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The Kantian Formula of Human Dignity and its Implications for Bioethics

by Werner Wolbert

In bioethical discussions one often finds arguments resting on the notion of the dignity of the human person. It is, for example, said that the human person may not be treated as a mere means, an instrument or an object. The idea of dignity seems to be of great importance especially with respect to the problems surrounding the taking of lives. But the conclusions drawn from this idea are by no means unanimous. One would expect that capital punishment is - at least *prima facie* - excluded by the idea of human dignity. But Kant, to whom we owe perhaps the most important explication of this idea, held that respect for the dignity of the murderer demands exactly this kind of punishment. Another perhaps surprising example dates back to 1954 when a Catholic moral theologian objected against the donation of an organ from a living donor in the following way¹: The human being was created for himself ("*propter se seu propter suam propriam perfectionem*"). Man is not a mere *res utilis*, he was not created for the well-being of another creature (not "*ordinatus ad bonum seu utilitatem alius creaturae*"). Whoever donates an organ as a living donor, treats himself as a mere "*res utilis*" in the service of his neighbour. We may have an idea of what it means to treat our neighbour as means, as *res utilis*, but the idea of treating oneself as a means sounds inappropriate. One modern philosopher seems to feel the same difficulty when, dealing with the Kantian formula, he makes the following reservation²: "Note that I have eliminated any reference to 'mistreating humanity in one's *own* person'; for I do not see how anyone can treat *himself* as a mere means."

According to the Kantian formula (second formula of the Categorical Imperative), which tries to explicate the idea of human dignity, humanity should never be treated as a mere means, but also as an end. The application of this formula is not easy. It may appear still more difficult if one looks at Kant's own application of his formula to questions of applied ethics in his "Metaphysics of Morals" (a book very rarely commented upon)³.

¹ Bender (1954), 146.

² Singer (1971), 236.

³ But compare Gregor (1963).

For a correct understanding of the idea of human dignity and for its correct application in questions of applied ethics one has to look for the correct interpretation of the Kantian formula⁴. This can be done by answering the following three questions:

1. What is "humanity" (*Menschheit*) which has to be treated as an end in itself?
2. How is it possible to treat not only other persons as means, but also oneself or - correctly - humanity in one's own person?
3. What does it mean to treat humanity *not only* as a means?

1. *The meaning of 'humanity'?*

'Humanity' here does not denote the biological species nor is it to be understood in the a collective sense as humankind (Latin: *genus humanum*) as at least the German 'Menschheit' is today normally understood. The English equivalent 'humanity' may be less misleading: it denotes what is specifically human (Latin: *humanitas*). What distinguishes the human being from other animals is reason, especially practical reason, i.e. insofar as it can recognise the moral law as a categorical imperative. So, the human person as a *moral* being has to be treated as an end in itself. One has to keep in mind that 'moral being' in this context does not mean a person who *realises* morality or lives according to the moral rules, but the person merely insofar as he or she is *capable* of perceiving the moral claim or - theologically speaking- the will of God as moral legislator. If the dignity of the human being depended not on this mere capability, but on the realisation of moral goodness, human beings would be unequal in respect of their dignity. But if one refers to the idea of human dignity in an ethical context, then something in respect to which all humans are equal is meant. Now, if human beings are equal in respect to their dignity, if they have this dignity simply because they are humans, this dignity cannot depend on their realisation of morality but only on their capacity to realise morality. In this respect, the Kantian approach is congruent with the Christian commandment of love, since even sinners are included in this commandment although by their sins they have acted against their vocation and therefore against their dignity. But those persons are still "capable of morality", still addressed by God's call, because God offers them the possibility of conversion.

This approach may not be accused of 'speciesism', as some defenders of animal liberation have suggested⁵. This accusation would be justified if dignity were granted to the human being simply as a member of the biological species. But the relevant feature, however, is not

⁴ Cf. Wolbert (1986b) and (1987).

membership to the species *homo sapiens*, but - as stated - the moral capacity of the person. This idea may become clearer, if one keeps in mind that for Kant *two* things have dignity: first, the moral attitude (moralische Gesinnung) or moral goodness, and second, the human person insofar as he or she is capable of morality⁶. Morality in this sense is the willingness to act according to the Categorical Imperative, the Golden Rule or the Commandment of Love. This willingness can exist only in a being which is also capable of acting contrary to those maxims. One may of course deny this kind of dignity. The idea may be wrong, but it is not speciesistic.

