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### *Profound Intellectual Disability and the Bestowment View of Moral Status*

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**Abstract:** This article engages with debates concerning the moral worth of human beings with profound intellectual and multiple disabilities (PIMDs). Some argue that those with such disabilities are morally less valuable than so-called normal human beings, whereas others argue that all human beings have equal moral value and that, therefore, each group of humans ought to be treated with equal concern. We will argue in favor of a view that takes points from opposing camps in the debates about the moral worth of humans with such disabilities. Our position, roughly, is this: most humans with PIMDs are persons in the morally significant sense and, therefore, deserve moral consideration equal to that granted to so-called “normal” human beings. Some humans with PIMD may not be persons, but nevertheless deserve moral consideration equal to that of persons because they stand in a special relation to persons.

**Keywords:** intellectual disability; moral status; personhood; reflective equilibrium; special relations

#### Introduction

Most people believe that all human beings have a higher moral status than all nonhuman animals, and that all such animals have a higher moral status than all invertebrates and plants. But how to explain this moral hierarchy is far from clear, and some deny that it can be explained unless we jettison the notion that *all* human beings have a higher moral status than *all* animals.

In particular, controversy surrounds the moral worth of human beings with *profound intellectual and multiple disabilities* (PIMDs).<sup>1</sup> Although some have maintained that humans with PIMDs have a value equal to that of so-called “normal” human beings,<sup>2</sup> others have argued<sup>3</sup> that at least some of those with PIMDs are morally less valuable than any normal human being. In this article, we argue in favor of a reconciliatory view that takes points from opposing

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camp in the debate about the moral worth of humans with PIMDs. The view, roughly, is this: *most* humans with PIMDs are persons in the morally significant sense and, therefore, deserve moral consideration equal to that of so-called normal human beings in virtue of this.<sup>4</sup> We admit, however, that *some* humans with PIMD may not be persons; however, they nevertheless deserve equal moral consideration because of the relations they have with other persons

We begin in the first section by saying a few words about *whom* the controversy surrounds: which human beings fall into the category of having PIMDs. In the second section, we then outline the view, propounded by those who deny humans with PIMDs full moral status, that moral worth can be grounded *only* in the possession of certain morally relevant intrinsic properties, and explain why this entails that at least some of those with PIMDs have a lower moral status than normal human beings. In the third section, we outline an alternative, the bestowment view, according to which moral status can also be grounded by the relationships that a thing has to other things, and indicate how this can be applied to humans with PIMDs. In the fourth section we argue that the bestowment view can be seen as a natural extension of the idea that there are “special relations” that generate special obligations. Finally, in the fifth section we finish with some methodological comments that serve to further justify the view we propose.

### Who are those with PIMDs?

PIMD is by no means a clear diagnostic category with a consistent terminology. One of the most common definitions is provided by The World Health Organization: “The IQ [of those] in this category is estimated to be under 20, which means in practice that affected

individuals are severely limited in their ability to understand or comply with requests or instructions. Most such individuals are immobile or severely restricted in mobility, incontinent, and capable at most of only very rudimentary forms of non-verbal communication. They possess little or no ability to care for their own basic needs, and require constant help and supervision.”<sup>5</sup>

Despite the varying terminology and definitions, it is usually agreed that PIMD involves extremely delayed intellectual and social functioning with little or no apparent understanding of verbal language, little or no ability to care for oneself, and usually other associated medical conditions.

Philosophers tend to dismiss diagnostic criteria and talk about intellectual disability in a layperson’s terms, albeit often in a rather provocative fashion. Here we focus on Jeff McMahan, who has written most extensively on the topic, although because many agree with McMahan’s view, our discussion may have wider scope. McMahan writes that those who are severely cognitively disabled “not only lack self-consciousness but are almost entirely unresponsive to their environment and to other people.”<sup>6</sup> McMahan thinks that a significant number of those in this category are psychologically comparable to nonhuman animals such as dogs, and consequently are only able to achieve a level of well-being equal to such animals.<sup>7</sup>

McMahan<sup>8</sup> argues that the solicitude with which we treat severely cognitively disabled humans has had a serious effect on how we view and treat nonhuman animals. How many must fall under his use of the term in order for this claim to have any credibility? It is difficult to measure the exact number of individuals who meet the diagnostic criterion of severe or profound intellectual disability, partly because there is no currently accepted unambiguous diagnostic

criteria, and partly because it is unknown how many individuals actually meet the varying criteria. However, general estimates of the prevalence of intellectual disability vary between 1 percent and 3 percent globally. Among those with intellectual disability, severe and profound disability affects approximately 4 percent and 2 percent of that population, respectively.<sup>9</sup> Accordingly, if McMahan's arguments are applied to just half of those with profound intellectual disabilities, his arguments can be seen to concern roughly 50,000–75,000 people in the United States alone.

