THE CATHOLIC UNIVERSITY OF AMERICA

The Theory of the Person in Robert Spaemann’s Ethical Assessments

A DISSERTATION

Submitted to the Faculty of the
School of Philosophy
Of The Catholic University of America
In Partial Fulfillment of the Requirements
For the Degree
Doctor of Philosophy

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2015
Robert Spaemann has written widely on a variety of philosophical topics and prominent figures in the history of philosophy. He is especially notable for his work in the philosophy of the human person. However, Spaemann has also written on many particular ethical controversies such as abortion, the use of nuclear power, and euthanasia. This dissertation argues that there is a relationship between Spaemann’s treatment of particular ethical issues and his philosophical anthropology. In various ways, his ethical assessments are informed by his theory of the human person.

The first chapter discusses Spaemann’s understanding of the human person as a self-transcendent being. The analysis focuses on *Persons*, Spaemann’s most comprehensive exploration of the subject. The chapter begins by examining Spaemann’s three typical ways of speaking about self-transcendence. The individuality and intersubjectivity of the human person are then considered. Finally, the chapter ends with an examination of Spaemann’s descriptions of some “ordinary” manifestations of self-transcendence: promising, forgiveness, and death.
The second, third, and fourth chapters turn to Spaemann’s ethical assessments of six moral controversies. The second chapter considers the issues of genetic manipulation and the use of embryos. The third chapter considers abortion and nuclear power. The fourth chapter considers euthanasia and “brain death.” In each case, the methodology is the same: first, Spaemann’s primary criticisms of each practice are reviewed; then, the various ways in which his theory of the person enters into and influences the ethical assessment are identified and explained.

The dissertation concludes with a more precise statement of the various ways in which Spaemann’s ethical assessments draw upon his philosophical anthropology: his assessments are grounded metaphysically, epistemologically, and dialectically in his theory of the person. It is suggested that this theoretic grounding imparts an attractive unity to Spaemann’s applied ethics. However, it is also suggested that this grounding makes the persuasiveness of his assessments ultimately dependent upon the cogency of his theory of the person and his understanding of the nature of philosophy.
This dissertation by Matthew A. Schimpf fulfills the dissertation requirement for the doctoral degree in Philosophy approved by Robert Sokolowsksi, Ph.D., as Director, and by John McCarthy, Ph.D., and Angela McKay Knobel, Ph.D. as Readers.

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Robert Spaemann has written widely on a variety of philosophical topics and prominent figures in the history of philosophy. He is particularly notable for his work in philosophical anthropology, the theory of the human person. However, Spaemann has also written on many contemporary ethical controversies such as abortion, the use of nuclear power, euthanasia, etc. Such a diverse body of work naturally prompts a question: What is the relationship between his treatment of particular ethical issues and his philosophical anthropology? Should we see these as separate and unrelated facets of his philosophy? Are these difficult ethical dilemmas simply too removed from our ordinary experience to have any significant connection to his theory of the person? Or is it instead possible to see a deeper unity in his thought? That is, are his ethical assessments in some way grounded in his theory of the person?

It is our contention in this dissertation that there is indeed a unity in Spaemann’s thought. We will seek to identify and clarify this unity through a study of his philosophical anthropology and his assessments of particular ethical issues. Our study of his anthropological thought will be focused on Persons, his most comprehensive work on the subject.¹ Our study of his applied ethical thought will be more wide-ranging. We will draw from a variety of his shorter writings (such as essays, talks, and even articles from the German newspaper Die Zeit), some of which were published prior to Persons and some after. These shorter writings include his ethical assessments of six different issues: genetic manipulation, the use of embryos, abortion, nuclear

power, euthanasia, and “brain death.” While these are interesting issues in their own right, our ultimate goal in this dissertation looks beyond the issues themselves. We will study them in the hope of formulating more general conclusions about the interrelationship of Spaemann’s ethics and anthropology.

The outline of the dissertation is as follows. In the first chapter of the dissertation, we will discuss Spaemann’s teleological and intersubjective understanding of the human person. We will see that Spaemann understands self-transcendence to be the hallmark of the person, and we will examine his three typical ways of speaking about it. Moreover, we will see that self-transcendence presupposes a human nature, and so we must consider biological membership in the human species to be a sufficient condition for personhood. We will also consider what self-transcendence entails for the individuality and intersubjectivity of persons. Finally, we will look at Spaemann’s analysis of three of the “ordinary” manifestations of self-transcendence: promising, forgiveness, and death.

The next three chapters of the dissertation will turn to Spaemann’s applied ethical thought. Our second chapter will analyze his treatment of two ethical controversies involving the early stages of human life: genetic manipulation and the destructive use of embryos. We will argue that Spaemann’s critique of genetic manipulation is grounded in his theory of the person as a free and intersubjective being. We will see that the rational character of personal intersubjectivity is also important to his critique of the destructive use of embryos, as is his sense of the unity between freedom and nature in the human person.

Our third chapter will examine Spaemann’s assessments of abortion and nuclear power, two of the ethical issues about which Spaemann has written most extensively. We will argue that
his theory of the person substantially informs his critique of abortion in several different ways. First, his theory enters into the critique in the form of various abbreviated anthropological statements. These small philosophical “nuggets” provide strategic contrasts to the rival theories of personhood presupposed by the proponents of abortion. Second, his theory of the person informs the critique in his discussion of nature as the precondition of human freedom. Third, the self-transcendence of the human person is presupposed in Spaemann’s clarification of the nature of conscience.

As was the case with regard to genetic manipulation, the intersubjectivity of the human person is central to Spaemann’s critique of nuclear power. The fact of personal intersubjectivity explains why humans have a duty to act responsibly towards future generations. The social nature of the person also functions as a premise in Spaemann’s argument that the use of nuclear power could cause states to forfeit the loyalty of their citizens. The state’s involvement with nuclear power becomes a moral matter because persons are necessarily intersubjective in a robust sense. Persons are capable of transcending even the limiting factors of time and place in their recognition of other persons, and so it is possible for us to have duties to the coming generations.

Our fourth chapter will examine Spaemann’s treatment of two “end of life” controversies: euthanasia and the neurological criterion of human death (i.e. “brain death”). We will argue that Spaemann’s description of suicide (and, by extension, euthanasia) presupposes that self-transcendence is not a separate reality from the biological life of the person. We will also argue that an understanding of life as the precondition of freedom is important to Spaemann’s prediction of a societal transition from voluntary forms of euthanasia to those forms that lack
consent. We will not claim that Spaemann’s critique of “brain death” involves or presupposes any particular understanding of the human person. However, we will argue that his philosophical anthropology grounds the ethical assessment in a different sense. His theory of the person provides him with categories to understand and evaluate philosophical challenges to his position.

Our concluding chapter attempts a more precise formulation of the various ways in which Spaemann’s theory of the person informs his applied ethical thought. We will contend that his ethical assessments are grounded metaphysically, epistemologically, and dialectically in his philosophical anthropology. They are grounded “metaphysically” in the sense that the reality of the person often serves as a standard by which Spaemann critiques practices such as abortion, euthanasia, etc. They are grounded “epistemologically” in the sense that his theory of the person influences his reading of opposing assessments of the issues. They are grounded “dialectically” in the sense that Spaemann employs certain key insights and arguments from his philosophical anthropology in many of his ethical assessments, especially when he criticizes other thinkers.

However, before entering into this study, we would like to offer a few general remarks about Spaemann’s style of philosophizing. His work differs greatly from much of contemporary philosophy. It is not focused on demonstrative arguments, and especially not on the symbolic formalization of such arguments. Spaemann’s philosophy is less a demonstration than an “uncovering” or “bringing-forth” of the various topics he discusses: the self-transcendence of the person, the antinomies of happiness, the nature of conscience, etc. His examples are often familiar—so familiar they might even seem trivial—but that is the point: Spaemann’s style of philosophizing flows from his understanding of what philosophy ought to be, and philosophy
ought to be a reflection on what we already intuitively know, a “reflection on the self-evident.”

In other words, philosophy does not tell us anything new.

Spaemann envisions philosophy as an ongoing attempt to “think out and express the unspoken things that make ordinary discourse possible.” Even when philosophical analysis does say something “extraordinary,” when it brings about some “breach with natural instincts,” it does not ultimately overturn what we already know. It only helps us to grasp what we know more deeply and securely. As Spaemann says, “A breach with natural instincts can be on a secure footing only if it opens up a hitherto unrealized theoretical perspective, from which we can gain a new and higher viewpoint on the natural instincts.” Philosophy is in this sense a clarification of our unexamined notions, a “deeper exploration of the foundations of intuitive certainties.”

In contrast to a philosopher such as Karl Marx, Spaemann does not believe that philosophy looks forward to what is dawning, to new facts or sociological trends; instead, philosophy looks back upon what has already been in order to ponder and understand it more deeply. It is, as Spaemann says, a “retrospective reflection.” Therefore, what we can hope for from philosophy is not Gnostic insight into the hidden meaning of things, but rather a defense of our intuitive convictions when they are challenged. We might understand this by borrowing

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6 Spaemann, *Persons,* 90. *Personen,* 99. It is instructive, in this regard, to reflect on how unsuccessful philosophers have been when they have tried to predict the future.
some theological categories: the philosopher is neither a prophet nor a lawgiver, but rather an apologist—he is the apologist for reality.

Perhaps we have belabored these points, but a misunderstanding of Spaemann’s approach to philosophy can lead to a misconstrual of his entire anthropological project in *Persons* (the subject of our first chapter, and the theoretical basis for the chapters that follow). For example, in his review of *Persons*, Alasdair MacIntyre writes that “there is, therefore, on Spaemann’s view, a tension between what we are by nature, teleologically directed organisms, and what we are as persons.”

While it has certainly been one of the typical procedures of philosophers since the modern period to force things into dichotomies so as to render their integration impossible, Spaemann’s own approach to philosophy as a defense of our intuitive certainties would make him rather unlikely to arrive at such a conclusion. Our pre-philosophical experience does not place persons and natural human organisms in “tension.” Rather, as Spaemann notes in the final chapter of *Persons*, actions of the human organism such as eating and procreation are also “specifically personal acts . . . embedded in rituals.” As we hope the first chapter of this dissertation will show, while Spaemann would certainly acknowledge a conceptual distinction between person and nature, he does not understand person and nature to ultimately be in tension. Persons are natural, and persons are teleologically directed toward self-transcendence.

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Chapter 1

Spaemann’s Theory of the Human Person

In this chapter, we will present an exposition and interpretation of Robert Spaemann’s philosophy of the human person, focusing our study on his most comprehensive work on the subject, *Persons*.¹ His philosophy of the person can sometimes give the impression of being unsystematic, but it is better understood as recursive: Spaemann returns to the topic of the person again and again from new angles. But here, in the interest of clarity, we will attempt to give his anthropology a more systematic exposition.

In the first section of this chapter, we will examine three ways in which Spaemann articulates the reality of self-transcendence that characterizes the person. In examining these three formulations, we will point out how each could be understood as a response to rival philosophical theories of the person, and we will consider what self-transcendence entails for the individuality and intersubjectivity of persons. In the second section of the chapter, we will analyze several “ordinary” examples of self-transcendence that figure prominently in Spaemann’s work. It is hoped that these examples will clarify both his account of the human person and his philosophical procedure in establishing that account. The chapter’s third and final section recapitulates Spaemann’s theory of the person and offers a more general reflection on the character of his philosophy.

¹ In terms of Spaemann’s life, we would classify *Persons* as one of his mature works. It was published in 1996, about four years after his retirement from the University of Munich. An English translation followed in 2007. Among the 20 books Spaemann has published to date, *Persons* is arguably his most important speculative work. It is both comprehensive in scope and concerned with the human person, one of the central themes in Spaemann’s philosophical project. In the words of Holger Zaborowski, the work is “magisterial.” Holger Zaborowski, *Robert Spaemann’s Philosophy of the Human Person: Nature, Freedom, and the Critique of Modernity* (New York: Oxford University Press, 2010), 182.
1. The Self-transcendence of the Person

The self-transcendence of the human person is the primary theme of Spaemann’s anthropological thought. That it is the central theme, the Heideggerian “one thought only” of his anthropology, may be seen in the fact that he makes use of so many different formulations in speaking about it. Spaemann sometimes writes of self-transcendence as the “non-identity” between the person and everything that may be true about him. In other places he writes of self-transcendence as the way persons are beings capable of occupying a “de-centered position” in relation to other beings. Most often, he writes of self-transcendence as having, rather than simply being, one’s nature. And sometimes he simply writes about self-transcendence or the transcendence of the human being. All of these formulations attempt to express the reality of self-transcendence, yet they emphasize different aspects of this reality that characterizes the Selbstsein of personal being. To grasp the self-transcendence characteristic of the person is to grasp the form of the person, the difference (Unterschied) between something and someone alluded to in the subtitle of Personen.

Self-transcendence as “Non-identity”

Negative articulations of personal being. A first and fundamental way in which Spaemann articulates the self-transcendence of the human person is through a constellation of negative formulations such as non-identity (Nichtidentität), distance (Distanz), and difference (Differenz). This language of non-identity is Spaemann’s most basic articulation of self-

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2 Spaemann, Persons, 21, 72, 14. Personen p. 31, 81, 23. This negative element is also present in Spaemann’s earlier anthropological work, Das Natürliche und das Vernünftige (now in English as Essays in Anthropology), though not yet crystallized into the short anthropological formulations of Persons. See Robert
transcendence, and as such it operates as an enabling distinction, a strategic point that opens up
the conceptual space for a more detailed and positive discussion.\textsuperscript{3} Persons, according to
Spaemann, are never simply identical with what they are, their attributes. As Spaemann puts it in
his earlier anthropological work \textit{Das Natürliche und Das Vernünftige}, human nature (here,
referring to the person who is that nature) is defined by something that it is not.\textsuperscript{4} Put differently,
we first approach the person precisely as not being a thing, and we say that someone is a
“person” in order to call attention to this difference. Phillip McCosker recapitulates well
Spaemann’s thought in this regard in his review of \textit{Persons}: “there is a kind of apophatic element
to persons.”\textsuperscript{5}

Spaemann seems willing to grant that a measure of non-identity might be thought of as
holding true of all living creatures, inasmuch as life is characterized by striving. A predator in the
natural world strives after prey, and thus it can be thought of transcending itself to some degree.
A lion is not “what it is” in the way a stone is “what it is” because the lion is directed outward
towards something else, a possible satisfaction.\textsuperscript{6} However, the lion’s behavior can nevertheless
be fully accounted for by its instincts.

\textsuperscript{3} Perhaps this is why Spaemann tends to make frequent use of such negative formulations of self-
transcendence early in \textit{Personen}, but less use of them later on in that work, preferring in the later chapters to speak
simply of \textit{Selbsttranzendenz}.

\textsuperscript{4} “Sie wird also durch etwas definiert, was sie selbst nicht ist.” Robert Spaemann, \textit{Das Natürliche und das
Vernünftige}, 34, and \textit{Essays in Anthropology: Variations on a Theme} (Eugene, OR: Cascade Books, 2010).

\textsuperscript{5} Philip McCosker, review of \textit{Persons: The Difference Between ‘Someone’ and ‘Something’}, by Robert

This is not the case with personal being. Although personal being implies a nature, and thus instincts and other sorts of qualities, an element of freedom is also present that makes the person “more” than whatever might be factually true of the person at any given moment. There is thus, in contrast to animal life, a more robust “distance” or a “non-identity” between the person and the characteristics of the person. As Spaemann notes, it is this non-identity of the person with anything factually true of him that makes possible human actions such as promising and forgiveness. Were the person always simply what he is, he could not be so bold as to dispose of himself in the future, as is the case with promising. And were the person always simply what he is, he could not avail himself of the new beginning or resumption of normal relations offered to him in forgiveness.

However, one might wish to object that this way of speaking of the self-transcendence of the person as “non-identity” or “self-distance” is too cryptic to be of service: if the person is not what he is, then what is he? Why would Spaemann wish to open his theory of the person to possible misunderstandings by speaking of self-transcendence in this paradoxical way?

We would defend Spaemann in this regard by noting that this formulation of self-transcendence is philosophically effective precisely because it employs negation; it draws a distinction, though perhaps an incomplete one. However, there is a more evident reason for Spaemann’s language of non-identity: it is an important initial rejoinder to philosophical theories

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of the person in wide currency that conflate the person and his properties. We refer here to the “attribute-based” theories of the person one finds in modern thinkers such as John Locke and David Hume, and in more contemporary thinkers such as Peter Singer, Derek Parfit, and Michael Tooley. The theories of the person advanced by these thinkers differ in their details, but agree in their common assumption that we are to designate some human beings as persons on the basis of the possession of some property, attribute, or qualification.

**Attribute-based theories of the person.** In Chapter 27 of *An Essay Concerning Human Understanding*, Locke initially gives a definition of the person as “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.”\(^\text{10}\) Although Locke’s definition has a strong note of subjectivity, in its emphasis on rationality it is not radically dissimilar to the definition of the person offered in the early Middle Ages by Boethius as “the individual substance of a rational creature.”\(^\text{11}\) However, as the chapter progresses, it becomes clear that there is one aspect of rationality that Locke considers most important in regard to the person, especially questions of personal identity: memory. Ultimately, Locke understands the “person” to be identical only to what is remembered. What falls outside the memory falls outside the person: “And as far as this consciousness can be extended backwards to any past Action or Thought, so far reaches the Identity of that Person.”\(^\text{12}\)


\(^{12}\) Locke, *Essay*, 335. One wonders, though, how purely philosophical Locke’s account of the person is, for Locke seems quite taken with the theological implications of his theory. See Locke, *Essay*, 340.
In his *Treatise of Human Nature*, David Hume follows Locke’s account of the person in the main, but with the subtle adjustment that memory discovers rather than creates personal identity. But here, too, there is one attribute—the memory—to which the “person” is identical (even if “what” the person is remains an unsolvable mystery).

In his book *Practical Ethics*, Singer understands himself to be adopting the Lockean view of the person as a “rational and self-aware being.” Singer also retains Locke’s emphasis on the memory’s role as the creator of personality. This is evident, for example, in Singer’s explanation of persons as “aware of themselves as distinct entities with a past and a future.” However, Singer’s account of the person advances beyond Locke’s theory by making more explicit what was only implicit in Locke: namely, that it is the actual, current possession of rationality and temporal self-awareness that makes a being into a person, or that ensures continued “personal identity.” For example, the human embryo, according to Singer, is not “a distinct individual with a rational nature”—i.e. a person. Rather, in light of what Singer judges to be universal agreement that “the human embryo cannot reason, has never been able to reason, and will not be able to reason for a long time,” the embryo may only be accorded the status of a “potential person.”

Whereas Singer understands himself to be adopting and expanding upon Locke’s understanding of what constitutes a person, Parfit does not completely accept the Lockean

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14 On the mystery of “what” the person is, see Hume, *Treatise*, 253.


16 Singer, *Practical Ethics*, 94.

17 Singer, *Practical Ethics*, 143-44.
theory. According to Parfit in *Reasons and Persons*, Locke’s view of the person is insufficient on its own; it requires supplementation.\(^\text{18}\) Parfit’s main target of criticism is Locke’s exclusive emphasis on memory as *the* person-constituting attribute. For Parfit, other sorts of continuity could also “provide personal identity even in the absence of memory.”\(^\text{19}\) The knowing of certain facts, for example, would establish a kind of connectedness, even in the absence of individual memories.\(^\text{20}\) Finding inspiration in a remark from Hume comparing the soul to a commonwealth or a club, Parfit repeatedly argues for dropping a strong sense of the person as an individual.\(^\text{21}\) Instead, “what matters” for being an “I,” a self, is that a relation of “psychological connectedness and/or psychological continuity” obtains between different temporal phases of a rational being’s life.\(^\text{22}\)

Tooley, in *Abortion and Infanticide*, seems to be in agreement with Parfit that memory is not the only important attribute in speaking of persons or personal identity. Rather, Tooley sums up a group of “person-making” properties under his general formula that “something is a person if it is the subject of non-momentary interests.”\(^\text{23}\) For Tooley, being such a subject requires the


\(^{19}\) Parfit, *Reasons and Persons*, 208.


\(^{21}\) In fact, both Parfit and Spaemann might agree that “there can only be persons in the plural,” yet their explanations of this fact would differ greatly. For Spaemann, the “plurality” of the person means that persons are the sort of beings who arise from and are oriented to other persons. For Parfit, the “plurality” of the person would be a way of saying that the oneness of the person is an abstraction or perhaps even a benign illusion.

\(^{22}\) Parfit, *Reasons and Persons*, 216-17. This aspect of Parfit’s theory could initially incline one to think that this is not properly an attribute-based theory of the person. But there is still an attribute here, something that has to be true of a being in order to speak of that being as a particular—or at least somewhat identifiable—person: a relation. Wherever Parfit’s “Relation R” does not obtain, it makes little sense to speak of a “self.”

unification of various desires, an achievement that presupposes “now or at some time in the past . . . a sense of time, of a concept of a continuing subject of mental states, and of a capacity for thought episodes”—that is to say, demonstrated possession of properties.  

However, the consideration of past rational attributes as part of the criteria for being considered a person marks a difference between the theories of Tooley and Parfit. Tooley would seem to allow the entity in question to still be considered a “person” when these rational properties are no longer in evidence, so long as these properties were demonstrated at some point in the past. Parfit’s theory of the person, in our interpretation, demands an actual, current relation of psychological continuity. In the absence of such a relation, to speak of a person would be akin to speaking of a “one-sided” friendship: as Aristotle tells us, such things do not really exist. In like manner, Parfit would consider any full break in psychological continuity as a break in the person, at least the person as philosophically understood.

This is not to say that Parfit’s theory of the person is completely inflexible. The sort of relation that Parfit considers important would allow for an amnesiac to be considered the same person as he was prior to his memory loss, provided other forms of psychological connectedness or continuity remained in actuality in lieu of the absence of memory. And, what is most important to note is that both thinkers are in agreement at a deeper philosophical level—along with Locke, Hume, Singer, and many others—that it is the individual possession of certain

24 Tooley, Abortion and Infanticide, 420.

25 That is, such “friendships” would not actually be friendships. It is of the essence of friendship that the goodwill involved be both mutual and recognized. See Aristotle, Nicomachean Ethics, VIII, ch. 2, 1156a1-5.
attributes, characteristics, or relational properties that qualify one as a person, not merely the
typical possession of such attributes by the members of a biological species.

**Spaemann versus attribute-based theories of the person.** While Spaemann is quite open, in *Persons*, in his criticisms of attribute-based theories of the person, it is also important to note that Spaemann’s formulations of personal self-transcendence as non-identity, difference, and distance are in and of themselves also pithy philosophical responses to such theories. The lack of memory, of a sense of time, of psychological continuity, or of any other property does not indicate that the entity in question is not a person, because the person is never merely his properties anyway. There is always a difference between the “who” and the “what.”

In interpreting Spaemann in this way—that even his ways of speaking of self-transcendence can be understood as responses to other philosophical theories in wide currency—we are to a limited extent disagreeing with the judgment of some scholars such as Andreas Kuhlman and Paulin Sabuy Sabangu that *Persons* does not, in the main, have a polemical character.26 Surely they are correct that Spaemann’s philosophy in *Persons* only rarely addresses itself directly towards other contemporary thinkers (in contrast to the common practice of analytic philosophy). However, if we may take Spaemann’s own autobiographical remarks into consideration, his writings generally have a polemical origin. As Spaemann says: “Almost always some irritation prompts me to begin a text.”27 This polemical genesis imparts a certain

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flavor to his writing that is never fully erased, even if he does not always explicitly indicate his opponents.\textsuperscript{28}

However, Kuhlman and Sabangu are correct in the sense that the polemical character of these formulations does not exhaust their philosophical significance. To return to the formulation at issue, Spaemann’s emphasis on the non-identity of the “who” and the “what” in persons has theoretical, and even practical, importance. For example, we react negatively to attempts at collapsing these two aspects of personal being into one another, even in everyday life. One can find an elegant exposition of this in Jean-Paul Sartre’s famous examples, in \textit{Being and Nothingness}, of people acting in “bad faith.” The waiter who tries to reduce himself only to his role as a waiter is absurd because he is making just such an ontological mistake: the waiter refuses to recognize that as a person he can never simply be his properties.\textsuperscript{29}

With the person, there is always a distance, a transcendence, which is evident in everyday actions such as loving, promising, and forgiving. This is our ordinary experience of personal being, an experience Spaemann trusts rather than doubts. He philosophizes by carefully describing such examples of transcendence, thus re-familiarizing us with them. As Richard Schenk puts it, Spaemann has a remarkable ability to highlight such “conscious phenomena

\textsuperscript{28} As Arthur Madigan puts it, “Spaemann’s thought is also the product of controversy with thinkers whose views he finds in one way or another problematic.” Arthur Madigan, “Robert Spaemann’s \textit{Philosophische Essays},” 203-04.

\textsuperscript{29} Jean-Paul Sartre, \textit{Essays in Existentialism}, ed. Wade Baskin (New York: Citadel Press, 1993), 167. We should point out, however, that this is not what Sartre understands to be the import of bad faith. For Sartre, bad faith shows our “being toward nothingness.” For Spaemann, our being is toward other persons.
around the awareness of personhood that make sense only if personhood transcends consciousness.”³⁰

However, one should be careful not to “substantialize” this difference or non-identity that is characteristic of our ordinary articulation of personal being; Spaemann would agree with Parfit’s frequent statements that “the person is not an entity separable from the individual human being and his activities.”³¹ But unlike Parfit and the other thinkers holding attribute-based theories of the person, Spaemann does not take the further logical step of collapsing the reality of the person into the qualities of the individual; in other words, the term “person” captures a different reality than simply the presence or absence of these qualities. The phenomenon of the person reveals a paradoxical difference from one’s qualities, not sheer identity with them.

Self-transcendence as “Having a Nature”

The person’s free relation to a nature. Having discussed Spaemann’s “negative” formulations of the self-transcendence of persons as non-identity and difference, we will now examine Spaemann’s more positive articulation of the reality of personal self-transcendence: “having a nature.”³² This is Spaemann’s preferred way of speaking of the special reality of personal being. The Index to Persons lists nearly thirty entries for it, a testament to the frequency with which Spaemann has recourse to this terminology.³³


³² “Ihre Natur ist etwas, das sie haben.” Spaemann, Personen, 40.
Personal being, according to Spaemann, consists in “having.” As we have already mentioned, to call someone a person, or perhaps better, to recognize him as such, points to a distinction in that human being between the who and the what. The who corresponds to the possessor, while the what refers to the possessed. Spaemann generally includes all of the what—the properties, qualities, or attributes that might be possessed—under the general term “nature.” Persons are not identical to their natures, simply speaking. More properly speaking, persons have their natures.

This is a distinction which does not obtain in the case of any other animal save the human, the “rational animal” (leaving aside Spaemann’s controversial final reference in Persons to porpoises). In other animals, the who and the what are not distinct; there really is no who, only a what. Following the lead of Thomas Nagel, Spaemann takes a bat as his example: “it would seem that its being is wholly swallowed up in its way of being.” By contrast, humans are able to distinguish between their being and their specific way of being (their nature). Like other animals, humans are what they are (they have natures), yet they are what they are “in a different way,” which Spaemann describes as “having.”

We should also note, in the interest of thoroughness, that the Index to Persons rightly notices and parenthetically adds an alternate version of Spaemann’s usual formulation that persons have a nature; namely, persons are those beings who “bear their properties/attributes.”

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33 Spaemann, Persons, 252.

34 Though, strictly speaking, possession of one’s nature is only one of the possibilities afforded by self-transcendence.


This alternate version is, in fact, how Spaemann introduces his notion of “having a nature” in his first chapter, “Why We Speak of Persons.” There, in the context of a discussion of our seemingly paradoxical employment of the term “person,” Spaemann says that it does not refer to some property (such as “personal existence”), but instead “denotes the bearer of certain properties.” Here, “bearing” would correspond to “having,” and “certain properties” would correspond to “nature.”

Having completed this introductory exposition of self-transcendence as having a nature, it is worthwhile to pause and consider its virtues and vices in the hope of grasping it at a deeper level. The immediate advantage of this formulation of self-transcendence is in the way that it follows our normal articulation of what we are as persons, our “ordinary ontology.” Perhaps a brief episode can illustrate this: in 2008, Carlos Bazan gave a lecture on the nature of the angels in the thought of Thomas Aquinas at The Catholic University of America in Washington, DC. At the end of the lecture, during the question and answer period, Dr. Bazan reflected briefly on his own philosophical career and claimed that he had tried to bring greater philosophical attention to the goodness of the body. To underscore the need for this, he related how he would frequently begin a course by asking his students to vote on the truth of two propositions. The first proposition was, “You are your body.” Only a few students would tentatively raise their hands in agreement with this first proposition, but his students would overwhelmingly endorse his second proposition: “You have a body.” This latter formulation seemed more intuitively correct to most of the students.

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Dr. Bazan related this episode as evidence of a philosophically alarming trend. “No, you are your body!” he insisted to his students, and then tried to convince them of this over the course of the semester. His reaction brings to the fore a potential weakness, or at least a misleading aspect of Spaemann’s formulation that persons “have” their natures: to some, such “having” will suggest that the person is some sort of separate entity which possesses its properties. Charles Taylor articulates the problem well (in the context of a discussion of John Locke): is the person some sort of disengaged “self” completely separated from all his particular attributes?38

Spaemann, too, seems aware of the potential for misunderstanding on this point, and he addresses the problem in several places in Persons, most directly in his chapter on “Time.” There, Spaemann asks, rhetorically, that if human nature is something that someone has, “what has it?” His answer is quite clear: “Not an independent entity, but the very same human being.” As he says a few lines later, “The person is not a self beyond its nature, an entity without description.”39 To put the question back in the terms of Bazan’s questions, you are your body—true. Yet in the case of a person, to stop there would be to risk an incomplete description, for you are not your body in the same way a dog is its body. With the person, another ontological level comes into play: while continuing to be your body, you (as a person) have your body. This sort of solution attempts to avoid the problems inherent in thinking of the person in either a totally


39 Spaemann, Persons, 106. Personen, 115-16. For more references on how the person or “self” is not an entity separate from his nature, see Persons, 94, 117, 135.
spiritual or totally natural way; Spaemann wishes to avoid the vicious dichotomy altogether. In having their natures, persons are both spiritual and natural. A conceptual distinction may obtain, but there is no real distinction. Persons are spiritualized natures.

But we may wish to test this explanation with yet another question: what does “having” mean here? One might reasonably expect Spaemann to speak of “having” in terms of controlling: we direct our bodies in action. We are free to follow our natural impulses, or resist them. However, while explicitly recognizing such instances of control as following from our characteristic self-transcendence, Spaemann points at something broader than control when he speaks of “having,” for persons are those beings that “can adapt themselves to not being in control.” Ultimately, when he speaks about the person “having” his nature, Spaemann seems to mean that the person relates to his nature in a free way.

As Alasdair MacIntyre notes when commenting on one such “relational” passage in *Persons*, relating to one’s nature does not have the trivial sense of being “glad that I am a human being rather than a dolphin or wolf.” Spaemann himself warns against misunderstanding his formulation along those lines: “having a nature” is an ontological reality with practical consequences, not a “merely formal or transcendental relation to one’s state that leaves it unaffected.” However, what Spaemann does mean by this idea of “freely relating” can be more difficult to pin down. Somehow “freely relating to” or “having” a nature gives the human being a

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greater measure of “self-control” than one finds in members of the animal kingdom, yet it is clear that Spaemann believes this relating is a more fundamental phenomenon than mere controlling, for it is at work even when control is absent.

MacIntyre criticizes Spaemann on this point, expressing bafflement as to what it could possibly mean for persons to relate to their natures, or as Spaemann writes in one rather dramatic passage, to “freely endorse the laws of their being” or “rebel against them and deviate.” If we understand the substance of MacIntyre’s criticism, it is that whatever a human being does is according to his nature, howsoever noble or base, since as a “rational animal” the human being has both higher and lower-order desires; thus there is no need to speak of persons “taking up an attitude” toward their nature when acting on higher-order desires. Humans have as little choice in being humans as lions do in being lions. The lion may not simply decide to be a snake. The laws of being cannot be violated.

However, it seems that MacIntyre’s criticism actually provides us with a way to understand Spaemann more deeply on this point: if human persons do indeed have higher and lower order desires, then these could come into conflict, requiring the person to place them in some relation to one another in order to be able to act. In other words, relating to one’s nature is the ability to assign a meaning to that nature and to whatever flows from it. Persons have the option of “acknowledgement, rejection, or transformation of natural impulses.” They can, as Spaemann writes in his chapter on “The Negative,” enclose what they are (their properties)

44 Spaemann, Persons, 33. Personen, 42.
45 MacIntyre, review of Persons, 443.
“within square brackets, placing some other sign, negative or positive, before it.” They are, in a word, responsible—both for themselves, and for their attributes.

Still, MacIntyre has a point, in that it is helpful to question what exactly is meant by “laws of being” that persons may or may not endorse. With his reference to the laws of being, Spaemann is not attempting to say that a human person may, depending on the “meaning he assigns to his nature,” suddenly decide to be something different—say a lion. Instead, he is referring to the “structure of having,” the ontological structure of the human person that Spaemann attempts to clarify through the various studies contained in *Persons*. This structure opens up two distinct ontological possibilities of action for persons: the natural level of self-assertive action which humans share with animals, and a higher level of self-transcendent action characteristic only of those “rational animals” that we call persons. It is not the case that there is a separate entity, a person or a self, that possesses and controls a distinct nature; rather, in the human being, you have a nature that extends “upward” into a new and different ontological level. Within such a framework, then, to “freely embrace the laws of one’s being” would mean to act in keeping with the higher of the two ontological possibilities, self-transcendence. Examples of this range from the morally trivial to the morally serious: self-transcendence is manifest to whatever extent a person is willing to use silverware, or perhaps serve someone else at the table first. Yet self-transcendence is also manifest in actions of heroic self-sacrifice. What both cases have in

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48 This ultimately, may explain their disagreement, since MacIntyre’s review mostly concerns itself with the first half of *Persons*, not its later chapters (which introduce some refinements). Admittedly, the exact ordering of the chapters does not seem crucial to Spaemann’s account, but the later chapters do presuppose a familiarity with the concepts introduced earlier, especially “having a nature.”
common is that the person is the being that can surmount his own immediate interests and the promptings of his natural life in the service of a higher, interpersonal reality.

“Having a nature” is characteristic of the person, but in the human person, it is also something at which one can be more or less successful. It is an ontological reality, but it is also an ontological and moral possibility. As Spaemann writes in his chapter on “Time,” persons “cannot simply ‘be’ their nature without further ado: they must persist in the task of ‘having’ it.”49 There is an orientation within the human person towards this possibility of self-transcendence, with even the lower, “natural” level opening up to this higher, self-transcendent level as its completion.50 There is what Spaemann calls elsewhere a “natural finality in man.”51 Self-transcendence is indeed a law of being in that sort of teleological way: a failure to act according to it means the human being falls short, as it were, of the full measure of personal existence. Such a man does not manage to achieve the “promise our personhood presents,” and he is responsible for this failure.52 However, though such failures might impair the person, they cannot cause the human being to completely stop being a person. The person might “have his nature” in a more and more stunted way, but in an absolute sense, he can never unmake the basic reality of what he is as a person. Again, self-transcendence is an ontological possibility only


50 See, for example, Spaemann’s discussion on pp. 69 and 186 of Persons of how even natural necessities such as food and sex come to be “personalized”—that is, taken up into and transformed by personal transcendence. Personen, 79, 197.


52 Spaemann, Persons, 234. Personen, 250.
because it is also an ontological reality: “Nobody, however bad his conduct, can fully annihilate himself as a person while still alive.”

**Relational theories of the person.** Spaemann’s description of personal transcendence as “having a nature” also has some polemical aspects. At a basic level, this formulation serves as the positive compliment to his negative articulations of self-transcendence as non-identity, difference, and distance. Were Spaemann to content himself only with such apophatic articulations of self-transcendence, his account would obviously be incomplete. It would be a critique without a subsequent correction. This positive account of “having a nature” is thus necessary to do justice to the full reality of personal being. As such, it may be thought of as a continuation of Spaemann’s rebuttal to attribute-based theories of the person.

However, as Spaemann makes clear early in *Persons*, his project is wider than merely criticizing and correcting such attribute-based theories. As he says, there is another popular philosophical option for understanding the person, one that focuses “on the social character of personal existence.”

We will refer to these theories as “relational” theories of the person. Spaemann judges them to be philosophically problematic, both in themselves and for their consequences. In our interpretation, his formulation of self-transcendence as “having a nature” can also contribute to a correction of this second possible misunderstanding of the human person.

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Although Spaemann is quite forthcoming in *Persons* in regard to identifying and criticizing attribute-theorists of the person, there is a curious imbalance in his approach, in that he does not identify any relational theorists by name, contenting himself merely in saying that this “line of thought derives from Fichte and Hegel.”56 One must be cautious, then, in speculating about the targets of Spaemann’s criticism. A safe guess would be a thinker such as Giselher Rüpke, whose entry into the 1974 abortion debate in Germany with his article “Persönlichkeitsrecht und Schwangerschaftsunterbrechung” prompted Spaemann’s critical response in “Haben Ungeborene ein Recht auf Leben?”57

Spaemann understands Rüpke to posit a distinction between the biological human being and the human being as an “ideal subject”—that is to say, a person. This is no mere conceptual distinction for Rüpke: it is not the case that every biologically human being is also an ideal subject. Rather, the living human being *may* be constituted as a person through the acts and responses of other persons, through “societal relevance, expectations, and esteem.”58 To put it in slightly different terms, in Rüpke’s theory, human dignity (the honor we give to persons) does not stem from the nature of the living rational being, but rather from the response of other rational beings to it. A human being is only an ideal subject or a person if the wider community of persons deigns to treat him as such.


58 Spaemann, “Haben Ungeborene,” 361.
For another example of a theory of the person with some similar “relational” aspects, one might consider H. Tristram Engelhardt’s article from that same year (1974), “The Ontology of Abortion.” Engelhardt’s general position in the article falls short of a fully relational theory of the person, for he holds that the human person in the “strict sense” is a “self-conscious rational animal.”59 An apparent lack of such self-consciousness disqualifies one from personal status, as is evident in Engelhardt’s denial that humans in “early infancy” are persons.60 However, in the article’s penultimate section, “Viability as a Social Criterion,” he introduces some refinements into his general account in order to deal with the challenge presented by infanticide. These refinements introduce a note of “relationality” into what would otherwise simply be another attribute-based theory of personhood.

Though continuing to insist that infants are not persons, Engelhardt admits that such “individuals” nevertheless are extremely important to other persons. A careful reading of his account reveals a progressive expansion in his descriptions of this importance, a dawning awareness of the problem. He begins by positing that the infant plays “an explicit role within the social structure of the family and society.”61 Only a few lines later this explicit role is explained as “positive active social role and relation.” A page later, Engelhardt claims that such relations generate “actual—not potential—obligations” towards the young infant.62 Finally, in explaining these obligations, he gives a startling description of them as a “series of activities directed to the


60 Engelhardt, “The Ontology,” 231.


infant as if it were a person.” In other words, Engelhardt comes to admit that infants are treated as persons by other persons.63

The adoption of a relational theory of the person would be one possible solution to the problem this “personal treatment” of infants poses for his anthropology. However, Engelhardt is not willing to go as far as Rüpke and claim that such treatment constitutes infants as ideal subjects or persons; rather, Engelhardt would just allow that this is a peculiarity of the “social category” that is the “child.”64 Young infants falling into this category—“children”—may enter into personal interactions and be treated as persons, even though they are not actually persons. At least in regard to young infants, then, we may say that Engelhardt adopts a relational theory of personal rights in this article, but he does not adopt a relational theory of the person.

Spaemann versus relational theorists. Spaemann’s articulation of personal transcendence as “having a nature” may be thought of as part of a critical and corrective response to such relational theories of the person and personal rights. Its critical aspect is in its denial of the fundamental premise upon which all such theories depend: the separability in the human being of nature and person. All relational theories of the person assume that there is not merely a conceptual distinction between these two, but rather a real distinction. A human nature can occur separately from human personhood. According to such theories, personhood or personal rights are honors conferred by the community on some human natures, but not all. This formulation of

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63 For a thinker such as Spaemann, who trusts the cognitive abilities of non-philosophers, the phenomenon of the “personal treatment” of infants would provide important evidence that infants are, in fact, persons. The alternative is to think that philosophy provides a privileged route of access to the truth: Engelhardt can somehow “know” that infants are not persons, even though they are treated as such.