This idea of human dignity presupposes a cognitivist ethical approach, according to which morality is discovered, not invented. If morality is not given, not a given value which the person is obliged to realise, human dignity cannot be based on the simple capacity to realise it. In this case, moral goodness can obtain value only by the sovereign (positive) decision of the person concerned, it cannot possess it before this decision. In this case 'morality' is to be understood in a neutral, purely descriptive way. For the non-cognitivist the statement "all humans are equal" is not based on a given equal dignity of all humans, but can only be understood as a kind of presumption: equality has to be presumed, unequal treatment has to be justified. In this sense says Stanley Benn⁷: "The ideal of universal equality can often be reduced to the principle that all men ought to be equally considered. This does not mean that there is any respect in which there are all alike; it is rather a principle of procedure ... The onus of proof rests on whoever wants to make distinctions." And: The "principle of equal consideration does presuppose an initial commitment or decision, for it takes for granted whose interests are to count." For a non-cognitivist, the idea that all human beings are persons is, therefore, not an argument for equal treatment, as R.M. Hare stresses⁸: "In order to be sure that he is a person, we shall first have to satisfy ourselves that he ought to be treated in a certain way."

2. Treating oneself as a means

It may now not be difficult to understand how one can treat humanity even in one's own person as a mere means: first, simply by acting against one's moral vocation, against God's will, in not respecting one's own moral capacity. This expression sounds, nevertheless, somewhat strange. One may imagine an egoist looking only for his own well-being whilst not caring for

⁵ Cf. Singer (1970), 48-59.

⁶ Kant (GMS), BA 77: "Also ist Sittlichkeit und die Menschheit, so fern sie derselben fähig ist, dasjenige, was allein Würde hat."

⁷ Benn (²1972), 40.

⁸ Hare (³1972), 213.

his fellow-human beings. By disrespecting their equal human dignity he treats them as mere means, whilst sinning against God he also disregards his own dignity, and therefore treats also himself as a mere means. This may sound less peculiar after having understood what is meant by 'means'. But, of course, speaking of treating humanity in oneself as a means only makes sense from a cognitivistic point of view. If the value of morality is dependent on a sovereign decision, one cannot act immorally (against one's moral vocation), but only non-morally. There is no ethical obligation prior to one's own sovereign decision.

"Treating oneself as a means" could also be understood in a more specific way, as Kant himself exemplifies in his "Metaphysics of Morals": servility (*Kriecherei*): degrading oneself in order to obtain some favour from another person. Another example (treated as well by Kant) would be suicide. A person who tries to escape the troubles of life acts against his/her moral vocation. But this argument of Kant (which does not cover all cases of suicide) shall not be discussed here.

3. *The meaning of 'means'*

From a superficial point of view it may be totally futile to clarify the terms 'means' and 'end'. This is, however, very necessary though it may be difficult. These terms are often misunderstood. Kant's language is - in some respects - a strange idiom (even for a German). At times one must ask the meaning of even the most common words. To clarify the term 'means' is indeed essential for the solution of two difficulties. First, as two other philosophers have suggested⁹: "There is something odd about speaking of *persons* as ends." Secondly, if one should not treat humanity as *mere* means, then treating humanity as a means is still in some way legitimate. This sounds odd when first heard but why?

Kant distinguishes 'dignity' (*Würde*) from 'price' (*Preis*)¹⁰. What has a price, has an equivalent; it may be exchanged for something else. If I would like to see a football game or go to the opera, the tickets may be too expensive. I may prefer to save the money (the price) as an equivalent or look for some other entertainment. Furthermore, all things that have only a price (intelligence, knowledge, skills etc.) can be misused. But moral goodness has no equivalent nor can it be misused. If one tried to misuse it, one would lose it. There is still another important difference between price and dignity. To have properties or objects that have a price

⁹ Downie/Telfer (1969), 13.

