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Petar Mitrović

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MORAL HUMAN RIGHTS, ATYPICAL HUMANS, AND THE UNDER-INCLUSIVENESS OBJECTION

Petar Mitrović[1]
Union University Law School Belgrade
ORCID 0009-0004-0039-9127

Abstract: Moral human rights are often defined as rights that human beings are said to hold simply in virtue of their humanity. Philosophical defences of moral human rights frequently espouse the following two-tier justificatory strategy: first, they locate some morally relevant property (or set of properties) that is common to all human beings; second, they claim that this property is what justifies right-holding. If some property Q is thought to justify right-holding, it means that some human being A holds moral human rights in virtue of having Q. What should we do, however, if we come to the realisation that there is some other human being B that does not have Q? This is the so-called problem of marginal cases. Philosophical accounts that fail to justify universal right-holding can be objected to on the grounds of being under-inclusive. In the present paper, I defend what I deem to be the most sophisticated version of the under-inclusiveness objection, based on the notion of minimal inclusiveness requirement that any account must satisfy. I also attempt to show that any philosophical account that takes the concept of moral human rights as its starting point must make room for three additional conceptual claims: universal property, relevant property, and univalence. These three claims – together with the minimal inclusiveness requirement – serve as constraints on the scope and nature of justificatory arguments. Crucially, I claim that some prominent philosophical accounts fail to simultaneously satisfy all four requirements.

Keywords: Human Rights; Marginal Cases; Marginal Humans; Moral Human Rights; Moral Status.

Resumo: Os direitos humanos morais são frequentemente definidos como direitos atribuídos aos seres humanos unicamente em virtude da sua humanidade. As teses filosóficas em defesa dos direitos humanos morais adotam habitualmente a seguinte estratégia justificativa em duas etapas: em primeiro lugar, identificam uma propriedade (ou conjunto de propriedades) moralmente relevante, comum a todos os seres humanos; em segundo lugar, afirmam que essa propriedade fundamenta a titularidade de direitos. Quando se considera que uma propriedade Q justifica a titularidade de direitos, isso significa que um ser humano A é titular de direitos humanos morais em virtude de ter Q. No entanto, o que devemos fazer se percebermos que existe outro ser humano B que não tem Q? Este é o chamado problema dos casos marginais. As interpretações filosóficas incapazes de justificar a detenção universal de direitos podem ser contestadas sob o argumento de serem insuficientemente inclusivas. No presente artigo, defendo aquilo que considero ser a versão mais sofisticada da objeção da insuficiente inclusividade, a partir da noção de requisito mínimo de inclusividade que qualquer teoria deve satisfazer. Procuro

1. Teaching Associate at Union University Law School Belgrade.

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também evidenciar que qualquer teoria filosófica que tome o conceito dos direitos humanos morais como ponto de partida deve dar espaço a três afirmações conceptuais adicionais: propriedade universal, propriedade relevante e univalência. Estas três afirmações, a par do requisito mínimo de inclusão, funcionam como restrições ao âmbito e à natureza dos argumentos justificativos. Essencialmente, defendo que algumas das principais teorias filosóficas não satisfazem simultaneamente os quatro requisitos.

Palavras-chave: Direitos Humanos; Casos Marginais; Pessoas Marginalizadas; Direitos Humanos Morais; Estatuto Moral.

1 . Introduction

Human rights are often perceived as having a dual reality. On one hand, they exist as *legal* human rights, i.e., as rights entrenched in international and domestic law. On the other, they exist as *moral* human rights, i.e., as rights that human beings are said to hold simply in virtue of their humanity (Buchanan, 2013: 10-11). Philosophical defences of moral human rights (MHRs) frequently espouse the following two-tier justificatory strategy: first, some morally relevant property (or set of properties) that is common to all human beings is located; second, it is claimed that this property is what justifies right-holding.[2] If some property Q is thought to justify right-holding, it means that some human being A holds MHRs in virtue of having Q. What should we do, however, if we come to the realisation that there is some other human being B that does not have Q? This is the so-called *problem of marginal cases* and it is by no means a hypothetical quandary.[3]

Marginal cases – or atypical humans as I will call them henceforth – refer to individual members of the human species that significantly differ from typical human beings in virtue of some morally relevant property (e.g., capacity for moral agency). Examples of atypical humans that are commonly referred to in the literature include young children and various instances of severe cognitive impairment (e.g., anencephalic babies, patients in irreversible coma or with late-stage Alzheimer's disease). As these examples show, the relevant difference may consist either in the fact that some morally relevant property is completely absent, or, what is more often the case, that it is only rudimentarily present in certain individuals. The crux of the matter, therefore, is to find a property that is both morally relevant *and* universally possessed by all human beings. If some justificatory argument appeals to a property that is not morally relevant, it will fail to justify universal right-holding for the simple reason that morally irrelevant properties cannot justify an entity's moral status. On the other hand, if a justificatory argument appeals to a property that is not truly universal, it will draw what seems to be a deeply counterintuitive conclusion that MHRs are not held by all human beings. Indeed, if MHRs are ordinarily defined as rights that we hold simply

2. Throughout the paper, I shall consistently – unless otherwise stated – use "right-holding" to refer to one's capacity to be a holder of MHRs, and not moral rights in general; likewise, "rights-holder" refers to one's status as being a holder of MHRs.
3. As Husak (1984: 128) states the challenge, "The key premise in the argument is that no morally relevant characteristic(s) that could provide the basis or ground of such rights is possessed by all human beings".

in virtue of being human, one may claim that justificatory arguments of this sort should be rejected on the grounds that they do not justify universal right-holding. For present purposes, we may call this thesis *the under-inclusiveness objection*.[4]

In what follows, I propose what I believe to be the most sophisticated version of the under-inclusiveness objection (section 2). My motivation to do so stems primarily from the fact that the literature on this issue is scarce. While the problem of atypical humans is usually associated with and discussed in relation to the moral and legal status of animals as well as the moral status of human beings in general, the point that is not given significant attention is that the existence of atypical humans puts the very idea of there being MHRs into question.

In section 3, I attempt to show that every account of MHRs aiming to justify universal right-holding must embrace three additional claims about MHRs. These three claims – together with the minimal inclusiveness requirement defended in section 2 – serve as *constraints* on the scope and nature of justificatory arguments. To be sure, I do not pretend to settle the issue in this paper. Rather, my aim is to sketch the challenges that anyone interested in justifying universal right-holding must face.