64 Engelhardt, “The Ontology,” 231.
Spaemann’s of personal being as “having a nature,” as freely relating to a nature, undercuts any such attempted separation. It builds nature back into the very concept of the person, understanding human person and human nature as always occurring together.

However, this formulation of self-transcendence is only part of Spaemann’s total response to such social theories of the person. For presumably a relational theorist could readily admit Spaemann’s point that being a person means having a nature, but then go on to argue that this free relation is itself the gift of the wider community of persons (if it is, in fact, given). For such a theorist, a free relation to a nature would start at a certain point or general period in time corresponding to a communal recognition.

Spaemann’s full critical response adds to this formulation of self-transcendence a simple but important piece of phenomenal evidence: in our speech (and the self-understanding correlated with it) we do not make this distinction of the social theorist. No one of sound mind divides his ‘I,’ which is the product of social influences, from what he is as an autonomous organism.65 Rather, one would normally say he was born at some time, in some place, “though the being that was conceived or born on that date did not say ‘I’ at the time.”66 This identification is made possible by our self-transcendence, by the fact that personal being is a free relation to a nature: “Since persons are not totally accounted for by their present condition, they can understand their own development as that of a unified ‘self’ over time.”67


Self-transcendence as a “De-centered Position”

The “viewpoint” of personal being. A third way Spaemann attempts to illustrate the reality and possibility of self-transcendence is through a formulation he attributes to Helmut Plessner: persons are those beings who occupy a “de-centered position” in relation to the reality of other persons.68 Spaemann has recourse to this formulation of self-transcendence early in Persons, mentioning it in his opening chapter “Why We Speak of Persons.” There, Spaemann brings out what he means by a “de-centered” position through a contrast with those things that occupy a “central” position in relation to their environments—namely, all living things.69 Something in a central position assigns meaning simply from its own point of view.70 A being in the central position does not recognize other beings as centers of being in their own right, seeing them instead only as “factors” in its own “life-project.”71

For example, a lion simply views an antelope as prey; the lion cannot compare his view to the antelope’s view of the situation; the lion does not consider what “being prey” would mean to the antelope. Spaemann describes this central position as “commanding”; the being occupying the central position simply assigns meaning within its own context.72 But this is not the case with persons; they can escape their own interests and consider a situation from the view of another:

68 Though at one point in Persons Spaemann does remark that Helmut Plessner’s “idea” is “intricately connected with our theme” (Persons, 87; Personen, 97), Spaemann does not otherwise attempt to identify Plessner’s position with his own, but is simply content to credit Plessner for coining the term. Our analysis here will focus solely on Spaemann’s use of this term, rather than on Plessner’s theory.


70 Spaemann, Persons, 156. Personen, 167.

71 Spaemann, Persons, 186. Personen, 197.

72 Spaemann, Persons, 159. Personen, 169.
persons can compare points of view. Such a comparison necessarily involves letting-be, allowing other centers of being to escape the domination of one’s own viewpoint or valuation.73

It is useful to analyze this formulation in terms of the different ways the elemental ontological forms of presence and absence are at work in human life and in animal life. Animals are present to their own views of the world, but absent to the views of their fellow existents. Persons are present to their own views of the world, but also present (to a greater or lesser degree) to the viewpoints of other existents. This can happen, as we have already seen, because with the person a new “ontological player” enters the game: self-transcendence, the de-centered position. A person can appreciate the view of another center.

It is tempting to identify this de-centered position with a purely objective perspective, what Thomas Nagel calls the “view from nowhere.”74 However, that is not Spaemann’s meaning. The person, like all living beings, “constructs its own specific universe of which it is the centre.”75 The person is most decidedly, we might say, a view from somewhere. But on this point there is a difference between the person and other living beings: the person relates freely to his own universe, to his own view: this central position does not simply determine what the person will do, as it does for the animal. As Spaemann writes in his chapter on “Conscience,” the person is able to relativize his own wishes.76 His wishes do not disappear; the recognition of other finite centers of being does not destroy his own center: “Freedom is a particular way of relating to

73 Spaemann, Persons, 77. Personen, 87.
75 Spaemann, Persons, 186. Personen, 196.
76 Spaemann, Persons, 174. Personen, 186.
one’s nature, not of growing out of one’s nature and leaving it behind.”

The person must now pay attention not only to his own interests, but to those of others. It is in this sense that the person is de-centered: he has interests, but acting on those interests in face of the interests of others requires a justification.

Spaemann adds an important qualification to this account: persons, unlike other living things, do not “begin” solely in the central position, the ontological level of self-assertion. Rather, persons begin in the de-centered position as well, the ontological level of self-transcendence where “the experience of the other is co-original with the experience of self.”

This is perhaps a bold claim on Spaemann’s part, for children seem to lack some of the characteristic manifestations of self-transcendence. In fact, they are notoriously selfish little creatures: often a child will only want his toys at the exact moment he sees another child playing with them. Yet after a time, children do begin using language, recognizing moral rights and wrongs, and engaging in other behaviors that would seem to require self-transcendence.

What is one to make of this growth into self-transcendence? One might be tempted to say, as social theorists of the person do, that children receive their personhood as a sort of gift from their parents who make them into persons only by treating them as such. Spaemann himself even speaks of some scientific evidence that could be interpreted to support this theory: unmediated, in-the-flesh personal contact is decisive for the development of children. The

77 Spaemann, Persons, 231. Personen, 247.
79 Spaemann, Persons, 67. Personen, 76.
children of deaf parents cannot learn to speak through videos.  

Could children, then, be understood as something like “potential persons” which require the touch of “full-fledged persons” in order to become persons themselves?

In fact, Spaemann seems quite opposed to that way of speaking, and he offers a much different explanation for the transition from mewling infant to speaking person: the parents do not make the child a person, but rather recognize the child as a person. To recognize here means to acknowledge something that is already there: the self-transcendence of a person. This acknowledgment takes a practical form: the child is understood to be a person, and treated as such from the very beginning of his life. Again, it is not that the parents wait for the child to manifest himself as a person: rather, they treat the child as a person from the beginning, speaking to him and caring for him. What is more, the parents are quite genuine in this; there is no “willful deception” involved on the part of the parents. The parents are not just treating their child as if he were a person, in order to make him into a person. Recognition, in Spaemann’s sense here, is quite genuine. Somehow, through their own self-transcendence, the parents know their child to be a person, and they take it as their task to teach the child what it means to live as a person, to entrust oneself to others and communicate with others.

Does this description attribute some sort of miraculous power to parents? Do they recognize a person “against all odds?” We have been writing in that way in order to bring the contrast between the two positions into sharper relief, but it may not be as bad as all that. After

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all, babies do many things that other persons do: they eat, they sleep, they breathe, etc. They begin to respond to their parents in what we might wish to describe as “personal” ways at a surprisingly early age. And even “selfish” actions on the part of young children are only possible on the basis of recognition: “that other child has my toy.”

To be sure, many of the characteristic adult manifestations of self-transcendence may be absent in small children, but is that such a problem for persons? Miraculous or not, self-transcendence allows persons to bridge the gap between presence and absence in order to recognize other persons; it is the “miracle” that is rationality. Furthermore, there is an attractive “ontological economy” in Spaemann’s description. In the competing account we offered above, something changes into someone; in Spaemann’s account, someone just gradually learns how to manifest himself as someone with the help of others. Surely this latter option is far less “miraculous” than the first.

Nor would one have to drop all talk of the “gift” of personhood if Spaemann’s description is preferred; one would just have to understand “gift” in a more flexible way, not as the bestowal of something (or here, someone) where there was previously nothing, but as the teasing out of something latent into actuality. It is a cultivation, as opposed to an installation. Parents teach their children how to live as persons and stand in the de-centered position. All

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82 That is, such childish envy carries within it the recognition of others as others, not as mere extensions of the child himself. Still, such recognition is not yet the sort of transcendence that characterizes the person, for even dogs do something similar in fighting over scraps.

83 By “ontological economy” here, we do not mean that Spaemann provides fewer reasons for his interpretation, but rather that his account does not multiply entities unnecessarily.

84 This is, incidentally, quite similar to the educational philosophy offered by Plato in Bk. VIII of the Republic. Education is not the bestowal of something where there was previously nothing; it is instead the “turning around” of the soul, the directing of the soul to the objects that will lead to its fuller development. See Plato, Republic VIII 518d.
things being equal, the initial gift of being able to stand in the de-centered position is one that
allows of continual growth, at first simply through speech, and then later through acts of
recognition, justice, and love.  

For a person to choose to operate exclusively on the level of self-assertion, to stubbornly
remain in the central position, is thus a regress, a “fall.” In his chapter on “Freedom,” Spaemann
writes that “only persons can be radical egotists.” This is the case for two reasons. First, as
Spaemann notes, animals are rather innocently extroverted; they reach out to others and, in an
elementary sense, identify with them. There is no conscious reduction of the reality of the
other. Perhaps it is not even blameworthy for a person to be self-assertive in this limited way.
But as Spaemann also notes, this tendency of the being in a central position to overpower others
can be carried through to truly sadistic lengths, when the subjectivity of another gets objectified:
that is, when another person is cruelly made to feel like an object. Paradoxically, however, true
cruelty would seem to require the fuller view of reality that comes from standing in the de-
centered position: one must be able to recognize that others are centers of being—and know
themselves to be so—in order to willfully attempt to crush this ontological intuition in them.

Spaemann offers a second reason why self-assertion can have the character of a
regression elsewhere in his text, one we have already touched upon: though there is a qualitative
difference between the two levels of the person, the ontological possibility of self-assertion

88 Spaemann, Persons, 79-80. Personen, 89.
opens up toward self-transcendence, or perhaps it is better to say that it at least is capable of being taken up and transformed in self-transcendent action. For example, even the raw need to eat can be taken up and transformed into dinners marked by lively conversations and the use of silverware. The human person’s egoism, then, includes a conscious refusal of the natural movement from the central position to the de-centered position. Thus even this slightly more technical-sounding term, the “de-centered position,” is also linked to our ordinary ontological articulations, in this case our negative judgments when we speak disapprovingly of others as “self-centered” or egozentrisch.

**A philosophical response to Hobbes?** We have argued that Spaemann’s articulations of personal transcendence as “non-identity” and as “having a nature” could be understood as philosophical responses to rival theories of the human person, corresponding to two main approaches to the issue Spaemann notices in modernity. In *Persons*, Spaemann does not explicitly direct this third formulation of self-transcendence as a de-centered position towards any particular thinker or school of thought. However, we would submit that it could be understood as a philosophical rejoinder to another prominent understanding of the human being and the human person one finds in modernity: the human being as locked in his own subjectivity, and the human person as the public appearance or representation—the owner of or the spokesperson for—such a totally “self-centered” being. Such is, we take it, the view of the human being and the human person espoused by Thomas Hobbes in *Leviathan*.

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*Spaemann, Persons, 186. Personen, 197.*
In this regard, Chapters 6, 7, and 16 of *Leviathan* are of particular importance. Chapter 6 contains Hobbes’ treatment of human passions, and it is revelatory of his understanding of the human being in general. The thing to notice is that the classification of the passions does not depend on any sort of objective state of affairs: rather, each passion reflects a condition of the human being in question. To put this back in Spaemann’s terms, for Hobbes the “central position” is the only option for the human being. Hobbes is admirably consistent in this regard in his exposition of the passions: confidence is hope *in oneself*; an illiberal use of wealth is “parsimony” if one approves of this reserve, but “wretchednesse” if one disapproves; even pity “ariseth from the imagination that the like calamity may befall himselfe.” 90 The human passions allow for no transcendence.

One might wish to object that we exaggerate the subjectivism of the Hobbesian calculus of the passions, that there is still a reference to factors beyond the individual human inasmuch as these passions have objects (in the sense of external correlates, or “targets”). Of course Hobbes does not deny such an obvious fact. Yet a careful reading of his account reveals that the human response to such objects is independent of the objects themselves; there is nothing common or public in the way the objects manifest themselves. On the contrary, Hobbes judges that terms such as good, evil, and contemptible—terms we often use in the evaluation of passions—are in fact “ever used with relation to the person that useth them: There being nothing simply and absolutely so; nor any common Rule of Good and Evill, to be taken from the nature of the objects themselves.” 91

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Chapter 7 switches to the consideration of “Discourse” (meaning either mental or physical “speech”), but an undercurrent of subjectivity remains. For example, Hobbes explains doubt, will, deliberation, judgment, and opinion without any external reference. All are explained simply as various stages in the activity of the mind. It is not that Hobbes denies an orientation of mind “to the things,” to use a later philosophical phrase; he simply does not mention it. Such an orientation is, for Hobbes, philosophically unimportant. A thoroughgoing subjectivism is simply presumed.

Hobbes formally turns his analysis to the person in Chapter 16 of *Leviathan*. Not surprisingly, for Hobbes the term “person” does not refer to the unique, free relations to individual natures characteristically enjoyed by human beings (as it does for Spaemann). Rather, Hobbes understands our talk of the “person” as a way of referring to the public aspect of a human nature, the appearance or “representation” of this nature through words or actions. For Hobbes there are both natural persons and artificial persons. A natural person is what we would normally just call a person. It is a human being “personating” or presenting himself; thus, in the natural person there is a one-to-one correspondence between a person and a human nature.

An artificial person is, as Philip Pettit explains the Hobbesian theory, a “spokesperson.” The artificial person re-presents or personates a different human being or beings. In this mode of personation there is no one-to-one correspondence between a person and a human nature (either on the part of the representer or the represented). In an artificial mode of personation, the words

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92 For example, a judgment is simply the last opinion in the chain of deliberation. What the judgment is about does not enter into the analysis. See Hobbes, *Leviathan*, 47.

or actions of one individual human may sometimes be presented; for example, someone may quote your words, or speak in your name. Yet the artificial mode of personation is equally open to the presentation of many individual human beings, as is obviously the case with the Hobbesian sovereign who represents the multitude.94

One might be tempted to think that there is a measure of transcendence in this account of the person, inasmuch as the person is sometimes separate from human nature: could one not say that a human being “goes beyond” himself when he personates another human being instead of himself (i.e. in artificial personation)?95 However, we would argue against such an interpretation. In the Hobbesian account of the person, the human being “personating” another is not so much liberated in regard to his actions as he is alienated from them. For example, Hobbes argues that when one human being is authorized to personate another human being, the “actor” (the personator) bears no moral responsibility at all if he breaks a law of nature. According to Hobbes, such a personator should not even be said to break a law of nature; rather, it is the human who is personated—the “author” of the actions—who actually breaks the law of nature.96

In one sense of the word, this is indeed a “liberation”—but it is liberation in the sense of severing, not flexibility. One does not transcend or “move beyond” oneself in such actions. One does not “move” at all; those actions are simply separate from one’s being.97


95 Such artificial personation would, after all, need to be accomplished through words, which is the same as to say: through rationality.

96 Hobbes, Leviathan, 113.

97 The plea of “superior orders” in courts of law would seem to implicitly depend on just such a Hobbesian understanding of personation.
Furthermore, if one considers Hobbes’s paragraph on the problem of “Children, Fooles, and Mad-men,” one finds the same limitations on personal transcendence that we have already seen in both attribute-based and relational theories of the person. Indeed, the Hobbesian position on the person in *Leviathan* could even be understood as a synthesis of the two approaches with which Spaemann has explicitly disagreed, for Hobbes’ distinction between natural and artificial persons would seem to offer two distinct routes into personhood. Like attribute-theorists of the human person, Hobbes implies that rationality renders one a person (here, a “natural person”). This is evident in his statement that such human beings (children, the insane, etc.) are not obliged by any contracts made on their behalf prior to the point at which they “recover the use of Reason,” unless they find such contracts reasonable themselves at that point.  

Rationality, in other words, makes them capable of the ownership of human nature that characterizes the person. From the perspective of Spaemann’s theory, Hobbes’s exclusive emphasis on ownership overlooks the fact that rationality also allows for the possibility of relinquishing ownership, of “distance” and “non-identity” between the person and the attributes of the human nature.

On the other hand, in keeping with the approach of relational theorists of the person, the Hobbesian account would also grant that such human beings lacking rationality “may be Personated by Guardians, or Curators.” Given that in the chapter Hobbes nowhere privileges natural personation over artificial personation, one may simply conclude that this is another route into personhood. For Hobbes, one is a person either through one’s own rationality, or by being

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treated as such by others. But as we have already seen Spaemann argue, to say that one depends on others for personhood is to fail to appreciate the full reach of our self-transcendence which constructs a unity between our “pre-socially-recognized” and “post-socially-recognized” self.

We do not wish to indicate that Spaemann’s formulation of personal transcendence as a “de-centered position” is intended as a direct refutation of the Hobbesian account. Indeed, the disagreement between the two is far more fundamental and important than that. Spaemann’s explanation of the human person as de-centered is not so much an argument as it is a radically different description of the human being than the atomized individuals presented by Hobbes. This means that one cannot choose between these two options by assessing them as opposed arguments; one can only choose between them by asking which is the more accurate description of the phenomena, which deals more fairly with reality.

A Recapitulation of Self-transcendence, with Three Clarifications

A definition of self-transcendence. Spaemann does not begin to speak simply of “self-transcendence” until the later chapters of Persons. However, it is not difficult to recognize self-transcendence as an equivalent of the three formulations he has been using thus far. He weaves self-transcendence in among them, especially his formulations of the de-centered position:

“Personal life is not, like other life, centered on itself. . . . Its essential distinguishing mark is self-transcendence, the highest form of which is called love.”

Even when Spaemann refers to

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100 In fact, most of the emphasis in the chapter is on artificial personation, suggesting that it is either the prime analogate, or at least the sort of personhood of greater philosophical interest to Hobbes. This, combined with the final remark of Hobbes in the paragraph that such personation “has no place but in a State Civill” raises the difficult question of whether Hobbes would think that there are persons at all, of either sort, outside of political society. See Hobbes, Leviathan, 39, 113.
self-transcendence independently of his other formulations, a similarity in meaning makes it readily understandable: for example, “The individual realizes his or her personality by grasping life in an act of self-transcendence that sees the world as more than an ecological niche.” The language of “grasping life” reminds one of having a nature, while “seeing the world as more than an ecological niche” resembles Spaemann’s explanations of what it means to stand in the de-centered position.

The term “self-transcendence” thus serves as a sort of summary of these formulations Spaemann has worked out in the earlier chapters of *Persons*. He does not offer any lengthy explanations of the term, as he does with “having a nature” and “the de-centered position,” but instead tends to speak of self-transcendence in shorter phrases such as “the reality of self-transcendence,” and in passages recalling earlier points in his study: “self-transcendence in regard for other persons is, as we have seen, how persons realize themselves.” In both cases, Spaemann seems confident his readers will understand his meaning, having spent so many pages exploring the various aspects of self-transcendence captured in his three main formulations of it.

It would seem equally redundant to offer here a lengthy exposition of self-transcendence after having worked through Spaemann’s more detailed formulations, but it does seem appropriate to sum things up with a working definition of self-transcendence. Suffice it to say that self-transcendence is that ontological reality and possibility constitutive of the person; it is the difference that separates human beings from other animals, a difference in the way the human

beings are their natures. Human beings, unlike other animals, are not simply identical with their natures, but rather have their natures. They relate freely to what they are, and so can be said to stand in a de-centered position in relation to reality, especially the reality of other persons, each of whom, as a center of being, has a unique “indexical” identity.

However, before moving on to a discussion of individuality and intersubjectivity, three points about self-transcendence stand in need of further clarification. First, we will consider the ontological certainty of self-transcendence (and thus of persons in general). Second, we will discuss the relationship between the various formulations of self-transcendence. Finally, we will examine the relationship between self-transcendence and self-assertion.

**The certainty of self-transcendence.** For Spaemann, transcendence seems to be our intellectual movement out to reality beyond appearances: “only persons reflect explicitly on the gulf between ‘how it appears to me’ (für mich) and ‘how it really is’ (an sich).”104 The movement may be toward oneself (having a nature) or toward another (the de-centered position). However, we might have a lingering expectation inherited from modern philosophy that Spaemann would consider this an “ontologically uncertain” orientation: if persons are oriented toward the “things-in-themselves,” then they are oriented towards absences, towards things that are never fully given. One could never really know if he is dealing with another person.

In fact, Spaemann’s approach to this question is quite the opposite. Self-transcendence is never a metaphysical mistake. Even if the ontological status of “things-in-themselves” is perhaps undetermined, the ontological reality of another person is clear: “If we cannot transcend

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appearance and get through to the being that reveals and conceals itself, there can be no persons."\textsuperscript{105} But, of course, we know there are persons. So for Spaemann it follows that we do reach through to the reality of the other.

How might this come about, that we can be so sure of the reality of persons, though perhaps left with epistemological or ontological questions about other things? As Spaemann says, “Personality is the paradigm for being.”\textsuperscript{106} The person is, as it were, “being at its best,” and thus if there truly is a problem with getting past appearances, it is at least not a problem in the case of persons. The person has an identity distinct from his attributes, a reality beyond what shows up as appearance. The person is at once a presence and an absence. This reality of the other is not something one reaches by discursive reasoning; according to Spaemann, the reality of the other person “evokes our transcendence.”\textsuperscript{107} While we can refuse this reality, it is nevertheless the case that we are oriented to it. It is an ontological capacity waiting to be realized. This is the reason why Spaemann can say the severely disabled are the “acid test” of our humanity (in the sense of personhood), and why they bring out the best in us: we always transcend appearance a bit when it comes to other persons, but in the case of the extremely handicapped, when many of the characteristic manifestations of personhood are absent, this self-transcendence toward the reality of the other assumes a pure form, in which we recognize and value a self, a person, and not merely “useful or attractive properties.”\textsuperscript{108}


Different ways of speaking about self-transcendence. The second point to be clarified is the relationship among these various formulations of self-transcendence. Thus far we may have given the impression that they are all more or less equivalent as formulations of the self-transcendence of the human person. Yet they are, at the same time, obviously distinct; we have been able to devote a separate section to each one, and we have noted some of the ways they differ in terms of the underlying notions at work in them. While we stand by our interpretation that each is a formulation of self-transcendence, it does seem appropriate to make our account more precise at this point. It seems self-transcendence has different aspects, or has a slightly different character depending on whether one transcends oneself toward one’s own being or the being of another. When directed towards oneself, it seems more appropriate to speak of having one’s nature, or perhaps even self-ownership; when one transcends oneself towards others, it seems more appropriate to speak of occupying a de-centered position, or even self-forgetfulness. To speak of self-difference seems appropriate in either direction. However, while these different formulations are perhaps logically distinct, in Spaemann’s account they are ontologically united in persons; he writes, in two locations, of a unity between self-distance and self-ownership, a freedom in regard to ourselves that we experience as the “emotional and practical side” of the de-centered position characteristic of persons.109

We have speculated in the preceding sections that these slight differences in emphasis among Spaemann’s formulations of self-transcendence serve apologetic functions in combatting rival philosophical theories of the person. Yet speaking of self-transcendence in multiple ways also brings a greater internal clarity to his account. In his writings Spaemann often shows a

sensitivity to what he calls in one spot the “antithesis of physis-nomos,” the tendency for philosophy to be incorrectly pulled into either pure spiritualism or simple naturalism.\(^\text{110}\) Theories of the person seem especially prone to this. Spaemann’s use of multiple formulations of self-transcendence helps to triangulate his own position and keep it from being misunderstood. If, for example, one is led by Spaemann’s talk of self-difference into believing that the person has some sort of separate entitative status, this error is easily corrected by attending to his explanations of having a nature or the de-centered position.

**Self-transcendence and self-assertion.** The third and final point to be clarified is the relationship between self-transcendence, and the lower ontological level in which persons also share, a self-assertive level which Spaemann typically refers to in *Persons* as “the central position.”\(^\text{111}\) At times, Spaemann’s discussion (and our reflection on it in this chapter) can give the impression that self-transcendent action is always good, while self-assertive action is always bad. However, that is not Spaemann’s position. Self-transcendence (coupled with a misunderstanding of the character our self-transcendence) allows for morally bad actions such as suicide.\(^\text{112}\) In a paradoxical way, it is self-transcendence that allows us to be radical egoists, to carry the impulses characteristic of self-assertion to new levels of intensity. By the same token, Spaemann does not condemn self-assertion. As mentioned earlier, Spaemann considers it

\(^{110}\) Spaemann, “Remarks on the Ontology of Right and Left,” 89.

\(^{111}\) See, for example, Spaemann’s discussion of a child’s use of the grammatical third person. As Spaemann says, the child who speaks in such a way “steps out of the commanding central position, and for the first time takes note of him- or herself as one being among others.” Spaemann, *Persons*, 158-159. *Personen*, 169.

innocent in the case of animals, and even capable of elegant (if ultimately incorrect) formulations, such as the Stoic solution of identification with the cosmos. Nevertheless, we do not read Spaemann to be making the case that persons are the beings that manage to “balance” self-assertion with self-transcendence. Spaemann presents self-transcendence as the ontological reality and possibility characteristic of the person, and self-transcendent actions as the way to an ever fuller realization of personhood. Self-transcendence, not self-assertion, is the ontological basis for recognition, faith, justice, and love. Perhaps one might say that persons are those beings that have this sort of layered ontological structure: self-assertion and self-transcendence are united in the person. Persons are those beings that freely have their natures.

Implications of Self-Transcendence: Individuality and Intersubjectivity

We have discussed Spaemann’s understanding of the person as self-transcendent, and we have also attempted to clarify this theory by placing it in critical dialogue with several other prominent philosophical approaches to the person. In the next sections of this chapter we will discuss what Spaemann understands his theory to entail in regard to the individuality and intersubjectivity of persons. This, too, will help to locate Spaemann’s anthropology within the wider historical and philosophical discussion, for both individuality and intersubjectivity are important aspects of Boethius’s classical definition of the person.

Individuality. Given Spaemann’s talk of “non-identity” or “distance” between persons and their properties, one might be tempted to think that Spaemann’s anthropology is an attempt

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113 Spaemann, Persons, 200-201. Personen, 212-13. See also Spaemann, Happiness and Benevolence, 43.
to weaken the note of “individuality” given such prominence in the Boethian definition of the person (an *individual* substance, etc.). Certain passages in *Persons* would even seem to suggest that the person is the being who, in some way, “transcends” his own individuality: “The person is absolute, representing the whole to itself. But this is only in so far as it can grasp its own relativity as an individual.”

Individuality seems de-emphasized, of no intrinsic importance. However, a full study of *Persons* makes clear that such is not Spaemann’s understanding of the matter. Rather, his position is that personal being, with its characteristic transcendence, strongly entails individuality. As he repeatedly claims, “persons are ‘individuals’ in an unparalleled sense.”

Spaemann attempts to reconcile these seemingly competing claims of self-transcendence and individuality by distinguishing two different ways of being an “individual.” Something can be an “individual” in the sense of “being a unit in a class,” an instance or instantiation of some universal kind. This is individuality in the sense of *Einzigartigkeit*, or as Oliver O’Donovan renders it, “distinctiveness.” Although an individual in this sense is only an instance of some universal, the individual’s particular bundle of attributes does distinguish it from others. It is an individual because it can be identified, observed to be distinct from others.

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However, something can also be an individual not in the sense of being an “unconscious instance” of a universal, but rather as being a “conscious participant” in a universal.\footnote{Persons, 172. Personnen, 183. Spaemann’s example here is that of the “just man,” a man who embodies the universal that is Justice.} This is individuality in the sense of \textit{Einzigkeit}, or as O’Donovan puts it, “uniqueness.”\footnote{Persons, 164, Personnen, 175.} In this sense of individuality, the individual is thought of as a totality, a whole in himself. This is because he has transcended the opposition between particular and universal, having instantiated the universal in himself. According to Spaemann, an “individual” in this second sense is most properly said to be an object of “recognition” (\textit{Anerkennung}), rather than an “object of cognition” (\textit{Gegenstand der Erkenntnis}), for this sense of individuality denotes something deeper than a particular combination of perceptible qualities.\footnote{Persons, 39, Personnen, 48. O’Donovan prefers to translate \textit{Gegenstand der Erkenntnis} as “object of observation.” However, such a translation might be misunderstood to suggest that the person transcends only his sensible characteristics; in fact, Spaemann believes that the person also transcends his knowable characteristics (i.e. whatever might be deduced or inferred about the person).} We speak of an individual in this second sense to point to the agent himself, not merely his attributes and nature.\footnote{Further evidence for this can be found in Spaemann’s brief thought experiment involving the replacement of a loved one with a “perfect double.” Even though all the qualities of the loved one would be the same, Spaemann believes that we would feel betrayed upon finding out about the switch. This is because love, according to Spaemann, is directed towards the individual in this deeper sense of uniqueness: “Wirkliche Liebe gilt nicht mehr diesen Qualitäten, sondern dem Anderen in seiner numerischen Identität.” See Personen, 85, 86.}

This distinction accounts for Spaemann’s seemingly different assessments of the individuality of persons. When Spaemann writes that “Individualism cannot do justice to the uniqueness of the person,” or when he writes of our “relativity” as individuals, Spaemann means individuality in that first sense of being distinct, an instance.\footnote{Persons, 172, 173. Personnen, 183, 185.} Human persons can indeed be
thought of as individuals in this sense, but this is not the sense conveyed by the term “person.” Rather, when we call someone a person, we are indicating that he is an individual in the second sense of being a unique individual. This is the sense of individuality operative in Spaemann’s assessments that persons are individuals in “an unparalleled sense.” It is unparalleled, because this second kind of individuality is only open to self-transcendent beings. For individuals in the first sense—instances—their actions more or less simply proceed from their natures. The universal dominates the particular. Only in self-transcendent beings, those who relate freely to their own natures, can the particular participate in the universal without being lost in it.  

Being an individual in this deeper sense means the person has not merely a qualitative identity (given by his human nature), but also (and more fundamentally) a numerical identity. This latter sort of identity is not contingent or accidental; it is instead stable and precise. According to Spaemann, positing that persons are such unique individuals in this sense is by no means a criticism of the classical definition of Boethius. On the contrary, Spaemann says that this was actually what Boethius meant, as evident in the fact that Boethius spoke interchangeably of an individual substance and an individual subsistence.  

123 Lest one think that Spaemann conveniently “discovers” this distinction in order to save his theory, it should be noted that Spaemann grounds this distinction in the history of philosophy. He draws the first understanding of individuality from Plato, and the second understanding from Hegel. See Spaemann, Persons, 19, and Personen, 28-29.


125 Or as Sabangu puts the matter, Spaemann sees nothing wrong with the classical definition of Boethius, provided that one understands it correctly, especially the key concepts in it whose meanings could have shifted over time, such as substance, nature/creature, and reason. See Sabangu, Nature, Raison et Personne, 16.

of a *who*, a sustainer of existence with a numerical identity deeper than whatever qualities are characteristic of the substance.

**Intersubjectivity.** Perhaps aware that this language of numerical identity could have the opposite of its intended effect, Spaemann also explains the uniqueness of the person as the occupying of a permanent place (*Ort*).¹²⁷ This, however, must ultimately be explained through a discussion of a second entailment of Spaemann’s theory of personal being as self-transcendent: intersubjectivity. Persons are not merely geographical places, though they do occupy such places through their bodies. Nor are they empty Newtonian points that are indifferent to their occupants.¹²⁸ Rather, the “person” is, properly speaking, a place within “the relational field of persons.”¹²⁹ The place of the person is defined intersubjectively.

We have already made passing mention of this social character of the person in our section on self-transcendence as a “de-centered position.” As Spaemann repeatedly asserts throughout the text of *Persons*: “‘Persons’ exist only in the plural.”¹³⁰ The reason for this is that each person, as self-transcendent (“de-centered”) recognizes that the universe of which he is the center takes its place among a field of such centers of being, each unique. To be a person is to be

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¹²⁷ That is, a different sense of “numerical identity” was exploited by the National Socialists to a bad effect during the Holocaust, as concentration camp prisoners were tattooed with identifying numbers. For the person as a place, see Spaemann, *Persons*, 37. *Personen*, 46.

¹²⁸ “Es handelt sich also nicht um einen leeren—newtonschen—Raum, dessen Orte indifferent sind gegen das, was sich an ihnen befindet.” Spaemann, *Persons*, 68. *Personen*, 78.


a location, one place in this field. His place is unique and irreplaceable, yet he does not stand
at the center of all other centers – in relation to this community of persons, he is de-centered. It is
this recognition of his own de-centered position that disposes him to recognize the ultimate
center which is God.132

In contrast to his discussion of the individuality of persons, Spaemann does not, to our
knowledge, explicitly connect his intersubjective understanding of the person to the early
medieval definition of the person given by Boethius. Nevertheless, it is clear that there is such a
connection, albeit an implicit one, for in the definition of Boethius the person is an individual
substance of a rational nature. We would submit that to speak of “intersubjectivity” is just to
expand upon or explain that last clause, for to be rational is to be necessarily involved with
others. If we do not notice this, perhaps this is because we bear too much of the impress of
modern philosophy with its preference for the solitary thinker.133

It is quite clear that Spaemann thinks intersubjectivity is part and parcel of personal
being. But why he thinks so still may not be clear, as Spaemann’s explanations of the matter tend
to be quite condensed. His explanations at times assume an almost Anselmian tone: if one is not
thinking of the person in this intersubjective way, then one has not yet really achieved the insight

131 Spaemann, Persons, 37, 68. Personen, 46, 77-78.

132 Spaemann, Persons, 202. Personen, 214. Self-transcendence towards God, however, differs from the
normal self-transcendence characteristic of the person. The change of context opens up a possibility for a more
radical form of self-transcendence, one in which one’s own viewpoint could seemingly disappear.

133 For an example of this modern philosophical tendency, see the conjecture of René Descartes in his
Discourse on Method that “Book learning . . . having been composed and enlarged little by little from the opinions
of many different persons, does not draw nearly so close to the truth as the simple reasonings that a man of good
sense can naturally make.” René Descartes, Discourse on Method and Meditations on First Philosophy, trans.
into the reality that is the person. As Holger Zaborowski rightly describes Spaemann’s philosophy in this regard, “The person is only conceivable within a plurality of persons” (emphasis ours). This can, of course, be quite frustrating to read if, in fact, one has not achieved the insight in question.

However, Spaemann does provide some argumentation in support of this intersubjective understanding of the person. The reason Spaemann seems to find most decisive has to do with the fact that persons are living things, and all life is intersubjective. This is because living things are not indifferent to whether there are other instances of their kind, for they arise from these other instances: they “relate to their genus by the succession of generation, within which they have a definite place.” Spaemann says that this fairly minimal sense of intersubjectivity is radically strengthened in the realm of human persons. In animals, a relation frequently lasts only as long as the biological function that establishes it. Among humans, personal relationships (such as being a mother and a son, or an uncle and a niece) are life-long, a fact reflected in incest taboos. Other important but less forcefully articulated reasons to understand the human person as intersubjective involve the nature of speech and intentional acts as cooperative performances,

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134 See, for example, Persons, 27. Personen, 36. See also Spaemann’s discussion of the ancient Romans as not having discovered the “community of persons.” Spaemann, Persons, 240. Personen, 256.

135 Zaborowski, Robert Spaemann’s Philosophy of the Human Person, 185.

136 Life itself is intersubjective in the reduced sense that among living beings “one member of the species could not exist without the others.” Spaemann, Persons, 239. Personen, 255.

137 Spaemann, Persons, 69. Personen, 78.

138 Spaemann, Persons, 70. Personen, 79. Although Spaemann typically speaks only of personal relationships as lasting for the duration of life, his account also provides the theoretical resources for making the stronger claim that personal relationships are intergenerational. As he says, “Piety to the dead is not a supererogatory work of mercy; it is the meeting of a claim.” Spaemann, Persons, 162; Personen, 173. Presumably such piety is possible even toward a deceased relative one has never met.
the human awareness of having an “outside” (which seems to presume a view from others), and even more fundamentally, an awareness of a plurality in being.\textsuperscript{139}

2. Manifestations of Self-transcendence

Part of the problem in understanding this aspect of Spaemann’s account may simply be our own philosophical expectations. We expect him to offer us analytic-style arguments as to why it is logically inconsistent for there to be one sole, self-transcendent person. As we have noted above, Spaemann does indeed offer us some argumentation which he finds logically compelling. However, for him, the intersubjective nature of personal being is primarily an insight that is achieved through the careful study of the phenomena of human interactions, provided—and this is the key point—that one has accurately described such phenomena.\textsuperscript{140} The same holds true for the individuality of persons, and for the self-transcendence that characterizes personal being in general: these are elemental realities to which one can only point. They are “primitive,” the elements from which demonstrations proceed, not conclusions established by demonstration.

There is some degree of confusion on this point evident in the reviews of the English translation of \textit{Persons}. While the reviewers often comment upon some of Spaemann’s smaller “arguments” or the “overall argument” of \textit{Persons}, it seems problematic that their reviews do not also attempt to address the accuracy of his phenomenological descriptions, when so much of his work in \textit{Persons} involves carefully describing and analyzing the various manifestations of the


\textsuperscript{140} This is why Spaemann takes great pains to clarify the nature of our “recognition” of other persons. As he argues, this recognition is most properly described as the \textit{response} to a prior claim on us; it is not recognition in the sense of \textit{bestowal}, the positing of something that was not there previously. Spaemann, \textit{Persons}, 3. \textit{Personen}, 11.
transcendence characteristic of persons. It should at least be noted that quite early in the 

*Persons*, when speaking of self-transcendence as the “inner difference between the human subject and himself,” Spaemann calls it a phenomenon (*Phänomen*). One does not attempt to demonstrate a phenomenon. It would be a rather pointless exercise, like penning a logical demonstration that most humans have two feet. All one can do is try to point to a phenomenon, carefully describe it in the way it shows up, and reflect on it, trying to see what necessary structures are at play in it. Is that a waste of time for a book of philosophy? No, for some phenomena are subtle and easily overlooked, and our understanding benefits from having them brought more clearly into view. A fuller view, then, of what Spaemann attempts to accomplish in *Persons* ought to take into account not only Spaemann’s arguments on various topics, but also his overall attempt to let the ontological structure of the person shine forth through a consideration of a range of examples drawn from human language and human action.

We would like to remedy this lacuna, at least in part, by looking closely at some of the examples in which Spaemann sees the self-transcendence of the human person at work. Considerations of space prevent us from analyzing all, or even most, of the examples of self-transcendence offered by Spaemann in *Persons*; his initial chapter alone (“Why We Speak of Persons”) contains eight or so examples that either presuppose or manifest the self-transcendence of the person, and the late chapters of *Persons* contain many more examples. In the interests of space, we will limit our attention in the sections that follow to three very prominent topics in

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141 See, for example, pages 442 and 443 of MacIntyre’s review. Even Ramelow’s fine review, which seems very aware of the importance of self-transcendence within *Persons*, still tends to speak about Spaemann’s arguments with little mention of his descriptions. McCosker prefers to speak of Spaemann’s “detailed sketches”—a step in the right direction, but one that still says too little about Spaemann’s philosophical procedure in much of *Persons*.

Persons, topics that Spaemann seems to find particularly revealing of the self-transcendence of the person: promising, forgiveness, and death. Through an analysis of these topics, we hope to show both how Spaemann discerns the self-transcendence of the human person in some non-controversial examples, and also the way in which his philosophical procedure in regard to self-transcendence stands closer to careful description and reflective analysis than deductive argumentation. We also hope, through this examination, to come to a greater sense of what Spaemann believes self-transcendence accomplishes as a concept.

Self-transcendence in Promising

In Persons, Spaemann examines the phenomenon of promising alongside the “complementary” phenomenon of forgiving. In the interests of a close analysis, however, we will treat them in subsequent sections, for even to recognize that the two acts are complementary is a philosophical achievement in danger of being too quickly passed over.143 On the subject of promising, Spaemann says some things one might reasonably expect given his understanding of self-transcendence, but his account also contains some startling formulations, such as his statement, repeated in a recent Communio interview, that the person is a promise.144

143 The pairing of promising and forgiving may not be surprising to readers familiar with Hanna Arendt’s 1958 work, The Human Condition. A comparison of Spaemann’s and Arendt’s accounts can be quite helpful in seeing what is unique in each thinker’s approach to the phenomena. See Hanna Arendt, The Human Condition, 2nd ed. (Chicago: University of Chicago Press, 1958), especially chapters 33 and 34. The Leviathan of Thomas Hobbes provides another welcome foil, since Hobbes places so much emphasis on contracts, covenants, and promises (and so little emphasis on forgiveness).

Spaemann begins his treatment of promising in *Persons* with a simple statement: “Personen sind Wesen, die versprechen können”—Persons are beings that can promise. Persons can make engagements with other persons that generate expectations. However, the expectation created by a promise is not just a normal expectation, but one that gives the promisee a certain claim upon the promisor and creates an obligation that the promisor must fulfill. In other words, one of the consequences of many utterances and actions is to create an expectation of future performances, but a promise is especially “performative” in that the expectation it brings about binds persons together in a far stronger way than a normal expectation.

