. If we wanted to classify some twins as two different humans, we would need to indicate at what stage in their prenatal development they split into two organisms and acquired the previously shared genetic material as each one’s own.

of human rights: *the laws regulating what should or should not be done to an individual human being, regardless of anything*, where “anything” is often exemplified by individual characteristics such as gender, sexual orientation, race, age, etc.

Human rights are a topic hard to be exhausted, but let me narrow down the discussion to two questions. First, are rights universal or specific to a context? Second, what kinds of rights are there? What are the examples of actions that “should or should not be done”?

To answer the first question, let us consider whether rights could be specific to a context. In order for something to depend on the context, there needs to be a source of variability. However, it is hard to find sources of variability in human rights. Human rights cannot be based on an individual characteristic of a human being, because they hold regardless of “anything,” e.g. gender identity. Moreover, rights cannot change depending on any action of an individual, because they are assigned based on existence only, as per the definition above. Finally, they cannot change depending on a group of human beings, because it would be nonsensical to name them “human”; rather, they would need to be named after the group they are intended to favorize, such as noblemen. But then it would be purposeless to speak of rights; rather, we would speak of privileges. Therefore, human rights seem universal.

Addressing the second question is harder. For some, free access to internet would be considered a human right, but for others not. For some, property is a human right, but for others property leads to violations of human rights. Certainly, rights are related to the most necessary aspects of human life, but the listing of particular rights somewhat depends on culture and context (even if human rights are universal once listed). Crafting a list of human rights would be beyond the scope of this essay.

However, there seems to be one human right that is fundamental to all others, and this is the right to life. This is because no right can hold if the right to life does not hold. If the right to life were not on the human rights list, the solution alternative to executing any particular right would always remain to rather take the life of the individual whose rights are violated, since a dead homo sapiens body is no longer a human (according to the definition in Section I) and thus possesses no human rights. Furthermore, the right to life always takes the first place in the hierarchy of rights. Otherwise, the rights that preceded the right to life would locally face the absence of the right to life, leaving the alternative solution possible. Therefore, a bill of human rights without the right to life as the highest right would plausibly be useless.

III. Discussion of Pregnancy and Human Rights

Regardless of the intrinsic value of defining human beings and their rights as a thought exercise, it is worth considering an application of the discussion above to one of the most contentious topics of our age: pregnancy.

In order to discuss the phenomenon of pregnancy in the context of human rights, it is important to consider individuals involved in the phenomenon: the pregnant woman, the child in her womb, the father of the child, and all others indirectly involved: healthcare providers, other family members, friends, etc. All the human beings listed deserve human rights (due to being humans) and are equally subject to other laws. Pregnancy, in turn, is a specific background for actions that are regulated by the applicable laws.

What actions are allowed or disallowed for each individual depends on the hierarchy of rights, privileges, and other laws applied to a certain action. It may be hard to build such a

hierarchy, but only a hierarchy guarantees the proper order of laws. A lower law arbitrarily applied before a higher law would lead to inconsistencies. This would undermine the sense of laws, since laws are designed to treat humans according to equal standards in all cases.

Respecting a hierarchy of laws is crucial especially for resolving conflicts of interests. Whether an individual A is allowed to take an action that goes against the interests of an individual B depends on whether the individual A may appeal to higher laws than the individual B. For example, when a pregnant woman wants to take maternity leave, there is a conflict of interests between her and her employer. If the civil law prioritizes stable employment for employees such as pregnant women over employees' absence costs minimization for companies, then the woman is allowed to take the leave by appealing to the prioritized (or higher) law. The same logic applies to human rights.

Although I have not declared my own list of human rights, I have concluded that the right to life is the highest human right. In the context of pregnancy, this has implications for actions such as abortion, where there is a conflict of interests between the woman and the child. There are two important cases of abortion to consider, depending on whether a pregnancy threatens the woman's life.

If the pregnancy does not threaten the woman's life, there is no human right to which the woman could appeal as a right higher than or equal to the child's right to life. Therefore, if the woman is allowed to take the life of the child, then the law places human rights below some privileges or other laws. However, if the pregnancy threatens the woman's life, then the woman can appeal to her right to life, which is equally high as the child's right to life. Whether the woman is allowed to take the life of the child then depends on privileges or other laws, but the superiority of human rights is not violated.

A possibly strong counterargument to this analysis is that the child in the womb may not necessarily be a human. However, conception results in the emergence of a single-cell organism that exhibits some physiological functions, such as organization, metabolism, growth (including cell multiplication), and response to stimuli. This organism also has its own homo sapiens genetic material it executes.³ Given that and because a human is an organismal homo sapiens object since conception until death in the light of my definition, the child in the womb is a human.

IV. Conclusion

In summary, I define a human in realist terms by distinguishing some homo sapiens objects from others with the criterion of exceptional consciousness, and I binarily and unconditionally apply it to all living organisms with homo sapiens genetic material. Then, I define human rights as some universal laws unconditionally applied to all individual humans. Finally, I discuss some applications of my approach to the problem of actions associated with pregnancy. I argue for the need to follow a hierarchy of laws in order to resolve conflicts of interests while respecting human rights. The philosophies of life, law, and science have inspired my thoughts. I would appreciate other opinions and criticisms of my definitions, assumptions, logical consistency, and other aspects of this essay.

³ Note that I refer to genetic material, as opposed to genetic information, on purpose. Two separate humans may share genetic information (twins) but not the genetic material. See also Footnote 2.