In sections 4 and 5, I analyse different justificatory strategies that can be used to overcome the under-inclusiveness objection and argue that none of them is successful. In particular, every justificatory strategy included in this paper fails to the extent that it cannot simultaneously meet all four requirements.

In the concluding remarks (section 6), I call attention to some of the limitations inherent in the analysis in sections 2-5.

2. The Under-Inclusiveness Objection

Let us start with the following formulation of the under-inclusiveness objection:

(1) All human beings hold MHRs.
Therefore, valid justificatory arguments ought to defend a conclusion that all human beings hold MHRs.

Two remarks are in order. First, the objection concerns the *validity* of justificatory arguments, and, by implication, their soundness.[5] According to (1), validity of justificatory arguments is conditional upon them defending moral rights held by all human beings. Thus, the objection is conceptual in nature and claims that all valid arguments must justify a certain conclusion. What may prompt someone to argue this way is a claim about MHRs that seems to be plainly true: if we start from the common definition of MHRs as

4. I borrow the term from Floris (2021: 1860).

5. It goes without saying that validity is encompassed by soundness in the sense that every sound argument (= valid argument with true premises) is by definition a valid argument. Thus, if some argument is not valid, it cannot be sound. The reverse does not hold, i.e., not all valid arguments are necessarily sound.

rights that human beings hold simply because they are human, we ought to conclude that one conceptually necessary feature of MHRs is that they are held by all human beings, irrespective of various contingent properties they have (Husak, 1984: 127-128; Stamos, 2016: 33-34). And, if we agree that the concept of MHRs is most sensibly interpreted in this fashion, it seems plausible to say that every argument aiming to justify how and why we hold MHRs must meet what may be called *the inclusiveness requirement*, i.e., it must defend a conclusion that MHRs are held by all humans. Second, the objection only stipulates that the inclusiveness requirement is a *necessary* condition that any valid argument must satisfy – all valid arguments must satisfy the inclusiveness requirement, but not all arguments that satisfy the inclusiveness requirement are necessarily valid. Accordingly, the objection in its present form does not preclude the existence of other conditions satisfaction of which is also necessary for some argument to be valid.

The argument that the objection rests on can be expressed more clearly in the following way:

P_1. MHRs *per definitionem* are moral rights that all human beings hold;

P_2. Atypical humans are human beings;

C. Therefore, atypical humans hold MHRs.

Now, given that conclusion C clearly follows from the premises, the argument is evidently valid and thus truth-preserving. That leaves us with the question of whether one can reasonably reject the premises. However, P_1 and P_2 do not seem to be controversial claims. For one thing, if an account of MHRs takes the concept of MHRs as its starting point, it seems that the conceptual truth of P_1 must be assumed. Regarding the second premise, P_2 is arguably a non-controversial claim in the sense that normally no one denies that atypical humans *are* human beings. An anencephalic baby is no less human than a normally functioning human adult; similarly, just because one suffers from severe dementia does not mean that one somehow ceases to be human. It follows that an account of MHRs cannot, on pain of contradiction, embrace a conclusion ¬C. Such an account, as Husak argues, does not deserve to be called an account of *human* rights; instead, it is more properly called an account of moral rights of persons (Husak, 1984: 139).[6]

At this point, one might question my claim that P_2 is non-controversial. In particular, one might assert there is more than one concept of humanity and, to this end, appeal to Martha Nussbaum's capabilities approach. The capabilities approach employs a conception "of a life that is worthy of the dignity of the human being". Accordingly, the concept of human nature that Nussbaum adopts is, as she readily admits, "ethically evaluative": it is comprised of features of a characteristic human life that are deemed normatively fundamental (Nussbaum, 2007: 180-181). This is why Nussbaum can claim that some atypical humans are not humans at all:

6. Similar point is emphasised by Wolterstorff regarding Kant's rational agency approach. Namely, if rational agency is thought to ground MHRs, then "it is not human rights that are grounded but the rights of those who possess the capacity" (2008: 333). For a more general debate on whether Kant's humanity formula can encompass all human beings, see Dean, 2006.

> "Some types of mental deprivation are so acute that it seems sensible to say that the life there is simply not a human life at all, but a different form of life. Only sentiment leads us to call the person in a persistent vegetative condition, or an anencephalic child, human." (Nussbaum, 2007: 181)

Still, I think that this approach fails when taken as a solution to the problem of atypical humans. First, it goes against our ordinary linguistic practices that express the folk concept of humanity. Second, its scope is severely limited due to the fact that it applies to only a small number of atypical humans. Young children are by far the largest group of atypical humans. According to available data for 2023, children under five years old comprise about 8% of the world population.[7] More importantly, young children are unquestionably human beings. Indeed, it would be implausible to define human nature in a way that excludes childhood as a characteristic stage of human life. The status of young children as atypical humans is simply a stage in normal human development. Accordingly, there is nothing uncharacteristically human about being a young human child.

Another way to understand the objection is to see it as containing two claims. The first claim is the inclusiveness requirement, which states, to reiterate, that MHRs must be held by all humans. The second claim is *the validity thesis* according to which all valid justificatory arguments must meet the inclusiveness requirement. Thus, the content of the validity thesis is dependent on the content of the inclusiveness requirement, and the content of the inclusiveness requirement is dependent on the concept of MHRs. Accordingly, what the objection claims is that justificatory arguments that do not meet the inclusiveness requirement are not valid to the extent that they do not remain faithful to the concept of MHRs.

Although (1) seems to formulate the objection in a way that is intuitively appealing and non-ambiguous, several important questions remain. To begin with, what does it mean to claim that all human beings hold MHRs? Should the inclusiveness requirement upon which the objection rests be understood as stating that *all* MHRs must be held by *all* humans? If someone were to look at the definition of MHRs, one may be tempted to interpret it as entailing that all of them must be held by all humans. However, despite the initial plausibility of this interpretation, many philosophical accounts of MHRs claim that not all human beings hold all MHRs. In particular, some philosophers have introduced the basic/derived rights distinction.[8] On one such account, basic MHRs stem from the value upon which all MHRs are thought to supervene, while the latter are derived either from basic MHRs directly or from other derived MHRs (Griffin, 2008: 50, 149).[9] Unlike basic MHRs, an important feature of derived MHRs is that they are not necessarily universally held, and this is so in virtue of at least two reasons. First, the content of some derived MHR may take into account local or region-specific social conditions, such as types of political institutions that exist in a given nation, the nature of the

7. For 2023, total human population was estimated to be around 8.09 billion, of which young children amounted to 654.03 million or 8.08% (Population by age group, World, https://ourworldindata.org/grapher/population-by-age-group, accessed on 25/04/2025).