If this is what a promise is, then as Spaemann’s opening statement implies, not every kind of being can promise. Such actions would require freedom, and thus only a self-transcendent being, one that can freely relate to its own nature, can make promises. The reason for this is not hard to see: at the appropriate time for the promise’s fulfillment, the promisor might be inclined not to keep the promise, and would need to be able to rise above the promptings of his nature. Thus one can meaningfully say, as Spaemann does, both that the reality of self-transcendence implies and grounds the ability to promise, and that “the practice of

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145 Spaemann, *Personen*, 235. *Persons*, 221. Though this sentence might appear trivial, it succinctly captures one of the structures that should emerge from a phenomenological study of the person. Such a study would need to notice that the person is the kind of being that not only speaks and acts, but also acts through words.


147 We borrow the language of performative utterance here from J. L. Austin. Though Austin’s project differs from Spaemann’s, they share an understanding of the ability of the human person to act through words. See J. L. Austin, “Performative Utterances,” in *Philosophical Papers*, 3rd ed. (Oxford: Oxford University Press, 1961) and *How to Do Things With Words*, 2nd ed. (Cambridge: Harvard University Press, 1962).

promising throws a shaft of light on what it is to be a person.”149 The light shines, as it were, both ways. In this latter statement of how promising reveals something of the being of the person, Spaemann refers to the fact that we make and receive promises without demanding an additional promise to keep promises (which, were it to happen, would set off an infinite regress of promises to keep promises to keep promises). This shows us, however paradoxical it may sound, that the person is a promise.150 The person is fundamental, the “first principle” of promising—though, as we will see, human character follows closely upon it.

But perhaps we should not use the language of the Posterior Analytics here, for Spaemann is not approaching the person via demonstrative proof. Especially in the case of this statement that the “person is a promise,” it is more fruitful to understand Spaemann as offering a phenomenology of the person seen through the lens of promising.151 Once one begins to read Spaemann in this latter way, some of the puzzles of this startling formulation begin to sort themselves out.152 When one looks at the phenomenon of promising, one notices that we do not exact “promises to keep promises,” yet we nonetheless expect promises to be kept. Something, then, is standing in for that promise to keep promises, and that something is the person. The person is a promise, or we might say, the person is the promise, in the sense that it is the person

149 Spaemann, Persons, 223. Personen, 238.

150 Spaemann, Persons, 223. Personen, 237,

151 For example, how would the denial of an infinite regress of promises allow one to conclude that the person is a promise? If read literally, an absurd ontological jump would seem to be involved.

152 Nevertheless, the statement remains jarring in English translation. J. L. Austin, for one, would certainly have viewed it with distrust, as having strayed too far from our “ordinary language.” Spaemann himself does not use the formulation too often, perhaps out of similar considerations. However, in our judgment, the challenging nature of the formulation is part of its appeal. It is formally indicative language, meant to stimulate the reader to reflect on the paradox that Spaemann has in view.
himself, and not his words (another promise) which serves as the basis for our claim that the other person should meet the expectation his words have generated. What underlies and grounds the acts of promising we morally evaluate is this more fundamental, “ontological promise” that is the person.

As Spaemann’s later *Communio* interview helps clarify, by this paradoxical statement Spaemann also wishes to convey that the person is a promise as opposed to a guarantee.\(^{153}\) One rightly hopes for the fulfillment of an expectation when that expectation has been generated by a promise, yet the expectation may nevertheless remain unfulfilled. The same self-transcendence that enables a person to keep his promise in the teeth of weighty personal interests also sets him physically free from any necessity to do so. However, though physically free, the person remains morally bound to keep his promises; thus when Spaemann identifies the person as a promise, he also suggests that the person is so closely tied up in his promise that breaking it “breaks” him. The reason for this moral obligation is again the self-transcendence of the human person. In failing to keep a promise, the person fails to live out the ontological possibility his self-transcendence holds out to him, and he makes himself, in some measure, disappear as a person.\(^{154}\) Furthermore, breaking a promise is not only a denial of one’s own self-transcendence, but it is a denial of the reality of the other to whom one has an obligation.\(^{155}\)

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\(^{155}\) This is especially true in the case of promises made to the dying. See Spaemann, *Persons*, 226. *Personen*, 241. Being awake to the reality of the other is, in general, of prime importance in Spaemann’s ethical philosophy: in *Happiness and Benevolence*, he understands such recognition of other persons as more fundamental than either happiness or duty. Robert Spaemann, *Happiness and Benevolence* (Notre Dame: University of Notre Dame Press, 2000).
One should be careful of understanding this language of “breaks” and “disappears” without due flexibility. Spaemann says bluntly that no one is capable of obliterating himself as a person while he is still alive.\textsuperscript{156} Given this, we would interpret these formulations of “breaking” and “disappearing” to mean that in breaking a promise, the self-transcendence that characterizes the person is no longer in view, though the person remains. By way of contrast, a philosopher such Thomas Hobbes might wish to interpret Spaemann literally on these points. In his section on the natural law within \textit{Leviathan}, Hobbes states that breaking contracts places the person outside of society: “He therefore that breaketh his Covenant . . . cannot be received into any society.”\textsuperscript{157} Were Hobbes pressed into some kind of more abstract, semi-ontological statement, he might say that breaking a promise destroys the person, since the promise-breaker no longer seems to own his words, which is a key component of Hobbes’s limited theory of the natural person. As we have already seen Pettit point out, Hobbes’s persons are essentially \textit{spokespersons}, and “natural persons are spokespersons for themselves.”\textsuperscript{158}

Spaemann also speaks of the person as a promise because of the interplay between the person and his features, between freedom and nature. Though, as he says, the “essential point” in keeping promises is the ability to rise above short-lived emotional states and other inclinations, nevertheless the promptings of nature (as mediated through character) are not unimportant to promising, whether the nature in question is one’s own or another’s.\textsuperscript{159} In this sense, “the person

\begin{flushright}\textsuperscript{156} Spaemann, \textit{Persons}, 235. \textit{Personen}, 251.\end{flushright}

\begin{flushright}\textsuperscript{157} Hobbes, \textit{Leviathan}, 102.\end{flushright}

\begin{flushright}\textsuperscript{158} Pettit, \textit{Made with Words}, 56.\end{flushright}

\begin{flushright}\textsuperscript{159} Spaemann, \textit{Persons}, 225. \textit{Personen}, 240.\end{flushright}
is a promise” means the promise becomes embodied in the person, in his very nature, which will affect (positively or negatively) the keeping of the promise. For this reason, when receiving a promise, we tend to consider the character of the promisor; that is to say, we find ourselves more readily disposed to rely on a promise if we know the promise is not violently opposed to the character or even the deeper natural inclinations of the promisor.160

Spaemann views this character appraisal as a somewhat skeptical and impersonal form of “trust,” one based on the “mistrust which we have all acquired from experience,” yet surely it also reflects some awareness of ontology of the person, in which self-transcendence does not mean a radical and complete “escape” from nature.161 Perhaps this tendency to take the nature of the other into consideration in the case of promising is a contributing factor to the “crisis of promising” discussed by Spaemann and Holger Zaborowski in their Communio interview of 2007.162 We find it insulting not to be believed when making a promise, and so we probably avoid making promises altogether when we know the potential promisees do not know us well enough to trust in our promises.163 Yet this is exactly the situation in the West. Despite the conveniences of modern transportation and communication, our very mobility has resulted in an alienation from those around us. We often do not stay in one place long enough to know anyone

160 Notice, however, that for Spaemann an unreliable promise is still a promise. It might, after all, still be kept, despite all odds. By contrast, Hobbes would say such an unreliable promise is no promise at all: “Covenants of mutuall trust, where there is a feare of not performance on either part . . . are invalid.” Hobbes, Leviathan, 100.


163 It is debatable whether this would hold true for those with vicious characters in regard to truthful speech. Perhaps pathological liars or corrupt politicians might not feel “insulted” at having their promises mistrusted. However, in our judgment, even the false promisor without shame wishes his promises to be believed by at least some of his listeners, though perhaps not all. Otherwise, what purpose would the false promises serve?
well, and membership in civic organizations is in decline. In these situations, who is there to receive our promises? Who knows us well enough to believe us?

At any rate, though he does take a dim view of relying on a promise based on a consideration of the nature of the promisor, Spaemann nevertheless believes it is salutary to take the lesson to heart and mistrust oneself in just that sort of way when promising, and thus willingly cultivate in oneself “the right inclinations to support promise-keeping.” Spaemann suggests this rule is especially important in the paradigmatic case of marriage vows. Marriage, as Spaemann writes, “is no ordinary promise to perform something, which one can still go through with when one has no mind to.” In the case of marriage, one wishes the marital vows to be supported by the free assent of the will and the involvement of the emotions—by love. However, as Spaemann’s next line implies, this does not mean by this that a person may abandon his marital vows should this support of love be absent, but only that his vows are weaker for lacking it. At this point in the study, we can readily supply the reason: transcending one’s nature does not mean abandoning one’s nature, but relating freely to it. When a promise is supported by an inclination to keep the promise, then the promisor “has his nature” in a perfect way. This is


165 Spaemann, *Persons*, 226. *Personen*, 242. This is a valuable observation concerning promises: they are, in and of themselves, not of equal existential weight. Spaemann implies that some promises seem to wager more of the person’s very being, even aside from any external sanctions that might attach to them, and his ontology is deep enough to accommodate this phenomenon.

Hobbes, on the other hand, tries to make a case that it is “not against reason” that one should keep promises that have no external sanctions attached to them by the “civil power,” but his ontology of the person is too shallow to deal adequately with the problem. He has no choice but to eventually justify keeping these promises in terms of even more drastic external sanctions (being expelled from society)! Hobbes, *Leviathan*, 102.

the reason Spaemann calls love the highest form of self-transcendence at one point in *Persons*.\textsuperscript{167} Love is freely willed self-transcendence. This does not mean that love is sort of “self-transcendent self-transcendence,” but that in love, the ontological structure of the person is in harmony. Self-assertion has blossomed into self-transcendence. Both nature and freedom point in the same direction.

*Self-transcendence in Forgiveness*

Spaemann also discerns the self-transcendence of the human person in the phenomenon of forgiveness. Spaemann presents forgiveness as complementary to promising, in that forgiveness allows the person to regain his moral rectitude—to again become the promise that he is as a person—following upon a broken promise or some other moral breach.\textsuperscript{168} Similar to the case of promising, in which particular promises are made possible by a more fundamental “ontological promise” that is the person, Spaemann envisions moral forgiveness as based on a more fundamental “ontological forgiveness” that should characterize finite persons.\textsuperscript{169}

This ontological forgiveness is a recognition that all finite persons “stand in need of forbearance,” not because of personal sins, but rather on account of the nature of finite existence itself, which is a sort of “zero-sum game” in which the gain of one person very often seems to


\textsuperscript{168} Spaemann and Zaborowski, “‘An Animal That Can Promise and Forgive’,” 520.

\textsuperscript{169} This marks an important difference between Spaemann and Arendt on forgiving. Arendt only seems to have one type of forgiveness in mind, whereas Spaemann speaks of both ontological forgiveness and moral forgiveness. See Hannah Arendt, *The Human Condition*, 236-43.
come only by way of loss to another. As Spaemann writes in *Happiness and Benevolence*, “we live by hampering and disrupting the lives of others.” In other words, we have to recognize that though persons may be self-transcendent, they nevertheless continue to have natures, and so can never totally escape to a “de-centered position” in every respect. Persons never live up fully to the “promise” of their own self-transcendence. Ontological forgiveness prepares us to interpret moral transgressions in a similar vein. If persons must “forgive” each other even in guiltless, day-to-day affairs, then forgiveness becomes a far more serious duty when a depersonalizing moral breach has occurred. Persons have, as Spaemann insists, a duty to forgive.

Though self-transcendence is already visible in what Spaemann calls “ontological forgiveness,” it is even more manifest in this moral forgiveness, both on the part of the offender and of the forgiver. In moral forgiveness, one allows an offender to achieve a “distance” from his deeds; the guilt the offender incurred before the community of persons is remitted, and he is allowed to “begin again,” to resume his place in the community of persons. This is possible, of course, because of the ontological reality of self-transcendence. A person is not simply identical to his nature, but he has his nature. He transcends it, and so relates freely to it. Asking for

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171 Spaemann, *Happiness and Benevolence*, 188.

172 Spaemann, *Persons*, 232. *Personen*, 248. Though such a duty may be theologically familiar to us, it might be philosophically shocking. Still, such an understanding is not entirely without precedent. Hanna Arendt also recognizes a duty to forgive in *The Human Condition*; yet this is an element conspicuously absent in Hobbes’ *Leviathan*. Could this result from his classification of forgiveness, on the personal level, as something “hatefull”? See Arendt, *The Human Condition*, 239 and Hobbes, *Leviathan*, 71.
forgiveness is a way of acknowledging this truth about the self-transcendence of the person.\textsuperscript{173} The offender’s proposal manifests that he has achieved some sort of “inner distance” from these deeds; yet, he must have the approval of other persons to formally adopt this distance and “redefine himself in relation to his deeds.”\textsuperscript{174} He cannot forgive himself, and has no right to be forgiven.

The duty of others to forgive when confronted with a plea for forgiveness again brings self-transcendence into view, but in a different way. Here, the decisive fact is that self-transcendence unlocks human beings from solipsism, from the prison of the “central position,” thereby creating a community of persons. Persons, according to Spaemann, exist only in the plural. This community of persons must also be acknowledged by persons—“self-transcendence in regard for other persons is, as we have seen, how persons realize themselves.”\textsuperscript{175} A plea for forgiveness is really a request by the offender for formal re-inclusion into this community of persons, a community he seemingly opted out of through his actions. Yet the offender is, after all, still not identical with his predicates; that is, he is still a person. No human person has the power to fully destroy himself as a person, and thus no human person truly has the power to leave the community of persons.

To refuse a person forgiveness, to “identify him definitely with his predicates,” would mean a refusal to recognize the offender as a person, and such a refusal to recognize another

\textsuperscript{173} Spaemann thus anchors forgiveness in the ontological structure of the person; Arendt anchors it more in the ontological structure of action, though she admits that action is itself anchored in personal intersubjectivity: “In action and speech generally, we are dependent upon others.” See Arendt, \textit{The Human Condition}, 243.


person would be a denial of one’s own transcendence. It would be a refusal on the non-forgiver’s part to acknowledge the all-inclusive community of persons, a fall back into a world of one’s own making, a “central position.” Spaemann formulates this elegantly at the close of his *Communio* interview on promising and forgiveness: “We are free insofar as we continuously allow one another to be free.” As persons, our own self-transcendence is irrevocably bound up with the recognition of the self-transcendence of others. Thus the duty to forgive others (when this forgiveness is requested) comes not only from the precepts of religion, but from the very ontology of the person.

It is a surely a credit to Spaemann’s ontology of the person that it can handle this complex phenomenon. However paradoxical it seems, while we do not recognize any right to be forgiven for a serious offense, we do recognize that there is something inhuman—or better, impersonal—about a stubborn unwillingness to forgive. Even to discern this rather startling state of affairs is an achievement, but Spaemann goes a step further and “saves the appearances.” He does not reduce forgiving to some sort of absurdity in our ordinary conduct, now “helpfully” exposed by philosophy. Rather, he accepts the phenomenon of forgiving and provides an account of the being of the person that makes it possible. That, it would seem, is a good standard by which to measure any philosophical treatment of the person: does it, in fact, make possible those actions which we already know to be possible even before we have begun our philosophical reflection?

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177 Spaemann and Zaborowski, “‘An Animal That Can Promise and Forgive’,” 521.
Self-transcendence in Death

Spaemann also uses the problem of death to illustrate the self-transcendence characteristic of persons in his chapter “Death and the Future Perfect Tense” and in several other passages throughout Persons. This can and should be surprising; one might reasonably expect death to be the end of self-transcendence. Death, as Spaemann writes, places everything in doubt. Nevertheless, he views the doubt raised by death as a challenge that ultimately confirms rather than overturns the self-transcendence of the person.

According to Spaemann, only persons die. This is, of course, not a statement attempting to contradict the laws of biology, but a statement about the difference rationality makes. The physical life of every living thing comes to a close, but only persons are aware they will “die,” and so only for persons can death become an act or a duty. That death can be approached in this way is, according to Spaemann, “the clearest possible illustration of what being a person is.” The clarity here is the clarity of a paradox, for in one sense death should not even be considered part of human life; if life is conceived of as a motion, then the terminus of the motion is not part of a motion, but stands outside it. Yet the fact remains that persons can and sometimes do approach death as an act, as a “part of life” to be encountered and reacted to properly. This shows that the person is capable of adopting “a position in relation to his or her own life.” The person is, in other words, self-transcendent.

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179 Spaemann, Persons, 114. Personen, 123.
That the person, as self-transcendent, is capable not merely of having his possessions, his past, and even his own existence wrenched from his grasp, but also of handing them over rather willingly, of “saying goodbye” to them, is seen most clearly in self-sacrifice, which Spaemann calls the “most important mark of personality.”\textsuperscript{183} Here, death is not imminent, and so in freely giving up his own life, the person shows not only his own self-transcendence, but the excellence of his self-transcendence: “Since being a person means having, and having means being able to let go, only one who can let life go can really have it.”\textsuperscript{184} The self-transcendence of the person is often manifested by self-ownership, yet it can equally well be manifested by self-forgetfulness, by letting go.

The way one approaches death thus serves as a test of self-transcendence; yet death can also bring the self-transcendence—or lack thereof—of those surviving into view. According to Spaemann, death strips away everything “qualitative.”\textsuperscript{185} Yet the person was never identical to his qualities anyway, and so there is no reason to suppose that death deprives the person of his unique “position” in the field of persons, just because it seemingly deprives him of his visible qualities.\textsuperscript{186} The alternative is unattractive, for it would mean making the personal status of the dead dependent on the whims of the living. This would create problems of justice akin to those

\textsuperscript{181} This possibility of approaching one’s death as a human action is given eloquent expression in Plato’s \textit{Phaedo}.


\textsuperscript{185} Spaemann, \textit{Persons}, 193. \textit{Personen}, 204. The Book of Job gives vivid expression to this same thought: “Naked I came forth from my mother’s womb, and naked I shall go back again.” \textit{Job} 1:21 (NAB).

implicit in relational theories of the person. Making the personal status of persons depend on recognition from already existing persons effectively nullifies any concept of human rights, for self-interest often makes it convenient for persons to refuse to recognize others.

Those who have truly transcended their own “central position” to recognize other centers of being will thus experience respect for the dead not merely as a “superogatory work of mercy,” but rather as a claim, a duty.\footnote{Spaemann, \textit{Persons}, 162. \textit{Personen}, 173.} Practically, this can take many forms: burying enemy soldiers, keeping promises made to the dying, or perhaps even prayer for the dead.\footnote{Spaemann, \textit{Persons}, 193, 226, 162. \textit{Personen}, 204, 241, 173.} Such self-transcendent actions are, as in the case of self-sacrifice, actually only a more extreme form of the sort of self-transcendence to which we are called daily, in which “the other’s being, though not immediately experienced, does not disappear.” Spaemann calls this “faith,” and considers it the “normal form of human transcendence.”\footnote{Spaemann, \textit{Persons}, 77. \textit{Personen}, 86.} That it is the “normal” form can be seen in how easily one is able to generate examples of it: husbands must be faithful to their wives, even when they are apart. Workers ought to obey their superior, even when the superior is out of the room. Students must do their homework, even over the weekend. Seen in this light, death merely challenges persons to more radical self-transcendence, to firmer “faith.”

Yet perhaps having such a “faith” is only possible because the total annihilation of the other is somewhat inconceivable to us, even if we do not always explicitly admit this. Spaemann finds hints of this both in our use of the future perfect tense and the persistent human belief in the immortality of the soul. Our use of the future perfect tense shows that we approach reality on the
whole with this sort of “faith.” That is, we recognize something eternal and indestructible about reality, even when faced with the possibility of no longer experiencing it: “If it has ever been true that something ‘now is’, it is forever true that something ‘will have been so’.”\textsuperscript{190} This is a tacit admission that reality is not obliterated by one’s passing, an admission which presupposes self-transcendence, the recognition that one is not the only center of being.\textsuperscript{191}

On the specifically personal level, this sort of faith takes the shape of a belief in the immortality of the soul. According to Spaemann, human history has been “marked from its beginnings” by different forms of some belief in the immortality of the soul or the person’s survival of death.\textsuperscript{192} A popular explanation of this has been to chalk such beliefs up to love—persons simply cannot bear the thought of the annihilation of a loved one. Yet as Spaemann insists, there is nothing incorrect about thinking that love endures even beyond death. Such a belief is not a triumph of wild emotion over reason; rather, “it fits the reality of self-transcendence.”\textsuperscript{193}

Love, after all, is the highest form of self-transcendence. And there is something infinite about self-transcendence, understood in the sense of affirming the reality of the other. When would that need to stop? Affirming the reality of the other is not a separable “goal,” upon the

\textsuperscript{190} Spaemann, \textit{Persons}, 120. \textit{Personen}, 130.

\textsuperscript{191} One common approach to metaphysics within the analytic tradition has been to examine sentences for their ontological commitments; that is, one tries to determine what entities must exist in order for the sentences or statements to be true. For an example of this, see W. V. O. Quine’s famous paper “On What There Is” in the \textit{Review of Metaphysics} 2 (1948):21-38. Often this effort has focused on the subject and predicate terms in sentences, which are usually nouns or adjectives. In contrast to this, Spaemann’s approach is more radical, for he claims that even our use of the future perfect tense—our syntax—commits us to the existence of a wider reality that is not obliterated by our own deaths.


achievement of which the process would conclude. It is closer to an activity (in the Aristotelian
sense), which having no separable goal, can continue on without cessation.\footnote{See, for example, Aristotle’s distinction between process and activity in the context of his discussion of
pleasure in Bk. VII, Ch. 12 of the \textit{Nicomachean Ethics}.} Furthermore, if
love has truly reached to the other person—that is, if self-transcendence has truly succeeded and
not stopped short at attractive properties—then death should not be able to affect it. Love is not
destroyed by the shorter disappearances of the other person in our day-to-day lives; seen from
this angle, death is simply a longer disappearance, one more way death brings self-transcendence
to a new level of intensity.

Spaemann seems to view belief in the soul’s survival of death as a corollary of this
understanding of the strength of self-transcendence, or “love.” Love reaches through to the soul,
here understood more in the sense of spirit—the core of the person rather than the properties the
person has. Again, this core would presumably remain untouched by death. Though philosophy
cannot prove this, it can, according to Spaemann, both “clarify its meaning and refute the
suggestion that it is impossible.”\footnote{Spaemann, \textit{Persons}, 163. \textit{Personen}, 173-74.} Thus belief in the immortality of the soul ultimately reflects
an intuitive, pre-philosophical grasp of the reality of love. It is, as he says, not only a belief
generated by love, but it is also “a postulate about love,” an assertion of the ontological reality
and continuing possibility of self-transcendence toward other centers of being, even in the face
3. Spaemann’s Anthropology: a Conclusion, and a Transition

In this chapter we have examined Spaemann’s philosophy of the person. We have argued that self-transcendence stands at the center of his anthropology, and we have discussed the three different ways Spaemann tends to speak of this transcendence: as non-identity, having a nature, and taking up a de-centered position. In the interests of triangulating Spaemann’s philosophy of the person within the wider philosophical conversation, we contrasted each of these formulations to other prominent theories of the person: “non-identity” was contrasted to attribute-based theories of the person, “having a nature” to relational theories of the person, and the “de-centered position” to the Hobbesian theory of the person.

We further contextualized Spaemann’s anthropology by discussing its implications for individuality and intersubjectivity, two aspects of personal being that have roots even in the classical definition of the person offered by Boethius. Yet this, in turn, led to a renewed discussion of how Spaemann seeks to establish this anthropology. In regard to this question of proof, we suggested that his philosophical procedure is best understood as phenomenological description and reflective analysis. He does not seek to prove to his reader, through a series of necessary deductions, what the person is; rather, Spaemann tries to remind his reader what a person is. Though examples such as promising, forgiving, and death, he attempts to bring the significant aspects of the being of persons into view; such an approach respects the reader’s freedom and tries to enable the reader to have the same insight into the being of persons that Spaemann himself has. The reader is not meant to acquiesce helplessly to the overwhelming
force of Spaemann’s argumentation, but to recognize the form of the person amidst the various examples brought forward and analyzed.197

This way of philosophizing gives Spaemann’s ontology a strong connection to the phenomena. As we have seen, Spaemann takes seriously the paradoxes revealed in a close study of promising, forgiving, and death, and he tries to use these paradoxes to think through to the form of the person, which is revealed as self-transcendence. The result is an ontological understanding of the person that allows for these realities. We might say Spaemann’s ontology “lets them be.”

We do not speak of Spaemann’s philosophy as a “letting-be” of our ordinary experience in the minimal sense of “leaving it alone.” Philosophical efforts of this minimal sort have become commonplace. Such approaches to philosophy recognize that we have an ordinary, pre-philosophical way of doing and understanding things, and they do not demand that we alter these typical ways of engaging the world. The philosopher is simply that “Stranger” who comes along and likes to look more deeply into things. Of course, his philosophical investigation usually reveals that our ordinary way of proceeding is full of absurd contradictions.198 For him, our engagement with reality often does not reflect the truth of how things actually stand. Nevertheless, such a philosopher, chastened by history, is content to confine his findings to academic journals and not “rock the boat.” He himself still promises and forgives, even if his ontology does not quite allow for it. This is, again, a minimalist sense of “letting-be.”

197 In other words, an act of self-transcendence is itself required on the part of the reader.

198 See, for example, the very title to Chapter 11 in Derek Parfit’s Reasons and Persons: “How We Are Not What We Believe.”
Spaemann’s ontology of the person “lets things be” in a more rigorous sense: it lets them exist for us as they truly are in themselves. There really is a duty to forgive, because it flows out of the way the person exists as self-transcendent. Persons really are capable of promising, because they have their natures. Love really can survive death, because persons are “different” from their properties. Spaemann’s understanding of the person makes all of these show up as real possibilities for us—in fact, even as “necessities,” given what we are as persons. His ontology lets them be in the way that the floor lets us stand: it provides a necessary foundation.

However, at this point we have arrived at the question that will occupy the rest of this dissertation: does this ontology of the person likewise provide a necessary foundation for what might be called the “hard cases,” those ethical dilemmas in regard to which human assessments tend to differ sharply? Most of the examples from Spaemann’s work that we have considered thus far might be called “ordinary,” inasmuch as every mature human life is likely to involve them. While it is difficult to think of a life without promising and forgiving (and, of course, death), ethical dilemmas such as abortion, the destructive use of embryos, genetic manipulation, nuclear power, and other controversies could be considered “outside of the norm.” We can certainly imagine human lives involving none of those things, and so the question naturally arises whether an anthropology such as Spaemann’s, an “ordinary ontology” of the human person, bears any relation to them. Are such matters simply too out of the ordinary to have a connection to his understanding of the human person? Do they challenge Spaemann’s anthropology in any important ways, calling its accuracy into question? Or does Spaemann’s philosophy, by contrast, help bring clarity to them, as it does in regard to more ordinary sorts of
human activities? To answer these questions, we will now look to a selection of Spaemann’s writings on such controversial matters.
Chapter 2

Genetic Manipulation and the Use of Embryos

This chapter will consider a selection of Spaemann’s writings on two ethical dilemmas involving the earliest stages of human life: genetic manipulation and the destructive use of embryos. The analysis of these topics will necessarily also involve a discussion of human cloning, for Spaemann typically includes it within the category of genetic manipulation.1 We will consider each of these dilemmas separately, first presenting some important aspects of Spaemann’s ethical assessment in regard to it, and then considering how this assessment relates to his philosophy of the human person. In each case, we will argue that Spaemann’s anthropology informs his ethical assessment. The freedom and intersubjectivity characteristic of persons are vital to Spaemann’s critique of genetic manipulation. The inseparability of human person from human nature, as well as the specifically rational character of human intersubjectivity, are the decisive considerations in his critique of the use of embryos.

The chapter’s treatments of genetic manipulation and the use of embryos will each conclude with a reflexive consideration of Spaemann’s anthropology, for the particularities of these dilemmas bring aspects of his philosophy of the person into sharper relief. Specifically, we will suggest that thinking about genetic manipulation helps one to grasp the finitude of human nature and the enabling roles of nature and reason in regard to human intersubjectivity. In a

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1 The linkage of cloning and genetic manipulation is not a move exclusive to Spaemann. Ronald Dworkin (whose conclusions in regard to these matters are the opposite to Spaemann’s) also treats the issues together in his essay “Playing God: Genes, Clones, and Luck,” now included as a chapter in his book Sovereign Virtue: The Theory and Practice of Equality (Cambridge, MA: Harvard University Press, 2000).
similar way, grasping the moral problems inherent in the destructive use of embryos allows for an appreciation of the robust character of personal intersubjectivity.

1. Spaemann’s Critique of Genetic Manipulation

While it is generally correct to say that Spaemann opposes the genetic manipulation of human beings, it is at the same time an oversimplification. For him, genetic manipulation is really not a single issue, but a complex of related issues: ameliorative intervention into the genetic code (“improving” human beings), therapeutic intervention into the genetic code (“repairing” human beings), and replicative intervention into the genetic code (“cloning” human beings). The division is significant, inasmuch as he offers separate moral evaluations in regard to each. The next sections of this chapter will track these separate evaluations, before finally taking note of an argument that would apply equally well to all forms of genetic manipulation. In carrying out this analysis, we will focus on Spaemann’s argumentation in three articles in particular: “Wozu der Aufwand? Sloterdijk fehlt das Rüstzeug” (1999), “Genetic Manipulation of Human Nature in the Context of Human Personality” (1999), and “Begotten, Not Made” (2006). The final argument that applies to all forms of genetic manipulation will be drawn from Spaemann’s book *Love and the Dignity of Human Life* (2012).

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Rational planning versus chance. Several different considerations motivate Spaemann’s opposition to genetic interventions aimed at improving human beings. One set of considerations has to do with the inadequacies that he perceives in a prominent line of argumentation advanced in support of the practice: namely, that genetic intervention substitutes rational planning for the happenstance that otherwise seems to determine the nature of human beings.\(^4\) Such a substitution, it is hoped, will do a better job than chance of equipping human beings for modern life and for future exigencies.\(^5\) As Spaemann’s opponent Peter Sloterdijk formulates this argument, humans “begin to look bad if they still, as in their earlier period of innocence, allow a higher power, whether it is the gods, chance, or other people, to act in their stead.”\(^6\)

Spaemann sees several problems with the above argument concerning the substitution of reason for chance. He says that this line of thought is directly akin to preferring a planned economy to a market economy—a preference that he understands to have been soundly debunked by history. He believes that just as we find that the “countless daily exchanges” of a market economy govern production and distribution better than some finite directing will(s), so we should rightly expect that the best way of determining the nature of the human species is through the changes effected by innumerable unplanned events.\(^7\) To suppose that something

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\(^5\) Spaemann associates this argument with participants in the “Ciba symposium held in the 1960s” (probably the 1963 conference “Man and His Future” held in London), and more recently, with Peter Sloterdijk.

good will come out of entrusting the process of human evolution to a limited group of human scientists is, as he bluntly writes, absurd (abwegig).\(^8\)

Furthermore, if one understands chance in the sense of that which is insufficiently rational, then such a substitution of rational planning for nature’s “countless events” would, according to Spaemann, actually increase the power of chance in the evolutionary process, because the “chance” preferences of particular scientists would be enabled to effect irreversible changes to the human gene pool.\(^9\) Spaemann’s argumentation on this point is somewhat condensed, but he is presumably alluding to the fact it is impossible for all the particulars of human life to be fully subject to rational control; for this reason, even the preferences of rational people such as scientists will include arbitrary elements.

Such non-rational elements have always had a measure of causal power, but their influence is circumscribed in the normal course of events. Perhaps the chance preferences of one scientist may have given the world more brown-eyed children than there would have otherwise been, but the limited sphere of that scientist’s influence would have rendered those changes minor, and so easily reversible, in terms of the total human gene pool. However, selective breeding or more direct technological intervention into the human genome would greatly expand the power of particular scientists, and as a result, also increase the sphere of influence of the arbitrary, “chance” preferences of those same scientists. Through genetic manipulation, chance would be rendered capable of causing changes large enough to be, effectively, irreversible.

\(^7\) See Spaemann, “Wozu der Aufwand?” 408-409; “Begotten, Not Made,” 290-91; and “Genetic Manipulation,” 345.

\(^8\) “Daß es zu etwas Gutem führen könne, wenn einer bestimmten lebenden Generationen von Wissenschaftlern und ihrer Vorstellung von dem, was ein wünschenswerter Mensch ist, die weitere Evolution der Gattung anvertraut würde, ist eine abwegige Idee.” Spaemann, “Wozu der Aufwand?” 409.

**Genetic manipulation and courage.** In the articles we are considering in this chapter, Spaemann also mentions—but does not respond to—a second argument in support of ameliorative genetic intervention: we ought to “test everything that we know.”\(^{10}\) As Ronald Dworkin formulates this thought, we ought to “play with fire and take the consequences” in regard to genetic manipulation, lest we live as cowards.\(^{11}\) Although Spaemann does not respond directly to the above argument, his account of the irreversibility of the changes wrought by ameliorative genetic intervention would provide him with the resources to do so.

Testing what we know in the economic realm might be permissible, since if we err, we can still reverse course (albeit with much suffering and social unrest). As Spaemann says, the countries that experimented with planned economies during the latter half of the 20\(^{th}\) century will be able to recover: “The damage is reversible.”\(^{12}\) However, where changes cannot be reversed, as would be the case in the biological realm, surely greater caution is in order. “Testing what we know” is not automatically a virtuous action in every context. As Aristotle reminds us, it is not only cowardice but also rashness that misses the mean that is courage.\(^{13}\)

**The criteria for genetic improvements.** The arbitrary, “chance” element of our human preferences is the key to understanding why such genetic interventions would remain immoral even if they were not the result of a large-scale, systematic effort carried out by some ruling elite.

\(^{10}\) “Das Gegenargument hierzu, das hierzu, das von Autoren wie Dworkin vorgetragen wird und von dem man gern wüßte, ob Sloterdijk sich ihm anschließt, ist dies: Wir sollten alles ausprobieren, was wir können.” Spaemann, “Wozu der Aufwand?” 407.

\(^{11}\) Dworkin, “Playing God,” 446.


\(^{13}\) See Aristotle, *Nicomachean Ethics*, II.7 1107b1-5.
(i.e. a government-led eugenics program), but were instead only directed toward particular individuals on a case-by-case basis. “Limiting” genetic intervention in that way has the merit of attempting to re-introduce innumerable small steps into the process of improving the human being, but it fails to address the problem of the inescapable element of irrationality in human preferences. According to Spaemann, even one such intervention would be arbitrary, for there are no objectively justifiable criteria for such “improvements.” Lacking rational justification, any “ameliorative” intervention is nothing but an exercise of raw power, and morally amounts to an “irresponsible domination of the living by the dead,” regardless of the scale of the intervention.14

One might imagine several challenges to Spaemann on this score. Are there truly no objectively justifiable criteria for improvements? Why could we not agree on an extremely general criterion of enhancement? Chris Gyngell, for example, believes that we already do have such agreement. As he writes, “It is intuitive that the continued existence of the species is in some way valuable.”15 That is to say, whatever is likely to contribute to the survival of the human species could be considered an improvement. Or, why could we not simply “extrapolate from what we like about ourselves,” as Leon Kass formulates the argument?16 If intelligence is valuable to us, then greater intelligence would surely constitute an improvement. By the same token, expanded memory, enhanced sexual desire, or increased physical power could all be considered improvements. According to this logic, more of a good thing is always a good thing, as long as due care is taken to avoid a hypertrophy of any particular quality.


In light of such arguments, it is worthwhile to look more closely at how Spaemann justifies his own position. His method is somewhat surprising: he “argues” for his position by simply articulating the difficult questions that would have to be asked in deciding on criteria for human improvement. He asks, “What is a desirable human being? Should he be more intelligent or happier? Or more warm-hearted, creative, easily satisfied, robust, sensitive?” Having asked these questions, he immediately concludes, “One only has to pose the questions to recognize their absurdity.”

However, Spaemann does not explain the absurdity. Perhaps it is a result of each answer’s having an equal plausibility: each is, arguably, a good “quality” for humans to possess, so how would one choose between them? Even the adoption of a general criterion of improvement, such as the survival of the human species, does not resolve the dilemma. Greater intelligence could aid in the development of technologies that would assist in the continuation of the species. Yet a case could also be made for the “persistence value” of warm-heartedness, given the existence and proliferation of weapons of mass destruction. Neither quality is clearly preferable in light of the survival of the human species.

Why not then choose “all of the above” in regard to the human qualities proposed in Spaemann’s questions? Why not genetically intervene to enhance human beings in multiple areas, simultaneously giving humans greater intelligence, happiness, robustness, etc.? In our interpretation, Spaemann anticipates and responds to this argument by means of the very qualities he mentions. Many of these qualities are either incompatible or, at least, in tension: for example, the exercise of human intelligence often depends on a certain lack of satisfaction. As

Robert Sokolowski and Leon Kass have pointed out, it is significant that in the ancient Greek legend of Prometheus as told by Aeschylus, the titan not only gave humans fire, but he also hid from men the knowledge of when they would die. Fire is, as Sokolowski writes, “the means for *technē*”; fire allows human intelligence to exert control over the world.\(^{18}\) But Prometheus also knew, as Kass says, that “ignorance of one’s own future fate was indispensible to aspiration and achievement.”\(^{19}\) Without ignorance—and the anxiety and dissatisfaction ignorance tends to engender—mankind would have little motivation to use the gift of fire, or to exercise intelligence in most other ways. This ancient example shows the absurdity in proposals for the simultaneous enhancement of intelligence and ease of satisfaction in human beings. Such a combination would be self-cancelling, and therefore unlikely to bring about any improvements in the human condition.

One can raise similar concerns in regard to happiness and intelligence, sensitivity and robustness, and the other qualities listed in Spaemann’s rhetorical questions. As Kant writes, greater knowledge and insight “might burden [a person] with still further needs for the desires which already concern him enough.”\(^{20}\) That is, intelligence often interferes with happiness; it can be burdensome to “see” too much. Or as Nietzsche writes in regard to sensitivity and robustness, “There are men who . . . will incurably bleed to death over a single experience, a single pain, frequently over a single delicate injustice, as from quite a small bleeding laceration.”\(^{21}\)

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\(^{19}\) See Kass, *Life*, 126.

Robustness often results from a lack of sensitivity, not from a delicate and refined nature. One might supply more examples, but the point is made: by the very choice of the qualities noted in his questions, Spaemann suggests at a fatal flaw in this notion of improving multiple aspects of the human being. Specifically, the flaw is in the assumption that genetic intervention could give us “more” of every good human quality; in fact, some human qualities can only come at the expense of others.

**The wholeness of the person.** Another reason that Spaemann opposes ameliorative genetic intervention has to do with the “holistic character” of the human being. To put the issue in terms of part/whole logic, genetic manipulation is always directed towards parts; it targets particular genes or complexes of genes. Such targeting is problematic because the human being is not a heap, in which the “parts” are only extrinsically connected and can thus be acted on individually without greatly affecting the rest. Rather, the human being is a whole in which parts (like particular genes) are intrinsically connected to other parts—in the case of the human being, a great many other parts. As Spaemann points out, this interconnection means that any change to the human genetic structure “interferes in turn with an unpredictable number of other factors without giving us any chance to oversee the results of this interference.” Since human beings live in societies (greater “wholes”), the aggregate effects of such changes would replicate the problem on a larger scale: one cannot predict with confidence what effects the rise or decline of

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22 Moreover, what the individual part “is” is probably not capable of being adequately understood apart from these connections.

23 Spaemann, “Genetic Manipulation,” 347.
certain human characteristics might have upon larger societies. To such genetic interventions Spaemann contrasts education, which brings changes to particular human properties only through “a gradual self-modification by the person as a whole.” When considered in contrast to education, the traditional means of “changing” the human being, genetic manipulation appears as inordinately powerful and domineering.

**Damage to personal bonds.** Spaemann also opposes ameliorative genetic intervention because of its likely effect on personal bonds. He anticipates that such interventions would interfere with parent-child relationships. As it now stands, parents and children owe both their existence and their particular qualities to the same source, “Nature.” According to Spaemann, this “shared naturalness” of their genesis binds parents to their children. Furthermore, such dual indebtedness to nature means that the parent cannot be held morally responsible for the existence or non-existence of the child, much less the child’s qualitative characteristics.