¹⁰ Kant (GMS), BA 77: "Im Reich der Zwecke hat alles entweder einen *Preis* oder eine *Würde*. Was einen Preis hat, an dessen Stelle kann auch etwas anderes, als *Äquivalent*, gesetzt werden; was dagegen über allen Preis erhaben ist, mithin kein *Äquivalent* verstattet, das hat eine *Würde*."

(wealth, health, knowledge, skills) is at least partly not in our power. It is, however, in our power, under our control ($\delta\epsilon \mid \sigma$), as the Stoics said¹¹, to be morally good (or bad) persons. Because it is in our power, the claim for moral goodness is categorical. Moral goodness is an absolute, unconditional value. All other things have only conditional value. One may not strive for them at all costs.

The problem with the Kantian formula now is the following: If the dignity of humanity is unconditional, one should expect that it should *always* be treated *only* as an end in itself. How can or may something which is of unconditional value be treated as end and means simultaneously, as the formula seems to presuppose when it says that humanity may never be treated *only* as a means. How can it be licit at all to treat the human being as means?

First, it has to be observed that *humanity*, meaning the person as a moral being, has to be treated as an end. But the human being is not only a moral being. Kant (in his "Metaphysics of Morals") distinguishes duties towards man as a moral being from duties towards man as an animal being. This distinction seems to be a bit too simple. What about an artist, a painter or a composer? Those faculties are not part of the moral goodness of a person, but neither do they belong to him as an animal being. Those faculties are non-moral properties. What is important is that in the human person one finds moral and non-moral values. The first are of unconditional, the second of conditional value. Insofar as persons are capable of moral goodness, they are of unconditional value and have to be treated as ends, insofar as they have properties or faculties of non-moral value, they may be treated as means. Insofar as somebody is useful for me - for example as a lecturer, an artist, a craftsman - I may treat him as a means. In dealing with those persons their morality normally is not at stake, and the question of treating them as an end as well does not arise (so long as I pay them justly, do not try to induce them to immoral behaviour etc.).

It has still to be clarified what the term 'means' here signifies. Normally one thinks of some sort of object, an instrument, a tool, i.e. some inanimate object, that has no will of its own. According to this idea it is often supposed that a person is treated as a mere means if one does some harm to him against his will or expects from him some extreme sacrifice. Kant himself seems to support such an interpretation when he claims that the person must "share the aim" (den Zweck in sich enthalten)¹². But what, if persons are put in quarantine against their will? Does that imply mean treating them as mere means for the well-being of others? Does that mean to "instrumentalise" them, as is often suggested? Probably not. Can the person share the aim which is the health of others? Yes, at least as a moral being, from a moral point

¹¹ Epictetus, Encheiridion, n. 1.

of view, not, however, from an egotistical one. So the criterion of "sharing ends" turns out to be synonymous with the most general criterion of morality. It is no specific criterion of moral rightness or wrongness. To say that a certain kind of dealing with a fellow-human being is wrong because he (she) cannot share the end would be circular. Of course, in judging certain actions it may be ethically relevant whether the persons concerned do in fact consent or not. Especially actions that one regards as supererogatory must be absolutely voluntary. This is also a consequence of the human dignity, of the freedom of the person which has at least *pri-ma facie* to be respected. But the idea of human dignity does not exclude any kind of constraint (for instance, in the way of punishment).

The term 'means' here has to be understood differently from our common usage. The German 'Mittel' etymologically means something "in the middle" (compare arithmetic and geometric mean). For the Stoics 'medium' ($\{\uparrow \mid \downarrow\}$) was another term for 'adiaphoron' ($\{\leftarrow \mid \rightarrow\}$), that means for a non-moral value (evil), for something that *makes no difference* with regard to the *moral* quality of the person (like health or sickness, wealth or poverty etc.). So, 'means' here is equivalent with 'non-moral value (evil)'.

After this clarification one is able to understand the Kantian formula correctly: Insofar as human beings are of moral (unconditional) value, they have to be treated as ends in themselves. Insofar as they are also of non-moral value, i.e. have a price, they may also be treated means, somethings which have an equivalent.