8. Similar strategy consists in making the aim/object distinction. See Liao, Etinson, 2012.

9. For a criticism of this strategy, see Tasioulas, 2011: 32-34.

economic system, and so on. Freedom of the press is sometimes thought to be a good candidate of this sort. Although freedom of the press may play a vital and indispensable role in modern democracies, it makes no sense to speak of this right in the context of past or present societies that have no press (Griffin, 2008: 50). Second, the content of some MHR may in part be based upon considerations relating to properties that are not universally shared by all human beings. Good examples of this sort are a woman's right to special care during pregnancy or a child's right to special protection (Wellman, 2011: 29). Should we accept the proposal and allow that there may exist MHRs that are not held universally? While I may have doubts as to whether the concept of MHRs, on the most sensible interpretation, allows the possibility of there being MHRs that are not held by all humans, I am willing to concede that it does. That said, we may amend the objection so as to state:

(2) All human beings hold *basic* MHRs.
Therefore, valid justificatory arguments ought to defend a conclusion that all human beings hold basic MHRs

Still, this formulation can be objected to on two grounds. First, what exactly are basic MHRs that must be held by all human beings? While some prominent accounts of MHRs embrace the basic/derived rights distinction, they need not agree on what basic MHRs human beings hold. One account may contend that there is only one basic MHR (e.g., liberty), while others may develop a more robust list. Second, and more to the point, it may be objected that (2) reads too much into the concept of MHRs, thereby making the objection unable to encompass all plausible accounts. Namely, not all accounts of MHRs accept, or ought to accept, the basic/derived rights distinction. In particular, this dichotomy is appealed to by philosophers that aim to defend a broad list of MHRs that are similar to many, if not most, human rights enshrined in international law. However, if someone aims to defend a much more modest list or if they do not deem it necessary that the MHRs they defend should match internationally recognized human rights, it may not be necessary to make such a distinction. Therefore, it seems that introducing the notion of basic rights is not worth the trouble. If we were to insist on the formulation in (2), it would seem to imply that all plausible accounts of MHRs must embrace the basic/derived rights distinction. However, given that my aim here is to develop the strongest version of the objection, it is better off without resting on some such controversial claim. But how are we to proceed in developing a sufficiently general formulation? One plausible strategy would be to select a right that is thought to be a paradigm example of MHRs – e.g., a right to life – and claim that justificatory arguments, among other things, must explain how the selected MHR is universally held. While I believe that no one seriously thinking about MHRs would question that the right to life is a paradigm example of MHRs, it is neither preferable nor necessary to commit ourselves to any specific right. What we should claim instead is that the inclusiveness requirement states that *at least one* MHR must be held by all human beings (minimal inclusiveness requirement) Accordingly:

(3) All human beings hold *at least one* MHR. Therefore, valid justificatory arguments ought to defend a conclusion that all human beings hold *at least one* MHR.[10]

Lastly, one may question whether the notion of a human being employed in (3) is determinate enough. Namely, should the inclusiveness requirement, even in its minimalist form, be understood as stating that MHRs must be held by *unborn* human beings? Indeed, if one understands the inclusiveness requirement as applying to atypical humans, it is hard to avoid a conclusion that it should apply to unborn humans. First, human embryos and foetuses are undoubtedly human beings, and this fact is regularly emphasised even by a staunch advocate of a (moral and/or legal) right to abortion.[11] When it comes to human embryos and foetuses, what is a matter of contention is not whether they are human beings, biologically speaking, but whether they possess (equal) moral status. Second, human embryos and foetuses arguably fit the definition of atypical humans as well as any other example that I have mentioned so far. That said, while it is possible to argue that excluding unborn humans from the community of rights-holders is the symptom of a serious deficiency in an account of MHRs (on par with the exclusion of other atypical humans), I will not follow that route. A reason for that is the fact that many philosophers of MHRs agree that the notion should be reserved for human beings that are born.[12] Consequently, it would not render the objection stronger if it entailed that all justificatory arguments must include unborn human beings as rights-holders. Therefore, (3) should be revised to state:

(4) All *born* human beings hold at least one MHR. Therefore, valid justificatory arguments ought to defend a conclusion that all *born* human beings hold at least one MHR.

Yet, some would still feel dissatisfied with (4). For example, Wolterstorff may contend that what I call the inclusiveness requirement must have a negative aspect too: namely, in order to justify MHRs, we must show not only that all human beings have them, but also that *only* human beings have them (2008: 321). On this view, the concept of MHRs is necessarily species-exclusive. Does the universality of human rights, as a conceptual matter, possibly extend to other species, such as higher non-human animals or extraterrestrials? Although a case could be made that the concept of MHRs entails that they are exclusive moral rights of human beings, the objection is better off without adhering to Wolterstorff's contested claim.[13] Therefore, we should grant that all the concept entails is that MHRs (or at least one of them) must be held by all born human beings.[14]

10. This is probably the formulation that Husak would feel at home with. While his analysis is rather brief, he is clear that a thesis about the non-existence of MHRs amounts to saying that there is not a single MHRs possessed by all humans (1984: 127).
11. For instance, David Boonin readily admits that a human foetus is a human being (2003: 27-28).

12. The Universal Declaration of Human Rights concurs: "All human beings are *born* free and equal in dignity and rights…" (article 1, emphasis mine).

13. For a view that MHRs are not species-exclusive, see, for instance, Griffin, 2008: 32, 34; Liao, 2015: 9, 12.

14. Husak too interprets MHRs "weakly" in this respect, i.e., he maintains that all the concept entails is that all human beings have them (1984: 126).

While (4) is certainly not without its shortcomings, I believe it represents the most sophisticated formulation of the under-inclusiveness objection. First, it appeals to a minimally sufficiently determinate idea of MHRs, i.e., to what reasonable and educated persons would plausibly agree on about MHRs; accordingly, (4) avoids thorny philosophical issues and contested assumptions about MHRs. Second, because it does not read too much into the concept, it is broad enough to encompass a wide array of accounts. Third, it relies upon the minimal version of the inclusiveness requirement and thus the minimal version of the validity thesis. Features of the under-inclusiveness objection that I have just enumerated are important for three reasons. First, given that (4) appeals to a minimally sufficiently determinate idea of MHRs, it cannot be easily dismissed or refuted. Second, assuming that (4) is the most sophisticated formulation of the objection up to date, it allows us to see more clearly the inherent flaw in accounts of MHRs that fail to meet the inclusiveness requirement. Third, if some justificatory argument cannot satisfy the minimal inclusiveness requirement as stated in the validity thesis, it should be rejected due to the fact that its aim is not justifying universal MHRs-holding.