### **Intrinsic Psychological Properties as Worth Constituters**

John Locke famously argued that a person is "a thinking intelligent Being, that has reason and reflection, and can consider it self as it self, the same thinking thing in different times and places."<sup>10</sup> Although it is not clear that McMahan would precisely accept Locke's definition, he represents the mainstream in Western philosophy by defending a *Lockean* conception of personhood, and combines this with the view that it is a morally significant category. The lives of beings of this sort possess a great psychological unity because of their highly developed cognitive capacities; capacities to do with conceptual abilities, understanding, problem solving, and rational decisionmaking. Their advanced mental capacities enable their past and future experiences to form a meaningful unity: a biographical life. In McMahan's<sup>11</sup> view, personhood coincides with a threshold of moral worth such that all beings above the threshold are equally morally valuable.

It seems highly plausible that those mental capacities that interrelate one's past and future experiences and secure one's psychological continuity are morally significant, and these person-making

mental capacities do seem to distinguish normal human beings from non-human animals. As mentioned, however, McMahan is also committed to the view that at least a significant number of those with PIMDs are humans whose "psychological capacities and potential are comparable to those of an animal."<sup>12</sup> Therefore, because McMahan thinks that animals are nonpersons, he thinks that those comparable humans with PIMDs are nonpersons as well. He is, therefore, committed to the view that humans with PIMDs have a lower moral worth than any normal adult human. In addition, McMahan is committed to the view that if a particular dog happens to have a greater level of psychological unity within its life than a human with PIMDs, then that dog will be worth more than the human.<sup>13</sup> Accordingly, McMahan says: "One conclusion we may draw with confidence is that the congenitally severely retarded are below the threshold of respect."<sup>14</sup> McMahan has told us in personal communication that he does not intend these kinds of claims to be empirical, and, therefore that they should not be evaluated on empirical grounds, but rather, are conceptual claims. He wants to say, that is, that the group of people he is referring to are comparable to animals "by definition." However, without any reference to empirical reality or to actual beings who somehow fit in the description of "congenitally severely retarded," the conceptual claim would not be worth discussing. And McMahan himself admits as much in print: "Some believe that there is nothing here to discuss because there simply are no human beings who fit the description I have given—or perhaps because we cannot be sure enough that there are such human beings for any discussion of their status to have practical significance."<sup>15</sup>

He then goes on to give an empirical argument that there are such humans. The key point here is this: in order to

have any relevance, the conceptual claim in this context requires empirical substantiation. Therefore, it seems appropriate to treat such claims as empirical claims. Despite the fact that we see these kinds of empirical claims as highly problematic, we will not examine them here in more detail, as our focus in this article is rather to offer some complementary considerations regarding moral status. Generally speaking, it is difficult to disagree with McMahan about the moral significance of psychological capacities; that is, with the claim that they are sufficient conditions for personhood and, therefore, for being a being with full moral standing. But it is far from clear whether possessing such a set of capacities is a *necessary* condition for possessing moral worth; that is, whether possessing moral worth depends *entirely* on possessing certain psychological capacities.<sup>16</sup> Assuming that there are humans who do not possess psychological capacities sufficient to make them persons, one faces the question of whether there are sources of moral worth other than one's psychological capacities.

### Special Relations as Constituters of Worth: The Bestowment View

So far we have agreed that an individual's moral worth can derive from the intrinsic, psychological properties it possesses. Unlike McMahan, however, we do not think that *only* such intrinsic properties can be constituters of worth. On our view (and here we are following Eva Feder Kittay), an individual's moral worth can also derive from the relations that it has to other persons.<sup>17</sup> In particular, we maintain that the human community relation is a significant, special relation that bestows moral worth on those individuals who are in that relation.