Ameliorative genetic intervention changes the equation of responsibility. The parent who intervenes into the genetic material of the child for the sake of “improving” him has indeed chosen certain qualities for the child. Such a parent is, at least in part, a maker, and now bears the greater responsibility of a maker. However, humans are not capable of assuming moral responsibility for such a “product.” As Spaemann asks, confident that the questions answer

24 Spaemann, “Genetic Manipulation,” 347.


themselves: “Who can give a justification for the life or death of another human being? And who can give an objective, rational justification for the essence of another human being?”

Furthermore, it is not just familial personal bonds that Spaemann anticipates being damaged by ameliorative genetic interventions, but the more fundamental solidarity of all mankind. According to him, such solidarity can only be thought on the basis of equality. The common growth from nature suggests to Spaemann, much as it did for Locke, that all human beings are equal. Genetic intervention removes a human being from this shared origin, which would remove the primary reason for supposing one human being to be equal to others. Paradoxically, the more “optimized” a human being is, the greater will the temptation be to understand him as a second-class citizen, a permanent non-equal. C.S. Lewis expresses this eloquently in *The Abolition of Man*: such “optimized” human beings are “weaker, not stronger: for though we may have put wonderful machines in their hands we have pre-ordained how they are to use them.”

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27 For these questions, see Spaemann, “Wozu der Aufwand?” 409. Note, however, that Spaemann does not attempt to spell out precisely why humans cannot assume such a responsibility (at least in the context of these discussions). Our interpretation is that Spaemann does not think he has to do so; he believes this is an ethical intuition that all decent human beings share.

28 See John Locke, *Second Treatise of Government*, Ch. II, §4: “There being nothing more evident, than that creatures of the same species and rank, promiscuously born to all the same advantages of nature, and the use of the same faculties, should also be equal one amongst another.”


Therapeutic Genetic Intervention

However, there is far more ambivalence in Spaemann’s analyses of therapeutic genetic intervention, changes made not to improve the human being, but to “fix” the human being. He admits that many of the arguments advanced against ameliorative genetic intervention would not apply to this sort of gene therapy. Therapeutic interventions do not attempt to mold the human being to fit the preferences of others, but merely to repair “some obvious defect.”31 This more limited intention would seem to make therapeutic genetic intervention as morally unproblematic as any other “intervention” in modern medical care, such as when a doctor prescribes a medicine for a patient. Such genetic therapy even seems to work in terms of the economic analogy Spaemann employs against ameliorative intervention. Modern medicine introduces a distortion into the “market” of evolution by impeding natural selection; therapeutic intervention simply seeks to compensate for this impediment, to bring about the healthier state of human beings that would have been the result of unimpeded natural selection.32

Nevertheless, Spaemann ultimately concludes that therapeutic genetic intervention must also be rejected. However, his opposition is based on more extrinsic grounds than was the case in his assessments of ameliorative intervention. Although there is nothing intrinsically wrong with therapeutic genetic intervention, there are dangers “surrounding” the practice. These dangers are serious enough to morally disqualify such interventions for the time being.33


33 Perhaps what we are here calling “dangers” are akin to what St. Thomas Aquinas calls due circumstances (circumstantiae debitae); or, more minimally, perhaps these “dangers” play a similar role in moral assessment. According to St. Thomas’s theory in the Summa Theologiae I-II, q. 18, a. 3, due circumstances are aspects of what might be called an action’s “context.” They are accidental things connected to the action, but accidents of such
Three dangers in genetic intervention. The first such danger is one we have already discussed: the difficulty of isolating, repairing, or eliminating particular genes without causing unexpected changes to other aspects of the genetic structure (and, by extension, to society). Again, Spaemann proposes this more as a danger than a decisive argument against the practice. Theoretically, this is an objection that could be overcome, so long as knowledge of the genetic code had advanced to the point of being able to exclude with certainty such unexpected results.34

A second danger in regard to therapeutic genetic intervention has to do with the definition of terms such as “defect” and “health.” According to Spaemann, the only morally acceptable sense of “health” in this regard would be “the normative minimum of an organism’s capacity for independent survival without great pain.”35 Such a definition of health means that the defects in question are generally going to be genetically inherited diseases or the genetic predispositions to inherit certain diseases.36 Any more expansive definition of “health” (such as that put forward by the World Health Organization) could be used as a tool of oppression against human beings, or be used to justify interventions into the genetic code that are more truly ameliorative than therapeutic.37

significance as to change the moral evaluation of the action. In a similar way, these dangers identified by Spaemann are extrinsic to the practice of genetic intervention, yet they cannot be ignored in its moral evaluation.


35 Spaemann, “Begotten, Not Made,” 293. See also “Genetic Manipulation,” 348.

36 However, even the classification of genetic predispositions to inherit certain diseases is a contentious matter, given what Kass calls the “medicalization of what have hitherto been mental or moral matters.” For example, should genetic intervention be carried out to remove a predisposition to alcoholism? To depression? To violent behavior? See Kass, Life, 131-32.

37 The World Health Organization defines health as “a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity.” See the Preamble to the Constitution of the World Health Organization, 1, http://www.who.int/governance/eb/who_constitution_en.pdf [accessed October 1, 2013]. Against
However, Spaemann’s ultimate rejection of therapeutic genetic intervention has to do with a third danger, “the current state of the art.” Writing about the issue in 1998 and again in 2006, Spaemann says that advancing the technological understanding of the genetic sequence to the point at which the problem of unexpected changes to overarching structures could truly be overcome requires the destructive use of human embryos.\(^3\) This necessary linkage is sufficient to morally disqualify genetic intervention, for the destruction of embryos is itself, in Spaemann’s moral analysis, an intrinsic evil.

**Human Cloning**

Spaemann also considers human cloning—here in the sense of so-called “reproductive cloning”—as a form of genetic manipulation, presumably because it is achieved through similar techniques and because it is a result of human agency rather than chance.\(^4\) As was the case with ameliorative and therapeutic genetic intervention, Spaemann opposes the practice. In one sense his reasoning in regard to this matter is simple: as we will see shortly, he just accepts an argument from Hans Jonas as decisive. However, in another sense, Spaemann’s evaluation of the issue is slightly more complicated, because he has to distinguish cloning from the natural occurrence of identical twins. According to Spaemann, Peter Sloterdijk has advanced a pithy

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38 Spaemann, “Begotten, Not Made,” 293. See also “Genetic Manipulation,” 348. Recent developments with regard to induced pluripotent stem cells may render obsolete this objection of Spaemann’s.

39 “Reproductive cloning” is generally used to designate cloning for the sake of producing another human being who will be allowed to live to adulthood, often for the purposes of procreation. It is contrasted to “therapeutic cloning” in which embryos are cloned for the sake of scientific research oriented toward developing medical treatments.
argument for the moral legitimacy of cloning that depends upon the lack of any such distinction: “Sometime ask identical twins whether nature has overstepped a moral boundary in them.”

Spaemann has little esteem for this sort of “appeal to nature” as an argument in favor of cloning—or any other practice—for nature does many things we would not wish humans to emulate. As he points out, earthquakes topple buildings with people still inside them, yet no one would seriously suggest that human beings ought to do likewise. Nevertheless, he elsewhere admits that the natural existence of identical twins and even triplets does have some ethical importance; the phenomenon indicates that there is nothing *per se* harmful to human dignity in the mere occurrence of qualitative identity.

**Cloning and the absolute control of human qualities.** Spaemann thus objects to cloning on other grounds. One of these will already be familiar: cloning forces another human being into existence. Moreover, cloning exacerbates this evil by completely dominating the qualitative identity of the human being it forces into existence: cloning subjugates “the quality and ‘how’ of [the clone’s] life.” In this sense, cloning far exceeds the domination inherent in

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40 “Fragen Sie doch mal eineigge Zwillinge, ob die Natur bei ihnen eine moralische Grenze überschritten hat.” Spaemann, “Wozu der Aufwand?” 409. Spaemann does not indicate the source for this thought of Sloterdijk’s.

41 “Aber meint Sloterdijk, deshalb dürfen wir alles tun, was ‘die Natur’ tut—also zum Beispiel ein Haus mit lebenden Bewohnern zum Einsturz bringen—, weil das bei Erdbeben auch passiert?” Spaemann, “Wozu der Aufwand?” 409. Kass makes a similar point in regard to the destruction of embryos: “For example, the natural loss of embryos in early pregnancy cannot in itself be a warrant for deliberately aborting them or for invasively experimenting on them in vitro, any more than stillbirths could be a justification for newborn infanticide.” Kass, *Life*, 92.

42 Spaemann, “Genetic Manipulation,” 342-43. Surprisingly, Singer makes a related point, when he notes that pro-life thinkers do not consider a lack of uniqueness (i.e. qualitative identity) as exculpatory grounds for abortion. Qualitative identity, or the lack thereof, is not morally decisive. Singer, 140.
both ameliorative and genetic intervention, for those sorts of intervention only target particular characteristics. Cloning, by contrast, is directed toward an entire set of qualitative characteristics, as well as the individual who has them.

One might protest that the aforementioned argument is an overstatement on Spaemann’s part, since certain attributes may not be intentional targets in the cloning process. For example, if a Nobel prize-winning scientist were being cloned, the fact that he had blue eyes would probably be unimportant to those doing the cloning. But Spaemann’s argumentation still seems reasonable, so long as one focuses less on the perspective of the cloners and more on the nature of the action of cloning itself. Perhaps a mereological point can clarify the argument: if, in reality, parts are included in their wholes, then this would mean that all particular characteristics are chosen even in cloning, inasmuch as the whole of which they are parts is chosen. The two cannot simply be separated: the parts and the whole go together. Thus it is accurate to say that in cloning an entire human being is “made”; it is a more comprehensive form of control, all particular interests of the cloners aside.44

**Temporal displacement.** Spaemann also thinks cloning has its own particular injustice, a difficulty he generally credits Hans Jonas as having identified.45 As Spaemann presents the argument, cloning institutes a problematic sort of temporal displacement. A clone is like a twin,

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43 Spaemann, “Genetic Manipulation,” 345. More accurately, we should say that cloning *attempts* to dominate the qualitative identity of a human being. According to Kass, late-appearing developmental defects are extremely common amongst cloned animals. Cloning human beings, given the current state of the art, carries “massive risks of producing unhealthy, abnormal and malformed children.” Kass, *Life*, 158.

44 Though in a mereological (rather than moral) sense, cloning is a less problematic procedure than the other forms of genetic manipulation, inasmuch as it does not make the mistake of attempting to treat genetic parts in isolation.

but with a crucial difference: twins are temporally simultaneous. Such is not the case with a
clone, for a clone temporally lags behind his twin (for the sake of argument, Spaemann generally
assumes a 30 or 60 year lag, though in principle the interval could be longer or shorter); that is to
say, a clone is a twin, but “set back” in time. This temporal lag severely impairs the openness of
the future for the clone. The existence of an older version “of himself” creates expectations for
the clone: he not only knows what he is going to look like years down the road, but the
achievements of his identical predecessor also suggest to the clone what he ought to achieve (or,
perhaps, fail to achieve). These pressures are inescapable. Even an attempt by the clone to rebel
against them would only belie a deeper fixation on the “older twin.” The specter of himself 30
or 60 years down the road would still be haunting the clone, creating an obstacle to the exercise
of his freedom.

It should be noted that Spaemann assumes that the clone is aware of the older version of
himself, raising the question of whether Spaemann’s arguments would apply in the case of a
clone completely unaware of his status as a clone. Nevertheless, the arguments would still have
some force, for two reasons. First, in the case of the “unaware clone,” the problem of the
impaired future still exists; it has merely been rendered dormant, and could be reactivated should
the clone somehow discover the situation. Second, it is not only the clone’s self-awareness that is
important, but also the reactions of other humans to the clone. That is to say, whoever is aware of

46 As least in respect to physical appearance, Dworkin does not seem to accept conclusions of this sort:
“identical genes do not produce identical phenotypes.” See Dworkin, 441. However, in Spaemann’s defense, it
should be noted that identical genes do not generally allow for wildly different phenotypes either, and surely even a
striking similarity could also have deleterious effects on life of the clone.

someone else’s status as a clone would be likely to have expectations for the clone based on the life of the “older twin.” These expectations would unfairly inform such a person’s behavior towards the clone. If the question is posed concerning a clone who does not know that he is a clone, in a situation in which no one else knows he is a clone and could somehow never find out, one would have to respond with Spaemann: Then what would be the point of the cloning? The likeness to the cloned individual, the “older twin,” is the whole point.

**Human qualities and historical circumstances.** Moreover, even the attempt to create such a likeness reflects a fatal misunderstanding of human qualities. The relevance or importance of certain human qualities does not stem solely from the qualities themselves. Rather, their importance is a function of the way those qualities coincide with certain historical situations and the concrete living conditions of the human possessor of the qualities. As Spaemann says, the great saint often had everything required to be a great villain. The mere presence or absence of certain qualities is not the only relevant factor for human excellence.

To rephrase Spaemann’s point, the “likeness” sought in reproductive cloning is never a merely physiological identity. Such an identity is not, per se, a humanly desirable goal; the identity requires further explanation, some reason that would make it desirable. What is actually sought in human cloning is a likeness of both physiology and social relations—what Spaemann calls an “important” or “relevant” likeness. For example, a great athlete would not be cloned

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48 James Wilson, in a cautiously pro-cloning article, admits this as well: “We have no way of knowing what environmental challenges will confront us in the future. Traits that today are desirable may become irrelevant or harmful in the future.” James Wilson, “The Paradox of Cloning,” in *The Ethics of Human Cloning* (Washington, DC: AEI Press, 1998), 69.

49 “Großen Heilige hatten oft alles, was man zu einem großen Verbrecher braucht.” Spaemann, “Wozu der Aufwand?” 410. A similar thought is expressed by Descartes in the first paragraph of his *Discourse on Method*: “The greatest souls are capable of the greatest vices as well as of the greatest virtues.” Descartes, *Discourse*, 1-2.
simply in order to bring a qualitatively identical human being into existence; such a person would be cloned with an eye to athletic achievement. Or, were a loved one cloned, it would surely be with the purpose of finding the clone similarly loveable in some way.

Spaemann’s criticism is that such a “relevant” or “important” qualitative likeness requires something beyond physiological identity: the likeness would also require an identical “historical situation.” Since Spaemann mentions “great saints,” we will take St. Augustine as our example. St. Augustine became the man he was through a confrontation with particular aspects of his historical time and place: without Neoplatonism, without Milan, without St. Monica, without St. Ambrose, and without a host of other persons and particulars, there would not have been a St. Augustine in any recognizable sense. Our human qualities emerge as qualities in relation to specific historical and existential situations, but the reproduction of unique historical situations is beyond human control. This means that cloning cannot achieve the similarity that is its goal. This internal incoherence makes cloning not only wrong, but also perverse.

The Temporal Shape of the Human Person

Thus far we have, for the sake of clarity, separated Spaemann’s assessment of genetic manipulation into its component parts and considered each separately. In this final expository section we will consider one more argument that is relevant to the practice, an argument that is not specific to any of the three forms of genetic manipulation, but applies equally well to all of

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50 See Augustine’s Confessions, especially Bks. I-IX.

them. This argument is based on a general ethical principle: the temporal shape of the human person must be respected.

The principle could be seen as an outgrowth of an important point for Spaemann that we have already noted: namely, it is the ordinary experience of the human person to be able to identify with any temporal stage of his existence, even those stages of which he may not have been consciously aware, such as early infancy or time spent asleep. In Persons, this fact serves as a rebuttal to relational theories of the person, since in our ordinary experience we make no distinction between our pre- and post-socially-recognized “self.” But in Love and the Dignity of Human Life, the phenomenon is important for Spaemann in a different way: it shows that personal being—having a nature—necessarily includes having a biography, a temporal shape that has a definite starting point and ending point.

This fact has moral importance precisely because the human person, as we have seen, is not separate from his nature, and thus not separate from what occurs during the span of his life (although he himself relates freely to it). Practically, this means that respect for the person is inseparable from respect for the temporal shape of the person, even though the person and his “biography” are conceptually distinct. But how, exactly, could one either respect or disrespect the temporal dimension of a human being? According to Spaemann, the basic way this temporal shape is respected is by “ensuring that its beginning and end are not the result of intentional making by other human beings.”

Given the current state of the art, such intentional making is characteristic of all three forms of genetic manipulation examined in this chapter: they each depend upon some form of artificial fertilization—“test tube conception”—since they require intervention into human life at

its earliest stages if they are to be effective. This is production and control of the temporal shape of the human, not respect for it. Such techniques seek to construct persons, rather than to respect and respond to them.53

2. Genetic Manipulation and the Human Person

With Spaemann’s evaluation of the various aspects of genetic manipulation in place, it is now appropriate to ponder in what ways and to what extent Spaemann’s theory of the person plays a role in regard to these moral dilemmas. In the “temporal shape” argument noted above, a connection is clear. His argument that all forms of genetic manipulation are wrong because they fail to respect the temporal dimension of the human person is not effective unless one accepts Spaemann’s understanding of the human person. For him, the temporal dimension of the human person is coterminous with human life (since personal being is having a human nature). However, if one understood the temporal dimension of the person to be coterminous with self-consciousness (as would an attribute-theorist), then there would be no moral problem with genetic manipulation—it would affect the temporal dimension of a human being, but not a person. In other words, this particular argument is little more than an intriguing application of Spaemann’s anthropology.54

53 To recall a point from Persons, our respect for and appropriate response to the embryonic human is itself premised upon a more fundamental recognition and acceptance of his personal being: “Duties to one another are generated by the moment of recognition in which one person notices another.” Spaemann, Persons, 184. Personen, 195.

54 Specifically, what is intriguing here is range of moral dilemmas to which this principle of temporal shape is important. As he notes, it is as much an argument against artificial prolongation of life or euthanasia as it is against artificial fertilization and genetic manipulation. See Spaemann, Love and the Dignity of Human Life, 39.
A clear connection to philosophical anthropology is also evident in Spaemann’s article “Genetic Manipulation in the Context of Human Personality.” The article begins with a discussion of what persons are, and only then moves into a consideration of the issue of genetic manipulation. In other words, what persons are serves as the intelligible ground for the evaluation of genetic manipulation’s goodness or badness. While the various arguments advanced in this article tend not to be mere applications of his anthropology, the structure of the article indicates that these arguments are intended to be read in light of his understanding of the person.

However, the structure of “Genetic Manipulation” is unique among the ethical assessments we are considering in this chapter. Spaemann does not begin his other assessments of genetic manipulation with discussions of philosophical anthropology. Moreover, it is obvious that some of the arguments against genetic manipulation discussed in the sections above stand in a fairly loose relation to his anthropology; when Spaemann writes about genetic manipulation, he is not simply re-writing his philosophy, with a bit of “genetics talk” thrown in for good measure. Evidence of this freedom of approach to the problem can be seen, for example, in his use of an economic analogy (the market economy vs. the planned economy) to refute the idea that ameliorative genetic intervention would have good results. There is no overt reference to any philosophy of the person in that analogy. Spaemann thus shows himself capable of evaluating aspects of the issue of genetic manipulation without always explicitly considering what those aspects would mean for the human being qua person.

A reader who is unfamiliar with Spaemann’s theory of the human person can still read these ethical assessments with profit. Nevertheless, once one is familiar with Spaemann’s anthropology, significant conceptual connections become more apparent. Much of what
Spaemann finds wrong with genetic manipulation has to do with the ways in which it offends the freedom and the intersubjectivity characteristic of human persons. Understanding why this is the case leads reflexively to a more precise grasp of these very aspects of personal being.

_Freedom_

To recall a point from the first chapter, Spaemann understands freedom as an essential aspect of what we mean in speaking of “persons.” To be a person means to _have_ a nature, meaning to relate freely to it. Genetic manipulation offends against this freedom in ways both obvious and subtle. An obvious case is so-called ameliorative genetic manipulation, in which intervention into the genetic code is carried out in order to “optimize” the human being. Yet that goal naturally prompts a question: Who decides what will count as “optimization?” Since such interventions are carried out upon embryos incapable of making and expressing decisions, the answer is obvious: some other person besides the embryo. Preempting and limiting the scope of the freedom of another person is essential, not incidental, to ameliorative genetic intervention.

Although alarming, such a curtailing of freedom is, in and of itself, not yet morally wrong. As Spaemann point out in other contexts, as human beings we cannot help but to routinely curtail the freedom of others. To imagine that there could be a human life whose freedom had not been preemptively curtailed in some ways would be to subscribe to a fiction, to a “Dream of Fatelessness,” as Spaemann calls it elsewhere. We must ask, then, a further question: What sets apart morally acceptable curtailments of freedom from morally unacceptable curtailments of freedom?

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For Spaemann, the answer is the presence of objectively justifiable criteria, reasons that could be agreed upon in common, as opposed to “reasons” which are only the particular preferences of individuals. No such objective criteria can be advanced in support of ameliorative genetic manipulation. There are many possible answers as to what would best prepare human beings for the future, and there is no way to decide between them (since no one knows the future). To choose any particular answer could only be an arbitrary choice. Such a curtailment of freedom is not guidance, but more properly immoral domination.

Another obvious offense against the freedom characteristic of the human person occurs in human cloning. As we have seen, Spaemann accepts the argument from Hans Jonas that the temporal displacement in cloning renders it morally odious. The displacement interferes with the “human right” to an open future, and such a future is an essential prerequisite to the exercise of human freedom. But why, one might ask, is the exercise of human freedom so important as to be considered a human right? Spaemann’s answer to such a challenge would simply have to be: “it conforms to the reality of what persons are.” Persons are free, and so it is fitting for such beings to have “free” or “open” futures. Spaemann’s moral assessment again presupposes a particular understanding of what the human person is.

Genetic manipulation also offends against human freedom in some subtler ways. Spaemann argues that ameliorative and therapeutic genetic manipulation create dangers by trying to effect changes to human beings by acting directly upon parts of the human being, rather than on the human being as a whole. One might grant this danger, but wish to respond: “Nevertheless, we have no choice. Human beings do not spring into existence fully equipped for life as do lower
animals. We must bring about changes to the human being if he is to survive.”

It is quite significant, then, that at the close of that argument about parts and wholes Spaemann proposes a different way of bringing about changes to the human being: education. He distinguishes education from genetic manipulation based on their different manners of effecting changes. Education works changes through “self-modification,” through the free actions of the person. Change, too, is most fittingly brought about freely in the case of human persons. It is the way genetic manipulation seeks to effect changes that morally disqualifies the practice.

**Intersubjectivity**

While one might have expected Spaemann to argue that there is an encroachment upon human freedom in the practice of genetic manipulation (some of the connotations of our English translation “manipulation” dispose us to think this way), it is perhaps more surprising that he also presents the practice as a failing to appreciate the necessary intersubjectivity of the human person. As is the case in regard to freedom, the intersubjectivity of the person informs Spaemann’s assessment with varying degrees of explicitness. It is sometimes tacitly presupposed, and at other times directly invoked.

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56 Spaemann understands something like this to be the motivation behind Sloterdijk’s call for a renewed discussion of the merits of eugenics. See Spaemann, “Wozu der Aufwand?” 407.

57 Kass likewise distinguishes genetic intervention from education based on the manner in which changes are effected. Genetic intervention “inscribes” its effects, whereas education “works through the soul, through meanings.” Kass, *Life*, 122. It is not a distinction recognized by all thinkers. Tim Lewens, for example, equates the changes to human nature wrought by “population-wide programmes of genetic manipulation” to those wrought by “population-wide changes to educational regimes.” See Tim Lewens, “Human Nature: The Very Idea,” *Philosophy & Technology* 25 (2012): 466.

58 It is surprising precisely because arguments in favor of genetic manipulation often appeal to considerations of human intersubjectivity, to the potential for genetic interventions to cure diseases and alleviate suffering in one’s fellow human beings.
An understated appeal to personal intersubjectivity is found in Spaemann’s argument about the part/whole failure embodied in genetic manipulation. As he says, such interventions have to do “not only with manifold interference in a single individual, but also with a multifaceted interference with human society at large.” Spaemann does not belabor the point, but the intersubjective nature of the person is quietly present as a consideration in his analysis. He can move his analysis from the effect of genetic manipulation on individuals to its effect on societies precisely because persons are intrinsically connected to other persons. Genetic changes made to individuals would not simply remain localized to those individuals, but would have a natural tendency to impact the greater whole that is society. This would especially be the case should such genetic interventions become legalized and widespread: “The dominance of certain properties and personality types along with the disappearance of other qualities has in turn unpredictable societal consequences.”

More explicit appeals to intersubjectivity are found in Spaemann’s arguments that genetic manipulation, especially ameliorative genetic manipulation, would harm personal bonds. As noted in the sections above, Spaemann says that giving a parent control over the qualities of his child through genetic manipulation would introduce into the parent-child relationship a new and infelicitous responsibility for the child’s characteristics: “Whoever has made a child ‘by hand’ must justify himself.” Moreover, as we also saw above, Spaemann anticipates that genetic manipulation would harm people’s general intuition of human equality. According to him, such

59 Spaemann, “Genetic Manipulation,” 347.
60 Spaemann, “Genetic Manipulation,” 347.
an intuition enables and protects personal bonds. Should our sense of the “common natural growth of the human” be lost through the introduction of genetic manipulation, the temptation to view genetically modified persons as “second-class human beings” will be difficult to resist.\textsuperscript{62}

Our categories of person and product will suffer confusion.

Again, the power of his argumentation depends in large part upon accepting that intersubjectivity is an inseparable aspect of what it means to be a person. If the person were something more like an atomic individual, then harming the parent-child relationship would not be as problematic. While such a relationship might still be useful, it would nevertheless be understood as something extrinsic to such a “solitary” person, and so the relationship would be of no great moral concern.\textsuperscript{63} The same critique applies to the problem of inequality. If persons were really not deeply connected, then why would inequality be a pressing concern, especially if the inequality did not concern those close to us? Why would a “solitary” individual care if other humans were, as Spaemann puts it, “second-class human beings”? A solitary individual would be more likely to respond in the manner of the hypothetical figure of Kant’s fourth case study in the *Grounding for the Metaphysics of Morals*. Although Kant’s figure does not begrudge others their happiness, he also lacks the “desire to contribute anything” to assist them in their need.\textsuperscript{64} Neither harm nor help would be a natural response for a dissociated, atomic “person.”

\textsuperscript{62} “Nur für den ‘homme de la nature’ sind die anderen Menschen ‘seinesgleichen’. Der ‘homme de l’homme’ ist für immer ein Mensch zweiter Klasse, und je ‘optimierter’ er ist, desto mehr.” Spaemann, “Wozu der Aufwand?” 409. See also “Begotten, Not Made,” 292, and “Genetic Manipulation,” 344. Although the reproductive cloning of a human being has, presumably, not yet been achieved, recent controversies in regard to “Genetically Modified Organisms” (GMOs) lend credence to Spaemann’s warnings. If genetically modified wheat is objectionable, what would be the reaction to genetically modified humans?

\textsuperscript{63} Indeed, some thinkers might even welcome such wounds to a parent-child relationship as steps towards a fitting emancipation of the child as an “individual.”

\textsuperscript{64} Kant, *Grounding*, 32.
Recognizing the importance of Spaemann’s account of the person to his ethical assessment of genetic manipulation not only clarifies his opposition to the practice, but also has a reflexive philosophical value. That is, understanding the ways genetic manipulation offends the freedom and intersubjectivity of persons helps to clarify these very aspects of personal being that motivate Spaemann’s opposition. We will conclude this treatment of genetic manipulation by suggesting two such anthropological refinements revealed by Spaemann’s ethical argumentation: the finitude of the nature “had” by the human person, and the enabling roles of nature and reason in regard to human intersubjectivity.

**Finitude.** Spaemann’s philosophy of the human person is generally concerned with approaching from various angles what is unique about those beings called persons. Self-transcendence, in the sense of relating freely to a nature, is the distinguishing mark of persons. However, Spaemann’s assessment of genetic manipulation offers many occasions for reflection on the fact that, in the case of the human person, the nature possessed is a finite one. Or, to put it more forcefully, freedom does not cancel out finitude.

As discussed above, one of Spaemann’s arguments against ameliorative genetic manipulation is based on an economic analogy: the superiority of a market economy to a centralized, planned economy. However, the ultimate explanation of this superiority is found in the phenomenon of human finitude. The market economy, as opposed to the planned economy, is governed by “countless” exchanges; finite human manipulations of a centralized economy fall
well short of the near-infinite exchanges of a free market.\textsuperscript{65} The analogy works because the same
logic of finite vs. infinite is also applicable to the case of genetic manipulation. For Spaemann,
what makes it absurd to think that good results could come from genetic manipulation is
precisely the fact that the evolution of the human species is entrusted to a particular (\textit{bestimmten})
generation of human scientists.\textsuperscript{66} That is to say, human beings are finite, and therefore entrusting
human evolution to a single generation of scientists, no matter how brilliant, represents an
extreme limitation of creativity in contrast to Nature’s abundant chaos.\textsuperscript{67}

A lively awareness of the finitude of human nature is also the basis for Spaemann’s
frequent objection that genetic manipulation—either ameliorative or therapeutic—could have
unpredictable results, both on the level of the individual and the level of society. The particular
aspect of human finitude informing this objection is mental finitude; humans cannot know
everything, and the factor of the “unknown” has to be taken into moral consideration. The
phenomenon of human ignorance helps to explain why Spaemann seems to consider the
argument of “unforeseeable consequences” more problematic for ameliorative genetic
manipulation than for therapeutic genetic manipulation. Because gene therapy has a more limited
aim—the removal of some obvious defect—it does not require as much knowledge. The target of
such a therapy is merely the establishment of a normal state, and the consequences of the norm
are already known. By contrast, ameliorative genetic manipulation seeks to produce something
new (a better human being), and so there are new effects that must be foreseen. Ameliorative

\textsuperscript{65} Spaemann, “Begotten, Not Made,” 291.

\textsuperscript{66} Spaemann, “Wozu der Aufwand?” 409.

\textsuperscript{67} One might also add that characterizing natural evolution as a wholly chaotic process governed by chance
is an oversimplification of the matter. Some evolutionary changes are more likely than others, giving rise to patterns
of evolution; nature is not as “irrational” as is sometimes supposed.
genetic manipulation requires greater knowledge, and so the problem of human finitude becomes more acute in regard to it.

The foundations of human intersubjectivity. Spaemann’s argumentation against genetic manipulation also sheds light upon his account of personal intersubjectivity. Specifically, it highlights how intersubjectivity is founded upon both reason and nature. The attempt to ignore the necessary contribution of either of these offends against authentic human intersubjectivity. For example, ameliorative genetic manipulation falls short in regard to the rational aspect that should hold true of human relationships. As we have seen, it is not simply the bringing about of changes in another human being that morally disqualifies the practice, but rather the fact that these changes cannot be given an “objective, rational justification.” Human intersubjectivity is a reasonable intersubjectivity. Beings with a rational nature ought to interact in a rational way; genetic manipulation bases human interactions on power and desire rather than reason.

Nature is an equally important component of human intersubjectivity. As we have already seen, Spaemann understands the community of persons to arise from nature, for persons are living beings standing in natural genealogical relations. Reason elevates such relationships and gives them permanence. Yet his warnings concerning the possible harm genetic manipulation can do to our sense of human equality and to parent-child relationships show that nature remains important for sustaining these relationships. Human intersubjectivity not only arises from nature, but also continues to be grounded in nature and guided by it. Human self-transcendence always builds upon human nature.
3. Spaemann’s Critique of the Destructive Use of Human Embryos

During the earlier discussion of therapeutic genetic intervention, Spaemann’s opposition to the destructive use of human embryos was briefly noted without a full discussion of the matter. The remainder of this chapter returns to this subject, paying special attention to his assessments of it in his 2006 *Communio* article “Begotten, Not Made” and in his 2003 *Die Zeit* article “Freiheit der Forschung oder Schutz des Embryos?” This will complete our analysis of his treatment of genetic manipulation and serve as a transition to the next chapter on abortion and nuclear power; as we will see, Spaemann’s analysis of the use of embryos might be thought of as a “middle ground” between the topics of genetic manipulation and abortion. The arguments he puts forward against the use of embryos recall some of his objections to genetic manipulation, and they also anticipate aspects of his assessment of abortion.

*The Embryo as an “End in Himself”*

When he writes of the utilization (*Verwertung*) of human embryos, Spaemann is usually indicating the practice of so-called “therapeutic cloning” (as opposed to the “reproductive cloning” examined earlier). In this practice, embryos are created in vitro so that their stem cells can be harvested or that destructive experimentation can be carried out upon them. Because Spaemann understands the embryo to be a human being, he sees this practice as an offense against human dignity, an intrinsic evil. For Spaemann, as for Kant, our talk of human dignity is a way of indicating that the human being is an end or goal in himself, rather than a mere “means” for the accomplishment of the goals of another.68 Any use of a human being solely as a means is thus morally prohibited; it is not in keeping with the privileged status of the human being. In

68 See Kant, *Grounding*, 35-36.
Spaemann’s analysis, the cloning of the human being for the purpose of harvesting vital tissue qualifies as just such an inappropriate “use” of the human.69 Such a procedure offers no benefit to the embryo; it ignores the embryo’s status as an end.

In “Freiheit der Forschung,” Spaemann also explains this notion of the human as an “end in himself” in a slightly different way. Being an “end in himself” means that any proposed course of action must be rationally justified to that human. The person is the dative of moral justification.70 Such justification involves different demands depending on the developmental maturity of the individual involved. If the person is of a sufficient age and maturity to have developed his rational and linguistic faculties, then the project of moral justification involves communication with him in order to secure his consent. However, Spaemann’s analysis is notable for suggesting that the person remains the dative of justification even if he has not yet attained the ability to communicate. In such cases, the person’s status as the dative of justification means that proposed actions impacting him must be evaluated from the perspective of his own interests as a living being, a rational animal whose rationality is not yet actualized.

Spaemann develops this point about moral justification by means of a strategic contrast: the ethical treatment of animals. Animals are, of course, to be spared “needless” suffering. However, what sort of suffering would qualify as “needful” or “needless” in regard to animals is determined from the perspective of human beings. An animal’s suffering is not necessarily

69 See Spaemann, “Begotten, Not Made,” 293. This same objection could also be advanced as an argument against in vitro fertilization. Even though, as Dworkin points out, a life that “would not otherwise have existed” results from the process of IVF, it is nevertheless the case that the non-implanted embryos are simply used as means to an end, not respected as ends in themselves. See Dworkin, 433.

“needless” simply because it offers no benefit to the animal. Rather, what makes an animal’s suffering “needless” is that it offers no benefit to human beings, or that it offers a benefit to human beings that could be obtained in some other, non-harmful manner. As Spaemann says, what makes the ethical treatment of animals a matter of conscience for human beings is “not animal dignity or animal rights, but rather human dignity.”71 The suffering of an animal is not justified in regard to the animal itself; it is justified in regard to the human beings who act upon the animal. Although Spaemann admits that the suffering of animals has no value in itself (i.e. it is not, per se, a desirable outcome), the decisive consideration is not whether a proposed action is good or bad for the animal, but rather whether it is good or bad for human beings to treat the animal in such a fashion. The animal is not the dative of justification.

By contrast, as an “end in himself” the human being is a subject or possessor of rights, not merely an object of care (Fürsorge) like an animal. This means that any proposed course of action involving another human being is only moral if it is capable of being justified to him or with respect to him. The action must be shown to be in his interest.72 In other words, to be a subject of rights, as opposed to a mere object of care, is to be the dative of justification. In the normal course of events involving mature human beings, this involves justifying the action to the person impacted. We explain our actions or proposed actions to the person and thus attempt to secure his agreement.


72 “Alles, was ihm von anderen Menschen geschieht, ihm gegenüber gerechtfertigt werden muss.” Spaemann, “Freiheit der Forschung,” 1.
As we interpret Spaemann, this demand of moral justification should not be taken to mean that action may only be directed towards human beings who are capable of giving their consent. Such a policy of non-interference would, in many cases, actually contribute to the death of mentally disabled people or human embryos. Rather, in such cases a second sense of the “dative” grammatical case applies: action upon any such non-communicative person must be “for” that person—that is, in his interest. As Spaemann says, the action should not be “useful for others.”

It should be useful to him, the person who is an end in himself.

This means that the moral question of the use of the human embryo, unlike the question of the ethical treatment of animals, must be evaluated from the “place” or “perspective” of the embryo. The question should not be evaluated, as is too commonly the case, from the perspective of researchers who wish to advance medical science or from the perspective of older humans who wish to be cured of degenerative diseases. Whether the use of embryos would advance medical knowledge is a morally irrelevant, as is the question of whether or not the stem cells taken from embryos might aid in bringing about a cure for Parkinson’s disease. If the embryo is the dative of justification, the issue is clear: it could never be in the interest of an embryo to have its own parts scavenged, an action that would lead to its destruction. At the most basic level, there would no longer be an embryo to have an interest. Moreover, such a course of action violates an order of love evident in nature. As Spaemann says, “We cannot justify to any human being that we tried to kill him when he was still dependent on us.”

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74 Note the presumption of self-transcendence in this aspect of Spaemann’s argument. Human rationality allows for such an evaluation from the perspective of the embryo. We can “speak for” the embryo, even though the embryo cannot speak.
Refutations of Arguments in Defense of the Use of Embryos

**Competing rights.** While these are Spaemann’s positive reasons for opposing the destructive use of embryos, his ethical assessments in regard to it are largely refutations of popular arguments in defense of the practice. One such argument, which Spaemann associates with the German politician Brigitte Zypries, takes human dignity not to be inviolable.\(^{76}\) According to Spaemann, Zypries believes that human dignity (here in the sense of the “right to life” of the embryo) is simply one human right among many. These rights may be thought of as being in “competition” with one another, to the extent that the possessors of those rights find themselves opposed: for example, the “right to life” of the embryo may compete with the “right to freedom of research” of the scientist. In such cases, Zypries believes it is the task of the legislator to weigh the relative merits of these rights and to restrict the application of some of them. Legislators may decide that the right to life is outweighed by other human rights, such as the right to freedom of research.\(^{77}\) This would allow the scientist to destroy the embryo in the course of conducting research.

Citing the opinion of the German legal scholar Martin Kriele, Spaemann rejects such a model of competing rights. In Spaemann’s understanding, which he also takes to be Kriele’s, all

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\(^{75}\) “Keinem Menschen gegenüber aber können wir es rechtfertigen, dass wir versucht haben, ihn, als er noch von uns abhängig war, umzubringen.” Spaemann, “Freiheit der Forschung,” 1.

\(^{76}\) Brigitte Zypries was the Federal Minister of Justice in Germany from 2002-2009.


We believe Spaemann may have had in mind passages such as the following from Zypries’ address: “Der Gesetzgeber hat sich also entschieden, die Handlungsoptionen der Frau bzw. des betroffenen Paares, auch des Arztes und des Forschers, einzuschränken—und das bedeutet auch: in deren Grundrechte einzugehen.” Brigitte Zypries, “Vom Zeugen zum Erzeugen? Verfassungsrechtliche und rechtspolitische Fragen der Bioethik,” §1, http://www.aerzteblatt.de/download/files/2004/07/x0001196.pdf [accessed September 23, 2013].
fundamental rights are inherently limited by other rights; if the legislator somehow codifies this in law, he is merely recognizing the reality that already obtains. Put differently, a right never includes within itself permission to invade some other sphere of right. All rights must be understood as terminating at the point at which they intersect other rights. This limitation is not externally imposed, but built into what they are. In terms of the use of embryos, then, the right to freedom of research could never “outrank” the right to life (nor *vice versa*); rather, the right to freedom of research simply has a limited extent. It stops at the point at which research would require the taking of life or the violation of some other right.78

**Separating human dignity from human nature.** Other popular arguments in regard to the use of embryos attempt to separate human dignity from human nature. We will here examine two such arguments that Spaemann discusses. The first argument, loosely associated with Brigitte Zypries, is that the embryo in vitro is a special case, morally speaking, because of its particular circumstances.79 Since the embryo in vitro exists outside the uterus, it lacks the “normal conditions” for its development. Such an embryo cannot continue to develop without some sort of special assistance, and so Zypries argues that its development “as human” should be considered only an abstract possibility.80 To borrow language from the American abortion

78 See Spaemann, “Freiheit der Forschung,” 2.

79 We write that Spaemann “loosely associates” this position with Zypries because Spaemann presents it as something she wants to say (“will sagen”) not necessarily something that she explicitly states. Although one might see this as a somewhat Nietzschean move on Spaemann’s part—an attempt to discern underlying motivations—we believe that it is better understood as a more Socratic procedure. That is, he is not trying to cast suspicion on her statements or to consider her psychological motivations, but rather to bring a greater conceptual clarity to her position. See Spaemann, “Freiheit der Forschung,” 2. See also note 91 of this chapter.