Now there remains a second difficulty. It may be legitimate to treat human beings as means, insofar as they are of non-moral value. But Kant speaks of treating *humanity* not only as a means. How can it be legitimate to treat persons, insofar as they are moral beings, as means? The answer is the following: What was said of the human being can be said of humanity and of moral goodness as well. The moral goodness of a person is first of absolute value (dignity). But insofar as this moral goodness (in the absence of error) is normally beneficial, it fosters the well-being of others, it is also of non-moral value. The moral goodness of people like Mother Teresa, for instance, is first of intrinsic absolute value (dignity), but is also beneficial for the people for whom they care. So moral goodness is first of unconditional value simply as an attitude (Gesinnung); but second - because of its consequences, since it is beneficial, it also involves a conditional value, a price. So it may also be treated as a means.

4. Consequences

¹² Kant (GMS), 67f; cf. Jones (1971), 27-43.

4.1. The Golden Rule

The first consequence from the idea of human dignity is of a very general nature: impartial love or benevolence. If every human being has equal dignity and is an end in itself, one has to love every fellow-human being as oneself, as the Bible commands. Another formulation of this basic idea is the Golden Rule (Mt 7,12): "Always treat others as you would like them to treat you: that is the Law and the Prophets." Correctly understood, this means that one's behaviour and the behaviour of others has to be judged according to the same criterion¹³. There is only one and the same criterion for moral goodness valid for all men: impartial benevolence. That includes the rejection of every kind of ethical particularism that considers the members of one's own family, nation, race, gender etc. as more valuable than others.

If one studies the problems of beneficence, however, this criterion is not sufficient (even though it is necessary). The idea of human dignity offers no answer to the question of which of us has to do which favour to whom or whom we have to protect from which harm. Sometimes it may even be quite problematic to understand what is really good or evil for a certain person, for instance, in the problem of taking lives. The Golden Rule like Kant's Categorical Imperative (in its second form) is only a necessary, but not a sufficient criterion of moral rightness.

4.2. Freedom of Conscience

But there is one immediate consequence from the idea of human dignity which seems to have been overlooked by Kant: freedom of conscience, which means that no one should be constrained to do what is against his conscience. Whoever compels anyone to act against their (even erroneous) conscience, does not respect their moral vocation and, therefore, acts against their dignity. They induces that person to sin. This freedom is not to be confused with the freedom to act according to one's conscience. This latter freedom cannot be unconditional as may be illustrated by the case of political or religious fanatics. When they are prevented from killing people of a different conviction they prevented from executing their decision, but they are not constrained to act against their conscience¹⁴. In this case of mere *physical* coercion, such persons are not treated as mere means; their morality is not disregarded as it is in cases

¹³ Cf. Wolbert (1986a).

¹⁴ For Problems in detail compare Witschen (1993) and (1994); for the question, if those cases are always instances of an erroneous conscience compare Wolbert (1996).

of *moral* constraint. For the prohibition of moral constraint (against freedom of conscience), the idea the Kantian formula is indeed a necessary and sufficient criterion.

4.3. The dignity of foetuses

Concerning the question of the dignity of babies or foetuses it has to be asked what kind of "capacity" is necessary to be considered as a moral being with dignity. If one presupposes an active faculty, even a baby or a child in its early years would not have the dignity of a human being. But an active capacity to set oneself certain ends or to act consciously according to moral criteria or God's commandments is not required. A minimal requirement would be a passive potentiality. To be able to consider a human being as a person it is necessary that one can consider him at least as an addressee of the moral claim. The being must be "meant" by God's call. Indeed, the Bible presupposes that a person can already be called in the womb (John the Baptist, Jeremy)¹⁵.

Of course, there are some epistemological difficulties here. One cannot clearly fix the beginning of personhood. In this situation one has to make a presumption that all descendants of human beings are to be considered as persons and bestowed with dignity. But one can and may ask for a *terminus post quem* or *terminus ante quem non*, a time before the foetus or embryo cannot be regarded as equipped with the passive potentiality to be meant by the moral claim. Is conception to be regarded as this date? There is one difficulty resulting from this assumption. Can an embryo be considered as a person, a moral being with a moral potentiality of its own, so long as the possibility of twinning or "mosaics" exists so long as there is uncertainty concerning the existence of only *one* person? There may be good reasons at least to *treat* the embryo as a person in some respect from the stage of conception onwards. This, however, cannot be discussed here¹⁶.