To understand what we call "the bestowment view," it is useful to

consider an analogous view from another area. Imagine a piece of great art created by a great artist, and a qualitative duplicate of the piece created by a futuristic copying device, one capable of creating an atom-for-atom duplicate of the original. The two pieces are, by hypothesis, qualitatively identical and, therefore, share all of their intrinsic properties. However, it is overwhelmingly plausible that the original is *objectively* more valuable than the copy; that is, in the sense that having the value that it has is independent of which particular person is evaluating it. Why is this? Plausibly, it is because the original stands in various relations to the great artist who created it, whereas the copy does not. This view could be contested, but it is very plausible, and if it is true, it can *only* be true if it is possible for value to be bestowed on a thing by its standing in relation to other things. Therefore, the view that value can be relationally constituted is plausible outside of the literature on moral worth.

The bestowment view, then, is the view that objective value can be bestowed on an individual by that person's being in a relation to something else. The idea is that once bestowed, that value then functions to bind all evaluators, not merely those that are in the bestowing relation to it. In a case in which these values are *moral* values, their being possessed can then give rise to obligations that hold objectively. It is important in this context to distinguish between the *source* and the *object* of a value. Just because the *source* of a value lies outside of an individual, it is no bar to that individual being the object of it. Perhaps one thinks that "objective value" is a synonym for "intrinsic value," and that, therefore, an object cannot have an objective value that depends on its *extrinsic* (i.e., relational) properties. But this too is a confusion. The term "intrinsic value" is often used as a synonym for "objective

value;" however, it is also often used as a synonym for "the value an object has in virtue of its intrinsic properties," and these two uses are *distinct*.<sup>18</sup> Consider the last tiger in existence. Plausibly this tiger is intrinsically valuable in the first sense because of its *rarity*; however, this is an extrinsic property, and, therefore, the value it has because of this is not an intrinsic value in the second sense.<sup>19</sup>

Our view is that there are some human beings who are morally valuable in virtue of their standing in relations to other things, and in particular, other human beings. But is this view plausible? And is there any point in making an analogy between works of art and humans with PIMD? Art objects do not have a "sake": they cannot be harmed or benefited in the way that humans can. We do think, however, that the bestowment view is plausible. Whether objects or individuals can legitimately be seen as ends in themselves does not depend merely on whether they have a "sake;" that is, on their capacity to be harmed or benefited. Consider dead bodies, for example. It is plausible that persons go out of existence when their bodies die and, therefore, are not identical to their dead bodies. However, it is also plausible that there is an obligation toward the dead bodies of persons that binds all agents. The obligation in question is not an obligation to treat such bodies in any *particular way* (e.g., to hold a ceremony before burying or cremating them) but rather, to treat them with respect. What constitutes respectful treatment is, to a great degree, culturally determined; however, it seems that any agent who is aware of how dead bodies are treated within a particular culture has an obligation to follow those particular cultural prescriptions, insofar as it is feasible to do so. At the very least, anyone who flagrantly ignores such prescriptions would normally be thought to have done something morally wrong. And it seems that

such an obligation does not exist only to please other members of the relevant culture. Even in a desert island situation where no other agent is present, an obligation for one to treat dead bodies with respect would seem to exist. Therefore, it is plausible that dead bodies have an objective value, in our sense of the term. However, it seems clear that this value cannot derive from the possession by dead bodies of those intrinsic properties mentioned in the second section: dead bodies possess none of the intrinsic Lockean psychological properties possessed by those living bodies that are persons, and seem to possess no other morally relevant intrinsic properties either. Therefore, their value must derive from the relations that they bear to other things. The obvious relations to invoke are those that hold between dead bodies and the persons who used to inhabit them. Therefore, it is plausible that dead bodies possess objective value in virtue of the relations they bear to another thing (i.e., the person who once inhabited the body).