80 “Der Embryo im Mutterleib Menschenwürde besitzt, nicht aber der in vitro erzeugte. Und zwar deshalb nicht, weil seine Möglichkeit, sich ‘als Mensch’ zu entwickeln, wie das Bundesverfassungsgericht sagt (als nicht
debate, the embryo in vitro is not naturally viable. For Zypries, this means that the embryo in vitro is not fully human, and therefore lacks human dignity: “The mere abstract possibility of further development, is, to my mind, not sufficient for the awarding of human dignity.”

The second argument Spaemann discusses is from Julian Nida-Rümelin. This argument is broader than that of Zypries’, and would apply to the human embryo in general, not merely to the embryo in vitro. According to Nida-Rümelin, human dignity depends on self-respect (Selbstachtung). As he writes: “Respect for human dignity is appropriate in situations where the preconditions are fulfilled that a human being could be degraded, his self-respect being taken from him.” As he goes on to say, the human embryo—again, whether in utero or in vitro—has not advanced far enough as a human being to have self-respect: “The self-respect of a human embryo cannot be damaged.” Spaemann thus understands Nida-Rümelin to have no objection, in principle, to the destructive use of embryos, provided such use does not involve the cloning of human beings. Lacking self-respect, the embryo has no human dignity that could be violated.

**The possibility of human development.** In regard to the first argument, which deals with the criterion of viability, Spaemann focuses on problems inherent in the claim that the

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development of the embryo in vitro is only an abstract possibility. Calling this a strange claim, Spaemann ponders what Zypries means by her term, “abstract possibility.”85 He interprets this to mean that the fetus in vitro does not develop “automatically,” but instead requires additional help in order to live and develop.86 But in a brief reductio ad absurdum, he points out that even a newborn child cannot survive on its own. The newborn requires continuous assistance from human beings, as does the embryo in vitro.87 This similarity leads Spaemann to rhetorically ask whether the development of a newborn child is likewise only an “abstract possibility,” which would mean that the newborn has no human dignity or right to assistance.88 Spaemann is confident that neither Zypries nor his readers in Die Zeit would wish to embrace such a position.

Spaemann concludes from his reductio that Zypries’ logic is flawed in regard to the issue. However, he finds her mistake valuable for the way in which it reveals her tacit anthropology. There is a certain internal consistency in her position. That the newborn possesses rights while the embryo in vitro lacks them “corresponds well to her real definition of human dignity, the constituting mark of which is ‘recognition’.”89 Zypries holds, in other words, a relational theory of the person.

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Spaemann’s argumentation in regard to these points is condensed; we will attempt to supply the implicit logical connections. As we interpret him, the possibility of unassisted development does not sufficiently distinguish the newborn infant from the embryo in vitro. What distinguishes the two is instead their respective degrees of visibility. The greater visibility of the newborn typically results in a far greater degree of social recognition. For Zypries to believe that newborns have human rights—while embryos in vitro do not—reveals that social recognition is the most important factor in her ethical theory, regardless of what she says about the nature of the possibility involved in the development of such embryos. She is operating under the assumption that recognition actually bestows human personhood. Unveiling Zypries’ anthropological presupposition effectively completes Spaemann’s critique, for he has already pointed out the unattractive practical consequence that ought to motivate the rejection of relational theories of the person: “The one whose human dignity is not recognized and respected is left with nothing.”

**Human dignity and self-respect.** Spaemann’s response to the second argument, which links human dignity to self-respect, has several different aspects. The first move Spaemann makes does not directly address the theory, but simply points out how inappropriate it is, given

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89 “Und das entspricht nun ja auch wirklich ihrer Definition der Menschenwürde, zu der deren Anerkennung als konstitutives Merkmal gehört.” Spaemann, “Freiheit der Forschung,” 3.

90 However, Spaemann leaves open the possibility that Zypries is reflexively unaware of the philosophical implications of her own position: “Wenn Frau Zypries das sagen wollte, dann hat sie gesagt, was sie sagen wollte. Wenn nicht, dann sollte sie noch einmal nachdenken.” Spaemann, “Freiheit der Forschung,” 3.

91 “Wessen Menschenwürde nicht anerkannt und respektiert wird, besitzt also keine.” Spaemann, “Freiheit der Forschung.” 3.
Nida-Rümelin’s position as a Federal Minister in Germany. It is inappropriate, in Spaemann’s view, because the first article of Germany’s Constitution (concerning the right to life) has already been interpreted “in a legally binding way” by the German Federal Constitutional Court. Yet Nida-Rümelin, who is governed by the ruling, makes no mention of it; in fact, his theory runs directly contrary to it. For Spaemann, these “anti-constitutional opinions” of Nida-Rümelin occasion serious fear “for the legitimate political order” and, of course, for the lives of any human beings who fail to meet the criterion of self-respect.

This first response of Spaemann’s is more practical than theoretic. It does not assess the truth or validity of Nida-Rümelin’s argument, but only its potentially harmful consequences for political order. Spaemann has not yet said that Nida-Rümelin is wrong about the issue, but only that a Federal Minister is wrong in thinking himself free to advance opinions contrary to the settled interpretation of law. Yet we have taken notice of this initial response of Spaemann’s because it is rhetorically important. It introduces Nida-Rümelin as a somewhat irresponsible figure, disposing the reader to view his theory with suspicion. However, Spaemann does not simply “rest his case” on these grounds; instead, he begins a new section in his article and exhorts his readers to join him “in the pleasant anarchy of philosophical discussion” in order to dispassionately assess Nida-Rümelin’s argument.

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92 Julian Nida-Rümelin was a State Minister for Culture and Media in Germany from January 2001 to October 2002.


In this more “philosophical” section of his article, Spaemann initially offers a factual or even phenomenological critique of the linkage of self-respect and human dignity.96 Nida-Rümelin’s position, as Spaemann understands it, is that a loss of self-respect is a necessary condition for the loss of human dignity: “Only those actions which contradict the self-respect of their victims offend human dignity.”97 Human dignity and self-respect are thus understood as conceptually distinct but practically inseparable.

However, as Spaemann says, there have “obviously” been cases of human beings “who have been exploited and treated in the most demeaning fashion without suffering any loss of self-respect on that account.”98 For example, even in the inhumane conditions that prevailed at Auschwitz, St. Maximilian Kolbe retained enough self-respect to freely offer his own life in exchange for the life of one of his fellow prisoners. Such examples indicate that a loss of self-respect is not, in fact, a necessary condition for a violation of human dignity. Human dignity may be offended with or without a loss of self-respect. Nida-Rümelin has not given a fully accurate description of the human phenomena.

After offering this brief rejoinder, Spaemann then offers a more substantial critique of the anthropology Nida-Rümelin’s argument presupposes. He discerns something familiar in the linkage of human dignity to self-respect; it is an attempt “to substitute personal rights for human

96 His critique is “phenomenological” in the non-technical sense of not letting theory overshadow the things themselves.

97 Spaemann, “Begotten, Not Made,” 296. What Nida-Rümelin means by “self-respect” (Selbstachtung) is not entirely clear; Spaemann takes it as a reference to one’s “convictions,” one’s mental judgments (see Spaemann, “Begotten, Not Made,” 295). At any rate, it is clear that the term cannot refer to a bodily reality, since embryos have bodies but not, in Nida-Rümelin’s assessment, self-respect.

rights and to deny personhood to a large portion of the human family."99 Nida-Rümelin’s theory is, in its essentials, an attribute-based theory of the person. The possession of an intellectual characteristic (self-respect) is taken to be decisive in regard to the achievement of a certain status worthy of recognition and protection. We typically indicate this elevated status by means of the term “person.” Nida-Rümelin prefers to speak of “possessing human dignity.” Yet as Spaemann notices, the difference is unimportant. “Human dignity” serves, in Nida-Rümelin’s theory, as a functional equivalent for the term “person.” Despite the substitution of terms, Nida-Rümelin’s conclusion is identical to that of other attribute-theorists: harm done to the embryo is not harm in any morally relevant sense, since the embryo possesses no “human dignity” or personhood.

Spaemann says that such a position bears a heavy burden of proof because it contradicts “the entire ethical tradition, not only of Europe, but of humanity.”100 Though he admits that there is a “correct premise” behind Nida-Rümelin’s position (it is characteristic of human persons to enjoy self-consciousness and self-respect), Spaemann understands the ethical tradition of humanity to link personhood to “membership in the human family” and not to the actual exercise of particular human characteristics. Though Spaemann moves on quickly from this point, it is worthwhile to note his deference to the tradition of human ethical thought. He does not dismiss the prior ethical conclusions of humanity as an irrelevant “argument from authority.” Rather, he allows these conclusions to set the parameters for the philosophical debate.


100 Spaemann, “Begotten, Not Made,” 296. This assignment of the burden of proof is, as we will see, a common move of Spaemann’s in his ethical assessments. It is an important factor in his discussion of abortion, nuclear power, and other issues.
Spaemann completes his rebuttal by pointing out the deficiencies in Nida-Rümelin’s anthropology. In doing so, Spaemann makes use of some of his arguments from Persons. In response to Nida-Rümelin’s claim that it is the actual exercise or possession of self-respect which is constitutive of human dignity, Spaemann warns that such a position accords greater respect to characteristics and states than to the bearers of them. Furthermore, such an emphasis on the “actuality” of our mental states ignores our everyday experience of unifying both our current conscious states and our prior unconscious states under the same “I.” This synthesis is, as we have already seen, an essential aspect of Spaemann’s rebuttal to relational theories of the person.

Fatalism. A final, brief aspect of Spaemann’s moral evaluation of the use of embryos is his rejection of a popular argument for the practice, one he does not associate with any particular thinker. This is the fatalistic argument that “it is going to happen anyway.” Spaemann says that this is not really an argument, but merely a form of “moral blackmail” that “marks the end of morality.” The critique is forceful, and he picks an equally forceful example to illustrate it: the phenomenon of human death. All humans die, and many of those deaths come about through violence. These facts prompt Spaemann to ask a rhetorical question: “Must we or may we

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101 Spaemann counts on his reader to detect the absurdity in this privileging of the accidental over the substantial. It is an inversion of the hierarchy of being.


103 In fact, this popular argument is by no means restricted to the debate about the use of embryos. Here, for example, is a portion of James Wilson’s argument against banning human cloning: “If cloning is illegal in America but legal in Japan or China, Americans will go to those countries as cloning techniques are perfected. Science cannot be stopped.” Wilson, “The Paradox of Cloning,” 62-63.

therefore kill?”105 The answer is obviously “no,” but it is not difficult to recognize that fatalist logic would dictate an answer of “yes.” The fatalist argument would be that in bringing about an assured outcome (death), the human agent does not really “do” anything. Fatalism thus takes away the assigning of human responsibility for actions. Spaemann’s response to this argument is blunt. We do have a limited sphere of control, and thus of responsibility as well: “No one is responsible for everything that happens. But we are responsible for what we do.”106

4. The Use of Embryos and the Human Person

Having examined Spaemann’s argumentation in regard to the destructive use of embryos, we will now consider the relationship of this ethical assessment to his philosophy of the human person. As was the case with genetic manipulation, one finds in his assessment a certain freedom of approach, coupled with significant conceptual connections to his anthropology.107 Specifically, Spaemann presents the use of embryos as a failure in regard to the rational intersubjectivity characteristic of human persons and as a failure to appreciate the inseparability of person and nature.


106 Spaemann, “Begotten, Not Made,” 297. We would classify Spaemann’s response as a sort of phenomenological claim. We experience ourselves as free and responsible; it is a recognized and universal human phenomenon.

107 The freedom of Spaemann’s approach to the ethical dilemma is evident in the points he makes in regard to the inappropriateness of Nida-Rümelin’s theory. It is also evident in his sly rhetorical point in response to Zypries that the very lack of symbiosis between the embryo in vitro and its mother should be a political argument in favor of its right to life (that is, the rights of the mother can no longer be invoked against the embryo). These are not explicitly anthropological—or even philosophical—points. See “Begotten, Not Made,” 295, and “Freiheit der Forschung,” 3.
Rational Intersubjectivity

Spaemann understands rationality as constitutive, along with nature, of the intersubjectivity of persons. This is one sense of “rational intersubjectivity”: natural, genealogical relatedness is brought to a new and higher level by the power of rationality. However, Spaemann’s evaluation of the use of embryos is grounded in a slightly different sense of the “rational intersubjectivity” of the human person. This is the idea that personal intersubjectivity is a rationally mediated intersubjectivity. Humans are not simply to relate to each other as irrational organisms; rationality should instead govern or even “infuse” human behavior.

This aspect of rational intersubjectivity is evident in Spaemann’s explanation of the Kantian idea of the human being as an end in himself. As noted earlier, Spaemann employs this Kantian formulation in order to elucidate the sometimes vague concept of human dignity: “The granting of dignity, insofar as it deals with the legal sphere, can have no other meaning than that the bearer of dignity is, as Kant would say, an ‘end in himself’.” Yet Spaemann, in turn, explains idea of the person as an “end in himself” in terms of rational justification. A person is being treated as an end, as opposed to a means, if the proposed course of action is capable of being rationally judged to be in his interest or rationally justifiable to him through speech. Our proposed treatment of other persons must always bear the marks, as it were, of rationality. Personal intersubjectivity is thus both caused and sustained by rationality.

Spaemann’s primary objection to the destructive use of embryos is that the practice lacks any such rational mediation between adult persons and embryos; it is thus an objection grounded in his theory of the rationally intersubjective human person. In the practice, the interest of the embryo is not rationally accounted for; instead, it is ignored, presumably because embryos are ignorable—they do not speak. Yet the destructive use of an embryo is morally wrong even if the embryo does not (and, of course, cannot) object to it.109 “What matters,” as Spaemann writes, “is whether the perspective of a being should count, wherever a being exists, and whether or not it also belongs to the community of persons.”110 If, in fact, the embryo belongs to the community of persons, then he [the embryo] participates in the common space of rationality, something that is greater than the individual in question. This means that the “perspective of the embryo” can be recognized by persons other than the embryo, even though the embryonic being is unable to express its perspective at that time.111 Rationally transcendent beings (persons) are capable of recognizing that there is no possible benefit to the embryo in its destruction. From the perspective of the embryo, as understood by other persons, the action makes no sense. If the embryo is recognized as a person, then its destruction is nothing less than an irrational form of behavior on the part of those who carry it out. No argument can be made in its favor.

109 Though the fact that the embryo cannot give his consent to what happens to him is also noted by Spaemann as a morally significant factor: “Der Embryo ist noch nicht so weit, sein Leben ‘opfern’ zu können.” Spaemann, “Freiheit der Forschung,” 1.

110 “Worauf es ankommt, ist, ob dort, wo es um die Existenz eines Wesens geht, die Perspektive dieses Wesens selbst zählt, ob es also zur Gemeinschaft der Personen gehört oder nicht.” Spaemann, “Freiheit der Forschung,” 1.

111 As noted in our first chapter, Spaemann understands the person to occupy a “de-centered position.” To be a person is to be capable of recognizing other centers of existential interest, other “perspectives.”
Of course, the personhood of the embryo is precisely what the proponents of the destructive use of embryos attempt to deny in various ways. The other important aspect of Spaemann’s ethical assessment of the issue, therefore, addresses such attempts to separate the human person from human nature. In his response to such attempts, Spaemann’s anthropology has two roles: first, it provides the categories within which they may be understood; and second, it provides many “tools of refutation,” the particular arguments that he employs against his opponents. The latter, more dialectical role of Spaemann’s anthropology is sufficiently exhibited in the earlier sections of the chapter, especially in our treatment of Spaemann’s response to Nida-Rümelin. For this reason, we will focus our analysis in this section on the former, more “epistemological” role of Spaemann’s theory of the person.

Zypries and Nida-Rümelin attempt to morally justify the destructive use of embryos in indirect ways: neither bluntly states that “the human embryo is not a person, and therefore it may be destroyed.” They prefer to speak of “dignity” and “self-respect.” When the issue is the life of the embryo, such terminology is too vague. Does lacking “dignity” mean that the embryo is not a person? Or, can one lack “dignity” and still have a right to life? The use of such vague terms makes the arguments more difficult to understand, and consequently more difficult to refute.  

Spaemann’s philosophy of the person helps him to overcome such interpretative difficulties; it provides him with categories and classifications that help to disambiguate the positions of his opponents. For example, Zypries argues that the embryo in vitro is human, but

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112 This does not, however, indicate any voluntary sophistry on the part of Zypries or Nida-Rümelin. They may have couched the issue in such terms in an attempt to avoid the argumentative “stalemates” that result when first principles (such as the personal status of the embryo) cannot be agreed upon by all.
lacks human dignity. The position has some attractive aspects: there is something objectively “undignified” about a human life existing in a petri dish. We could thus easily overlook that this is not the sense of “dignity” employed by Zypries; she instead uses the term to indicate a legal right to life, an elevated status that we typically designate with the term “person.” Spaemann’s anthropology—an anthropology born of dialectical engagement with other theories of the person—allows him to recognize that Zypries’ arguments presuppose a relational theory of the person. She makes the possession of personhood by the embryo in vitro dependent on the likelihood of its continued development. Given the unnatural situation of the embryo, such development is made to directly depend upon the recognition and intervention of other humans.

In like manner, Spaemann discerns an attribute-based theory of the person in Nida-Rümelin’s linkage of human dignity to self-respect. Again, there is something attractive about the argument of Spaemann’s opponent. We know from experience that the dignity or indignity of one’s situation can affect one’s self-respect. Yet Spaemann’s sense of personal being as “having a nature” also gives him an appreciation of the bodily aspects of being a person. This allows Spaemann to see that “self-respect” is an inadequate criterion for the possession of “human dignity” or personal status. “Self-respect” does not do justice to the objective, bodily aspects of being a person. These bodily aspects of personal being can be “offended” regardless of one’s intellectual disposition towards oneself. A man who is being tortured has his human dignity violated. We do not need to first ask him about his “self-respect” in order to make that determination. Furthermore, to make the possession of personal status dependent on self-respect

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113 Spaemann’s anthropology seems to give him a certain anticipation of his opponents’ ethical arguments, a clarity of understanding in regard to them, rather like the “wise man” discussed in Aristotle’s *Metaphysics* who “knows all things, as far as possible, although he has not knowledge of each of them in detail.” See Aristotle, *Metaphysics*, trans. W. D. Ross, in *The Basic Works of Aristotle* (New York: Modern Library, 2001), 691.
is just another way of privileging the actual exercise of rationality over its possession or potential exercise—a move typical of all attribute-theorists. In this case, as before, Spaemann’s philosophy of the person “grounds” his assessment of the destructive use of embryos. It clarifies the most important aspects of the arguments of his opponent. Such epistemological clarification allows Spaemann to employ, as rebuttals, many of the considerations developed in his longer anthropological works.

_The “Robust Intersubjectivity” of Human Persons_

As was the case in regard to genetic manipulation, Spaemann’s ethical assessment of the destructive use of embryos helps to clarify the philosophy that informs it. Specifically, his critique of the use of embryos illustrates the robust nature of Spaemann’s account of personal intersubjectivity. We have already seen that Spaemann understands human persons to naturally stand in genealogical relations to one another, and that rationality makes these relations more defined and permanent. This is already a strong account of personal intersubjectivity, for it understands human persons to be necessarily and permanently linked. Nevertheless, it will here be argued that Spaemann’s understanding of personal intersubjectivity has a more classical and daring aspect: for him, as for Aristotle, actions done by another person—specifically, by a friend—can be considered one’s own. To enter the realm of persons is to enter a shared realm.

This robust sense of personal intersubjectivity is most evident when Spaemann dismisses the theory of Zypries as “extreme individualism.” Spaemann is willing to admit that the development of the embryo in vitro does not take place on its own and without assistance. In order to develop, the embryo in vitro requires the help of other human beings to make up for
what is not being supplied to it by nature. Nevertheless, he finds something deeply flawed in Zypries’ understanding that the need for external help is unusual. Such a view does not fit the intersubjective reality of the person. Rather, as intersubjective beings, receiving help is normal for persons.

As a contrast, a “non-extreme” form of individualism, Spaemann proposes an idea from Aristotle’s *Nicomachean Ethics*: what our friends can achieve is in some sense achieved by us. As persons, we are not helplessly locked in our own spheres of reality; we have instead the possibility of sharing in the actions of other persons. The young child in some measure “acts” through his mother, at least in the limited sense of provoking personal interactions. The child thus participates in the community of persons, even if the child has not yet learned to speak. That the child’s participation is, presumably, less rational than the participation of others is not a problem for Spaemann’s theory of the person. Spaemann understands the child to be “taken up” into the sphere of the personal through the rationality of the mother. This should not be taken to indicate that any being at all could be thus elevated to the sphere of the personal. Spaemann’s theory is not that a rock treated as a person somehow becomes a person. The point is rather

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115 “Gegen diesen extremen Individualismus möchte man Aristoteles zitieren: ‘Was wir durch unsere Freunde können, können wir gewissermaßen durch uns selbst.’” Spaemann, “Freiheit der Forschung,” 3. See also Aristotle, *Nicomachean Ethics* III.3.13 1112b25-30. Incidentally, Spaemann is by no means the only thinker to recognize the ethical implications of Aristotle’s thoughts on friendship. In a recent book, Alexander Pruss uses the same line from Aristotle to defend “specialization” on the part of parents (i.e. one parent as the primary wage-earner, the other as the primary caregiver). See Alexander Pruss, *One Body: An Essay in Christian Sexual Ethics* (Notre Dame, IN: The University of Notre Dame Press, 2013), 382.

116 Or, as Aristotle articulates the point in his discussion of human friendship, it would be ridiculous to actually “wish well” to wine. We do not want the wine to be well preserved for its sake, but for our own. “Friendly treatment” of wine could never actually make it into one’s friend. See Aristotle, *Nicomachean Ethics* VIII, ch. 2, 1155b25-35.
that the rationality of the mother may “stand-in” for that of the child because the child is already a person. Her rational, personal treatment of the child is not a lie, but rather a recognition of the child’s personal status and an anticipation of the full emergence of the child’s rational powers.

Similar logic is at work in one of the arguments of the final chapter of *Persons*; the specific context is Spaemann’s discussion of why the severely disabled ought to be considered persons. According to Spaemann, we do not see the disabled as animals, even though disabled human beings seem to lack the rationality characteristic of persons. Rather, we see them as wounded persons—as patients. However, near the end of this argument, Spaemann adds another consideration: the severely disabled participate in the community of persons “as recipients of physical and moral support.” Their participation in this community is particularly noteworthy in two respects. First, the disabled challenge other persons to sacrificial actions, to the giving of help. Second, the disabled challenge other persons to the recognition of “selves” rather than attractive properties. For these two reasons, Spaemann concludes that disabled persons give more to the community of persons than they get from it; they are real participants.

Such a robust notion of personal intersubjectivity allows Spaemann to shift the ethical debate about the use of embryos in a significant way. If persons are only intersubjective in the token sense of having to deal with other persons from time to time out of egoistic considerations, then the ethical focus remains fixed on individuals; interpersonal relations can only play a role to the extent the individuals involved choose to value them. When such token intersubjectivity is presupposed in the ethical debate, the embryo’s lack of so-called personal characteristics (such as

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self-respect, memory, or even visibility) makes the embryo seem unimportant. Measured by such criteria, the embryo does not seem to be much of an individual; it cannot exert as much influence on others as adult persons can. It cannot help us to get what we want. However, if persons are understood as intersubjective in a stronger sense, as they are in Spaemann’s anthropology, then the ethical focus is broadened to the wider community of persons. In such a shifted context, the fact of participation on the part of the embryo takes on equal, or perhaps even greater, importance than the demonstrated possession of particular properties.

119 To put that slightly differently, an egoist with a minimal sense of human intersubjectivity (such as Thomas Hobbes) might give money to a beggar “both to relieve the beggar’s distress and to relieve his own distress at the sight of the beggar.” Yet the human embryo is far less visible than a beggar, and so far less likely to be the receiver of recognition, respect, and benevolent action. See Gordon Graham, *Eight Theories of Ethics* (New York: Routledge, 2004), 22.
Chapter 3
Abortion and Nuclear Power

In this chapter we will consider a selection of Spaemann’s writings on the topics of abortion and nuclear power. We will first present some important aspects of his assessment of each issue, and then consider the relation of the assessments to his theory of the person. In the first section of the chapter, we will examine Spaemann’s essential objections to abortion: the continuity of fetal development, the link between abortion and euthanasia, and the loss of the moral legitimacy of the state. We will also examine Spaemann’s clarifications of the notions of conscience and human dignity, ideas frequently employed in the discussion of abortion. In the second section of the chapter, we will then argue that Spaemann’s theory of the person informs his ethical analysis in several important ways. First, he often uses brief anthropological statements as strategic contrasts that reveal the theories of the person presupposed by his opponents. Second, his theory of the person enters his assessment in one article in a more developed form in order to respond to a challenge to his position from another thinker. Third, we will see that an understanding of the human person as self-transcendent is presupposed in his clarifications of the nature of conscience. We will conclude our treatment of abortion with a consideration of Spaemann’s tendency to keep in mind the origins of particular ethical dilemmas. We will suggest that such a method of analysis is in keeping with his understanding of the interplay of nature and freedom in the human person.

In the third section of the chapter, we will examine Spaemann’s two main criticisms of using nuclear fission to produce energy. First, fission produces radioactive waste that unjustly
burdens the coming generations. Second, permitting nuclear fission to occur may occasion the state to forfeit its right to loyalty from its citizens. We will also discuss his analysis of the burden of proof in regard to nuclear power and his critique of a popular line of argument concerning nuclear power’s “necessity.” In the fourth and final section of the chapter, we will consider the relation of this assessment of nuclear power to his theory of the person. It will be argued that his philosophical anthropology is important to his assessment in two main respects. First, to claim that one can act “unjustly” towards future generations implies that we have obligations to our descendants. Spaemann’s intersubjective understanding of the human person enters the assessments as the theoretic grounding of such obligations. Second, we will see that his concerns in regard to nuclear power and civic loyalty are likewise motivated by the interpersonal failure that occurs when a government fails to recognize human rights, especially the right to life. Constitutional states have a duty to protect the lives of persons, and persons need not remain loyal to states that fail in that mission. We will conclude our treatment of nuclear power with a discussion of Spaemann’s call for “chaste conduct” in regard to the achievement of certain types of technological knowledge. We will see this as an application of his philosophical anthropology: reason may not expand itself to the detriment of nature, for nature and reason are ultimately united in the human person.

1. Spaemann’s Critique of Abortion

Our purpose in this dissertation is to explore the connection of Spaemann’s ethical assessments to his philosophy of the human person. Abortion presents a special challenge in this regard, for there is some question of what writings should be counted as relevant to the topic. For example, the last chapter of Persons (“Is every human being a person?”) contains arguments that
could easily be applied to the issue of abortion, though the chapter’s concern is more general. Brief comments about abortion can be found in many of his other writings. The consideration of all such material would unduly burden our analysis in this chapter.

Therefore, we will restrict our focus to some articles on abortion reprinted in *Grenzen*:

“Am Ende der Debatte um §218 StGB” (1974), “Haben Ungeborene ein Recht auf Leben?” (1974), “Verantwortung für die Ungeborenen” (1988), and “Das Entscheidungsrecht der Frau entlastet den Mann und die Mitwelt. Die Erlaubnis zu töten kommt einer Unzurechnungsfähigkeitserklärung gleich” (1991). Though these articles do not exhaust Spaemann’s thoughts on the subject, they have the merit of having been written during times of intense public debate in Germany. This gives the articles a certain topical richness: they touch upon many different aspects of the abortion issue, making them a suitable basis for our anthropological analysis.

*Why Abortion is Wrong: Spaemann’s Primary Arguments*

As one might anticipate from our earlier treatment of the destructive use of embryos, Spaemann considers abortion to be a moral evil and opposes its legalization. However,

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2 The Bundestag attempted to legalize abortion on demand in West Germany in 1974, but the legislation was struck down as unconstitutional. In 1976, West Germany amended paragraph 218 of its Penal Code to legalize abortion in the first 12 weeks of pregnancy, albeit with certain restrictions such as mandatory counseling and a waiting period. After the reunification of Germany, similar laws were passed in 1992 and 1995 to permit abortion on demand during the first trimester (again with mandatory counseling). Abortion is currently legally permitted later in pregnancy only in cases of medical necessity, as determined by a physician.
Spaemann’s ethical assessments of the issue are notable for what we might call their “non-linear” quality. That is, Spaemann does not typically articulate a thesis that abortion is wrong, and then spend the remainder of each article supporting that thesis. His assessments of the issue instead have an exploratory quality. In addition to a critique of abortion, his assessments also discuss the changed cultural context in Western nations, the tenor of the German abortion debate, the particular arguments and counterarguments proposed, the underlying motivations for the practice of abortion, and even the role of Church counselors and counseling centers in facilitating abortions. In this section, however, we will attempt to extract his essential criticisms from this wealth of material. In our judgment, Spaemann’s opposition to abortion is primarily a function of the continuity of the development of the embryo. Such continuity means that the embryo should be considered a person from the moment of conception, and thus a possessor of a right to life. His opposition to the legalization of abortion is further motivated by a theoretic and practical link between abortion and euthanasia, and also by concerns about the moral legitimacy of the state were abortion to be legalized.

The burden of proof and continuity of development. Spaemann understands philosophy to be a continuing conversation about ultimate questions. It can be surprising, then, to find a measure of weariness in Spaemann’s assessments of abortion. Both “Am Ende” and “Verantwortung” begin with declarations that the discussion of abortion has reached an end: “The discussion about the problem that occupies us here has actually long been finished.”3 We

do not interpret this as a factual claim that there are no longer any public debates about abortion or articles on the subject. Instead, we take Spaemann to mean that the actual mental exploration of the topic has ceased: “By now almost all possible arguments and counterarguments have been brought forward.”

What remains is only a sort of pseudo-argumentation that belies a deeper hardening of the positions. That is not to say that he believes the issue incapable of being settled. According to Spaemann, the results of the debate are actually quite clear: “The insight that human life has a right to legal protection from the first moment of its existence has grown so large in the course of the debate that the voices of those who would sacrifice it to the self-determination of the woman have been softened.” He judges the rational argumentation of the opponents of abortion to be manifestly (offenkundig) stronger. For him, the crucial question on which the debate hinges is “whether each stage of life involves the reality of a person.” He does not view this as an “open question” to which there is no obvious answer. Rather, the prima facie answer must be “yes.”

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6 See, for a counterexample, Alasdair MacIntyre’s After Virtue, in which the debate about abortion is presented as a disagreement about first principles, incapable of solution without the recovery of an ethics of virtue. Alasdair MacIntyre, After Virtue, 3rd ed. (Notre Dame, IN: University of Notre Dame Press, 2007).


9 “Die Frage ist ja, ob es sich in jedem Stadium des menschlichen Lebens um die Wirklichkeit einer Person handelt.” Spaemann, “Verantwortung,” 368. Not all thinkers acknowledge that this is the most important question in regard to abortion. For example, Judith Jarvis Thomson has argued that one might grant personhood to the fetus, but
As Spaemann says in his ethical assessment of the destructive use of embryos, the presumption of a correspondence between human person and human nature is part of the ethical patrimony of humanity. However, in his assessments of abortion (written for a German audience), he instead emphasizes the German Federal Court’s decision that unborn children are human beings. Though he readily admits that decisions of the court are fallible, Spaemann believes that such decisions still contribute to the establishment of a burden of proof: “Whoever believes that he is able to indicate a temporal boundary for the beginning of the personal existence of the human being, a boundary that lies after the moment of conception, bears the burden of proof.” Yet the continuity of the development of the human embryo means that this burden of proof could never possibly be met by any competing theory: “The development of the human organism is continuous and follows the genetic code.”

Spaemann’s discussion of this point is somewhat condensed, and so it can be difficult to follow the logic of his argument. In our interpretation, his main philosophical point is that we must err on the side of caution in our judgments involving personhood. With the event of conception, a human nature begins to exist; this is a truth universally acknowledged. Conception still understand abortion to be justified as a form of self-defense on the part of the mother. See Judith Jarvis Thomson, “A Defense of Abortion,” in *Intervention and Reflection: Basic Issues in Medical Ethics*, 7th ed., ed. Ronald Munson (Belmont, CA: Wadsworth/Thompson Learning, 2004), 587-96.

10 See Spaemann, “Begotten, Not Made,” 296: “The thesis of those who wish to substitute personal rights for human rights and to deny personhood to a large portion of the human family bears a great burden of proof, for this thesis contradicts the entire ethical tradition, not only of Europe, but of humanity.”


is thus a plausible point at which to presume that a person has also begun to exist, since in our
typical experience human beings are persons (human nature and human personhood are found
together). Anyone wishing to designate a different point, post-conception, for the beginning of
personhood must be able present evidence of a similar magnitude, some massive change
involving the emergence of human nature. There would need to be a radical discontinuity of
development involving the embryonic entity, a point at which something that was clearly not
human became human. Only such a change would enable one to plausibly claim that
“something” became “someone.”

Yet scientific investigation reveals no such discontinuity or change. The embryo remains the same entity as it grows into a fetus, into a child, and into an
adult. This means that the proponents of abortion cannot satisfy the burden of proof. Any point
they would designate as the beginning of personal being would be arbitrarily chosen.

In explaining this point, Spaemann sometimes alludes to the so-called “hominization”
debate that took place during the Middle Ages (and to which there are still occasional
contributions). This debate was, and is, a discussion of when the human soul is united to the
body. Though it can sound like “speculative metaphysics,” the hominization debate is actually a
way of addressing the crucial question of when the human being begins, since the human is often
understood to be a union of soul and body. Some thinkers in the debate believe that human

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14 As we saw in our first chapter, Spaemann believes that such a way of speaking violates our ordinary
metaphysical intuitions about what persons are. “You don’t become some-one from being some-thing. If personality
were a condition of affairs, it could arise bit by bit. But a person is someone situated in this or that condition.”

15 “Aber dieser Beweislast kann er nicht genügen. Denn angesichts der strikten Kontinuität der
Entwicklung menschlichen Lebens können wir einen Anfang des Personseins überhaupt nicht fixieren.” Spaemann,
“Verantwortung,” 368.

ensoulment takes place at the moment of conception, while others—perhaps even St. Thomas Aquinas—understand it to be a later event, perhaps even as late as the second month of pregnancy. While Spaemann himself never denies that the hominization debate might have some intrinsic philosophical value, he also believes that for the question of abortion, theories about the chronology of ensoulment are generally irrelevant. In fact, such theories are often presented in bad faith.

As Spaemann says, it tends to be the proponents of abortion who invoke papal decrees concerning ensoulment: “They thereby hold papal utterances, particularly ones dating back a long time, as more infallible than Catholics do.” He implies that the move is essentially sophistical: an appeal to an authority is made by those who do not recognize that authority. More importantly, Spaemann suggests that such appeals misunderstand the scope of the authority involved. The question of when human life begins is a biological question—and for this, Catholics believe biologists and doctors are the most qualified to answer. Among such qualified individuals, a consensus has been achieved. There is no point at which an embryo “becomes human.” From the moment of his conception, the embryo is human. This means that the embryo must also be presumed to be a person.

17 For some of the Thomistic analysis of this question, see the Summa Theologiae I-I, q. 76 and q. 118. For a recent contribution to the discussion of St. Thomas’s views on the matter, see Fabrizio Amerini, Aquinas on the Beginning and End of Human Life, trans. Mark Henniger (Cambridge, MA: Harvard University Press, 2013).


The danger of the arbitrary: abortion and euthanasia. We might anticipate some challenges to Spaemann’s claim that any point chosen, post-conception, as the beginning of personal existence would be arbitrary. He seems to be presuming that arbitrariness is a disqualifying factor; but why should arbitrariness be feared? It is simply a feature of the human condition that our choices will often be arbitrary; trying to avoid arbitrariness might interfere with our ability to act on important matters. Furthermore, there are higher and lower degrees of arbitrariness. As Judith Jarvis Thomson argues, while the “prospects . . . look dim” for rationally pinpointing an exact moment post-conception at which personal being begins, this does not mean that there is, in fact, no such point.20 Thomson explains this with an analogy: “Similar things might be said about the development of an acorn into an oak tree, and it does not follow that acorns are oak trees, or that we had better say they are.”21 In other words, some may grant that the designation of any particular moment as the beginning of personhood is somewhat arbitrary, yet they would still argue that such a demarcation reflects the more fundamental reality that there is a difference between a fetus and a person. On this line of thought, the designation is not totally arbitrary, and therefore not morally problematic.

However, Spaemann’s ethical assessments of abortion seek to preclude such challenges by showing that arbitrary decisions involving human life can have dangerous consequences, especially if those decisions are codified in law. His general philosophical point is that human rights are destroyed if they are made dependent on a decision of the state: “To grant to the state, as Thomas Hobbes would, the right to arbitrarily determine who is human in the legal sense and

who is not, means to take away from human rights their character as fundamental rights.” To show the practical importance of this general point, Spaemann introduces the problem of euthanasia. According to him, the undercutting of human rights accomplished by legalized abortion prepares the way for state-sanctioned, or even mandated, euthanasia: “That the step from here to euthanasia is no more principled cannot be contested.” The prevalence of abortion will cause disabled people to be increasingly viewed as problems that should not have been permitted to arise, as people whom responsible parents should have aborted. This outlook will naturally give rise to a temptation to “fix the problem”—i.e. to put to death disabled persons.

Thinkers such as Thomson might object to Spaemann’s prediction of state-mandated euthanasia as a form of fallacious, “slippery-slope” argumentation. Spaemann might be accused of making an unwarranted logical leap from the existence of legalized abortion to the legalization of euthanasia. However, such a characterization of his position would be incorrect. While he does indeed argue that abortion necessarily leads to euthanasia, he introduces some


24 “Angesichts der medizinischen oder eugenischen Indikation wird man künftig angesichts von Behinderten denken oder sagen: ‘Leider hat man versaut, dich rechtzeitig umzubringen.’” Spaemann, “Verantwortung,” 374. James Prescott, for example, claims that the biblical condemnation of Judas—“It had been good for that man if he had not been born.” (Matthew 26:24)—could be extended to “all children who are doomed to a life of misery.” According to him, the abortion of such children would have been a “beneficent and humanitarian act.” James W. Prescott, “Abortion or the Unwanted Child: A Choice for a Humanistic Society,” The Humanist (March/April 1975): 13.


26 Commenting on her own analogy of acorns and oak trees, Thomson writes: “Arguments of this form are sometimes called ‘slippery slope arguments’—the phrase is perhaps self-explanatory—and it is dismaying that opponents of abortion rely on them so heavily and uncritically.” Thomson, “A Defense of Abortion,” 587.
historical and current evidence to warrant the linkage.27 He finds historical evidence for the link between abortion and euthanasia in the support of totalitarian governments for both practices.28 He finds current evidence for the link in the practice of eugenic indication, whereby “defective” fetuses are aborted. Spaemann understands this practice as a first step towards euthanasia. Though the “eugenically-indicated” killing of a fetus is more properly considered a form of abortion, the practice finds its justification in the same principle that governs euthanasia: “We judge which lives are worthy to live and which are not.”29

The legitimacy of the state. In addition to abortion’s preparatory role vis-à-vis euthanasia, Spaemann worries about the effect of legalized abortion on the legitimacy of the modern constitutional state. According to Spaemann, the legitimacy of the state “is based, above all, on its function of protecting life.”30 This function is not simply one among many other equally important roles of the state; protecting life is the state’s primary and inalienable activity.31 The orientation towards the protection of life is what establishes a political society as a constitutional state, and not a totalitarian form of government. This “end” or orientation is not at

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27 It is sometimes forgotten—or intentionally overlooked, out of rhetorical considerations—that “slippery slope” arguments are not always fallacious. When the actuality of the sequence involved can be established, such forms of argument are quite strong.


31 Incidentally, this is one of the reasons Spaemann opposes mandatory pre-abortion counseling. Such counseling serves as an alibi for the withdrawal of the state from its constitutional duty to protect life. Spaemann, “Das Entscheidungsrecht,” 383.
the disposition of legislators. It is instead the very foundation of the political order: “This protection does not result from a decision of the majority, but is instead the presupposition upon which submission to the majority decision may be asked of the minority.” Moreover, Spaemann believes that the citizenry has some awareness of this primary duty of the state. According to him, the “fundamental consensus” upon which a republic relies is that the state exists to protect human life.33

One might expect Spaemann to argue that the legalization of abortion attenuates this life-protecting function of the state, and thus partially undermines the state’s legitimacy. The state would now choose to protect only some human lives, not all: this would perhaps make the state “semi-constitutional” or “partly totalitarian.” However, he actually offers a starker assessment of the “political consequences” of abortion: “With abortion on demand our state ceases to be a constitutional state.”34 The legitimacy of the state seems to be, for him, an “all-or-nothing” proposition.