3. Taking MHRs seriously

If our aim is to be able to assess the soundness of justificatory arguments in a comprehensive manner, our analysis must not stop at the minimal inclusiveness requirement and the corresponding under-inclusiveness objection. Namely, we must determine if there are other fundamental claims about MHRs that can reasonably be derived from the most sensible interpretation of the concept thereof. In what follows, I argue that there are two such fundamental claims, and that from them we can infer four additional requirements that any justificatory argument must meet in order to remain faithful to the concept of MHRs.

3.1 Internalism

If MHRs are moral rights that we possess simply in virtue of being human, the concept is most sensibly interpreted as assuming the position of rights internalism,[15] i.e., MHRs-holding must be justified by an appeal to human nature or certain property thereof (Darby, 2009: 40-41). Still, acknowledging this much will not answer the question of *why* we have them. The most straightforward explanation is to say that (a) we have them because we are human beings. This type of answer, however, has two problems. First, it is by all means uninformative, i.e., it does not tell us anything more than what is already captured by the most rudimentary understanding of MHRs. Second, depending on how (a) is understood, it may be open to the charge of speciesism (Cruft, Liao, Renzo, 2015: 9). Thus, it seems that simply claiming

15. There are other names for rights internalism. One can state that MHRs have "individualistic grounding" (Tasioulas 2010: 657); or that MHRs, and moral rights in general, are "individualistically justified" (Cruft, 2015: 46); or that corresponding moral duties *"are solely subject-grounded"* (Buchanan, 2013: 59).

that being human confers on us some set of moral rights will not do the job. What is needed, instead, is to go one step further and explain why "being human" is a morally relevant property; and the most straightforward way to do so is to argue that (b) "being human" is a complex property whose parts are morally relevant. This brings us to one important consequence: if one wants to justify how some human being A possesses MHRs, they must stipulate a rights-endowing property Q in virtue of which A is said to possess MHRs. This is what I call the qualification-argument, and it may have the following form:

P_1. A holds MHRs if A has the rights-endowing property Q.

P_2. A has the rights-endowing property Q.

C. Therefore, A holds MHRs.

Internalism about MHRs is congruent with – if not inseparable from – a prevalent account of correlativity between rights and duties. According to the prevalent account, moral duties that correlate to moral rights are *directed*, i.e., they are owed to a specific right-holder and their violation amounts to wronging the person whom they are owed to.[16] The connection between rights internalism and the directed character of moral duties is nicely captured by Buchanan:

> "What must be true if these duties are to be owed, morally speaking, to the right-holder? The only cogent answer, so far as I can tell, is that there must be something about the right-holder that is of sufficient moral importance to ground the duties and it is because this is so that the duties are owed to him or her… For the correlative duties to be owed, morally speaking, to A or for A to be morally entitled to the performance of those duties, there must be something about A that is of sufficient moral importance to justify the claim, not only that someone has those duties, but that they owe them to A." (Buchanan, 2013: 58-59)

Accordingly, duties that correlate to MHRs "are *solely subject-grounded*" (Buchanan 2013: 59), i.e., they cannot be based on some extraneous property of a right-holder. What are the consequences of rights internalism for the justification of universal right-holding? First, since we are referring to some property (or set of properties) [17] of human nature, Q must be identified with some property that is held by all human beings. Moreover, identifying Q with a less-than-universal property will not be able to explain how all humans hold MHRs – indeed, it would arguably explain how the *opposite* is true. Second, for some property to be able to justify universal right-holding – and thus directed character of moral duties – it is not enough for it to be universal. Apart from being shared by all humans, Q must also satisfy a condition of

16. For more on this point, see Kamm, 2007: 230; Tasioulas, 2010: 657; Cruft, 2013: 201-202; Sreenivasan, 2010: 467

17. For the sake of simplicity, in the remainder I shall use the singular "property" or "rights-endowing property", without excluding the possibility that a successful account can argue for the existence of several properties possession of which is necessary and sufficient for right-holding. Accordingly, nothing I say in this paper should be understood as implying that Q cannot be a complex property.

moral relevance.[18] Morally irrelevant properties (e.g., having ten fingers) cannot justify moral rights.[19]

From this we may infer the following *internalism thesis*: the rights-endowing property Q must be (1) some property of the individual right-holder that is (2) universal and (3) morally relevant.

3.2 Univalence

Let us reiterate the first premise of the qualification-argument:

(1) **P_1.** A holds MHRs if A has rights-endowing property Q.

An inevitable consequence of P_1 is that all accounts of MHRs are properly characterized as univalent accounts of moral rights. Univalent accounts ground "all ascriptions of moral status to beings on their possession of some one property" (Lomasky, 1987: 39). In contrast, multivalent accounts grant the existence of two or more properties, each of which independently confers (equal) moral status.[20] Hypothetically, a multivalent account may *function as univalent* to the extent that it is unable to specify a second rights-endowing property, but remains conceptually open to this possibility. On the other hand, univalent accounts preclude, as a matter of definition, such a possibility. Applied to MHRs, *mutatis mutandis,*[21] holding rights-endowing property Q is both a necessary and sufficient condition for holding MHRs. This is what I call the *univalence thesis*. Is it possible for an account of MHRs to embrace multivalence? Let us examine such a possibility. If the premise P_1 was framed as multivalent, it would state:

(2) **P_1.** A holds MHRs if A has Q_1 or Q_2 (... or Q_n).

Alternatively, if we want to make things more complex and include two putative rights-holders:

(3) **P_1.** A and B hold MHRs if A has Q_1 or Q_2 (... or Q_n), and B has Q_1 or Q_2 (... or Q_n).

Accordingly, someone who accepts (3) will see Q_1 and Q_2 as independently sufficient conditions for MHRs-holding. Otherwise put, a multivalent account would allow that A and B are holders of MHRs in virtue of possessing different rights-endowing properties, in our example, Q_1 and Q_2. Should we accept (3) over (1)? After all, a multivalent account, one may claim, is concordant with the concept of MHRs, for there is nothing in the concept that precludes

18. For more on this point, see Tasioulas, 2010: 657; Cruft, 2015: 46; Buchanan, 2013: 59.

19. As a separate issue, relying on morally irrelevant properties may bring the charge of speciesism.

20. Other authors utilise various terms: uni-criterial/multi-criterial (Warren, 1997: 17); moral monism/moral pluralism (Stone, 1987: 13).