According to the bestowment view, some human beings who lack the requisite psychological properties to be persons gain their high moral value by standing in certain relations to others. But what relations are they? The best candidates are the relations that those with PIMDs stand in to others by being born to and cared for by human beings within a human community. These relations must be strong enough to generate obligations toward those with PIMDs that are as strong as the obligations we have toward any person. Importantly, these relations are not purely biological. This is why we do not call it "the species membership relation," but rather "the human community relation." *Precisely* what this relation amounts to is genuinely difficult to describe. It is the relation that each of us stands in to each other by being a member of the

human community. It is the relation that holds between a human and the rest of the human community when they are born of human parents, brought up and cared for by humans, and in general, treated *as* a human within the human community. Naturally, the relation holds between different individuals and the rest of the community in different ways. It holds between an individual and the rest of the community because that individual participates fully within in it. For example, a particular individual may vote, work, and pay taxes, as well as engaging in emotional and social interactions with other humans. It holds between humans with PIMDs and the rest of the human community in a different way. They cannot vote, work, and pay taxes, for example, and *some*, although most likely very few, cannot engage in significant emotional and social interactions either, despite possessing a certain level of consciousness. Consequently, it is *not required* that those who are related to the human community *participate* within the human community, in the sense of partaking in those activities that normal human beings take part in. All that is required for the relation to hold is that an individual is *taken into* the human community: that that individual is *treated* by the community as human.

The bestowment view should not be confused with a contractarian approach to explaining why we should afford equal moral consideration to those humans with PIMDs. Consider, for example, Scanlon's contractarian theory according to which what we have good reason to want and reject is fundamental to understanding what we owe each other. According to this view, even in the case of individuals who do not have the capacities required for "judgment-sensitive attitudes," our treatment of such individuals should be governed by principles that any

reasonable person could not reject. All humans, including those with PIMDs, are born to us or to others to whom we are bound by the requirement of justifiability, and this tie of birth gives us good reason to treat them as persons despite their limited capacities. According to Scanlon<sup>20</sup> "the idea of justifiability to them must be understood counterfactually, in terms of what they could reasonably reject if they were able to understand such a question;" that is, what they *would* have a good reason to want or reject. Therefore, according to Scanlon, humans with PIMDs have the same status as other humans simply because they are human born. Scanlon claims that this does not amount to the prejudice of speciesism: "it is not prejudice to hold that our relation to these beings gives us reason to accept the requirement that our actions should be justifiable to them. Nor is it prejudice to recognize that this particular reason does not apply to other beings with comparable capacities, whether or not there are other reasons to accept this requirement with regard to them."<sup>21</sup> Scanlon's claim accords with commonly held intuition about the importance of us being "in unity with our fellow creatures,"<sup>22</sup> but although we accept much of what he says, as should be clear, we disagree with him regarding the nature of the relation that bestows value.

In Scanlon's view, it does not seem to matter whether a human individual can interact in *any* way with the human community, but it seems to us to be required that an individual be capable of *some* kind of reciprocation, however minimal, in order to be treated as human. In other words, for an individual to truly be taken into the human community requires not only that the community treat the individual in a certain way, but also that the individual is able to *receive* that treatment. Therefore, it is required of an individual, if that

individual is to stand in the human community relationship, that that individual have some sort of viewpoint on the world, some level of consciousness, and that the individual be capable of some level of well-being. A table has no viewpoint, no consciousness, no level of well-being. One cannot care for it, or be cruel to it; one cannot genuinely treat a table as a human (the best one could do is *attempt* to treat it as a human). Therefore, no wholly *non-conscious* being can enter into the human community relation. Consequently, there probably is a tiny minority of human beings who cannot enter into the human community relation; namely, those human beings such as typical anencephalic infants who apparently are wholly non-conscious. These human beings represent an exception to the rule. In other words, in our view, anencephalic infants and other human beings who lack psychological properties altogether are not merely worth less than normal persons, but are worth less than most nonhuman animals also.<sup>23</sup>

### **Individual and General Special Relations**

In this section, we argue that our view is a natural extension of the view that the kinds of special relations that generate special obligations exist. First we note that it is *prima facie* plausible that the possession of high-level psychological properties and hence actual moral agency simply cannot be the sole consideration when considering how we should treat a being; if it were, adult human beings would be morally more important than human infants. But as Liao<sup>24</sup> argues, it seems at least as permissible, and not morally wrong, to save a human infant rather than an adult from drowning, assuming you can save only one of them. We add that this remains true even if both the infant

and the adult have the same length of life ahead of them. Likewise, if you can save either a human with PIMDs or a nonhuman animal with presumably higher psychological capacities from drowning, it would seem at least permissible and not morally wrong to save the human with PIMD. In fact, we argue that it would be *prima facie* morally wrong not to favor the human with PIMD, and that this can only be because psychological properties are not the only relevant consideration when considering how to treat an individual. That is, sometimes factors other than the value possessed by an individual in virtue of it possessing certain intrinsic properties can be more important when making a moral decision. This is obvious in cases involving special relationships, such as the parent-child relationship.