4.4. Humanity and the body

Since the treatment of humanity as an end is equivalent to respecting the moral vocation of the person, "humanity" cannot simply be equated with the human body or parts of it. As an immediate consequence, one has to treat the body (of oneself or others) in a morally legiti-

¹⁵ Cf. Jer 1,5: "Before I formed you in the womb I knew you for my own; before you were born I consecrated you, I appointed you a prophet to the nations." or Is 49,1:"From birth the Lord called me, he named me from my mother's womb.")

¹⁶ Cf. McCormick (1994); Wolbert (1989).

mate, responsible way. This leaves open what in detail is a morally right behaviour with respect to the body. It is not, therefore, possible to derive particular moral rules (for example, with respect to the body) directly from the idea of human dignity. Nevertheless people often try to do so, especially when they are looking for strong arguments in matters which they regard as important. Against those who try to derive too much from the Kantian formula one may quote W.D. Ross¹⁷: "It has in fact great homiletic value; it is a means of edification rather than of enlightenment." And M.G. Singer says¹⁸: "It has more an emotional uplift than a definite meaning."

People often are reluctant to accept this insight especially regarding questions concerning the taking of lives. Of course, in a certain respect, the dignity of the human person is relevant for the moral judgement on taking lives, first insofar as we judge differently the killing of animals and that of humans. Even though we have moral duties towards animals (for instance, not to let them suffer, as far as possible), the killing of animals is allowed in many cases. We do not regard the individual animal as an end in itself, but it may be desirable to preserve the species concerned; but even this is not of unconditional value. But human beings are ends in themselves; their lives have to be respected. One is, for instance, never allowed to kill a human being only for obtaining some advantage or avoiding some inconvenience. The cases in which one can regard the killing of humans as admissible, are related to the fact that all human beings because of their equal dignity have an equally strong right to live. There are however, cases in which the life of one person (some persons) is endangered by another (others), for instance, in cases of self-defence and war¹⁹. *Equal* dignity is the decisive factor in the question of taking lives. One should not regard the body as immediately participating in the dignity of the person. This would have very implausible consequences. Nobody, for instance, would be allowed to sacrifice themselves (to give their life) for their friends or their nation, because they would regard an unconditional value (their life) as less valuable than a conditional value (the well-being of their nation) or they would "sacrifice" one unconditional value for another (the life of others). But two conflicting values can not be equally unconditional.

4.5. Cloning

Kant's claim that a person may never be treated as a mere equivalent, has immediate consequences in the question of the cloning of human beings. Possible aims of cloning are to have:

¹⁷ Ross (1969), 53.

¹⁸ Singer (1971), 236.

¹⁹ I cannot deal here with the problems of indirect killing (principle of double effect) and letting die.

- a genetic copy of myself as an object of my narcissism;
- a substitute for another person (e.g. a dead child);
- a copy of a genius;
- a donor of organs or bone marrow.

In these cases the human clone would only be a substitute, an equivalent for some other person or a living organ bank, and would never be respected as an end in itself. It would never have a life of its own, because it would be expected to live a life like similar to the original or to sacrifice itself for the original. The idea of human dignity, therefore, excludes the cloning of humans.

4.6. Positive Eugenics

Positive Eugenics, because it tries to improve the human species, would not respect the individual human person as an end in itself. It would, in principle, treat humans like animals. Apart from the question if this undertaking is, in any sense, really wise it is excluded from a moral point of view, because individual humans would only serve as a means for the improvement of humankind or of a certain race (like in Nazi Germany). Individuals would be only interchangeable equivalents, they would be denied any dignity of their own.

5. *Conclusion*

The previous considerations have shown that the idea of human dignity is first of decisive relevance for the explanation of morality as a categorical (unconditional) imperative. Though in questions of applied ethics respect for persons as moral beings is an always assumed to be a relevant criterion, in most cases this is not the only consideration. It is, as was demonstrated, a necessary, but not sufficient criterion.

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