21. Since MHRs do not exhaust the domain of morality, accounts of MHRs cannot serve as general accounts of moral status. That said, it may be possible that one entity (e.g., higher non-human animals) does not hold MHRs but possess some other moral right(s) or other sort of moral status (e.g., indirect).

multivalence. To this I have a twofold response. First, if internalism thesis states that one's possession of MHRs must be justified by some property that is universally shared by all human beings, it seems natural to assume univalent position. Second, even if we grant that the concept does not necessarily exclude a multivalent account of right-holding, it is not a sufficient reason to prefer (3) over the original proposal. While it might be possible to construe a multivalent account of MHRs, such an account would be at odds with the concept of MHRs, or, at least, with the most sensible interpretation thereof. In particular, if MHRs are grounded upon the value of our shared humanity – on what is sometimes called inherent human dignity – it is at the very least implausible to hold that A's humanity consists in having property Q_1, while B's *equal* humanity consists in having property Q_2. Thus, it seems that the most reasonable formulation of P_1 is the one found in the original proposal.

The most important consequence of embracing univalence is that it excludes arguments from kinds and similarity arguments (Tanner, 2006: 53-54), i.e., they are not a viable route for justifying one's status as a rights-holder. To see this previous point more clearly, it will be helpful to consider a simple example. If we say that A holds MHRs in virtue of having rights-endowing property Q that is typically shared by other members of A's biological species, while B – who does not have Q – holds MHRs in virtue of belonging to A's biological species (whose members typically have rights-endowing property Q), is to say that there are two rights-endowing properties, each of which is independently sufficient for right-holding, namely: (1) Q, and (2) belonging to the species whose members typically have Q. Thus, it seems reasonable to conclude that right-holding cannot be justified by arguments assuming group-based accounts of moral status.[22]

Lastly, multivalence should be distinguished from what Waldron calls *foundational pluralism*, i.e., a view according to which different MHRs are based upon different properties of human nature.[23] In order to meet the possible objection that the notion of foundational pluralism precludes the existence of MHRs that are "unified in their grounds", Waldron responds:

> "[T]he characterization of a set of rights as human rights may mean no more than that they are rights which are properly attributed on a universal basis to all human beings. This presumably means that each of them is based on some fact about human nature. But human nature is multi-faceted and right R_1 may be based on characteristic C (which all humans share), right R_2 may be based on characteristic D (which all humans share), and right R_3 may be based on characteristic E (which all humans share). For these all to be regarded as human rights, it is not necessary for there to be a single theory of humanity—or human dignity—that makes sense of C, D, and E together." (Waldron, 2015: 120)

To explain how foundational pluralism differs from a multivalent account of moral status, it is helpful to assume an interest-based account of MHRs. According to one such account, different MHRs are generated (at least in part) by different human interests.[24] Thus, the right against torture may be

22. For an overview of group-based accounts, see Wasserman, 2017: section 5.

23. Peter Jones makes a distinction between monist and pluralist justifications (1994: 117-118). For a defence of pluralist justification, see Tasioulas (2002). We will deal with pluralist justifications in section 5.

24. See p. 20.

based on, say, our interest in avoiding pain; similarly, the right to healthcare, if there is such a moral right, is reasonably interpreted as being based on our interest in retaining health. While this is a typical example of an account that adopts foundational pluralism, it remains committed to the univalence thesis to the extent that it claims that A and B have some MHR (e.g., right against torture) in virtue of the same property that is held by all human beings (e.g., interest in avoiding pain). As long as it does not claim that A and B hold one and the same MHR in virtue of having different properties, such an account avoids the charge of multivalence. Later on, in section V, we will consider several pluralist justificatory strategies.

3.2 Four Requirements and Corresponding Objections

Preceding analysis of the concept of MHRs purported to show that every account of MHRs must accept certain fundamental claims if it is to remain faithful to the concept thereof. Accordingly, we can infer four requirements that every justificatory argument must satisfy:

REQUIREMENT	CONTENT
minimal inclusiveness	all human beings hold at least one MHR
universal property	Q is a property that all human beings have
relevant property	Q is a morally relevant property
univalence	having Q is necessary and sufficient for right-holding

Table 1: Four Requirements

In case some justificatory argument does not meet one or more of the proposed requirements, the argument can be objected to on the ground that it fails to meet the former and thus rejected.

REQUIREMENT	OBJECTION
minimal inclusiveness	under-inclusiveness
universal property	less-than-universal property
relevant property	irrelevant property
univalence	multivalence

Table 2: Four Requirements and Corresponding Objections

I conclude this section with a proposal of how an argument that satisfies all four requirements might look.

P_1. MHRs are moral rights that human beings hold in virtue of being human (*assumed*);

P_2. All born human beings hold at least one MHR (from P_1 – minimal inclusiveness requirement);

P_3. The fact that some human being H_n holds MHR_n is justified by H_n having some simple or complex property P_n that is universally held by each and every human being, that is morally relevant, and that justifies the holding of MHR_n by each and every human being (from P_1 – other requirements);

P_4. John is a human being (*assumed*);

P_5. Therefore, John holds at least one MHR in virtue of having some simple or complex property that is universally held by each and every human being, that is morally relevant, and that justifies the holding of this MHR by each and every human being (from P_3-P_4);

P_6. John holds MHR_j in virtue of having property P_j (*assumed*);

P_7. Property P_j must be some simple or complex property that is universally held by each and every human being, that is morally relevant, and that justifies the holding of MHR_j by each and every human being (from P_5-P_6);

P_8. Property P_j is a property that is universally held by each and every human being (universal property requirement);

P_9. Property P_j is a property that is morally relevant (relevant property requirement);

P_{10}. Property P_j justifies the holding of MHR_j by each and every human being (univalence requirement);

C. Therefore, all human beings hold MHR_j in virtue of having property P_j (from P_6-P_{10}).

4. Overcoming the Under-Inclusiveness Objection

Let us now consider again a scenario from the outset of this paper. Some human being A is claimed to hold MHRs in virtue of having some rights-endowing property Q. On the other hand, some other human being B – say, a one-year-old child – does not have this property. How can we explain that B holds MHRs without having that rights-endowing property Q? Does B hold MHRs, and, if the answer is affirmative, *how*?