Parents' obligations to their children are usually seen to be overriding and unconditional, and no parent would commit a moral wrong by saving the life of his or her child over the life of, for example, two or three others. Naturally, how special relations function in generating obligations can be explained in a number of different ways. In the case of the parent-child relationship, for example, it seems plausible that it functions by strengthening pre-existing obligations, and, therefore, does not bestow extra value on those who stand in that relation. This is because the obligations it gives rise to do not bind all agents, but only some: the parents in question.<sup>25</sup> One might hold the view that all special relations work in this way, and only give rise to obligations that bind those who stand in them to other things, but one need not hold this view. One can maintain that special relations can also give rise to obligations that bind all rational agents, and, therefore, in such cases, bestow extra moral worth on their subjects. The case of the human community relationship

provides us with a plausible example of this kind of special relation. Those with PIMD are owed the same level of care as every other human, and, therefore, the obligations that exist bind all of us. In this case, then, it is more plausible that the special relations themselves give rise to the moral value possessed by those with PIMD.

It therefore seems safe to argue that parents have special obligations to their children that they do not have to other people. And these obligations are not dependent merely on the psychological characteristics and the consequent moral status of their children as such, as parents ought to treat their newborn infants who are not persons yet with special care. It seems reasonable to assume that this obligation also concerns pregnant women who have made the decision to bring their pregnancy to term; they should refrain from activities, such as drinking excessive amounts of alcohol that may harm their fetus; that is, their future child. Even though future children do not have *current* moral standing as persons, their parents have current obligations to consider the presumable effects of their actions.<sup>26</sup> Therefore, the moral relationship between parents and their children, as it were, is essentially unilateral, and it remains so even when the children grow up to be persons.

Previously we said that the obligations that parents have to their children do *not* bind all agents. But whereas it is true that we have a *greater* level of moral responsibility toward our own children than toward the children of others, it does not follow that we do not all gain *some* level of responsibility for the children of others in virtue of the fact that they are the children of others. Therefore, even in this case, it is perhaps plausible that children, by being the children of some, are bestowed with a certain level of moral worth that binds all. As Eva Kittay has argued: we are all

some mother's child, and, therefore, deserve to be treated as such. Parents cannot fulfill their duties of caring for their children without the wider society recognizing the worth of their children, because parenting takes place in a social context with various relationships and institutions (e.g., healthcare and education). To respect the special relation between parents and their children, the surrounding society has to acknowledge its moral responsibility to *all* children, especially when their parents are not there to care for them.<sup>27</sup> Parental relation is not a purely biological one, but one of a social nature that holds between a child and the community as a whole.

If the moral value of humans with PIMD is to some extent based on bestowment, then we face the question of the moral status of pets. When one agrees to take a pet, for example, a dog, one puts oneself into a moral position in relation to that animal. That particular dog's metaphysical nature stays the same, and its intrinsic properties and its identity as a moral being stay the same as well. In other words, although a particular dog becomes someone's pet, the dog stays in itself a nonperson, but its owner has adopted a position with concomitant duties and virtues inherent to pet owners. These duties and virtues are related to species-specific characteristics of that particular animal. In the case of a dog, they are canine characteristics that its owner should take into account so that the dog fares well as a member of its pack. There are, therefore, limits set by species to the extent nonhuman animals can be taken into the human community. In fact, it is unlikely that *any* animal is ever *truly* treated as a member of the human community. Dogs may well be doted on by their owners and loved a great deal (more, perhaps, than some human children are loved), but being treated by their owners in such a way is not the



same as being taken into the community as a whole. To love a dog is not to treat it *as* a human, it is to treat it as a canine being because of its intrinsic properties; dogs are to be fed from a dish on the floor, made to sit under the table in the local pub, or thrown sticks in the park.