Spaemann’s explanation of this point is somewhat abbreviated. As we interpret him, the problem is that legalized abortion touches upon the very foundation of legal authority, the fundamental consensus that the constitutional state primarily exists to protect life.35 Particular


33 Given Spaemann’s scholarly interest in Rousseau, it is perhaps unsurprising to find traces of “social contract” thought in this portion of Spaemann’s assessment. See Spaemann, “Haben Ungeborene,” 366, and “Am Ende,” 360. For some of Spaemann’s thought on Rousseau, see Robert Spaemann, Rousseau—Mensch oder Bürger: Das Dilemma der Moderne (Stuttgart: Klett-Cotta, 2008).


35 In his assessments of abortion, Spaemann does not indicate what other functions the state may have, besides this primary one of protecting life. However, he does exclude some possible functions: the state does not
laws such as speed limits, or laws governing drug use, could do a better or worse job of fulfilling that essential function. In regard to such laws it would be appropriate to speak of a better or worse constitutional state. By contrast, a restriction of the scope of the protection of human life, as occurs with the legalization of abortion, is not such a particular law. It is, instead, a change in the foundation of those laws. As Spaemann says, legalized abortion attempts to substitute a new consensus—that of the particular majority in power—for the fundamental consensus (including both the majority and the minority party) that undergirds the constitutional state itself.\textsuperscript{36} With any arbitrary restriction of who is eligible for human protection, legislators “change the rules of the game,” as it were. This unmakes the constitutional state at its core, even if the machinery of government continues to operate.\textsuperscript{37}

\textit{Clarifications: Conscience and Human Dignity}

In addition to the main lines of criticism detailed above, Spaemann’s ethical assessments of abortion contain a wealth of other dialectical and philosophical material. In this section we will turn our focus to some of this additional material, especially his thoughts on conscience and human dignity. We will call these aspects of Spaemann’s assessment “clarifications.” Though they have dialectical aspects, these clarifications are not, properly speaking, rebuttals to


\textsuperscript{37} This is somewhat akin to John Locke’s idea in chapter XIX of his 2\textsuperscript{nd} \textit{Treatise of Government} that a government may be dissolved not merely “from without” (i.e. by foreign conquest), but also “from within” by actions that contradict the fundamental nature of political society.
arguments advanced by the proponents of abortion. Rather, they are responses to unexamined assumptions in the abortion debate, to the vague ideas that often serve as premises in arguments for legalizing abortion.

The retreat into the conscience. One such clarification offered by Spaemann involves the frequent appeals to “conscience” made in public discourse about abortion. He refers to such appeals as the “retreat into conscience,” for they are typically made to support the removal of abortion as a topic for public debate. According to this line of thought, abortion is a serious and difficult question into which the state has no business intruding.\(^{38}\) Rather, the decision whether or not to abort ought to be left up to the conscience of the mother. Spaemann finds such appeals to the “sacredness” of conscience to be, at best, ambiguous; at worst, they beg the question.\(^{39}\)

The ambiguities and confusions in the appeal to conscience result from the omission of important distinctions: too many different things get included under the term “conscience.” According to Spaemann, “Conscience is the voice that reminds us what is right to do.”\(^{40}\) As he explains it in Basic Moral Concepts, conscience is a two-fold movement. One of its “movements” involves the presentation of an objective hierarchy of goods or values to the individual.\(^{41}\) Yet it contains another “movement” in which the subject’s own interest is aligned

\(^{38}\) Though conscience rights are not invoked, similar considerations concerning the difficulty of the questions underlying abortion are offered in Justice Blackmun’s majority opinion in Roe vs. Wade: “We need not resolve the difficult question of when life begins. When those trained in the respective disciplines of medicine, philosophy, and theology are unable to arrive at any consensus, the judiciary, at this point in the development of man’s knowledge, is not in a position to speculate.” Roe v. Wade, 410 U.S. 113, 160 (1973).


\(^{40}\) “Gewissen ist die Stimme, die uns mahnt, das Rechte zu tun.” Spaemann, “Am Ende,” 359.
with those objective values: “When conscience comes into play, what we spontaneously want actually is this general viewpoint, the objective hierarchy of different types of good.”42 The judgment of conscience thus attempts to align the subjective aspects of human life with the objective, rational order of reality.

However, in the abortion debate, conscience often gets referred to as if it were an infallible ability to determine the morally correct course of action. According to Spaemann, such an understanding exaggerates the power of conscience. Although the conscience may indeed urge us toward right conduct, “It does not supercede the attempt to recognize the just.”43 Conscience is not a shortcut that allows us to bypass the difficult work of moral thought and debate. The reason for this has to do with the nature of conscience itself. As Spaemann says elsewhere, “Conscience is not an oracle but a faculty. As such it can be led astray.”44 As we would explain Spaemann’s point, the “objective goods” presented to the individual in the judgment of conscience are mediated by that same individual’s reason. Conscience is someone’s grasp of the hierarchy of goods, not simply the hierarchy itself. Put differently, the rationality at work in conscience is not god-like and detached; it is, instead, the embodied rationality of the limited human individual. This limitation means that conscience is fallible. There is such a thing as a mistaken conscience. For that reason, Spaemann understands the continual formation and

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41 See Spaemann, Basic Moral Concepts, 59. While this translation of Spaemann’s term Bewegung as “movement” is accurate, it should not be understood to imply that one could always discern two distinct chronological phases in the judgment of conscience. The phenomenological term “moment” offers a alternate way to understand what Spaemann means: conscience has two distinct but inseparable parts. One moment involves the presentation of an objective hierarchy of goods, and the other moment involves a subjective identification with that hierarchy. See Robert Spaemann, Moralische Grundbegriffe, 5th ed. (München: Verlag C. H. Beck, 1994), 75.


44 Spaemann, Basic Moral Concepts, 68.
correction of conscience to be a human duty: “There is no such thing as a conscience which is not prepared to submit itself to further education or to take on board further information.”\(^45\)

One ambiguity in the “retreat to conscience” thus concerns the nature of conscience. The conscience is sometimes referred to as if it were an infallible moral compass; it is, in fact, a fallible human faculty, just like any other faculty humans possess. However, this is not the only misuse of the concept of conscience. A second ambiguity Spaemann detects in the abortion debate concerns the nature of a mistaken conscience and the proper response of others to it. According to him, the decision of a mother to abort her child is sometimes presented—especially in the thought of the Catholic-sponsored counseling centers at the time of his writings—as an example of someone acting on a mistaken conscience. Since the classical Catholic teaching is that one is obligated to follow the commands even of a mistaken conscience, it is sometimes said that the mother’s decision to abort ought to be respected.\(^46\) In the context of such discussions, “respect” is not meant in the minimal sense of accepting with a Stoic equanimity what one cannot change: “It means what the word says: to esteem.”\(^47\) According to this line of thought, the mother with a mistaken conscience who chooses to abort is following the moral law as she understands it. Her reflection is understood to be a good—perhaps even a greater good than the life of the child. As Spaemann says, the Catholic counseling directives take the “joyous


\(^{47}\) “Es heißt, was das Wort sagt: achten.” Spaemann, “Verantwortung,” 378.
affirmation of pregnancy” only as a conditional end. They take “the freedom of choice” as their absolute end.  

However, Spaemann detects a problematic ambiguity in the notion of the “mistaken conscience” that underlies the above line of thought. What is called a “mistaken conscience” is, in many cases, actually a conscience that has been forced into silence. These two dispositions of conscience are not identical. Properly speaking, conscience would be “mistaken” were it to positively command something that it should not, such as a theft or a murder. Yet as Spaemann says, it is “in actuality seldom, if ever” the case that a woman’s conscience commands her to procure an abortion. Rather, an abortion is typically procured either in direct opposition to what conscience actually commands (i.e. saving the life of the child), or without the input of conscience at all: “It is almost invariably the case that either the desire to dispose of a child is stronger than the conscience, or that the conscience—on any grounds whatsoever—does not forbid the killing because it keeps silent.” Appeals to the Catholic teaching concerning one’s duty to follow a mistaken conscience are thus generally irrelevant to the actual phenomenon of

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48 "Ihr bedingtes Ziel ist die Bejahung der Schwangerschaft, ihr unbedingtes die Entscheidungsfreiheit." Spaemann, “Verantwortung,” 379.

49 "Was in unserem Zusammenhang als zu respektierendes irrendes Gewissen bezeichnet wird, ist in Wirklichkeit so gut wie nie die Tatsache, daß jemand die Abtreibung für seine sittliche Pflicht hält.” Spaemann, “Verantwortung,” 378. For this reason, Spaemann believes we should avoid speaking of conflicts of conscience (Gewissenskonflikten) in regard to abortion, and of pre-abortion counseling as conflict counseling (Konfliktberatung). They are inaccurate ways of speaking, for abortion does not involve a conscience issuing two contradictory commands. The conflict is between the command of conscience and something external to it—the perceived self-interest of the mother. See Spaemann, “Das Entscheidungsrecht,” 388.

abortion. They are a sophistical misapplication of that teaching. There is no mistaken conscience in such cases, only a conscience silenced by powerful emotion.

Moreover, Spaemann finds absurd the suggestion that an erring conscience ought to be “respected” (regardless of whether the conscience is actually mistaken or simply silent). One of his objections is scholarly, and the other is practical. His scholarly objection concerns the quotation of St. Thomas Aquinas in support of this notion of “respect” for an erring conscience. The teaching of St. Thomas that one would be morally culpable in ignoring a command of a mistaken conscience is often cited. Yet as Spaemann points out, that is only half of St. Thomas’s assessment of the problem: St. Thomas thinks that there would also be moral culpability in following the commands of such a conscience. As Spaemann explains the problem: “Unfortunately, the second part of the same texts is almost never cited, in which he says that to follow an erring conscience would also be culpable in a moral respect, since the mistaken conscience’s non-hearing of an absolute demand would itself be a moral defect.” In other words, a mistaken conscience is a “lose-lose” situation; in regard to it, St. Thomas identifies no good outcome, and therefore no outcome worthy of “respect.” All the human being in such a

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52 In these ethical assessments, Spaemann tends only to mention the disruptive influence of emotion on the judgment of conscience: “Als wenn nicht oft erst die Reflexion ein spontan das Gute treffendes Gefühl zerstöre.” Spaemann, “Verantwortung,” 378. However, in our judgment, a full treatment of the problem would also need to take into account the effect of habituation on the judgment of conscience. See, in this connection, Aristotle’s discussions of the vicious state of character in Book VII of the *Nicomachean Ethics*.

53 Spaemann is presumably referring to the position of St. Thomas in *Summa Theologiae* I-II, q. 19, a. 5-6.

situation can do is attempt to correct the defect in his judgment, presumably through continuing
formation and reflection.55

Spaemann also offers a more practical objection to this idea of “respecting” an erring
conscience: “respect” is an inappropriate response to an action that one considers a human rights
violation. As he says, “We would seek to hinder someone who intends, in his blindness, to
perpetrate a terrorist attack.”56 He also writes approvingly of interventions of the state in order to
save the lives of children, even in the face of religious objections on the part of the child’s
parents.57 In his judgment, it is one of the basic moral intuitions of decent human beings that
conscience does not “trump” human rights: “It is an important element of human rights that the
rights of one person should not be made dependent on the way the conscience of another person
judges the situation.”58

However, Spaemann is not trying to overturn our ordinary human idea that conscience
ought to be accorded some sort of “respect.” Rather, his critique is ultimately meant to show that
the rhetorical appeals to the conscience of the mother are often made in bad faith; they actually
beg the question. It would be more correct to advocate respect for conscience in regard to

55 “Es komme also vor allem darauf an, diesen Defekt zu beheben.” Spaemann, “Das Entscheidungsrecht,”
389.

56 “Jemand, der in seiner Verblendung meint, einen terroristischen Mord begehen zu müssen, den werden

57 “Eltern, die aus religiöser Überzeugung ihrem Kind in Lebensgefahr keine Bluttransfusion geben lassen,
However, the life-saving nature of such interventions is the decisive point for Spaemann. He does not indicate that
the state may ignore parental rights in less serious matters.

58 Spaemann, Basic Moral Concepts, 66. The fact that many people do not consider abortion to be a human
rights violation is not a relevant objection to Spaemann’s argument. The point is that one should not ask another
human to respect something that the other person considers evil. For anyone who considers abortion to be a human
rights violation, “respect” or esteem would be an inadequate response to the moral gravity of the action. A person
who “respected” actions that he judged to be evil would be a bad person.
decisions that do not touch upon the fundamental rights of other humans. In such situations, one might argue that “respect” for a judgment of conscience would be equivalent to respect for the human person, a being who is self-transcendent through reason. Appeals to “respect” the conscience of a mother who procures an abortion thus assume that abortion is a situation of this less controversial sort, one in which the rights of only one human are involved: “It is rarely frankly expressed, but always tacitly presumed, that in the case of unborn children it is not a question of human life.” Yet this assumes what would need to be proven. If the unborn child is a person, then there are two sets of human rights at issue, not one.

Human dignity and the pressure of law. Another clarification in Spaemann’s assessments of abortion concerns the concept of “human dignity.” We have seen in our second chapter that Spaemann understands references to human dignity as a way of talking about the elevated status of the person, a being made self-transcendent by reason. However, Spaemann’s assessments contain another point about human dignity, one more specific to the problem of abortion: legalized abortion offends the dignity of women.

The offense consists in putting a mother in the situation of having to decide between the life and the death of her child. The mother is put “on the spot,” forced to make a deliberate choice whether or not to abort her child. This is, according to Spaemann, an “unbearable

59 However, even in regard to actions of this sort, the exact meaning of “respect for conscience” would need to be delineated. Spaemann never grants a human right to be blind to important realities: “Es gibt kein Recht des Menschen, nicht zu wissen, was er zum Schaden anderer tut.” Spaemann, “Verantwortung,” 373.

60 See also Spaemann, Basic Moral Concepts, 58: “The concept of conscience implies the idea of human dignity. It means seeing the human person not as a specific case of a generality or as a specimen of a species, but regarding each individual as a self-contained totality, as the generality itself.”

situation” (*unerträgliche Situation*), a “degradation” (*Erniedrigung*) of the mother’s human dignity. It is, perhaps, a counterintuitive point. We are accustomed to hearing abortion defended as a crucial protection of the dignity of women. It is said that abortion is necessary to establish reproductive equality with men; without the protection of abortion, pregnancy and childbirth will be used as tools as patriarchal oppression against women. Given the familiarity of the foregoing argument, one might be initially tempted to think that Spaemann has no rational basis for his assertion, that he is simply expressing a contrary opinion: “You say abortion protects women’s dignity, but I say it offends it!” However, it is important to see that Spaemann offers reasons to support his assertion. That is to say, it is not properly speaking an assertion at all, but rather a conclusion drawn from several considerations. We will focus on two of these considerations: human finitude, and the pressures placed on women by abortion on demand.

The first consideration is one we have already seen in our previous chapter on genetic manipulation and the use of embryos: human beings are finite beings. Practically speaking, this means that humans cannot, and should not, accept some responsibilities. According to Spaemann, legalized abortion would impose one such unbearable responsibility, for with legalized abortion the mother is made responsible for the life or death of her child. Humans are, however, not equipped for such a task: “To make the human being into the lord of life and death fundamentally overtaxes him.”

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63 See, for example, Susan Sherwin, “Abortion Through a Feminist Ethic Lens,” in *Readings in Health Care Ethics*, ed. Elisabeth Boetzkes and Wilfrid J. Waluchow (Ontario: Broadview Press, 2000), 285: “If women cannot end the unwanted pregnancies that result from male sexual dominance, their sexual vulnerability to particular men can increase, because caring for an(other) infant involves greater financial needs and reduced economic opportunities for women. As a result, pregnancy often forces women to become dependent on men.”
To understand Spaemann’s point, it is necessary to remember that “humiliation” or “degradation” can occur not only by being placed below one’s proper station, but also by being placed above it. It would be humiliating, for example, for a first-year undergraduate philosophy student to suddenly be called upon to teach a graduate-level class in philosophy. The undergraduate student would be unable to answer any of the questions of the graduate students. He would appear unintelligent, and thus be humiliated, even in his “elevation” to the role of teacher. The situation of the mother faced with the decision to abort is similar (if not, in fact, far worse): she is asked to make a decision concerning life and death, aspects of human existence beyond our comprehension—and increasingly outside of our human experience.65

As second consideration motivating Spaemann’s conclusion is that legalized abortion creates a situation of intolerable pressure on women. This, too, can initially be difficult to understand, for we are perhaps accustomed to the popular argument that it is the prohibition of abortion that puts pressure on women. It is argued, or at least asserted, that the opponents of abortion want to restrict the scope of the freedom of pregnant mothers, to legally pressure them towards one particular course of action (giving birth to children). The proponent of abortion Frank R. Zindler characterizes such a situation—one in which “freedom of choice” is opposed—

64 “Den Menschen zum Herrn über Leben und Tod machen heißt ihn prinzipiell überfordern.” Spaemann, “Verantwortung,” 374. As was the case with the issue of genetic manipulation, Spaemann does not spell out why we are incapable of assuming such a responsibility. As we interpret him, Spaemann understands the recognition of limits (Grenzen) to be a fundamental part of human moral intuition.

65 As Spaemann says, “More and more often, death takes place in a hidden hospital room. Death is suppressed socially, but the effect is that individuals’ fear of death grows ever greater. Most people nowadays face death never having witnessed the death of someone else!” See Robert Spaemann, “The Death of Death,” 2, http://www.project-syndicate.org/print/the-death-of-death [accessed January 27, 2014]. To Spaemann’s analysis we would add that the same societal trend holds true for the early stages of human life. In Western societies, birth now tends to take place in a hospital, rather than in the family home. People in Western societies are alienated from the phenomena of both birth and death.
as “compulsory pregnancy.” It is instead suggested that legalized abortion would allow a pregnant mother to make a “free,” unpressured decision whether or not to give birth to her child.

However, Spaemann views descriptions of the foregoing sort as inadequate to the actual human phenomena. The proponent of abortion imagines that abortion on demand would create a pressure-free environment, but there is no human situation that is free of pressure and constraint. Certain pressures can be mitigated or eliminated, but doing so always entails the acceptance of other “pressures.” To understand Spaemann’s point, it can be helpful consider an example unrelated to abortion, such as legal speed limits for automobiles. Drivers exceeding posted legal speed limits are typically placed under the pressure of possible criminal sanctions. Yet removing speed limits would not remove all pressure from driving, but only allow a new sort of pressure to exert itself: the “flow of traffic.” Drivers greatly deviating from the average speed of their fellow drivers—the “flow”—will experience various manifestations of this pressure: horns honking, tailgating, “road rage,” and the constant threat of accidents.

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67 As Beverly Wildung Harrison puts it, the fertility of women “will have no concrete meaning apart from the socially supported conditions that enable them to shape that fertility. Furthermore, a genuine degree of freedom from coercion is important to every woman. The principle of noncoercion could be as critical for women who wish to center their lives in childbearing as for those who do not.” Beverly Wildung Harrison, “Abortion Should Be a Woman’s Personal Choice,” in Abortion: Opposing Viewpoints, 55.

68 That is to say, it is always a question of “which pressure?” rather than “pressure or no pressure?” See, for example, Spaemann, “Am Ende,” 358-59: “Wenn aber von Befreiung vom Druck die Rede ist—welchen Druck will man beseitigen? Der Druck der verantwortungslosen Erzeugers wird natürlich bei Legalisierung der Abtreibung zunehmen.”
One may understand the legalization of abortion in an analogous way: a change in legal status does not remove all pressure. The absence of legal sanctions on abortion means that mothers will begin to experience a different sort of pressure: the pressure to abort. Such pressure is the result of several factors, the most important of which is the disruptiveness of children with regard to the established order. As Spaemann says, “Every birth is a revolution, sand in the gearbox of societal reproduction and the satisfaction of needs.”

Children introduce new factors of freedom into the established system, or even into the ordinary course of life. The “new recruits” (die neu Hinzutretende) may reject the order of the family, or when they grow older, the previous political consensus. Modern man is unlikely to welcome such a disruption; it is a loss of control, a clear threat to the modern project of mastery of the irrational elements of human life. Practically speaking, this means that fathers, families, workplaces, and even the wider society are likely to pressure mothers toward abortion: “The willingness to render assistance has grown. That willingness will vanish again if the aid for ‘supporting measures’ is downgraded for

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69 It has been argued that the disparity of speed among drivers is a more significant cause of accidents than speed alone. See, for example, Stephen Moore, “Speed Doesn’t Kill: The Repeal of the 55 mph Speed Limit,” Policy Analysis 346 (May 31, 1999): 16-17.


72 This modern project of mastery through reason is clearly on display in its philosophical progenitors, Nicolò Machiavelli and René Descartes. In *The Prince*, Machiavelli constantly cautions the prince never to trust in luck. The prince must, rather, reach forward in thought to anticipate problems, cement powerful friendships, and neutralize possible rivals. An analogous tendency to mastery is found in Descartes’ rejection of all received opinion in *The Discourse on Method*. Descartes only accepts that which presents itself to his mind in a clear and distinct form. In both the state and the self, reason alone must rule.
the sake of abortion on demand. Experience shows that in the end, a more comfortable, cheap, and brutal way will be chosen, whenever it lies open.”

This “pressure” created by the very existence of the unborn child is, paradoxically, compounded by systems of social welfare. As Spaemann says, “The so-called intergenerational contract has dissolved the natural economic bonds of parents with their children in favor of a collective system of responsibility.” While such collective forms of responsibility are powerful, they also “provoke parasitic behavior such as having no children and allowing oneself to be supported by the children of others.” This “manipulative structure” helps to sustain an ever-present temptation or “pressure” to abort one’s children. Why undertake the arduous task of giving birth to and raising children, if one does not need to depend on one’s children for help in old age?

73 Die Bereitschaft zur Hilfestellung ist gewachsen. Die Bereitschaft wird wieder verschwinden, wenn die Hilfestellung zur ‘flankierenden Maßnahme’ für Fristenlösung degradiert wird. Erfahrungsgemäß wird am Ende der bequemere, billigere und brutalere Weg gewählt, wenn er einmal offensteht.” Spaemann, “Am Ende,” 359. As we will see in the next chapter, this tendency of political societies to pursue “cheap and easy” solutions is one of the reasons that Spaemann believes euthanasia ought to be a taboo subject.

74 The paradox is that one could initially think that a system of social welfare would make parenthood less stressful: one could be more confident of having the financial resources to care for the child. However, Spaemann would probably say that line of thought is an abstraction from the reality of the situation.


76 “Dieses kollektive System provoziert geradezu parasitäres Verhalten, nämlich selbst keine Kinder zu haben und sich dann von den Kindern anderer später ernahren zu lassen.” Spaemann, “Verantwortung,” 375. In our interpretation, Spaemann is referring to the fact that Western systems of social welfare tend to be organized such that one financially contributes to them during one’s working years, and then receives payment and other forms of assistance during retirement or infirmity. Such systems obviously depend on having more contributors than receivers. Those who remain childless are thus, from the perspective of the system, “parasites.”

77 Such was help from one’s children was traditionally recognized as one of the goods involved in procreation (albeit a rather “remote” good). See, for example, 1Timothy 5:3-4, in which a child’s care for his aged parents is enjoined as a sort of “repayment,” an act of justice.
Moreover, with abortion on demand, the pressure to abort is made to fall solely on the mother. As Spaemann says, the mother only has to “answer to herself” for the life or death of the child. The situation is not the same when abortion is legally prohibited. Since such prohibition makes the pressures imposed by the existence of the child more difficult to avoid (i.e. abortion is more difficult to procure, and more dangerous), the pressures typically come to be distributed. That is, an expectation to assist in the care of children is extended to fathers, families, and society in general. Legalizing abortion is, in this sense, a move quite favorable to patriarchy. Even if the legalization comes about with the approval and assistance of women, the net effect is that men are relieved of responsibility. Pressure is placed on women, and women alone. However, the deeper problem with the legalization of abortion—what makes it “intolerable,” in Spaemann’s assessment—is the kind of pressure it places on women, not merely the injustice in the distribution of pressure. He describes the wrongness of such pressure in a various ways. At the most basic level, the pressure to abort is a pressure towards death, rather than life, and Spaemann believes the preference for life is intuitively preferable. Furthermore, he sees an insult to women in the “low expectations” involved in the legalization of abortion:

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80 Therein lies the fallacy with the argument that abortion is regrettable but necessary for the sake of social justice: legalized abortion does not, in fact, fully “level the playing field” between the sexes. Women are likely to experience greater emotional and physical distress than men both before and after abortion.

“To respect a human being can only mean to regard someone as a person for whom such an alternative could never really come into consideration.”

Most importantly, the pressure of legalized abortion is intolerable because it opposes the judgment of conscience. Spaemann understands our sense of human dignity to bear an intrinsic relation to the judgment of conscience. Humans are those beings capable of rising above their instinctual urges in order to act in keeping with the rational judgments of their consciences, and this gives rise to our talk of the “dignity” of the person. Yet for Spaemann, this linkage between conscience and dignity also has practical ramifications: what strengthens and supports the judgment of conscience is in keeping with human dignity, and what weakens and erodes the judgment of conscience is an affront to it: “The actions and omissions that are demanded from a human being (because human beings are indispensable for the lives of one another and are replaceable by no equivalent) cannot actually impair one’s dignity as a human. The opposite is the case.”

Since abortion is typically forbidden by the judgment of conscience, and rarely (if ever) commanded, it does not do justice to reality to describe laws prohibiting abortion as “constraints” or “pressures.” Such laws are, instead, buttresses to conscience. They support human dignity, in the sense of helping women to do what they know to be right. This happens in


84 “Nicht zuletzt ist das Strafgesetz in der Hand der Frau eine Stütze, und oft die einzige, um sich dem Druck des Erzeugers zu widersetzen, der auf Abtreibung drängt.” Spaemann, “Am Ende,” 356. Spaemann’s thought here is akin to Locke’s in the 2nd Treatise, §57: “That ill deserves the name of confinement that hedges us in only from bogs and precipices.”
at least two ways. First, laws prohibiting abortion assist conscience to recognize the goods at stake and thus render the correct judgment. The laws have, in this, sense, a norm-building power: “The criminal law applies to a great extent as a limit that fixes the ‘ethical minimum’.” Second, legal prohibitions on abortion make the wrong decision, the choice opposed by conscience, tougher to execute. As Spaemann says, it is best when parents freely accept their responsibility for the child: “But that does not mean that killing the child would be preferable to saving him by means of the pressure of circumstances, threat of penalties, procrastination, massive persuasion, etc. Legal impediments help the alternative of abortion to be, practically speaking, out of the question.

By contrast, Spaemann believes that abortion on demand offends human dignity by weakening the power of conscience. Legalized abortion removes a great source of external help for the conscience of the pregnant woman—the legal prohibition of abortion—leaving her subject to external pressures. There is a special injustice in this, for these pressures are imposed during pregnancy, a time of vulnerability for the mother: “In fact, women in the first months of

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88 “Gerade der Mutter, für die eine Alternative gar nicht in Frage kommt, muß wirksam geholfen werden.” Spaemann, “Verantwortung,” 374. Though all would surely admit that a legal prohibition on abortion makes abortion more difficult to procure, some proponents of abortion argue that the total number of abortions performed in a country—legal and illegal—tends to remain constant despite legal prohibition. As Susan Cohen writes, “Restrictive laws have much less impact on stopping women from ending an unwanted pregnancy than on forcing those who are determined to do so to seek out clandestine means.” Susan A. Cohen, “Facts and Consequences: Legality, Incidence, and Safety of Abortion Worldwide,” Guttmacher Policy Review 12, no. 4 (1999): 3. For Spaemann’s commentary on such arguments, see Spaemann, “Am Ende,” 356.
pregnancy, especially if they are in needy situations, are often under almost panic-like psychological strain. Thus it is an unparalleled cynicism to summarily push the woman in this situation toward a life or death decision.”

89 While such pressures may not fully overwhelm the judgment of conscience against abortion, they do make it more difficult for the mother to do what she knows to be right. If freedom is understood as the ability to act in keeping with the judgment of conscience, to do what one knows to be right, then the legalization of abortion weakens human freedom. Legalized abortion is, in that sense, a degradation of women.

2. Abortion and the Human Person

In the section above we considered Spaemann’s main reasons for opposing the legalization of abortion. We then considered his clarifications of two problematic ideas.


91 Given his opposition to legalized abortion, one might expect Spaemann to support the mandatory pre-abortion counseling in Germany, at least as a “step in the right direction.” However, he remains consistently opposed to such counseling. He understands it to bear a logical contradiction within itself. If abortion is a human rights violation, then it should be illegal. A one-hour counseling session would not make a human rights violation less odious. On the other hand, if abortion is morally unproblematic, then it is a disenfranchisement to demand that women undergo a counseling session prior to it. See Spaemann, “Das Entscheidungsrecht,” 384-85.

However, Spaemann finds especially problematic the participation of Christian counselors in the government-approved system of pre-abortion counseling. In his assessment, such participation qualifies as formal cooperation with an evil action. See Spaemann, “Verantwortung,” 377. From a Roman Catholic perspective, Spaemann’s criticisms received some vindication in 1998, when Pope John Paul II asked the German clergy to stop issuing the certificate (the “Schein”) indicating the requirement of pre-abortion counseling had been fulfilled. Furthermore, in 2007 the Congregation for the Doctrine of the Faith also asked the German bishops to distance themselves from a group called Donum Vitae that operated abortion counseling centers associated, to some extent, with the Catholic Church.
employed in the abortion debate. Having completed this exposition, we will now consider the relationship of this ethical assessment of abortion to his theory of the person. We will argue that Spaemann’s theory of the human person informs his assessment in three ways. First, we will examine his typical use of his theory of the person as a foil, a strategic contrast that reveals the rival anthropology presumed in many pro-abortion arguments. Second, we will consider a case in which Spaemann gives fuller expression to his understanding of the person in terms of freedom and nature. Third, we will examine how his clarifications of the role of conscience presuppose an understanding of the human person as self-transcendent. Finally, we will conclude with a discussion of Spaemann’s tendency to recollect the origin of ethical problems; we will see this method of ethical analysis as a practical application of his theory of the person.

**Anthropological Contrasts**

As we saw earlier, Spaemann holds that the personhood of the embryo is not one possible concern among many, but is instead the decisive question for the morality of abortion. To put it a different way, the metaphysics of the human person cannot be totally avoided when discussing the morality of abortion. What the embryo is decides the issue, both morally and legally: “Every human being enters into the community as a born member, not as a co-opted member. He seizes his rights, without having to thank other human beings for them.” As Francis Beckwith puts it, the human embryo has “intrinsic value” from the very moment of his conception.

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92 Many thinkers on both “sides” of the abortion question would agree with Spaemann on this point, among them Mary Anne Warren, Michael Tooley, and Francis Beckwith.

Given this importance of personhood to the abortion debate, one might expect Spaemann’s articles on the issue to be comprised primarily of philosophical anthropology. However, as is evident from our exposition above, this is generally not the case. Spaemann understands the core of his own theory of the person—that every human being is a person—to be logically and legally presupposed. He has no need, then, to give a lengthy exposition of his philosophical anthropology in most of his articles; such an exposition would be out place, given his understanding of the dialectical context. Therefore, Spaemann usually confines his theory of the person to brief “nuggets,” little “anthropological asides” in his articles. These brief anthropological comments serve as strategic contrasts by means of which the philosophical anthropology presumed in pro-abortion arguments is made manifest.

We find such anthropological contrasts near the end of §1 in Spaemann’s article “Am Ende,” and in the second paragraph of “Verantwortung.” In “Am Ende,” he says that abortion, euthanasia, and infanticide share a common principle: “Behind it stands the idealist thesis, which is not, by the way, advocated by Kant, that person is synonymous with self-consciousness.”

Spaemann then introduces, in kernel form, his own understanding of the person as a contrast: “Either a human being is a human being by biological membership in the species, or he is one by an actualized spirituality of a certain degree.” The reader is then invited to judge between the two metaphysical understandings of the person based on their consequences. If the latter theory

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95 “Dahinter steht die idealistische, von Kant übrigens nicht vertretene These, Person sei gleichbedeutend mit Ichbewusstsein.” Spaemann, “Am Ende,” 355. One may notice, with appreciation for Spaemann’s rhetorical skill, his seemingly “off-hand” mention of Kant. Given the great respect accorded to Immanuel Kant in Germany, Spaemann’s mention of him is a subtle argument from authority against the opposing position.

of the person were true, then an unacceptable consequence would follow: “A newborn nursling would be entitled to less protection than an adult sheep dog, with which an undoubtedly higher level of communication would be possible.”\(^9^7\)

These comments by Spaemann are brief, yet they bring conceptual clarity to the issue. Spaemann offers a “why” to explain a “that.” That proponents of abortion wish to narrow the scope of the legal protection of life is understood by all, but as Michael Oakeshott might put it, this is an “understanding waiting to be understood.”\(^9^8\) Spaemann uses the categories provided by his philosophical anthropology to provide an explanation for the phenomenon: proponents of abortion hold an attribute-based theory of the person. Since they subscribe to that theory, they are able to view the killing of the fetus as morally unproblematic.

Spaemann’s brief anthropological contrast is important, for there is nothing wildly implausible about attribute-based theories of the person. Self-consciousness, self-respect, memory, and other “attributes” are all characteristics of personal being in our ordinary experience. Yet we might say the same for most philosophical theories: viewed in isolation, few theories seem problematic. It is only when they are compared to other philosophical accounts that weaknesses and tensions begin to manifest themselves. Spaemann’s brief mention of his own understanding of the person provides a contrast that allows these tensions to emerge. His anthropology thus plays an epistemic role. It helps his readers to realize the full implications of what is being presupposed by the proponents of abortion.


Spaemann’s procedure in “Verantwortung” is similar. He again sets up an opposition between biological membership in the human species and self-consciousness as the two possible criteria of personhood: “If we want to designate a later beginning of the person than conception, then we must equate it with the emergence of self-consciousness.” As was the case in “Am Ende,” he also notes an unattractive consequence of understanding personal being to depend on self-consciousness: “That would mean the killing of human life ought to be allowed until a child learns to speak and learns to say ‘I’.” His anthropology thus serves the same function of providing a clarifying contrast. The choice between the two theories can again be made on the basis of their practical consequences.

However, in “Verantwortung” Spaemann also recalls the nature of consciousness as additional evidence against attribute-based theories of the person: “Self-consciousness is something that lies, so to speak, always already ahead of itself, and that has something behind itself in the past, without any determinable beginning.” This is a point that we have already discussed in our first chapter. The “I” of the person extends even into the unremembered: the person is “bigger” than what he consciously recalls.

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101 “Selbstbewuβtsein ist etwas, was sozusagen immer sich selbst schon voraus liegt, ein Rückwärts in die Vergangenheit hat, ohne präzisierbaren Anfang.” Spaemann, “Verantwortung,” 368.

102 This phenomenon makes sense if personhood is founded in biological human nature (as it is in Spaemann’s theory). Laying claim to the unremembered would simply be laying claim to a stage of personal development in which physical architecture to support memory was not yet fully in place. An analogy might be owning a car, but not yet having it in one’s possession. But if the person only extends as far as his memory, then these frequent statements of ours—“I was born at such and such a time”—are little more than rank absurdities. A philosopher like Parfit might accept that we routinely utter absurdities; Spaemann would not.
thus enters this particular assessment of abortion, but again, only in a brief and mostly negative way. He offers no lengthy statement of his understanding of the person in either of these articles. His theory of the person is there only to alert the reader that there is a philosophical alternative, and to help the reader to see some possible problems with the anthropology presupposed by the proponents of abortion.

*The Condition of Freedom*

Spaemann’s theory of the person informs his ethical assessment of abortion in a more substantial way in his article “Haben Ungeborene ein Recht auf Leben?” Unlike his other discussions of abortion, the article is largely a work of philosophical anthropology. The different character of the article is explained by its dialectical origin: it is a response to an article by Giselher Rüpke, which is itself a critique of Spaemann’s earlier article “Am Ende der Debatte um §218 StGB.” Considerations of philosophical anthropology are important to Rüpke’s argument, and so Spaemann responds in kind.

Specifically, Rüpke advances a relational theory of the person as part of his argument that the unborn do not possess a right to life. According to him, when the Basic Law speaks of protecting human life, this does not mean human life in the biological sense, but rather human life in the sense of an “ideal subject.” This ideal subject or person is constituted by societal relevance. The unborn child thus only possesses a “right to life” in the sense of the law if there

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104 “Rüpkes These ist, kurzgefaßt, diese: Das Recht auf Leben nach Art. 2 Abs. 2 GG bezieht sich nicht auf das ‘menschliche Leben im naturwissenschaftlichen Sinne’, sondern auf einen idealen Gegenstand, der sich erst
is some indication that he enjoys societal attention. As Spaemann says, the status of unborn children in Rüpke’s theory may be understood through an analogy to historical monuments: “There are no such things as the rights of monuments, but rather the rights of those for whom the monuments possess significance (‘relevance’).” In a similar way, Rüpke claims that there are no actual rights possessed by unborn children. The only people with “rights,” in the strict sense, are the adult persons in the community.

Spaemann’s initial response to Rüpke’s argument might be called “rhetorical,” but it is more properly factual. According to Spaemann, making social relevance the criterion of personhood is a move typical of totalitarian societies. However, he eventually dismisses this fact as unimportant to the philosophical discussion of the problem: “The *reductio ad Hitlerum* cannot replace the *reductio ad absurdum*.” Since Spaemann dismisses this point, we will omit any further analysis of it. We will focus instead on three other aspects of his response: Spaemann’s criticism of Rüpke’s theory based on “social-psychological” evidence, Spaemann’s argument for the reality of the right to life of unborn children, and finally, his philosophical “diagnosis” of Rüpke’s position. The last of these three is the most important, for it in Spaemann offers a brief description of personal being in terms of the relation between freedom and nature.


107 “Indessen kann die *reductio ad Hitlerum* die *reductio ad absurdum* nicht ersetzen.” Spaemann, “Haben Ungeborene,” 362.
What Spaemann classifies as “social-psychological” evidence are considerations familiar from our earlier discussions of his criticisms of relational theories of the person: our assertion of ownership over the unremembered phases of our lives (“I was born on such and such a date”), and the actual treatment of the child as a person (not a “potential person”) by mothers and other caregivers.108 Spaemann introduces such considerations to show that the distinction Rüpke wishes to make does not reflect reality. The human phenomena do not point to any distinction between the human as biological substrate and the human as person: the phenomena instead indicate a unity of these two aspects of the human being. There is no such thing as an “ideal subject” distinct from human nature.

An understanding of the person is also present, albeit in a more implicit form, in Spaemann’s argument for the reality of the right to life of the unborn. Rüpke’s thesis is that “rights” are actually creations of the community. Thus, if the community takes no notice of unborn children, they have no rights.109 Such rights are not “real”; they do not exist. Spaemann responds by pointing to the German abortion debate as evidence to the contrary. The community has continually been talking about unborn children, from the very first moments of their existence—and talking about them not as fictions, or abstractions, but as subjects possessing rights. He points reflexively even to his own paragraph as evidence of such recognition: “The entire debate about §218 and this paragraph itself indicate the exact opposite, namely that up to now society as a whole has been interested in the unborn child from the first moment of his

existence, and indeed in the precise sense that they award him the rights of a subject."110 Such discourse indicates that the unborn are recognized by and “relevant to” society. According to Rüpke’s own theory, this should mean that there is a right to life of the unborn, a right created by their communal relevance.

In our interpretation, this response of Spaemann’s is not merely an interesting rhetorical trick. It is also reflective of Spaemann’s sense of human intersubjectivity, the community of persons. Spaemann’s frequent locution that “there are only persons in the plural” points to the fact that persons are fundamentally oriented to other persons. For a person, the recognition of other persons is not morally optional. It is, instead, how persons actualize themselves as self-transcendent beings. One might even call such recognition the most fundamental duty of the person, qua person. For a large part of the community to recognize the personhood of the unborn is thus a significant fact for Spaemann. Persons are oriented to other persons, and so judgments of personhood made by a significant portion of the community cannot simply be ignored.111

In addition to these particular criticisms, Spaemann also offers a “philosophical diagnosis” of Rüpke’s position, understanding it as part of a larger trend in modernity. Spaemann calls this trend “emancipation from the constraints of nature.”112 According to this line of thought, nature is of no moral significance. It is little more than a biological substrate, or even an

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111 In our judgment, this would not be a decisive argument for the personhood of the unborn, since another large portion of the community of persons denies the personhood of the fetus. It is, however, a decisive rebuttal to Rüpke’s argument that the unborn children generally lack societal relevance.

impediment to be overcome.113 Such a project understands human freedom and human nature to stand in an adversarial relationship. The human being is viewed as a stark duality of freedom and nature, analogous to the other common dualities of soul/body and person/human. Human freedom is called to resolve the opposition by the mastery of human nature.