In response to this quandary, philosophers of MHRs have pursued several strategies, but, as I shall attempt to show in the remainder of this section, none of them are successful. In particular, they cannot simultaneously satisfy four requirements proposed in this paper (Table 1) and, thus, remain susceptible to corresponding objections (Table 2).

4.1 Alan Gewirth

One strategy is to claim that B holds MHRs in virtue of having some other property. This strategy is pursued by Alan Gewirth. He clearly aims to defend human rights as described by the concept of MHRs assumed in this paper. According to him, human rights are "had by every human being simply insofar as he or she is human" (Gewirth, 1996: 6). While the idiosyncrasy and complexity of his dialectically necessary argument[25] do not allow me to go into great detail, it will suffice to say that Gewirth aims to show that everyone must logically accept that all human beings hold MHRs – generic rights to freedom and well-being. We are committed to this conclusion, Gewirth argues, because we have a property of being a prospective agent. Thus, every prospective agent must logically accept Gewirth's two theses:

25. The more detailed version of the argument, as well as exposition of his method, is given in Gewirth, 1978.

> "The first thesis is that every agent logically must accept that *he or she* has rights to freedom and well-being. The second is that the agent logically must also accept that *all other agents* also have these rights equally with his or her own, so that in this way the existence of universal moral rights, and thus of human rights, must be accepted within the whole context of action and practice." (Gewirth, 1996: 17)

What does it mean to say that someone is a prospective agent? This is where the problems start for Gewirth's account. According to Gewirth, actions undertaken by prospective agents have two generic features, voluntariness (freedom) and purposiveness (intentionality) (Gewirth, 1996: 13). It does not take much to see how this can be devastating to the project of justifying universal right-holding: most individuals classified as atypical humans cannot qualify as prospective agents under Gewirth's criteria.

In response, Gewirth espouses a twofold strategy. First, he claims that those who are "less than normal agents" hold MHRs in proportion to their abilities. In order to be a normal agent, the bar is not set exceedingly high. According to Gewirth, one must only possess such "minimal rationality" that is necessary for the two generic features of action. If one does not meet the threshold, however, one's generic rights are accordingly reduced (Gewirth, 1996: 65). Even if we agree, for the sake of the argument, that the concept of MHRs is compatible with the view of rights that are held by human beings in proportion to some relevant ability, proportionality's potential for rescuing Gewirth's argument is limited and may only apply to atypical humans who exhibit significant, albeit reduced, cognitive and volitional abilities. Thus, it is evident that at least some atypical humans will not be able to surpass what is arguably not an over-demanding threshold. That is why Gewirth turns to the second strategy. Gewirth claims:

> "In the limited case of humans who have no abilities of agency at all, they still have rights to life and to any other goods of agency which they are capable of having; an insofar as they may recover to the extent of being physically capable of action, they have rights that such potential abilities of their agency be protected and fostered. More generally, humans who are incapacitated mentally or physically have rights to additional medical and other resources that may enable them, at least in some degree, to overcome their handicaps and thereby come closer to the abilities of normal human agency." (Gewirth, 1996: 65-66)

How does Gewirth justify that those having "no abilities of agency at all" hold these rights? The answer lies in the notion of human dignity that has so far, by his own admission, only been implicitly present in his argument:

> "[E]ach agent must recognize in herself and others the general abilities that give worth to human life and action and that ground her attribution of the rights of agency. Human dignity consists in having and at least potentially using these abilities, and human rights are derived from human dignity thus conceived. In the case of comatose and other subnormal humans, it is their underlying similarity to normal human agents that grounds the attribution of dignity and rights to them." (Gewirth, 1996: 66)

Whatever the merits of Gewirth's account might be, I believe this rather brief analysis of his arguments is sufficient to demonstrate that he has not been able to achieve what he intended. In particular, he has not been able to justify universal right-holding without departing from the concept thereof in more than one way. To begin with, given the fact that, on Gewirth's account, typical human beings hold MHRs in virtue of some property that is not shared by all humans, it fails to meet the universality requirement. Even more troublesome is his appeal to the argument from similarity. As argued before, if we aim to

take univalence seriously, one's status as a holder of MHRs cannot be justified by arguing that one is similar to (or belongs to the same kind as) an entity having rights-endowing property Q. By claiming that atypical humans hold MHRs not because they have rights-endowing property Q, but because they have the property of *being similar* to those who have rights-endowing property Q, Gewirth assumed a multivalent position – i.e., he posited the existence of two Qs.

4.2 James Griffin

The second strategy is to bite the bullet and concede that MHRs are not held by each and every human being. However, given counterintuitive nature of the former conclusion, those who espouse this strategy typically attempt to dismiss or refute the under-inclusiveness objection. This strategy is exemplified by Griffin's account.[26]

According to Griffin, modern-day human rights discourse suffers from a lack of determinacy. The notion of MHRs that we are at home with today has become (since the Enlightenment) "nearly criterionless", i.e., we are left with no complete criteria for determining a proper usage of the term (Griffin, 2008: 14-18). Griffin's solution to make the intension of the term more determinate is to base human rights, at least primarily,[27] in the value of personhood or "normative agency". But what exactly is encompassed by the notion of normative agency? Griffin provides a succinct answer:

> "We human beings have a conception of ourselves and of our past and future. We reflect and assess. We form pictures of what a good life would be—often, it is true, only on a small scale, but occasionally also on a large scale. And we try to realize these pictures. This is what we mean by a distinctively *human* existence—distinctive so far as we know." (Griffin 2008: 32)

For Griffin, the notion of normative agency includes three elements or "highest-level" MHRs: the autonomy to form a picture or conception of a worthwhile life, the liberty to pursue this conception, and the minimum provision. From these three foundational elements, Griffin contends, it is possible to derive many of the human rights enshrined in the International Bill of Rights (Griffin, 2008: 33).

As with any agency-based account of MHRs, Griffin's account is seemingly open to the under-inclusiveness objection. If we understand MHRs as *protections* of us as normative agents (Griffin 2008: 33-34, 61), then human beings that are not agents in the specified sense are left out from the class of rights-holders.[28] This conclusion is further supported by the fact that

26. Similar strategy is utilised by Wellman, 2011.

27. In addition to normative agency, Griffin's twin grounds for MHRs also include what he terms "practicalities" (Griffin, 2008: 37-39).