In our view, the moral status of newborn infants as well as individuals with PIMD is similar, but only slightly similar to that of pets; it is based on the relations that parents or owners bear to their children and pets: that they have moral obligations that are inseparable from being a parent or pet owner. However, the value bestowed on human beings has, as it were, more moral *weight* than the value bestowed upon nonhuman animals, which is why it binds all. This conclusion is probably in line with common intuition, but it is also very difficult to justify theoretically. Jaworska and Tannenbaum<sup>28</sup> have tried to do this by arguing that human babies and humans with PIMD, unlike dogs, are capable of participating as “rearees” in “person-rearing relationships,”<sup>29</sup> Hilde Lindemann Nelson,<sup>30</sup> for her part, has argued that our identities are narratively constructed, and that these narrative components make us who we are, both to ourselves and to other people. These localized, particular stories that connect us in particular ways to our families and communities often have moral weight, as they create specific roles and relations between people, such as those between parents and children. In the case of individuals who may not be able to form a self-conception (such as those with PIMD), the “narrative tissue” that constitutes their identity is constructed by other people (naturally this applies, more or less, to all people). Other people thus confer identity and value on that individual, “treating her according to how we saw her, and in so treating her, making her even more that person we saw.”<sup>31</sup>

Similarly, collective ethics is constructed narratively because of the various historical happenings and processes that have contributed to the general conceptions of right and wrong, good and bad. Particular historical episodes, such as the Holocaust or the systematic mistreatment of disabled people in twentieth century institutions, have had a tremendous effect on our moral thinking, and at least in principle, we consciously aim to prevent such atrocities from ever happening again. One upshot of this is the general belief that we should pay special attention to protecting the equal worth of various minorities, such as individuals with intellectual disabilities. In other words, regarding individuals with PIMD as morally more valuable than nonhuman animals is a reasonable upshot of the collective moral narrative of the Western world. Naturally, this does not prove that maintaining such narrative ethical norms is philosophically justified; however, it does show how, as we have advanced morally as a community, we have come to believe that those with PIMD deserve moral concern as humans, and this fact itself surely has some empirical weight. It is not unreasonable to suppose that the beliefs of the moral community as a whole are improving and are tracking underlying moral truths.<sup>32</sup>

### **Methodological Considerations**

We have outlined the bestowment view, and made clear that it explains our ordinary moral beliefs about the equal moral worth of all humans, whereas the view offered by McMahan does not. And this very fact constitutes another strong reason for believing the bestowment view.<sup>33</sup> The fundamental issue when constructing a moral theory is the justification of one’s deeply held moral beliefs. And the correct method to use,

we believe, is the process of reflective equilibrium.<sup>34</sup> One starts with particular moral beliefs, intuitions, or considered judgments: those things that one considers to be right or wrong prior to developing any moral theory. Then one formulates a moral theory that attempts to explain at a more general level why some things are morally permissible and others impermissible. If the theory conflicts completely with one's initial moral beliefs then one should reject the theory as being incorrect, whereas if it explains them only partially, one should further examine it by either altering the theory or altering one's initial moral beliefs. This process continues until one's moral beliefs and theory cohere; that is, until one has reached equilibrium.

We began constructing our own account by agreeing with philosophers such as McMahan that the moral worth of beings can depend on their cognitive abilities. At that point we seemed to end up with a conclusion that conflicted with our initial moral belief: some humans with very profound cognitive disabilities are worth the same as animals with presumably corresponding cognitive abilities. As we were unwilling to give up on the belief that all humans are *prima facie* always more valuable than nonhuman animals, we altered our theory to take account of this by introducing the notion that moral worth can be bestowed on humans by virtue of their standing in relationship to other things. As the theory that results agrees with and explains this belief, this in itself gives us reason to believe it. Therefore, whatever one may think about the credibility of our position, the methodological procedure applied in this article is far from unusual.