However, as part of this “diagnosis,” Spaemann proposes a different understanding of the human person in terms of nature and freedom. Nature is not a fetter on human freedom, but is instead the condition of our being, reconciled by memory.114 In persons, nature gives rise to freedom, and freedom then “lifts up” nature into itself. Nature unfolds into freedom, and freedom (through powers such as the memory) then unifies and governs nature. Yet this means that without nature, there can be no freedom, no true subjectivity: “The emergence of the human being is not a deed of the human being. We can indeed prevent conception, but the link between sexual intercourse and conception is no human invention, but rather an ‘invention’ of nature.”115 Nature, not freedom, first gives rise to the human person. The philosophical description of the person offered by Rüpke is thus inadequate to the actual phenomena and subject to the same dialectical reversals that characterize modern thought in general: “Mastery of nature implies mastery of human beings over human beings, since the human being himself is part of nature. To

113 As we interpret him, Spaemann wishes to include under this term “Natur” both the material aspects of human existence and its more spiritual “givens,” such as the intuitive tendency of many women to recoil from the act of abortion.


first acknowledge someone as a subject where he is no longer there as a nature is to turn things upside down.”116

**Self-transcendence in the Judgment of Conscience**

In the sections above, we considered Spaemann’s use of his theory of the person as a point of comparison, a “strategic contrast.” We also considered his more extensive use of his philosophical anthropology in “Haben Ungeborene.” Spaemann’s understanding of the person also enters into his treatment of abortion in a third and more subtle way through his clarifications of the nature of conscience.

We discussed the various aspects of this clarification in section 1 of this chapter. Here we wish only to note that the judgment of conscience, as described by Spaemann, requires self-transcendence. Conscience is a curious hybrid of objectivity and subjectivity. It is neither an act of sheer freedom, nor is it a violent constraint upon human freedom. It involves instead the “hearing of a demand,” the mental recognition of a hierarchy of goods and a subjective alignment with that hierarchy.117 Such a judgment is only possible for the human being if he is self-transcendent, free of the “commanding central position” of his own self-interest. Yet there also has to be something “natural” about the human person, something finite and conditioned, in order for the judgment of conscience to be capable of erring or of keeping silent when it ought to

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object to a proposed course of action. Conscience, then, could be considered another privileged manifestation of self-transcendence along with promising, forgiveness, and death. The judgment of conscience is a particular mode of “having a nature,” of “self-distance,” or of occupying a “de-centered position.” Practically speaking, this means that one can accept Spaemann’s clarifications of the nature of conscience only to the degree that one accepts his understanding of the human person.

**Human Nature as a Limiting Condition**

One of the more distinctive aspects of Spaemann’s approach to ethics is his attention to the genesis of particular ethical problems. For example, Spaemann says that the abortion debate began with the promulgation of “deliberately false information” concerning abortion rates and the damage to women’s health from illegal abortions: “The former abortionist Dr. Nathanson has often spoken of how, at that time, the campaign was planned and set into operation by him and his friends in the U.S.A. with the help of figures about abortion and damage to health that were many times the real number. Fraud stood at the beginning of the matter.”\(^{118}\) In a similar fashion, when asked by an interviewer why he finds nuclear power “highly problematic,” Spaemann responds by immediately pointing out the technology’s origins: “Nuclear power had a military beginning: the atomic bomb.”\(^{119}\) He even offers several such “genealogical” considerations in

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regard to the question of whether “brain death” is an adequate criterion of the death of the human person. As he says: “The recognition of ‘brain death’ in Germany would never have been achieved without the great influence of the transplantation surgeons,” professionals who naturally have an interest in the removal of “live” organs.120

Whether he is writing about abortion, nuclear power, or even the debate concerning “brain death,” it is typical of Spaemann to pay attention to how ethical problems actually arise. Whether this is a worthwhile step in ethical assessment is debatable. It might be critiqued as a failure to consider the issues with due abstraction, in a “purely philosophical” manner. However, it is important to note that he rarely if ever draws substantive conclusions from the origins of an ethical dilemma. The recollection of origins seems important to Spaemann mostly for the assignment of the burden of proof in regard to an issue. For example, this is evident in his discussion of the definition of death: “The fact that a certain hypothesis regarding the death of a human being is in the interest of other people who would benefit from the verification of this hypothesis does not prove its falsity.”121 The origin of the ethical problem does not decide the issue, yet it should remain a factor in the analysis: “It should cause us, however, to be extremely critical, and it requires setting the burden of proof for the hypothesis very high.”122

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121 Spaemann, Love and the Dignity of Human Life, 50.

122 Spaemann, Love and the Dignity of Human Life, 50.
In our interpretation, such attention to the origins of ethical problems presupposes a certain philosophical anthropology, a limited sort of human self-transcendence. The technique might even be thought of as an application of his theory of the person to the moral realm. If Spaemann is correct in thinking that origins of legalized abortion and nuclear power are indeed capable of continuing to exert an influence, to “color” the issues, then this suggests that human persons are not absolutely free.\textsuperscript{123} To put that in a different way, human reason is not equipped to make of abortion or nuclear power whatever it wishes. Human persons—and by extension, the actions and technologies that come from persons—do not fully “shake off” their natures or points of origin. Reason does give rise to a degree of freedom in persons, but this freedom is limited.

This technique of paying attention to origins thus helps us to think about Spaemann’s understanding of the relation of freedom and nature in the person: nature is not the sort of “condition” that disappears when it gives rise to a free person. It is, instead, the sort of condition that remains as a sort of limit and guide. For example, natural or biological aspects of human life such as eating and sexual intercourse are capable of rational formation, of being “personalized,” as it were. Yet this transformation does not alter the fundamental character, or “nature,” of the thing in question: eating is still eating, whether it is accomplished with the use of silverware or in an animal-like manner. Eating is not simply a social construct, a thing made and unmade by us. In an analogous way, it is unrealistic to expect a behavior or a technology that arises from disordered or evil intentions to retain no moral traces of its origin. In such negative cases, too, nature limits what human freedom may accomplish.

\textsuperscript{123} As evidence of abortion’s lingering fraudulent character, Spaemann often speaks of the massive effort expended in keeping the details of abortion out of the public consciousness; it is an issue that “shuns the light.” See Spaemann, “Verantwortung,” 373, and “Das Entscheidungsrecht,” 389.
3. Spaemann’s Critique of Nuclear Power

Having completed our discussion of Spaemann’s assessment of abortion, we will now turn to Spaemann’s assessment of the generation of energy through nuclear fission (i.e. nuclear power). We will take as our primary texts his articles and interviews on the subject collected in *Nach uns die Kernschemelze*.124 His essential critique of nuclear power in these articles is two-fold: first, the unresolved problem of radioactive nuclear waste unreasonably burdens the coming generations; and second, the failure to legally protect the well-being of future generations could delegitimize the state in the eyes of many of its citizens. We will examine each argument in turn, and then consider his discussion of the burden of proof and his critique of the common argument that nuclear power is “necessary.”

*The Burdening of Subsequent Generations*

The elementary resources of life. In the articles we are considering, Spaemann usually takes it as a given that we have some sort of responsibility toward future generations, a duty to treat our descendants justly.125 As he says, a mentality that does not “commend itself to the welfare of generations” transgresses a moral boundary.126 However, he does not think this

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124 For our translations of *Nach uns*, we would like to acknowledge the assistance of Gregory Canning, with whom we have been engaged in a project of translating Spaemann’s works on environmental ethics.

125 This is a typical assumption made in the discussion of the ethics of nuclear power. For example, Kristen Schrader-Frechette sharply criticizes the United States Environmental Protection Agency for allegedly failing to recognize the existence of such duties to coming generations. See Kristin Shrader-Frechette, *What Will Work*, 184-85. However, she paraphrases the EPA document rather selectively. The EPA does not claim that no duties to future generations exist, but rather that there is no consensus “regarding the extent of the claims held by future generations on the current generation.” It is the extent of our duties, not the existence of those duties, that is the disputed point. See US Environmental Protection Agency, “40 CFR Part 197: Public Health and Environmental Radiation Protection Standards for Yucca Mountain, Nevada,” *Federal Register* 70, no. 161 (August 22, 2005): 49036, http://www.epa.gov/radiation/docs/yucca/70fr49013.pdf [accessed February 21, 2014].
obligation should be considered a positive responsibility.\textsuperscript{127} We do not have a duty to actively accomplish things for our descendants, like leaving them functioning aqueducts or space stations. Rather, we have a negative sort of responsibility, a duty to act cautiously. We must make sure the coming generations have a good chance at human flourishing: “We have the duty to hand on to them undiminished the basic resources of life.”\textsuperscript{128} Put differently, we must leave the world in such a condition that “the world is acceptable as reasonable” to them.\textsuperscript{129} A failure to do so is a failure to act responsibly.

In his article “Technische Eingriffe,” Spaemann understands this general moral demand to give rise to two specific rules for the just treatment of our descendants in regard to the environment. First, we must not effect any large-scale irreversible transformations in or around the earth’s surface. As he bluntly puts it, “The earth must not be delivered to the coming generations as a garbage dump.”\textsuperscript{130} Avoiding such irreversible transformations not only involves avoiding pollution, but also involves leaving behind a sufficient reserve of “non-renewable

\begin{itemize}
  \item \textsuperscript{126} “Einer Geisteshaltung, die sich nicht um das Wohl kommender Generationen schert, muss eine Barriere vorgeschoben werden.” Spaemann, “Die Vernunft,” 107.
  \item \textsuperscript{127} “Wenn es aber noch Menschen geben wird, dann tragen wir zwar für sie Verantwortung, aber keine positive Verantwortung.” Spaemann, foreword to \textit{Nach uns}, 11.
  \item \textsuperscript{128} “Wir haben aber die Pflicht, ihnen die elementaren Resourcen des Lebens ungeschmälert zu übergeben.” Spaemann, foreword to \textit{Nach uns}, 11. He makes a similar point in “Ars Longa, Vita Brevis”: “Our first obligation to [our descendants] is not to live at their expense, not to exhaust their resources and not to run up debts to their detriment. However, there is no similarly strong obligation to make huge investments for them.” Spaemann, “Ars Longa, Vita Brevis,” 110. Surprisingly, the EPA makes a similar claim in its proposed rules regarding the Yucca Mountain storage facility for nuclear waste: “The best we can do is conduct ourselves today so as not to jeopardize future generations’ possibilities for life (the ‘Minimal Principle of Justice’).” See U.S. EPA, “40 CFR Part 197,” 49036.
  \item \textsuperscript{129} “Dass sie von den Nachkommenden selbst als zumutbar akzeptiert wird.” Spaemann, “Technische Eingriffe,” 38. Spaemann seems to be suggesting here that we bear a measure of moral responsibility for how others experience the world, since this perception is partially shaped by our own actions.
\end{itemize}
capitol,” substances that the coming generations might be able to use.\footnote{See Spaemann, “Technische Eingriffe,” 39. Based on full context of the article, we understand Spaemann’s references to “substances” (\textit{Substanzen}) to mean natural substances, including things like fossil fuels, but also the natural kinds of living beings. For the importance of the latter, see pp. 31-32 of the same article.} Second, “We do not have the right, beyond the dangers inherent in nature—earthquakes, volcanic eruptions, cyclones, etc.—to incorporate additional sources of danger into our planet through our transformation of matter.”\footnote{“Wir haben nicht das Recht, über die Gefahren hinaus, die der Natur innewohnen—Erdbeben, Vulkanausbrüche, Wirbelstürme usw.—, durch unsere Transformation von Materie zusätzliche Gefahrenquellen in unseren Planeten einzubauen.” Spaemann, “Technische Eingriffe,” 39. See also Spaemann, “Ich plädiere für die Rückkehr zu einem Fortschritt im Plural,” 73.} The same general idea lies behind each of these particular demands: it would be unjust to bring about foreseeable limitations on the scope of actions on our descendants.

The problem of nuclear waste. The use of nuclear fission to generate energy violates the second of the two rules mentioned above. Fission produces waste that remains radioactive and thus extremely damaging to living beings for about 10,000 years.\footnote{See Spaemann, “Nach uns die Kernschmelze,” 87. Spaemann actually understates the case in claiming that atomic waste remains dangerously radioactive for 10,000 years. In fact, as Shrader-Frechette points out, nuclear waste contains “more than 80 different radioactive fission products,” some of which have half-lives of a far longer duration. She believes the waste must be secured for a million years, lest it cause “severe health harms, including death.” Shrader-Frechette, \textit{What Will Work}, xii and 183.} Since there is currently no way to render this waste non-harmful, it represents an abiding source of danger for the coming generations.\footnote{A small minority of scientists do dispute the severity of the danger posed by radioactivity. Wade Allison, for example, points out that “living cells replace and mend themselves in various ways to recover from a dose of radiation. These clever mechanisms kick in within hours and rarely fail, except when they are overloaded.” Wade Allison, “We Should Stop Running Away from Radiation,” \textit{Philosophy & Technology} 24 (2011): 194. Other thinkers, while not disputing the dangers of nuclear waste, argue that standard forms of energy production pose more immediate dangers. As Luciano Floridi says, “So far, the Fukushima reactor has not caused a disaster even vaguely comparable to the one caused by the Deepwater Horizon oil spill.” Luciano Floridi, “Energy, Risks, and Metatechnology,” \textit{Philosophy & Technology} 24 (2011): 92.} According to Spaemann, we have no logical basis for assuming that the danger of this waste could be minimized through its quarantine in storage sites in restricted areas,
“No-go-zones.” He mentions two problems in particular: the pattern of civilizational decline, and the threat of terrorism.¹³⁵

In regard to the first point, Spaemann says we have no reason to suppose that our civilization will endure for millennia: “Our scientific-technological civilization is a labile and endangered exception that has appeared on this planet.”¹³⁶ The impermanence of our civilization is important because the storage sites for nuclear waste are not self-sufficient; rather, their integrity as storage sites depends upon the civilization that establishes and guards them.¹³⁷ Should our civilization fall—as all past civilizations have—there is no guarantee that even the most mundane of the safety precautions we have put in place would retain their effectiveness.¹³⁸ For example, it is no mean assumption even to suppose that our warning labels would still be in existence and still be understood long after our civilization is gone.¹³⁹

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¹³⁵ Peter Singer also seems to identify these as the most relevant ethical concerns in regard to the overarching question of whether the nuclear fuel cycle can be rendered safe. However, he also states that “Philosophers are unlikely to have the expertise to answer this question.” Singer, *Practical Ethics*, vii.


¹³⁷ Given this uncertainty of the future, some thinkers such as Rosalie Bertell argue against attempts at “permanent” waste storage: “Nuclear, and other toxic, waste needs to be secured and re-secured against release to the biosphere by each generation from now on into future time.” Rosalie Bertell, “Ethics of the Nuclear Option in the 1990s,” in *Nuclear Energy and Ethics*, ed. by Kristen Shrader-Frechette (Geneva: WCC Publications, 1991), 172.

¹³⁸ “Bisher sind noch alle Zivilisationen zugrunde gegangen. Und es ist sehr wahrscheinlich, dass es mit unserer ebenso gehen wird.” Spaemann, “Wo war Gott in Japan?” 96. Behnam Taebi concurs with Spaemann’s assessment in this regard: “There is enough historical evidence to underpin the notion that we are hardly in a position to anticipate human behavior and the status of future societies a few hundred years from now, let alone 10,000 or 100,000 years on.” Behnam Taebi, “The Morally Desirable Option for Nuclear Power Production,” *Philosophy & Technology* 24 (2011): 185.

¹³⁹ “Man muss das voraussetzen, wenn man durch Lagerung des Atommülls No-go-Areas schaffen will, deren Respektierung auch noch nach Jahrtausenden erwartet werden kann, weil das diesbezügliche Know-how noch existiert und weil unsere Warnschilder noch existieren, noch gelesen und noch verstanden werden.” Spaemann, “Nach uns,” 87.
Of course, an attempt might be made to make the storage sites more “self-sufficient” by placing them deep underground or in some other way rendering them inaccessible. However, that solution would involve another unjustifiably large assumption: namely, that another civilization with technical knowledge comparable to our own would also retain an equivalent knowledge of the dangers of radiation. According to Spaemann, it is very possible that this parity would not occur. Knowledge is not a single, unified whole. Rather, civilizations excel in particular sorts of knowledge, and what sort that is varies from civilization to civilization. He offers Stonehenge as an example. Although our civilization seems in many respects more advanced than the civilization that constructed Stonehenge, we still have our limitations; as Spaemann says, “We no longer know, for example, how the constructors of Stonehenge stacked up their stone blocks. We are able to do much that they could not do, but they were able to do something that we cannot.” In a similar way, it is possible that a future civilization will excel at drilling techniques and thus be able to access our storage sites, yet have no knowledge of the dangers posed by the radioactive wastes they encounter therein.

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141 “Wir wissen zum Beispiel nicht mehr, wie die Erbauer von Stonehenge ihre Steinblöcke aufeinandergetürmt haben. Wir können vieles, was sie nicht konnten, sie konnten etwas, das wir nicht können.” Spaemann, “Nach uns,” 87-88.

142 “Wir wissen nicht, ob eine Menschheit, die das Wissen um die Strahlung verloren hat, auch die Möglichkeit zu Bohrungen verloren haben wird, die die unsrigen übersteigen. Das ist nämlich durchaus denkbar.” Spaemann, “Nach uns,” 87.
The threat of terrorism is the second reason that for Spaemann’s skepticism in regard to our ability to create secure storage sites for nuclear waste. It is not a point that he develops at great length, but it remains important, for it demonstrates that the above arguments concerning civilizational existence and knowledge are in some sense secondary. The threat of terrorism means that the safety of the storage sites is imperiled here and now, even while the civilization guarding them still stands. Any attempt to increase security for the sites to the point at which they would be totally immune from terrorist attacks simply substitutes one evil for another. As Spaemann says, a country “would need to turn itself into a police state” to preclude the danger posed by terrorism.

However, a possible objection to this “argument from the existence of terrorism” might be extracted from Spaemann’s own writings. That is, in deciding whether an action would be moral or not, we do not have to take all possible consequences or side effects into account. Doing so would make it impossible to act. Terrorism, it might be suggested, is just the sort of

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144 Some would also argue that, all terrorist threats aside, the waste storage sites are presently vulnerable due to human incompetence. As Shrader-Frechette points out, “All US radioactive wastes have leaked within 10 years of their being stored.” Shrader-Frechette, *What Will Work*, 227.

145 “Um sie auszuschließen, müsste unser Land sich in einen Polizeistaat verwandeln.” Spaemann, “Nach uns,” 90. Perhaps part of what motivates Spaemann’s claim here concerning a “police state” is that mere protection of the storage sites themselves would not contain the danger, as long as new nuclear waste is being produced. The waste would need to be guarded from terrorist attack at the reactor, while being loaded for transport, while being transported, and finally at the permanent storage facility.

146 “Es scheint, als trage von Natur jeder Handelnde die volle Verantwortung für die Nebenfolgen seiner Handlungen. Eine einfache Überlegung kann uns jedoch darüber belehren, dass das nicht möglich ist, und zwar deshalb nicht, weil es Handeln überhaupt unmöglich machen würde.” Spaemann, “Technische Eingriffe,” 26. Incidentally, the fundamental character of Spaemann’s philosophy is evident in the preceding quotation. Spaemann trusts our experience of ourselves as free agents capable of action. No philosophical theory may be accepted which contradicts that basic intuition.
abnormal occurrence that need not enter into our considerations.\textsuperscript{147} If we may supply Spaemann’s account with an example, a family need not forego buying a new minivan because it is possible that a terrorist might steal the vehicle and crash it into a gas station, causing a large explosion. The misuse of one’s van by a terrorist is not a normal, likely consequence of purchasing a minivan. In a similar way, it could be argued that a radiation leak brought about by terrorism is in no way a natural or typical consequence of using nuclear fission to generate energy, and therefore such threats need not be taken into account.\textsuperscript{148}

\textbf{Probability and morality.} Spaemann’s response to such arguments is that the probability of the occurrence of a bad side effect or consequence is not the sole relevant consideration for morality.\textsuperscript{149} In the foreword to \textit{Nach uns}, he introduces this point by means of an intuitively powerful example: “If a man in a life-threatening situation bets the life of his child, he acts irresponsibly even if the chance of winning this bet is 99:1 for him.”\textsuperscript{150} The excellence of the example consists in the way it combines two separate factors relevant for moral analysis: the

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\textsuperscript{148} Though a skeptic might ask why terrorism is even part of the discussion, if the occurrence of a terrorist attack on a nuclear facility is extremely unlikely. Our discourse is evidence that we do recognize nuclear terrorism as a falling within the realm of the probable, not merely the possible. However, this is not a point developed by Spaemann.

\textsuperscript{149} “Während die Größenordnung bei der Beurteilung der hier anstehenden Frage eine Rolle spielt, kann es auf den Grad der Wahrscheinlichkeit künftiger Katastrophen nicht ankommen.” Spaemann, “Technische Eingriffe,” 40. As Spaemann points out elsewhere, there is no single aspect of action that one might identify as “the moral aspect.” Viewing something “under its moral aspect” instead means to take all relevant factors into account, paying attention to their relative value. See Spaemann, “Ethische Aspekte,” 53-54.

\textsuperscript{150} “Wenn ein Mensch in einer existenzbedrohenden Not das Leben seines Kindes verwettet, handelt er auch unverantwortlich, selbst wenn die Gewinnchancen bei dieser Wette für ihn 99:1 stehen.” Spaemann, foreword to \textit{Nach uns}, 8.
\end{footnotesize}
value of what is risked, and whether what is risked is one’s own property. Spaemann understands these factors to be just as morally important, if not more so, than the probability of the occurrence of a bad effect.

First, the value of what is risked must be taken into consideration. Part of what works well about Spaemann’s example of the man risking his son’s life is that fact that it is a life that is risked. Presumably, we would not feel that the man would act irresponsibly, were he only to risk something of lesser value such as his wristwatch. It is because life has such high value that we find the man’s conduct morally objectionable. Put differently, the value of what is risked becomes what the medievals call a “due circumstance” once it reaches a certain level. It becomes a factor we must notice, if we wish to deal fairly with the reality of the situation. An analogy to gambling can be helpful here: the amount of a bet becomes morally significant when a loss would cause one to default on a mortgage or other important obligation. That remains true even if the probability of losing the bet is slight. Spaemann assesses the risk of a successful terrorist attack upon a nuclear waste storage facility in a similar way. A leak of the radioactive waste has the potential to make entire habitats unlivable. Such a great risk calls for a wider consideration

151 Shrader-Frechette would see a third important point in the example, though it is not a point Spaemann develops: the suggestion that it is a child’s life at risk. One of Shrader-Frechette’s key ethical objections to the use of nuclear power is that it carries disproportionate levels of risk for the weaker members of society, like children and minorities. See Schrader-Frechette, What Will Work, ch. 5.

152 However, Spaemann does not think life is the highest good possible. See, for example, “Freiheit der Forschung,” 1: “Auch das Verfassungsgericht sollte mit dem Wertbegriff vorsichtig umgehen und mit Bezug auf das Lebensrecht nicht von einem "Höchstwert" sprechen. Dass das Leben nicht der höchste Wert ist, steht schon in Schillers berühmtem Trauerspiel Die Braut von Messina: ‘Das Leben ist der Güter höchstes nicht.’” Practically speaking, this means that there could be some situations in which risking one’s own life would be morally permissible.

of possible consequences than normal. In regard to great and long-lasting dangers, it is appropriate to take into account extreme situations.\textsuperscript{154} The increasing prevalence of terrorism is thus a significant argument against the use of nuclear power, for a terrorist attack implies risks to things of great value.

In addition to the value of what is risked, Spaemann also points out the requirement that what is risked be one’s own property. This is a second way of understanding the wrongness in the conduct of the father in Spaemann’s example above: the man does not risk his own life, but instead the life of his son. Attempts to justify such conduct with a calculation of probability are improper. According to Spaemann, “Probability is only a subjective qualification of future events.”\textsuperscript{155} Probability does not amount to actual, objective knowledge: “No one can know whether the improbable can occur tomorrow.”\textsuperscript{156} Probability thus provides no reasonable foundation for one’s conduct toward others; it can only provide some orientation for one’s own entrance into risks.\textsuperscript{157}

Given the fact that terrorist attacks do occur, however infrequently, the very existence of nuclear waste endangers the well being of future generations. Because the damaging power of the radioactivity of the waste lasts for millennia, there is currently no way to confine the risks to


\textsuperscript{155} “Wahrscheinlichkeit ist eine subjektive Qualifikation künftiger Ereignisse.” Spaemann, “Technische Eingriffe,” 40.

\textsuperscript{156} “Niemand kann ja wissen, ob das Unwahrscheinliche gerade morgen geschieht.” Spaemann, foreword to Nach uns, 8.

\textsuperscript{157} “Die Qualifikation eines Ereignisses als mehr oder weniger wahrscheinlich dient nur als Orientierung beim Eingehen eigener Risiken.” Spaemann, “Technische Eingriffe,” 40.
those already living on earth, those who might possibly consent to such risks. Spaemann suggests that this non-consensual expansion of risk ought to violate our elementary intuitions of justice: “No one may wager the life of another only because the probability of a favorable outcome is very high.”

*The Loss of the State’s Claim to Loyalty*

**The protection of life as the state’s fundamental duty.** Spaemann’s primary objection to the use of nuclear power concerns the as-yet-unsolved problem of nuclear waste. His second objection to nuclear power concerns its potential to strain civic loyalty. We have already seen him advance a similar line of criticism in regard to the legalization of abortion. As Spaemann says, “The legitimacy of the state and the citizen’s duty of loyalty are not unconditional and unlimited.” These are, rather, contingent upon the state’s fulfillment of a basic duty or function. Articulated positively, this is the duty to protect life. Articulated negatively, it is the

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158 Furthermore, it is highly unlikely that we could reasonably anticipate such consent. A plausible estimation of consent would need to have some basis in the current responses of people to the risks of nuclear power. Or, put negatively, we have no logical basis to assume that the risks people currently reject will be gratefully accepted in the future. Yet as Shrader-Frechette points out, the current sociological evidence is that those most able to freely consent to being put at risk by nuclear energy production are the very people least likely to give consent. Rich communities do not welcome nuclear power plants or waste storage sites; only poor communities tend to do so. We cannot extrapolate future consent from a lack of such consent at present. See Kristen Shrader-Frechette, “Nuclear Wastes and Ethics,” in *Nuclear Energy and Ethics*, ed. by Kristen Shrader-Frechette (Geneva: WCC Publications, 1991), 189-90. Moreover, as Shrader-Frechette also says, the risks of harm from nuclear waste are greater for the coming generations than for the current generation, “given that leaks will increase over time.” Shrader-Frechette, *What Will Work*, 184. Consent to a lesser level of risk does not imply consent to greater level of risk. This means that the cases are not similar enough for us to anticipate future consent.


duty of the state not to ignore or “negate” someone’s personhood, that is, his condition as an
acting subject: “The obedience of those who dissent can only be demanded if the status as
subjects of those who are affected by the decision is not negated.”162 Such a negation might
presumably be said to occur whenever the members of minority group are stripped of rights
(such as the Jews under Nazi rule) or never accorded rights at all (abortion).163 Should the state
fail in this duty of recognizing and protecting persons, it no longer has a moral claim to loyalty:
“Wherever anyone’s position as a subject is negated, one is free both to assist those parties
released from the duty of loyalty and, in turn, to rescind his own loyalty.”164

However, Spaemann advances this critique with some caution. He does not say that the
generation of energy by means of nuclear fission does, in fact, involve such a deprivation of
rights and a corresponding loss of civic loyalty. He says only that it appears that way to some
people, and that their judgment is “not absurd,” given the number of respected natural scientists
among them.165 Spaemann says that such disagreement among experts must, for the non-
scientist, prompt the question of the burden of proof.

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161 “Die Legitimität des neuzeitlichen Staates gründet in erster Linie auf seiner Schutzfunktion für das

162 “Nur wo die Subjektstellung der Betroffenen durch die Entscheidung nicht negiert wird, kann auch der
Gehorsam der Dissentierenden verlangt werden.” Spaemann, “Technische Eingriffe,” 44.

werden, da sind nicht nur Juden ihrer Loyalitätspflicht ledig, sondern jedermann, der diesen beizustehen wünscht.”
See also Spaemann, “Am Ende,” 360: “Wo Minderheiten rechtlos gemacht werden, kann auch die Mehrheit nicht
legitimieren.”

164 “Wo irgendein andes Subjektstellung negiert wird, da steht es jedem frei, diesem Betroffenen und aus
der Loyalitätspflicht Entlassenen beizustehen und seinerseits die Loyalität aufzukündigen.” Spaemann, “Technische
Eingriffe,” 44.

165 “Ich erörtere hier nicht, ob diese Überzeugung gut begründet ist. Ich sage nur, sie existiert, und ich sage
allerdings auch darüber hinaus, sie ist nicht absurd. Sie ist nicht absurd aus folgendem Grunde: Es gibt eine nicht zu
vernachlässigende Zahl namhafter Naturwissenschaftler, die diese Auffassung vertreten.” Robert Spaemann,
“Ethische Aspekte,” 65.
The Burden of Proof

As we have already seen, a consideration of the burden of proof is one of Spaemann’s typical moves in his ethical assessments. However, it is usually only a brief point in his analysis; he mentions the burden of proof to assist the reader in evaluating the arguments, but he says little about it otherwise. By contrast, Spaemann’s discussion of the burden of proof in regard to nuclear power is more developed. In the following section, we discuss one possible reason for the change: he believes that a correction of our contemporary attitude toward risk is necessary. In subsequent sections of our chapter, we will discuss a second possible reason for the change: there is more room for moral debate about the use of nuclear power, for the practice is not intrinsically evil.

A return to the principle of tutiorism. According to Spaemann, a principle of tutiorism was held to be valid during the Middle Ages. According to this principle, certainty is necessary for action to be morally licit. In doubtful cases, a principle of conservation takes effect: one must err on the side of life. Practically speaking, this means that if a “weighty and unfurled argument” (ein gewichtiges und unwiderlegtes Argument) can be formulated against any action, that action should be considered illicit. This means that the one arguing on behalf of any action that might possibly endanger safety bears the burden of proof.

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Spaemann understands that this tutoristic view was overturned in modernity, and a principle of probabilism accepted in its place. According to this new principle—a principle he believes still enjoys wide acceptance—in doubtful cases one must err on the side of human freedom. Practically speaking, the probabilistic principle presumes that an action is morally licit so long as at least one expert is willing to endorse it. Whoever would restrict freedom thus bears the burden of proof, and the burden is total: he must convince all other experts. In the absence of such unanimity of expert opinion, people must be allowed to do what they want, lest their self-determination be infringed.

In light of the risks posed by nuclear power, Spaemann argues that the burden of proof must again be reversed: “The old tutoristic principle that has been discarded for a very long time must again be considered valid.” The scale and the irreversibility of the possible damages from a nuclear accident are simply too great to allow for any presumption of unlimited freedom. The risks of nuclear power call for greater caution than normal: its innocuousness must be substantiated. Paradoxically, such a reversal is necessary in order to protect freedom. As

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172 “Nicht die Schädlichkeit, sondern die Unschädlichkeit muss glaubhaft gemacht werden.” Spaemann, “Technische Eingriffe,” 46. By the time of Spaemann’s 2006 eponymous essay, “Nach uns die Kernschmelze,” a legislative decision had been made in Germany to begin a withdrawal from nuclear power. His position in “Nach uns die Kernschmelze” is still that it is the proponent of the nuclear power who must actively seek to convince
Spaemann says, “Today we have become aware that there is a property that precedes that of freedom: the integrity of that nature in whose ecological niches life and freedom themselves are located.”\(^\text{173}\)

The Excuse of Necessity

**Nuclear power as a necessary evil.** A final important aspect of Spaemann’s assessment of nuclear power is his critique of a common argument offered in support of the practice. This is the argument that nuclear power is necessary, at least for the time being, in order to avoid worse evils.\(^\text{174}\) It is said that no alternatives for energy generation exist that would enable us to meet our current and future energy requirements: “The need for energy that has now arisen . . . can be met only with the help of huge central plants that depend on the use of nuclear power.”\(^\text{175}\) A lack of energy could occasion economic destruction and dangerous social conflict.\(^\text{176}\) Nuclear power is thus necessary, at least as a sort of technology to “bridge the gap” until something better is

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others. However, this burden of proof is now explained in terms of the disruption of the status quo, not in terms of the specific nature of the issue. See Spaemann, “Nach uns,” 86.


\(^\text{174}\) Spaemann does not associate this argument with any particular thinker; perhaps this is because he finds it to be a pervasive opinion, the intellectual core of most arguments on behalf of nuclear power. For a concrete example of this, see Patrick Moore, “Going Nuclear,” *Washington Post*, April 16, 2006, http://www.washingtonpost.com/wp-dyn/content/article/2006/04/14/AR2006041401209.html [accessed February 21, 2014]. Moore’s claim is that nuclear power is necessary in light of the greater dangers posed by “catastrophic climate change” caused by fossil fuel emissions.


found. In the following sections, we will consider two criticisms Spaemann advances against this line of argument: first, this claim of “necessity” misunderstands the nature of human necessities; second, it rests on an erroneous assumption of a pre-established harmony between human needs and scientific developments.

The conditional necessity of nuclear power. According to Spaemann, the claim that nuclear power is necessary fails to distinguish between what is necessary under certain conditions and what is absolutely necessary. The necessity of nuclear power is a conditional necessity, a practical constraint as opposed to an absolute one. It is important to make this distinction because, as Spaemann says, “The so-called objective demands . . . are, after all, only practical constraints under given assumptions.”

One is not actually powerless in the face of a conditional necessity. As Spaemann says, “There is always also the possibility of changing the very conditions under which something could be changed.”

In regard to nuclear power, one “given assumption” is that there can be no reduction in energy consumption, now or in the future. Nuclear power appears as “necessary” only when a stable or increased demand for power is assumed. Spaemann suggests that this presumption of increased power requirements is questionable, especially given decreases in population and other

177 “Dabei zeichnen sich inzwischen ja schon die Alternativen ab, und man spricht von der Atomenergienutung als ‘Brückentechnologie’.” Spaemann, foreword to Nach uns, 8.


Furthermore, nuclear power appears as “necessary” in a context in which there are no alternative technologies of comparable effectiveness. Yet this, too, is a conditional necessity, and one of our own making. According to Spaemann, we have no incentive to develop alternative technologies so long as we are able to use nuclear power to evade the problems inherent in our level of energy consumption. Innovations only tend to occur when we face an existential crisis: “Only when we consider this prohibition [on nuclear power] as an impossibility given to us by nature, and ourselves as standing with our backs to the wall, will we mobilize the creative power that is demanded for the further development of humanity.” Knowing that we can fall back on nuclear fission to produce energy removes any sense of urgency from the situation, and so the search for alternative technologies proceeds at a slow pace.

Spaemann notices a similar mistake in the talk of “inevitable” societal struggles in the event of a withdrawal from nuclear power. As he says, “Such a manner of speaking assumes that societal processes are to be judged like natural processes and governed by the same

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183 Shrader-Frechette assesses the issue in a similar way: “Nuclear energy not only would use funds that could be better spent to avert more CC [climate change], but also would distract citizens from the real need to address energy efficiency, conservation, and alternative energy.” Shrader-Frechette, What Will Work, 237.

184 “Und erst wenn wir dieses Verbot wie eine naturgegebene Unmöglichkeit und uns selbst als mit dem Rücken an der Wand stehend betrachten, werden die kreativen Kräfte mobilisiert, die erforderlich sind, um die weitere Entwicklung der Menschheit.” Spaemann, “Nach uns,” 90.

determinisms.”

According to him, free communities are instead remarkably adaptable in the face of challenges. A free community might come up with a way to avoid massive unemployment in the event of a nuclear withdrawal: there is no true necessity in such a case, especially compared to the “natural constraints” imposed by the radioactivity of nuclear waste. What can be affected by the human will only has a conditional necessity; it is only a “quasi-natural constraint.”

The myth of preestablished harmony. Spaemann understands the judgment that nuclear power is “necessary” to be motivated not so much by logic, but by a “quasi-religious” background assumption that there is always a harmony between human needs and scientific discoveries. It is said that nuclear power is currently the only way to meet our energy requirements, and that a failure to meet these requirements will be catastrophic. Yet as Spaemann says, this is equivalent to saying that there is some sort of invisible, intelligent hand guiding our technological development. It is to believe that “if humanity were to reach a bottleneck in its survival and material progress, suddenly the development would be at hand, which alone would

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make it possible for humanity to continue. In such an account, nuclear power appears as a *deus ex machina* to save us.

However, Spaemann would have us ask what kind of “necessity” this is. What kind of “necessity” can a technological development ever have? He proposes a simple thought experiment in this regard: imagine that nuclear fission had not been invented, or had been invented much later, perhaps in the year 2200 A.D. “Who,” he asks, “would seriously claim that would have been a catastrophe for mankind?” We all instead presume that it would not have been the end of civilization. This thought experiment reveals that the “necessity” claimed for nuclear power is again a conditional sort of necessity: what is “necessary” only for the fulfillment of our desire for a certain standard of living is far from an absolute necessity. Only if one believes that the world exists to satisfy our desires could the necessity of nuclear power be considered absolute. As Spaemann suggests, there are many people who seem to believe just that: “In the mouth of human beings since the 1960s who refuse to grow up, ‘I need that!’ is something like an ultimate reason not to question the demands they make upon their contemporary world.” And, we might add, the demands they make upon their descendants.

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189 “Wenn die Menschheit mit ihrem Überleben und ihrem materiellen Fortschritt in einen Engpass gerät, plötzlich genau die Entdeckung bei der Hand wäre, die allein ermögliche, dass es weitergeht mit dem Menschen.” Spaemann, foreword to *Nach uns*, 8.

190 “Wer würde denn im Ernst behaupten, das wäre die Menschheitskatastrophe?” Spaemann, “Ethische Aspekte,” 69.

Duties to Our Descendants

The question of obligation. In most of Spaemann’s philosophical assessments of nuclear power, one finds categorical statements concerning an obligation to our descendants: we must “think in generations,” we do not have the right to burden our descendants with additional dangers, we must care for the felicity of those who come after us, etc. Typically, this duty to our descendants is simply taken as a given in the articles. Spaemann merely reminds his reader of it; he does not usually feel the need to argue on its behalf. However, in his longest philosophical treatment of nuclear power, “Technische Eingriffe,” he does offer some explanation of how this obligation to our descendants arises. He explains it in terms of a more fundamental reality: what we are as human persons.

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In “Technische Eingriffe,” Spaemann approaches nuclear power by way of the problem of the side effects of our actions. He considers two “extreme” views of what would determine the reasonableness (i.e. moral acceptability) of side effects: the consent of the affected parties to the side effects (an “anarchistic” criterion of reasonableness), or consent to a political procedure for judging the moral importance of the side effects (a “constitutional” criterion of reasonableness). He dismisses the first view on more or less practical grounds. Demanding consent would give everyone a veto on any proposed action, making moral action effectively impossible: “But failure in each action is unreasonable, above all, for a free being.” By contrast, he says that the difficulties with the latter, constitutional criterion are not insurmountable. However, there is still a problem in regard to consent. Namely, society includes people such as children and the mentally ill who cannot agree to its procedures. Moreover, the coming generations can be affected by societal actions, again without any opportunity for consent. The obligation to care for these “non-consenting” members of society and our descendants limits what may count as a “reasonable” or “just” action. The legislative

193 Spaemann discusses the “anarchistic” view on pp. 16-19 of “Technische Eingriffe” and the “consent to political procedure” view on pp. 19-25 of the same article.

194 “Unterlassung jeden Handelns aber ist erst recht unzumutbar für ein freies Wesen.” Spaemann, “Technische Eingriffe,” 16-17. This is another example of Spaemann’s fundamental trust in our everyday engagement with reality. We know that moral action is possible, and so any theory that would belie that experience must be rejected.

195 “Auch diese Lösung stößt auf Schwierigkeiten, wenngleich nicht auf unüberwindliche.” See Spaemann, “Technische Eingriffe,” 20. In our interpretation, Spaemann means that the difficulties with the constitutional solution can be surmounted if complimented with more substantial criteria of reasonableness drawn from the natural law. Without such substantial criteria, the constitutional solution represents little more than a political version of the Sophistical argument that “might makes right.”