28. Griffin emphasizes that, on his account, MHRs are not derived from the value of normative agency, but serve as protections thereof (Griffin, 2008: 4). In other words, morally important interests that are captured by the notion of normative agency are not to be conflated with MHRs.

Griffin unhesitantly declares that atypical humans are not to be included in the class of normative agents (Griffin, 2008: 34-35).

However, this is not an inference that necessarily follows from Griffin's substantive account, at least in respect to potential normative agents. It is because Griffin's account is teleological, albeit non-consequentialist. Relying on Aristotle, Griffin maintains that moral principles are derived from values that he identifies with "the ends of human life" which normative agency is constitutive of (Griffin, 2008: 73); on the teleological reading of the moral value of personhood that he advances, the exercise of normative agency is valuable because it typically enhances human life (Griffin, 2008: 36). Accordingly, the normative agency account could easily be adapted to include at least some atypical humans. In this sense, MHRs may be seen as protections of normative agency in a more specific way: instead of claiming that MHRs protect exercise of normative agency in those that are actual normative agents, it could be claimed that MHRs are valuable as means of "advancing, protecting, and respecting" (Tasioulas, 2015: 48) morally important interests that are captured by the notion of normative agency; and, given that infants are beings that will typically become normative agents, it is hard to see why normative agency account should not be accommodated in order to include them.[29] Indeed, Griffin spends considerable time entertaining the idea that infants can hold MHRs, but ultimately rejects it in favour of a more restrictive view according to which only humans that are actual normative agents hold them (Griffin, 2008: 83-91). Why? Although it may seem surprising, Griffin provides what is best seen as a prudential argument: by stipulating that infants (and other non-normative agents) are not rights-holders, we make the term more determinate. In Griffin's own words:

> "My belief is that we have a better chance of improving the discourse of human rights if we stipulate that only normative agents bear human rights—*no exceptions*: not infants, not the seriously mentally disabled, not those in a permanent vegetative state, and so on. For the discourse to be improved, the criteria for correct and incorrect use of the term must be fairly widely agreed. They would not have to be anything like universally agreed, but there would have to be fairly wide agreement among those who take human rights seriously: moral and political philosophers, jurisprudents, international lawyers, drafters of relevant legislation and documents generally, human rights activists, and journalists. If a good number of the members of those groups came to agree on the criteria, the rest of the members would be likely in time to follow, and the general public would themselves to some extent eventually fall in line." (Griffin, 2008: 92)

Yet, I suspect that this stipulative step is justified. For it is one thing to propose an understanding of MHRs that purports to enhance the discourse of human rights; and quite another to embrace the understanding that renders one doubtful if there still exists that which the discourse is about. Indeed, if there is anything that can be said about Griffin's attempt at making the term more determinate, it is that he has eliminated one of the conceptual claims about MHRs that was uncontroversial and by far more determinate than others. The fact that he admits that children acquire MHRs in stages, i.e., have them in proportion to the degree of normative agency acquired (Griffin,

29. This possibility is suggested by Crisp, 2014: 148-149. Of course, it is a separate issue whether this strategy would fail some other requirement (e.g., whether the potential for normative agency is morally relevant).

2008: 94-95), is not sufficient to alleviate the conclusion that his account is largely unsatisfactory in this respect. This is because the conceptual adjustment that Griffin makes marks a change in the subject matter.

5. A More Promising Route? Pluralist Justification

If previously considered strategies will not do the job, one may propose that the prospects of justifying universal right-holding are better with pluralist justification. Contrary to monist accounts that justify right-holding by appealing to only one rights-endowing property,[30] the pluralist approach starts from a different proposal: that there is an array of morally relevant properties that explain why someone holds MHRs. If someone accepts a pluralist proposal, one is presumably in a better position than someone who accepts a monist alternative. First, a pluralist is able to provide a more natural way of justifying individual MHRs than a monist is. For instance, Griffin's account makes an implausible claim that the right against torture is justified *solely* by the negative effects it has on normative agency.[31] The second advantage, and the one that shall be discussed in the remainder, is that pluralist accounts are seemingly better suited to justify universal right-holding. If one assumes that MHRs-holding is justified (at least in part) by various properties of human nature (e.g., interests or needs), one may be able to explain how atypical humans hold at least some MHRs. To see if the pluralist justification really enjoys this advantage, let us turn our attention to David Miller and John Tasioulas.

5.1 David Miller

After considering practical and overlapping-consensus justificatory strategies, Miler rejects both approaches and turns to what he calls a "humanistic strategy". Humanistic strategy justifies MHRs:

> "by fixing on universal features of human beings that can serve as a ground of these rights. The argument, in other words, takes the form: because human beings have features F1… FN, they possess a corresponding set of rights R1… RX." (Miller, 2007: 178)

Thus, Miller makes it clear that he adopts a pluralist proposal, or, what I previously called, following Waldron, foundational pluralism.[32] In particular,

30. Gewirth's and Griffin's accounts are monistic. While Griffin proposes that MHRs have two grounds, in normative agency and practicalities, the role of practicalities is not foundational: their role is to determine the content of MHRs given certain facts about human nature and human societies (Griffin, 2008: 37-39). Therefore, his account is best interpreted as monist.

31. This point was raised by Tasioulas (2010: 663; 2002: 93).

32. It is interesting to note that Miller does not consider his strategy to be pluralist (Miller, 2012). To the extent that I understand him correctly, Miller's point is that all MHRs are justified by appealing to one subclass of human interests – *needs* (Miller, 2012: 422). However, I fail to see how this makes him non-pluralist. What matters is, rather, whether different (sets of) needs justify different directed duties. Similarly, Tasioulas' pluralist account justifies different directed duties by appealing to different (sets of) interests that human beings have simply in virtue of being human (Tasioulas,

Miller's proposal is that we should see MHRs as justified by human needs. Human needs in question, however, are qualified in two ways. First, they must be *intrinsic*, i.e., conditions that human beings must have in order to avoid being harmed (Miller, 2007: 179). A person is harmed, says Miller, if it is "unable to live a minimally decent life".[33] A second way in which human needs are qualified is that they must be *basic* in the sense of being "conditions for a decent human life in *any* society" (Miller, 2007: 182).[34]