Consider again McMahan's work on moral status. McMahan devises an initial moral theory according to which only certain intrinsic properties matter

when assessing the moral worth of a particular individual. The theory says that a being's moral worth is proportional to the cognitive properties it possesses, with the implication that the greater a being's cognitive capacities, the more morally valuable it is. But then he considers the case of Bright and Dull. "Bright: 'a person with exceptionally high cognitive and emotional capacities that [make] possible for him an unusually high level of well-being' Dull: 'the same age as Bright but [is] constitutionally dim-witted and stolid. There [is] thus a range of goods—including engagement in rich, complexly and subtly layered personal relations, the experience of intense, refined aesthetic states, and so on that [are] accessible to Bright but from which Dull [is] by nature excluded.'"<sup>35</sup>

According to McMahan's initial moral theory Bright is worth more than Dull, but apparently he has difficulty accepting this conclusion. This is because he has the strong pretheoretical moral belief that Bright and Dull have equal moral worth. Therefore, he considers it methodologically permissible to alter his initial theory to accommodate this, and introduces the notion of a "threshold of respect;" that is, the notion that there is a level of cognitive ability such that all beings above this level have the same moral worth. To emphasize, McMahan thinks it methodologically permissible to introduce this notion *purely to account for his pretheoretical moral belief that Bright and Dull are worth the same*. Nothing in his argument before this suggests this move. As such, it is justified *only because* of a pretheoretical moral belief that he is unwilling to give up.<sup>36</sup>

McMahan admits that his idea of a threshold of moral worth "may seem an arbitrary, ad hoc stipulation motivated entirely by a desire to salvage our egalitarian intuitions."<sup>37</sup> He then discusses possible theoretical justifications

for the view, focusing particularly on “range properties,” but concedes that they are problematic in various respects, and then concludes:

I will not pursue this problem further. If we wish to preserve the common intuition that, if other things are equal, all killings of persons are equally wrong, we may well have to mount a defense of the idea that, beyond a certain threshold, all worth is equal worth—that is, that worth is, beyond that point, a range property. I myself share the common intuition and believe that intuitions that are as strong and as widely accepted as this ought not to be lightly abandoned. Every effort ought to be made to determine what can be said in their support before we accept that they must be revised or rejected.<sup>38</sup>

And this is precisely our position with regard to our intuition about the moral status of those with PIMDs. We share the common intuition that all humans, whatever cognitive capacities they possess, are more morally valuable than any nonhuman animal. We believe that this strong and widely accepted intuition ought not to be lightly abandoned. If we accept that moral value can be bestowed on individuals by their standing in relation to other things, we have no reason to abandon it, and this in and of itself gives us good reason to accept the bestowment view.

## Notes

1. Matti Häyry has recently provided a fine analysis of this discussion; Häyry M. Discursive humanity as a transcendental basis for cognitive-(dis)ability ethics and policies. *Cambridge Quarterly of Healthcare Ethics* 2016;25(2): 262–71. Our aim in this article is to offer a reconciliatory account that takes into account viewpoints from opposite camps in the debate.
2. For example, Kittay EF. At the margins of moral personhood. *Ethics* 2005;116(1):100–31; Kittay EF. The personal is philosophical is political: A philosopher and mother of a cognitively disabled person sends notes from the battlefield. In: Kittay EF, Carlson L. eds. *Cognitive Disability and its Challenge to Moral Philosophy*. Malden, MA: Wiley-Blackwell; 2010:393–413.
3. For example, McMahan J. Cognitive disability, misfortune, and justice. *Philosophy and Public Affairs* 1996;25(1):3–35; McMahan J. *The Ethics of Killing: Problems at the Margins of Life*. Oxford: Oxford University Press; 2002.
4. We are fully aware of the culturally specific and normative nature of the notion of normality; normality denotes both a judgment of reality, hence, what is statistically frequent, and a judgment of value, meaning, what is valued. Our usage of the term refers exclusively to the former, descriptive sense of it. See Davies, L. *Enforcing Normalcy*. London: Verso; 1995, ch. 2.
5. World Health Organization. *The ICD-10 Classification of Mental and Behavioural Disorders*. Geneva: World Health Organization; 1992, at 230.
6. See note 3, McMahan 1996, at 5.
7. See note 3, McMahan 2002, at 217–28; McMahan J. The radically cognitively limited. In: Browlee K, Cureton A, eds. *Disability and Disadvantage*. New York: Oxford University Press; 2009:240–59, at 240–1.
8. See note 3, McMahan 2002, at 221–2.
9. Maulik PK, Mascarenhas MN, Mathers CD, Dua T, Saxena S. Prevalence of intellectual disability: a meta-analysis of population-based studies. *Research in Developmental Disabilities* 2011;32(2):419–36.
10. Locke J. *An Essay Concerning Human Understanding*. Oxford: Clarendon Press; 1975 (original publication date 1690), Bk. II, ch. 27, sec. 9.
11. See note 3, McMahan 2002, at 251.
12. See note 3, McMahan 2002, at 205.
13. See note 3, McMahan 2002, at 260.
14. See note 3, McMahan 2002, at 260.
15. See note 7, McMahan 2009, at 241.
16. See note 2, Kittay 2005.
17. See note 2, Kittay 2005, 2010.
18. See O’Neill J. The varieties of intrinsic value. In: Light A, Rolston H, eds. *Environmental Ethics: An Anthology*. London: Blackwell, 2003:131–42.
19. For other examples from the art world, consider the value that “ready-mades” have (e.g., Duchamp’s *Fountain*—an upturned urinal), compared with qualitatively identical items used functionally. Perhaps it is the fact that these items are in a certain relation to the art world itself, rather than the artist, that they have their value. But if this is so, this is grist for our mill. Then, these items are valuable once more not because of their intrinsic properties but because of the relations that