Is Miller able to defend that atypical humans hold MHRs? Although he does not address this issue specifically, the answer seems to be affirmative. An open-ended list of basic human needs that Miller proposes includes items such as food, water, physical security, and healthcare (Miller, 2007: 184); and, since atypical humans clearly have such basic needs, Miller could claim that atypical humans hold at least some MHRs. However, Miller's basic needs account is defective in the following respect. Although he devoted considerable attention to the features that human needs must have in order to justify MHRs, Miller has completely sidestepped the issue of the moral considerability of each and every human being. In other words, his account fails to the extent that it is unable to explain why it is important, as a matter of morality, that *human* needs are met. If Miller responded that every human being is morally valuable in virtue of having needs, it would mean that MHRs are simply another name for general moral rights. A reason for this is that there is nothing distinctively human about having needs: all living organisms are entities that have needs. Therefore, to say that each and every human being is morally considerable in virtue of having needs of some sort does not explain how MHRs differ from other moral rights. To be sure, this feature of Miller's account may not be as worrisome as it appears to be. This is because I have early on in this paper conceded that the concept of MHRs is not species-exclusive. Rather, the more troublesome feature of this (hypothetical) response is that it falls short of the relevant property requirement. In particular, it is hard to see why having needs is a morally relevant property. *Amoeba proteus* must feed in order to survive. However, its need for food is arguably morally irrelevant because we typically do not think that ameboid organisms have moral status. In a similar vein, those who think that a human foetus holds a moral right to life do not simply claim that foetuses have interests or needs; in every argument of this sort, there is a more fundamental claim that foetuses morally matter on their own, and, it is because they matter in this sense that their interests or needs should be accorded respect and protection. What these examples show is that the

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2015: 50-51). Otherwise put, what matters is not whether interests that justify MHRs can be justifiably said to comprise a special class of human interests, but whether some "account… appeals to a wide range of human needs", as Miller readily admits (*ibid.*). Thus, in my understanding, Miller's account is clearly pluralist given that different needs play different justificatory roles when justifying different MHRs (e.g., primary, supportive, no role at all). There is more I could say on this matter, but I think that this much will suffice.

33. Like Griffin, Miller makes it clear that a minimally decent life is different from a flourishing life (Miller, 2007: 181).

34. Miller contrasts basic needs with social needs, the latter being conditions for a decent life in one's society. Only the former can serve as the grounds of MHRs. Social needs justify what Miller calls "rights of citizenship" (*ibid.*).

property of having needs (or interests) is morally valuable to the extent that an entity that has needs is morally valuable.[35]

5.2 John Tasioulas

If needs (or interests) alone are not sufficient to justify universal MHRs-holding, it means that something more is needed in a pluralist account. In particular, "something more" I am referring to must be some property that explains why some entity is morally valuable on its own.

Before I close this section, it is helpful to briefly analyse Tasioulas' more recent proposal. Tasioulas develops a pluralist justification that grounds MHRs "in the universal interests of human beings each and every one of whom possesses an equal moral status arising from their common humanity" (Tasioulas, 2015: 50). Much can be said about Tasioulas' pluralist approach that is both a dignitarian and interest-based, but I will constrain myself to two contentions and one doubt. First, Tasioulas does not sidestep the issue of moral considerability of human beings as Miller does. In fact, he is anxious to stress that it is impossible to explain why human interests are morally relevant without "grasp(ing) the intrinsically valuable status equally possessed by all human beings, one grounded in the fact that they are humans". Thus, interests give rise to MHRs "in crucial part because they are the interests of human beings who possess equal moral status" (Tasioulas, 2015: 53). Second, the notion of human dignity that Tasioulas employs satisfies the universality requirement and is able to explain how atypical humans hold MHRs. Namely, to have human dignity, one simply needs to have human nature, and atypical humans clearly satisfy this condition (Tasioulas, 2015: 56). Now to the doubt. I suspect Tasioulas' approach does not satisfy the univalence requirement. What gives rise to this suspicion is his characterization of being human as "belong(ing) to a species… characterized by a variety of capacities and features", such as perceptions, self-consciousness, and rational capacities (Tasioulas, 2015: 54). However, if human dignity consists in some set of properties of human nature that are typically shared by members of the human species, then how do atypical humans hold MHRs? One seems drawn to conclude that, on Tasioulas' account, atypical humans hold MHRs in virtue of belonging to the species whose members typically have this set of properties. If my interpretation is right, Tasioulas posits the existence of two Qs in a similar way that Gewirth does.

6. Conclusion

This paper proposed four requirements that any argument aiming to justify universal right-holding must meet: (1) minimal inclusiveness, (2) universality of justifying property, (3) moral relevance of justifying property, and (4) univalence. Additionally, I argued that the four requirements follow from the

35. As Raz claims, "only those whose well-being is intrinsically valuable can have rights" (1986: 179-180).

most sensible interpretation of the concept of MHRs and that some prominent philosophical accounts fail to meet them.

Should we, then, abandon the concept of MHRs and simply speak of moral rights? Does it even matter? Unfortunately, all of these questions remain outside the scope of this paper. Similarly, my analysis did not include any religious-based account of MHRs, nor did I touch upon the related question of whether universal right-holding can ever be justified on purely secular grounds.[36] Also, I have simply assumed, without arguing, that philosophical accounts of MHRs should avoid the charge of speciesism, despite being aware that not everyone may accept this assumption.[37] Lastly, of the four requirements presented in this paper, the least attention was given to the relevant property requirement. This is so in virtue of two reasons. First, the question of what properties are (sufficiently) morally relevant to ground the possession of rights is a matter of broader debate in moral philosophy. Second, most accounts of MHRs provide, however briefly, reasons as to why we should take some property as grounding right-holding.

Accordingly, this paper should be read as dealing with one class of approaches in human rights philosophy, and working under assumptions that many of those in the field would accept. As noted in the introductory remarks, my aim was not to settle the matter, but to describe challenges that have to be taken seriously *if* we wish the idea of MHRs to remain meaningful.

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36. For instance, see Perry, 2007: 14-29; Wolterstorff, 2008: 323-341.

37. Griffin believes that being human has special value on its own: "We also have a strong intuition that an infant is morally significant just by being a member of a species, *Homo sapiens*, a characteristic example of which is an agent. It is a belief I share. This acknowledges the moral significance of a severely mentally handicapped infant or an infant with *spina bifida* who will die within a few months of birth." (2008: 84). I have no doubts that Griffin was right in claiming that we have a strong intuition regarding the moral status of human beings *qua* human beings. Whether we should rely on this intuition, however, is a separate issue.

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