- they stand in to other things. There is no reason to think that the value they have is thereby not objective. This would be to confuse the source and object of a value once more.
20. Scanlon TM. *What We Owe to Each Other*. Cambridge, MA: Harvard University Press; 2000, at 185.
  21. See note 20, Scanlon 2000, at 185.
  22. See note 20, Scanlon 2000, at 163.
  23. Can nonhuman animals be taken into the human community? We think not. We think that there are limits set by species to the extent that nonhuman animals can be taken into the human community. For more on this, see: Curtis BL, Vehmas S. Moral worth and severe intellectual disability – a hybrid view. In: Bickenbach JE, Felder F, Schmitz B. eds. *Disability and the Good Human Life*. New York: Cambridge University Press; 2014:19–49.
  24. Liao SM. The basis of human moral status. *Journal of Moral Philosophy* 2010;7(2):159–79.
  25. See note 3, McMahan 2002, at 223.
  26. Vehmas S. Is it wrong to deliberately conceive or give birth to a child with mental retardation? *Journal of Medicine and Philosophy* 2002; 27(1):47–63.
  27. See note 2, Kittay 2010, at 410–2.
  28. Jaworska A, Tannenbaum J. Person-rearing relationships as a key to higher moral status. *Ethics* 2014;124(2):242–71.
  29. It is not possible to discuss here Jaworska’s and Tannenbaum’s original and sophisticated, but, in our view, slightly unconvincing argument.
  30. Lindeman Nelson H. What child is this? *Hastings Center Report* 2002;32(6):29–38.
  31. See note 30, Lindeman Nelson 2002, at 32.
  32. Because of the Western history, it also makes perfect sense to shun philosophical analyses that draw a parallel between individuals with PIMDs and pigs as psychological beings, regardless of the empirical validity of the equation.
  33. Elsewhere, we have argued that the fact that McMahan’s account cannot explain the equal moral worth of all human beings gives us a sufficient reason to reject it. Curtis B, Vehmas S. A Moorean argument for the full moral status of those with profound intellectual disability. *Journal of Medical Ethics* 2016;42(1):41–45.
  34. Rawls J. *A Theory of Justice*. Cambridge, MA: Harvard University Press; 1971.
  35. See note 3, McMahan 2002, at 234.
  36. Another similar and significant detail in his theory is the moral significance of relationships: “Intrinsically significant relations—of which relations between parents and children or relations between friends or lovers are paradigm and relatively uncontroversial examples—are thus a fundamental or non-derivative source of moral reason for action.” (See note 3, McMahan 2002, at 220.) McMahan thus supports the common intuition that some relationships between people create moral claims on one or both parties in that relationship. This is a plausible conclusion, but again it does not follow from McMahan’s initial theory. Therefore, McMahan accepts this additional view *to account for his moral belief that parents have special obligations toward their children*.
  37. See note 3, McMahan 2002, at 249.
  38. See note 3, McMahan 2002, at 251.