196 “Alle Theorien, die die Rechtsphilosophie aufstellt, gründen auf dem Gedanken einer diskursiven Vermittlung von Interessen; sie finden ihre Grenze erstens in dem Umstand, dass wir es in der Gesellschaft auch mit Kindern und mit Geisteskranken zu tun haben, die an diesem Diskurs nicht teilnehmen können. . . . Die zweite Grenze der Diskurstheorie der Gerechtigkeit liegt in dem Umstand, dass die Nebenfolgen unserer Handlungen und
process alone cannot render all actions morally justified: “But even when all these conditions are
fulfilled, founding a decision process on consensual procedures does not guarantee its justice, i.e.
the reasonableness for everyone to accept its results.”197

However, Spaemann considers a possible challenge in this regard. Why not simply say
that a “participant in the discourse” (i.e. a consenting member of the constitutional state) may
dispose of such non-participants as he sees fit?198 In other words, do we really have a duty to
others that would limit the scope of our actions? He justifies the asking of the question by
alluding to a rival theory of personal rights: “Why are human rights not tied to the existence of
certain assumptions—for example, that everyone is able to understand human rights and is able
to claim them?”199 Such a theory would understand human rights and responsibilities to
primarily be the result of a contract between persons. Entering into such a contract would
require, as a minimum, that the persons involved be capable of communication. We will examine
Spaemann’s response to this line of thought in our next section. However, this posing and
justifying of the question of obligation is itself important, for it shows that Spaemann does not
simply accept the existence of obligation as philosophically primitive. Though responsibility for

197 “Aber auch wenn alle diese Bedingungen erfüllt sind, garantiert die Gründung der
Entscheidungsprozesse auf konsensuelle Verfahren noch nicht deren Gerechtigkeit, das heißt die Zumutbarkeit für

198 “Auch über diese dürfen die Diskursteilnehmer jedoch nicht beliebig disponieren. Warum nicht?”

199 “Warum dürfen die Menschenrechte nicht an das Vorliegen bestimmter Voraussetzungen geknüpft
werden, zum Beispiel daran, dass jemand imstande ist, die Menschenrechte überhaupt zu verstehen und geltend zu
machen?” Spaemann, “Technische Eingriffe,” 24. As we have seen, these are the assumptions of attribute-based
theories of the person that make the enjoyment of personal status dependent upon self-consciousness,
communicative ability, etc.
others is one of the important principles of ethical thought, it is not, strictly speaking, foundational.

**There are only persons in the plural.** After posing the question of obligation, Spaemann introduces his own theory of the person in order to meet the challenge of relational theories of human rights. His first response is one we have already seen him employ in regard to issues such as abortion: “There would be no human rights if it were left to the discretion of certain men to decide whether anyone is a bearer of such rights or not.” Human rights cease to exist if made dependent on someone else’s judgment. They would then only be privileges, not rights. Therefore the only possible criterion for possessing human rights—i.e. being a person—is biological membership in the species *Homo sapiens.*

In the next paragraph Spaemann considers the even more difficult question of why we have duties to our descendants. It is a more difficult question, both theoretically and practically. The theoretic challenge is, of course, that an obligation to a descendant is an obligation to someone who is not yet an existent. Spaemann says that the practical challenge is the

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200 “Es gäbe gar keine Menschenrechte, wenn es in das Belieben bestimmter Menschen gestellt wäre, darüber zu entscheiden, ob jemand Träger solcher Rechte ist oder nicht.” Spaemann, “Technische Eingriffe,” 24. Shrader-Frechette evaluates the impact of nuclear waste upon rights in a similar way: “If someone can impose a bodily risk of harm on another without his consent, then there is no right to life. If someone can profit by imposing a threat of physical harm on another without compensating him, then there is no right to due process.” Shrader-Frechette, “Nuclear Wastes and Ethics,” 194.

201 “Daher bleibt als Kriterium nur die biologische Zugehörigkeit zu Spezies *Homo sapiens.*” Spaemann, “Technische Eingriffe,” 24. In Spaemann’s fuller philosophical treatments of the question, this criterion of personhood is stated in a more expanded form: membership in any species whose mature members are characteristically rational.

202 There has been a great deal of discussion of this problem among analytic philosophers. See, for example, Gregory S. Kavka, “The Paradox of Future Individuals,” *Philosophy and Public Affairs* 11, no. 2 (Spring,
following: “No instinct limits our possibilities of action to a measure determined by the needs of future generations.”

Although children may not yet be able to participate in the discourse of the political community, people often have an instinctual tendency to care for them. By contrast, we have no such instinct to care for non-existent persons. An obligation to safeguard the welfare of the coming generations can thus only be recognized rationally: “We must set this measure ourselves.”

Yet Spaemann is confident that we can recognize such an obligation, so long as we are willing to engage in a basic “deliberation about justice.” In the deliberation he offers, the “plurality” or intersubjectivity of the person is the decisive consideration. As Spaemann likes to say, there can only be persons in the plural. He points to our ability to act freely as evidence of this. The freedom of action typically enjoyed by persons is capable of being limited by the prior actions of others: “Every agent can act only insofar his scope for action has not been previously taken from him by someone else’s excessive enlargement of his own.”

For example, a man’s possibilities of living as a farmer are severely reduced if his father already sold the family farm. The conditioned nature of freedom is but one particular example of the intersubjective way human beings exist. We do not exist as atomized individuals. Rather, the “human community is
spread over generations.”206 As human persons we exist in necessary genealogical relationships with other human persons. Spaemann shows what this concretely implies: “Unless every generation considers itself a member in a generational community of solidarity—with obligations to those before and to those after—there can be no life on earth.”207 Life, too, is something we receive, and something we pass on. The “received” being of the human person is thus the ultimate ground of duty. Put differently, responsibility for others is based not on societal agreement, but rather on what we are as persons.208

Civic Loyalty and the Recognition of Persons

Nuclear power as a prudential judgment. According to Spaemann, the use of nuclear power could cause the state to lose its moral legitimacy. As we noted above, he criticizes the legalization of abortion on similar grounds. Yet this parallelism is surprising, for he does not consider abortion and nuclear power to be morally wrong in the same way. Although he claims that nuclear fission is “already the beginning of what is non-peaceful,” and that “a bad use is immanent in the technology,” he does not claim that the generation of energy through fission is, strictly speaking, an intrinsically evil act.209 It is instead an action whose wrongness must be


208 Spaemann formulates this point a bit differently in Happiness and Benevolence: in order for a sense of duty to even arise for us, we must first be “awake to the reality of the other.” Persons are beings with an orientation to such “wakefulness” or self-transcendence.

209 The statement that nuclear power is “non-peaceful” occurs in the foreword to Nach ons, p. 10: “Die Entfesselung dieser Art von Energie ist selbst schon der Anfang des Unfriedlichen, wie wir zu lernen beginnen.” On
recognized through a prudential calculus, a weighing of pros and cons.\textsuperscript{210} In the case of abortion, by contrast, he says: “We have here an area before us where the weighing-up of goods ends: It is always illicit to kill an innocent human being.”\textsuperscript{211} In Spaemann’s estimation, abortion is an intrinsically evil act, something wrong of its very nature.\textsuperscript{212}

However, abortion and nuclear power do have something in common, something that might prompt him to worry about their infelicitous civil effects: each involves a failure by the state to recognize the human rights of a group of persons. In abortion, the failure has the character of a refusal of recognition. The refusal is direct, built in to the action, as it were; the natural end of abortion is the killing of an unborn child, a physical denial of his human right to life. In nuclear power, the failure to recognize personal rights has a different character; the failure is more indirect. The natural end of nuclear fission is the production of energy; it involves no direct assault upon or denial of personal rights. However, nuclear fission has a morally important side effect: the production of radioactive waste, highly toxic to humans (and living things in general).

Since there is currently no solution to the problem of this waste, Spaemann believes that its intentional generation will be seen by some as an assault on the integrity of human life, the

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the “bad use” immanent in nuclear fission, see “Die Vernunft,” p. 105: “Dieser Technik sind schon schlechte Gebrauchsweisen immanent.”
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\textsuperscript{210} “Selbstverständlich kann man hier abwägen, auch wenn ich der festen Überzeugung bin, dass es Bereiche gibt, in denen die Abwägung endet. Ich behaupte nicht, die Erzeugung von Atomstrom sei das, was die Moraltheologen einen \textit{actus instrinsice malus}, also eine in sich schlechte Handlung genannt haben.” Spaemann, “Ich pladiere,” 72.

\textsuperscript{211} “Hier haben wir einen Bereich vor uns, wo die Güterabwägung endet: Es ist immer unerlaubt, einen unschuldigen Menschen zu töten.” Spaemann, “Ich pladiere,” 76.

\textsuperscript{212} For a fuller exploration of what makes an act “intrinsically evil” in the Roman Catholic philosophical and theological tradition see John Paul II, \textit{Veritas Splendor} (Vatican: Holy See, 1993), especially numbers 79-80.
production of something capable of doing grave injury to the health of one’s descendants.\textsuperscript{213} Creating a new source of danger on the planet, a danger capable of ruining entire habitats, is the moral equivalent of betting the life of another.\textsuperscript{214} It shows a reckless disregard for the safety of those who follow us, a negation of their personhood. For a constitutional state to legalize or even sponsor nuclear power—for the expense of nuclear power is such that it generally requires federal funding—runs directly counter to the state’s essential task of protecting life. By such a course of action, that state risks forfeiting its moral claim to loyalty.\textsuperscript{215}

This concern for the moral legitimacy of the state in relation to nuclear power is a rather unique aspect of Spaemann’s ethical analysis. Few if any writers on nuclear power seem to share his concern. There are many possible reasons for this, but one contributing factor must surely be Spaemann’s grasp of what we are as persons. His philosophical anthropology gives him a heightened sensitivity to the issue of recognizing other persons, for such recognition is in keeping with what persons are as self-transcendent beings. This enables him to approach questions of political ethics with something more than the typical utilitarian calculus.\textsuperscript{216} It allows him to see that the issue of nuclear waste is a question of justice among persons, not simply a question of expediency and risk assessment.

\textsuperscript{213} Für diejenigen, die in der industriellen Nutzung der Kernspaltung einen Angriff auf die Integrität des menschlichen Lebens sehen, stellt sich daher die Loyalitätsfrage. Es kann niemandem zugemutet werden, Mehrheitsentscheidungen zu akzeptieren, wo diese seiner Überzeugung nach Tod oder schwere gesundheitliche Schädigung seiner Kinder bedeuten.” Spaemann, “Technische Eingriffe,” 44.

\textsuperscript{214} See Spaemann, “Ich pladiere,” 73.

\textsuperscript{215} “Nur wo die Subjektstellung der Betroffenen durch die Entscheidung nicht negiert wird, kann auch der Gehorsam der Dissentierenden verlangt werden.” Spaemann, “Technische Eingriffe,” 44.

\textsuperscript{216} However, there is also an argument to be made against nuclear fission on utilitarian principles as well. See Shrader-Frechette, \textit{What Will Work}, 172: “Great inequities to the most vulnerable among us arguably harm everyone and damage the common good.”
Put in those terms, it is not so strange to worry about the legitimacy of the state in regard to both nuclear power and abortion. It is, after all, one of the oldest questions in philosophy: can a political society that acts unjustly expect loyalty from its citizens?\footnote{This is the central question of Plato’s \textit{Crito}, in which Socrates explains his reasons for not attempting to evade his sentence of death.} Plato felt that question could be decided in favor of loyalty to the political society; however, that was in regard to the more natural form of society that was the ancient \textit{polis}. In regard to the modern constitutional state, Spaemann suggests a different answer.\footnote{In comparison to the \textit{polis}, the modern constitutional state is more of a creation of reason: as Spaemann says, it depends upon a “fundamental consensus.” However, this reference to the consent of the governed means that the constitutional state cannot appeal to filial piety in its demand for loyalty—one of the key moves in the \textit{Crito} (see 51a-c).}

\textit{Reason’s Self-Limitation in the Human Person}

\textbf{“Chaste conduct” in regard to knowledge.} In his discussions of the problem of nuclear power, Spaemann discusses a need for collective self-restraint: “In light of the immense growth of the power of human beings, there must be things in the future that we, for good reasons, forbid ourselves.”\footnote{“Angesichts des immensen Zuwachses an Macht des Menschen muss es in Zukunft Dinge geben, die wir uns aus guten Gründen verbieten.” Spaemann, “Nach uns,” 90.} However, what is notable about this is that he is not merely calling for restraint in terms of action; he is not just saying that we should refrain from building new nuclear power plants and deactivate those already in operation.\footnote{“Daher ist die Inbetriebnahme von Kernkraftwerken zur Zeit ethisch nicht gerechtfertigt. Und da der Staat das Subjekt der Verantwortung für die langfristigen Nebenfolgen menschlicher Handlungen ist, muss er die Inbetriebnahme verhindern. Oder aber er muss—so füge ich nach über 30 Jahren wieder hinzu—ihre baldestmögliche Abschaltung veranlassen.” Spaemann, “Technische Eingriffe,” 47-48.} Rather, he also calls for restraint in our quest for knowledge: “With knowledge one must practice a very chaste sort of conduct. Not everything
that serves knowledge serves mankind."  He specifically mentions nuclear research and embryonic research as examples. Although these types of research lead to advances in our knowledge, they do so at the cost of either killing or greatly imperiling human persons. According to Spaemann, we must not pursue such research. The end cannot justify the means in these cases, for knowledge “is not an absolute value.”

In his article “Ars Longa, Vita Brevis,” Spaemann offers a more developed exposition of these points. He says that our desire for knowledge is not problematic per se. This desire is built into what we are as human beings: “The urge to know seems to be an elemental force which seeks to overcome the limits it encounters.” Yet there is, according to Spaemann, a type of “practical-technical” knowledge that is “intrinsically immoral” to obtain. He gives the example of the knowledge of how to build effective means of mass extermination. Though the “theoretic foundation” of such knowledge is amoral—presumably the knowledge of the chemicals involved, human physiology, etc.—the “know-how” or technical knowledge of such means shares in the evil of the action to which they are oriented. No one ought to be allowed to acquire such technical knowledge, except perhaps in the “tragic” case in which the knowledge

221 “Mit den Erkenntnissen einen sehr keuschen Umgang einüben muss. Nicht alles, was der Erkenntnis dient, dient dem Menschen.” Spaemann, “Die Vernunft,” 105.


224 Robert Spaemann, “Ars Longa, Vita Brevis,” 107. While Spaemann never explicitly claims that nuclear fission is an intrinsically immoral technology, he does suggest that there is something problematic about it: “Dieser Technik sind schon schlechte Gebrauchsweisen immanent.” Spaemann, “Die Vernunft,” 105.
already exists, and so one must acquire it “in order to know how to protect oneself against the new evil.”

These considerations regarding the moral status of technology are also of assistance in achieving a clearer understanding Spaemann’s philosophical anthropology. His theory of the person is notable for emphasis on our rational self-transcendence. The person is that being who freely relates to his own nature, and this freedom is the result of rationality. Rationality unlocks us from our central position and gives us that curious “non-identity” with our properties that characterizes the person. Yet the person is also that being who is free even from the demands of rationality, from the unlimited desire to know. Persons are not freed from the “commanding central position” that characterizes living beings, only to then be bound to do whatever would contribute to their own rational expansion. Such a conception of the human person would pit reason against nature, but Spaemann’s person is not dualistic. Instead, in the human person, “nature first becomes aware of itself as reason.” Reason, as “self-aware nature,” must sometimes limit its drive to expansion in order to preserve itself. A failure to recognize this fact is evident not only in the development of certain technologies, but also in the phenomenon of suicide, one of the subjects of our next chapter.

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226 Spaemann, Happiness and Benevolence, 168.

227 For a similar assessment, see also Friedrich Nietzsche, On the Advantage and Disadvantage of History for Life, trans. Peter Preuss (Indianapolis, IN: Hackett, 1980), 7: “Only so far as history serves life will we serve it.”
Chapter 4

Euthanasia and “Brain Death”

In this chapter we will consider Spaemann’s ethical assessments of euthanasia and the neurological criterion of death (so-called “brain death”). The first section of our chapter will examine Spaemann’s controversial belief that a taboo on the discussion of euthanasia ought to be retained. To understand his position, we will discuss the factors that Spaemann identifies as motivating societal interest in euthanasia—factors that imperil its free and rational evaluation. We will then examine Spaemann’s two main arguments against euthanasia. Finally, we will consider Spaemann’s clarification of the often-contested distinction between killing and letting-die.

The second section of the chapter will consider the relationship of this ethical assessment to Spaemann’s theory of the person. We will argue that Spaemann’s philosophical anthropology is central to his account of the immorality of suicide (and, by extension, euthanasia). According to him, suicide involves an “ontological contradiction” in which the person makes use of his freedom to destroy his very self. We will also argue that Spaemann’s fears about a transition from voluntary to non-voluntary forms of euthanasia are informed by his sense that life must always be recognized as the essential precondition of human freedom. We will conclude the section with a consideration of Spaemann’s claim that our behavior towards the living is affected by our treatment of dead persons. We will see this paradoxical claim as an extension of Spaemann’s theory of the body’s mediating role in the recognition of persons.
The third section of our chapter will turn to the issue of determining human death based on “brain death,” a lack of neurological activity. We will examine Spaemann’s reassignment of the burden of proof in regard to the question. We will then discuss his three arguments in opposition to the neurological criterion: first, the use of the criterion invalidates our normal perception of death; second, the criterion embodies a false equation of non-functioning with non-existence; finally, scientific evidence exists that bodily integration can occur even in the absence of brain function. We will conclude the third section with a consideration of a critical response to Spaemann’s position by Nicholas Tonti-Filippini.

The fourth and final section of our chapter will discuss the relationship of Spaemann’s ethical assessment of “brain death” to his theory of the person. We will contend that his main arguments against the neurological criterion of death do not depend upon any particular theory of the person. However, we will argue that his anthropology still grounds his assessment in a more remote way, in the sense of providing him with the categories through which he understands and evaluates opposing assessments of the issue.

1. Spaemann’s Critique of Euthanasia

Spaemann opposes all forms of euthanasia, including both its voluntary forms (i.e. “assisted suicide”), and its non-voluntary and involuntary forms (i.e. “mercy-killing”). We will focus on four aspects of Spaemann’s critique. First, we will examine his analysis of some factors that motivate societal interest in euthanasia. This will help us to understand Spaemann’s call for a retention of the taboo in Germany on the public discussion of legalizing euthanasia. We will then discuss Spaemann’s two main criticisms of euthanasia: the immorality of suicide and the highly probable transition from voluntary to non-voluntary forms of euthanasia. Finally, we will
briefly consider his defense of the distinction between killing and letting-die. We will take his article “Death-suicide-euthanasia” (1999) in *The Dignity of the Dying Person* as our primary text for his assessment of the issue. However, as space permits, we will also supplement his ethical assessment with some of his other discussions of euthanasia collected in *Grenzen*, especially “Wir dürfen das Euthanasie-Tabu nicht aufgeben” (1992) and “Es gibt kein gutes Töten” (1997).

*The Factors Motivating Euthanasia*

As we discussed in our third chapter, it is typical of Spaemann to consider the origins of ethical dilemmas, including the wider cultural context in which a particular ethical problem arises. While these origins do not fully determine the moral status of the practices in question, they do contribute to the assignment of the burden of proof in regard to them. However, Spaemann’s treatment of the origins of euthanasia differs slightly from his treatment of those of other ethical practices. While he does explore how the interest in euthanasia arises as a result of converging societal factors, he makes no mention of a burden of proof. In our interpretation, the omission is intentional. Spaemann believes that suicide and euthanasia should not only be illegal, but also have the status of societal taboos. To speak of a burden of proof implies that an issue is

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3 Spaemann, “Death—suicide—euthanasia,” 125: “It is necessary that suicide remain under a social taboo.” See also Spaemann, “Wir dürfen das Euthanasie-Tabu nicht aufgeben,” 416, where he quotes from the *Kinsauer Manifesto* (a document he helped to author): “Und so folgern die Verfasser: ‘Nur wenn die billige und bequeme Möglichkeit der Euthanasie gänzlich außer Betracht bleibt, können menschliche Kräfte mobilisiert und soziale Phantasie geweckt werden.’”
open to debate, whereas Spaemann does not believe that the possibility of legalizing euthanasia ought to be freely discussed.⁴

Spaemann’s call for a taboo on the discussion of euthanasia is initially puzzling, even in terms of his own applied ethics. For example, he does not suggest that the discussion of abortion, nuclear power, or genetic manipulation ought to be socially forbidden. A quick solution to this puzzle would be to understand Spaemann’s position as somehow historically and culturally conditioned. Hans Jonas, for example, seems to understand the issue in such terms when he says, “In all the world Germany is the place where such a discussion [of euthanasia] is the most difficult. The conditions are as unfavorable as one can imagine, for the past casts such frightful shadows on this theme that it’s apparently impossible to have a calm, rational discussion of it in this country.”⁵ According to this line of thought, German thinkers such as Spaemann would prefer not to broach the subject of euthanasia at all. A code of silence is the only appropriate response to the issue, given the nation’s historical involvement with euthanasia under the National Socialists.

However, we do not think that such a historical-sociological answer can fully account for Spaemann’s position. To understand what motivates his call for a taboo in regard to euthanasia, it is necessary to examine his analysis of the factors that give rise to current societal interest in the practice. Some of these factors are statistically verifiable trends: improved technological methods for the prolongation of life and increased costs of medical care. Other factors are less

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open to empirical verification; they are cultural features of contemporary Western societies. These factors include a preoccupation with pleasure and a tendency to avoid difficult, sacrificial solutions to problems. The concurrence of all these factors makes a societal embrace of euthanasia difficult to avoid unless the discussion of its legalization remains completely forbidden.

**Increased medical power and the prolongation of life.** In “Death—suicide—euthanasia,” Spaemann says that the societal temptation to euthanasia can only be resisted if “the new methods for prolonging life and the massive increase in the cost of medical care . . . are taken into account and an alternative answer to the problems newly raised can be provided.” We will begin with the problem of the prolongation of life, and then examine the increased cost of medical care in the next subsection.

According to Spaemann, the inordinate prolongation of life is problematic in two main respects. First, it has led—along with the advent of hormonal contraception—to an unstable demographic situation: in Western societies, there are more old people than young people, a situation without historical precedent. The imbalance destabilizes the systems of societal

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6 Spaemann, “Death—suicide—euthanasia,” 128. By “new methods,” it seems Spaemann certainly has in mind technological devices such as the life-support machine or new forms of surgery (see p. 129 of the same article, as well as Spaemann, “Es gibt kein gutes Töten,” 429). However, he may even wish to include older developments such as intravenous feeding, antibiotics, and chemotherapy. See Spaemann, “Wir dürfen das Euthanasie-Tabu nicht aufgeben,” 415-16.

welfare common in Western nations. In such a context, euthanasia appears as a brutal but effective way of beginning to rectify the problem. Second, an inordinate prolongation of life makes it more difficult for people to “die with dignity.” As Spaemann says, the very old and ill often lose the necessary time it takes to achieve equanimity in regard to death, for they have been “forced with all sorts of means to continue to live.” They are robbed of the chance to accept death in a mindful, human way. Spaemann says that in such situations, dying “degenerates to mere perishing, as little faced as the death of an animal.”

Evidence of this shift from dying to perishing may be seen in our changed cultural responses to death. As Spaemann says, when mere perishing becomes the norm, “The rites surrounding death degenerate.” He specifically mentions the death-bed vigil as an example.

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9 “It is true, after all, that, for a long time now, dying in our countries has been lacking in human dignity.” Spaemann, “Death—suicide—euthanasia,” 128. It might initially be thought that this is a point of agreement between Spaemann and the proponents of euthanasia, for proponents of euthanasia often argue for the practice as a “dignified” form of death. However, it is actually a point of fundamental disagreement. Spaemann thinks acceptance of death is the key to retaining dignity, while proponents of euthanasia emphasize control over the manner of one’s death.

10 Spaemann, “Death—suicide—euthanasia,” 128. One might wish to respond to Spaemann that by the extension of their lives, people would gain more time to “accept death.” However, such an objection would, in most cases, be an abstraction from the actual phenomenon. What matters is not just time, but lucid moments, time in which persons are capable of free acts of acceptance. As the human organism begins to fail, medical interventions require increased amounts of analgesics and more difficult recoveries. Practically speaking, this means that lucid moments are often in shorter supply as one’s health declines. Moreover, the hope that death can always be delayed takes away the strongest possible motivation for the patient to consciously make an act of acceptance.

11 In explaining this point, Spaemann makes use of the medieval distinction between “acts of man” and “human acts.” The acceptance of death is capable of being a morally significant act, a human act, because the acceptance is freely given: “It can no longer be understood in terms of vital needs.” Spaemann, “Death—suicide—euthanasia,” 124. See also St. Thomas’s treatment of this distinction in *Summa Theologiae*, I-II, q. 1, a. 1.

Whereas death would traditionally take place in the company of a person’s close relations (i.e. those who could assist that person in making a “human act” out of death), it is now more often the case that “relatives disappear, once things come to a head.” Indeed, they could have no part to play in mere perishing; the death-bed vigil no longer makes sense, given what death has become. The net effect of this “death of death,” as Spaemann calls it elsewhere, is an increasing alienation from the phenomenon of death. People increasingly face death never having seen someone else die, much less “die well.” In such a cultural context of alien and undignified death, euthanasia can appear as a way of recovering human agency. It is seen as a way of “doing something,” of exerting control over a terrifying unknown.

The increased cost of medical care. A second objective factor motivating euthanasia is a dramatic spike in the costs of medical care. Spaemann does not offer an explanation of why costs have risen. His interest is only in the possible effects of the increase. In regard to euthanasia, he finds one possible effect particularly problematic: the rise in costs of care could cause the sick to be seen as “burdens.”

The judgment that someone is a burden may sometimes be expressed by those who are asked to care for the aged or sick person: “The temptation to abandon solidarity becomes

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14 Spaemann, “Death—suicide—euthanasia,” 128. See also p. 130 of the same article: “In our culture as well as in most other cultures, something like a death-bed vigil has always belonged to our way of confronting death and dying.”


massive: the temptation to tell the suffering person: ‘There’s the door, you know’. ” However, Spaemann believes that these sorts of judgments can also be internalized. Someone could come to see himself as a burden: “For a sensitive sick person, life may actually become unbearable from the ‘inner perspective’. ” Many sick people do not relish the thought of exhausting their families’ financial resources in an attempt to stave off the inevitable. In such situations, euthanasia can appear as a “cheap” and indispensable solution to the problem, unless it is legally and socially prohibited. 

**Societal hedonism and the path of least resistance.** Spaemann understands the rising costs of medical care and the artificial prolongation of life to be the primary factors motivating societal interest in euthanasia. However, the motivating power of these factors is also a function of their intersection with other less tangible but still powerful societal trends. In his article “Es gibt kein gutes Töten,” Spaemann identifies one such trend as the unreflective hedonism typical of Western societies:

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18 “Unter solchen Umständen mag dann, wenn das gesellschaftliche Tabu sich allmählich aufgelöst hat, für einen sensiblen Kranken das Leben wirklich aus der ‘Innenperspektive’ unerträglich werden.” Spaemann, “Wir dürfen das Euthanasie-Tabu nicht aufgeben,” 413. In fact, Spaemann anticipates that in the absence of legal prohibitions and social taboos, euthanasia could even come to be seen as a duty of the very ill, for “every human being bears responsibility for the consequences of the omission of an action which would have been morally and physically possible.” Spaemann, “Death—suicide—euthanasia,” 126.

19 “The offer of assisted suicide would be the most disgraceful escape which a society could think of in order to evade solidarity with its weakest members: the most disgraceful, and the cheapest.” Spaemann, “Death—suicide—euthanasia,” 126.

The other and decisive factor lies in an undertone of western civilization, which on the one hand considers it as the highest goal of the human being to enjoy himself or at least to feel good, and on the other hand as the highest moral duty to optimize the world by the increase of the quantity of pleasant feelings.\textsuperscript{21}

Such an understanding of the purpose of human life has difficulty dealing with the challenge of human suffering. To endure suffering, Spaemann suggests, requires an awareness of being, a sense that substances are more fundamental than states of affairs.\textsuperscript{22} The society that lacks such an orientation to “being” will naturally try to eliminate suffering or “unpleasant states of affairs” at any cost. If the suffering cannot be eliminated directly by medical means, the temptation will exist to pursue its elimination indirectly—namely, by the elimination of the sufferer.\textsuperscript{23}

A second societal trend that contributes to the demand for euthanasia is the tendency of societies to avoid difficult, sacrificial solutions to moral dilemmas. Societies tend to choose the easiest solution to a problem, the “path of least resistance,” regardless of the moral character of the proposed solution. In our previous chapter, we saw Spaemann make a similar point in regard to nuclear power. So long as nuclear power plants are active, he claims, there can be little motivation to explore alternative solutions to our demands for energy. Spaemann applies the same logic to euthanasia. If euthanasia is socially accepted and legal, then society will not seek

\textsuperscript{21} “Der andere und entscheidende Faktor liegt in einer Grundstimmung der westlichen Zivilization, die es einerseits als höchstes Ziel des Menschen betrachtet, sich zu vergnügen oder wenigstens sich wohl zu fühlen, und andererseits als höchste moralische Pflicht, die Welt durch Vermehrung der Menge angenehmer Gefühle zu optimieren.” Spaemann, “Es gibt kein gutes Töten,” 430.

\textsuperscript{22} “Heideggers Begriff der ‘Seinsvergessenheit’ ist in diesem Zusammenhang hilfreich. Was die Welt in dieser Sicht kostbar macht, ist nicht das Sein von Menschen, Tieren oder Pflanzen, sondern es sind bestimmte Zustände und Erlebnisse, und Menschen nur insofern, als sie Träger solcher Zustände sind.” Spaemann, “Es gibt kein gutes Töten,” 430.

other solutions to the problems posed by an aging populace. As he says, “The cheapest escape is also precisely the one which in the end necessarily will be chosen by a civilization as thoroughly ruled by the laws of economy as is ours, unless this path is impeded.”24 Addressing the various motivating factors of euthanasia will require innovative solutions and clear moral thought, but “Where there is a cheap and morally accepted way out, nobody will search for creative solutions.”25

The need for a taboo. Having examined these various factors motivating interest in euthanasia, we are now in a position to better understand Spaemann’s call for a taboo on its discussion. In our interpretation, Spaemann believes that the interaction of all of these factors creates an unusual dialectical context in Germany, and in Western nations in general. Normally, speech is somewhat removed from performance; the discussion of an action is not understood to give rise to an action in a direct way.26 However, there can be exceptions, unusual speech-contexts in which words take on greater power. The stock example is, of course, yelling “Fire!” in a crowded theatre. In such a situation, yelling about a threat has unusually strong repercussions. We believe that Spaemann understands the problem of euthanasia in an analogous way. The intersection of the societal trends motivating euthanasia means that allowing it to be openly discussed would shortly lead to its social and legal acceptance. The pressure tending toward euthanasia is too great to allow for a truly disinterested debate of the issue. In such a


26 For some exceptions to this general trend, see J. L. Austin’s analysis of promising and other forms of “performative utterance.” J. L. Austin, How to Do Things with Words, 2nd ed. (New York: Oxford University Press, 1975).
dialectical context, it is not sufficient that euthanasia be illegal, yet remain a subject open to debate. The only security against the adoption of euthanasia is a social taboo even on its discussion.\(^{27}\)

However, Spaemann nowhere indicates that all moral evils should be subject to a social taboo whenever cultural factors would make them difficult to resist. Therefore, we also believe that his call for a taboo specifically in regard to euthanasia is motivated by an awareness of the goods at stake in the practice. As he says, the prohibition on the discussion of euthanasia is “a taboo . . . whose matter touches upon the foundations of the humanity of our culture.”\(^{28}\) As we would explain Spaemann’s point here, some things are sacred. There are certain things that are so important for humanity that they must not be debated in the way that we would in regard to more mundane matters, lest this cause confusion regarding their value. Children are an example that immediately spring to mind. Many of the staunchest advocates of “free speech” would not object were a professor prevented from giving a lecture on the possible personal and societal advantages of the sexual abuse of children. We take Spaemann to be making a similar claim for the sacredness of the temporal end of human life. It is precisely because Spaemann wants dying

\(^{27}\) It might be objected that Spaemann’s discussion of the “need for a taboo” is somewhat paradoxical. If he believes that the subject of euthanasia should truly be taboo, why does he offer rational argumentation about it? Such philosophical discourse would only seem to prolong the discussion of an inappropriate topic, and so it might be seen as morally contaminating Spaemann’s own argumentation. However, two responses immediately suggest themselves. First, while it is an unusual dialectical move, there is nothing logically contradictory in offering arguments that all further argument should cease. Second, we should also recall one of Spaemann’s descriptions of the freedom of philosophy: “When philosophers debate behind closed doors, every monstrosity must be allowed to be brought forward.” Spaemann, “Begotten, Not Made,” 294. Certain topics—such as euthanasia—can be appropriate subjects for philosophical consideration, yet not appropriate subjects for public discussion.

\(^{28}\) Spaemann says this as part of a larger point that good people would prefer to face punishment for doing what they believe to be right than to see important societal taboos overturned. We will provide Spaemann’s entire sentence, italicizing the portion we have directly translated above: “Wer in diesem Ermessen die Grenze des Verallgemeinerbaren überschreitet, wird die Menschlichkeit seiner Motivation am besten dadurch beweisen, daß er lieber das Risiko einer Strafe eingeht, als ein Tabu in Frage zu stellen, dessen Fall die Grundlage der Menschlichkeit unserer Kultur berühren würde.” Spaemann, “Wir dürfen das Euthanasie-Tabu nicht aufgeben,” 417.
to remain authentically human that he does not want it to become a subject of debate. We should not imagine that it is one more thing that ought to be subject to our rational control.  

*The Problem of Suicide*

Of course, the above line of thought concerning the necessity of the euthanasia taboo presupposes that euthanasia is actually a moral evil, something to be avoided even at the expense of freedom of expression. Spaemann is well aware of this, and so his assessment of euthanasia is not limited to his call for retention of the social taboo on its discussion. He also offers two arguments that euthanasia is a moral evil. The first of these concerns the immorality of suicide, in general—be it a solitary act, or in the case of voluntary euthanasia, “assisted suicide.”

**The value of life and the meaning of death.** According to Spaemann, suicide is immoral, for it contradicts human nature. In suicide a person attempts to split himself, as it were, into “an acting, i.e. the killing, part and a passive part which gets eliminated and drags the one acting along with it into this extinction.”  

Aside from the manifest ontological contradiction in this, such a split is problematic in two additional respects. First, it involves a disordered view of the hierarchy of being. People attempting to commit suicide “value their lives in relation to their

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29 We must leave as an open question the extent to which Spaemann would support taboos on the discussion of other matters of equally important human value, such as the beginning of human life. On the one hand, Spaemann frequently posits conceptual links between artificial fertilization and euthanasia (see Spaemann, “Death—suicide—euthanasia,” 128). This inclines us to think he would, for example, welcome a taboo on the discussion of the legalization of in vitro fertilization (IVF) in any society where it was not yet legal. On the other hand, Spaemann suggests elsewhere that not all taboos are equally valuable. Specifically, he suggests that a prior taboo on the discussion of abortion in his society was not a good thing, for it protected the practice of abortion to some extent. See Spaemann, “Verantwortung,” 369, and “Wir dürfen das Euthanasie-Tabu nicht aufgeben,” 410.

states of being, rather than relating these states of being to a life principally beyond any price or evaluation.”

Such an inversion of the hierarchy of being, to whatever extent it is rational (not pathological), is a culpable violation of the dignity of human life, a failure to set the higher above the lower.

Second, suicide “destroys the meaning of death.” In our interpretation, Spaemann wishes to indicate a telos or goal of sorts when he speaks of “meaning.” For Spaemann, the fact that humans are aware of death is significant. It distinguishes—or should distinguish—the death of a human from the death of an animal. As rationally aware, the human being is capable of accepting the suffering involved in death. Such acceptance can transform and humanize the suffering involved in death; it makes dying into a human act. Our possession of rationality thus establishes a specific attitude toward death as a natural goal for us: we ought to strive for such acceptance, for a truly human form of death.

Yet suicide involves no acceptance or transformation of suffering. Rationality is instead directed towards escaping the suffering, and it attempts to do so by a means that involves the destruction of the rational nature itself. Such an action is immoral, and assisting such an act

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33 “Since we are aware of death and can suffer death in a conscious anticipation, we are able to transform the pure suffering into an actus humanus. Accepting death is the ultimate actus humanus, because it can no longer be understood in terms of merely vital needs.” Spaemann, “Death—suicide—euthanasia,” 124.
34 In contrast to philosophers such as Friedrich Nietzsche and Michael Foucault, Spaemann believes in the intelligibility of reality. Our possession of rationality is not a brute and senseless fact, but instead a reality that calls for a particular kind of response; it has a “meaning.”
shares in its immorality: "Aiding and abetting a suicide is aiding and abetting a murder."36
Because suicide is wrong, voluntary euthanasia (or “assisted suicide”) is formal cooperation in an evil action. Therefore, euthanasia is morally illicit.

The Transition from Voluntary to Non-voluntary Forms of Euthanasia

In “Death—suicide—euthanasia,” Spaemann also advances what is sometimes called a “dam-break” or “slippery-slope” argument against the legalization of euthanasia. Namely, Spaemann anticipates that the approval of voluntary euthanasia will lead to non-voluntary and even involuntary forms of euthanasia. His projection is based on both historical and philosophical evidence. The historical evidence concerns the actuality of the transition in the Netherlands and elsewhere. The philosophical evidence concerns a shared—yet generally unacknowledged—principle that governs all forms of euthanasia: the “well-understood interest” of the other. That is to say, it is part of the essence of euthanasia that it involves someone else deciding about its acceptability. The necessary involvement of others in the practice makes for a smooth logical transition from one form of euthanasia to another—and, presumably, a smooth legal transition as well.

Historical evidence for the “slippery-slope” of euthanasia. The historical evidence of the transition to forms of euthanasia that lack consent is only a minor point in “Death—suicide—euthanasia.” Spaemann mentions that such a shift “has already taken place in the Netherlands,”

but he offers no further commentary on it. However, the remark remains important, for the strength of a “slippery-slope” argument depends in great measure on the establishment of the actuality of various parts of the predicted sequence. The fact that such a shift has occurred in the Netherlands does not logically demonstrate that such a shift must occur elsewhere, but it certainly makes the inference seem more plausible.

Spaemann offers a different piece of historical evidence in his assessments of euthanasia collected in *Grenzen*. In those assessments, he offers an example more tailored to his German audience: the support of the Nazi minister Joseph Goebbels for the 1941 film *Ich klage an*. Although it depicts a voluntary form of euthanasia, the film was meant to psychologically prepare the way for the Nazi T4 program, the mass murder of the insane in sanitariums. The goal was to establish the concept of killing as an act of love and pity, a judgment that would be transferred to other forms of euthanasia. Spaemann mentions the film in order to provide a small piece of historical evidence for the predicted transition to forms of euthanasia that lack consent.


38 For example, a slippery-slope argument that event A will lead to events B, C, D, and E often fails to be persuasive when only event A has occurred. We naturally lend more credence to the prediction when it can be shown that event A has already occurred and has already given rise to events B and C, just as predicted.


However, Spaemann’s reference to *Ich klage an* is also an argument from authority, not merely a piece of historical evidence. The fact that Joseph Goebbels thought that the forms of euthanasia were interconnected is impressive precisely because Goebbels was, in Spaemann’s words, a “psychologist of the masses” (*ein Massenpsychologe*). Goebbels had an expertise in human affairs, albeit an expertise that he put to evil use. One might even go so far as to say that the popular imagination considers Goebbels to be an “expert in evil.” Spaemann’s mention of Goebbels is thus a way of establishing that a belief in the transition from one form of euthanasia to another is rationally credible. It is not simply a baseless prediction. It is, rather, a theory held by one of euthanasia’s most prominent historical proponents, someone with a keen interest in facilitating the societal adoption of non-voluntary and involuntary forms of euthanasia.

**Philosophical evidence for the “slippery slope.”** In “Death—suicide—euthanasia,” Spaemann also offers philosophical evidence for the likelihood of the transition to forms of euthanasia that lack consent. The philosophical evidence that warrants the linkage can sound paradoxical at first: all forms of euthanasia involve one human being deciding that another human ought not to live. It seems to be of the very essence of euthanasia that it is never really a sovereign decision made by the individual whose life would be brought to an end, even in the case of voluntary euthanasia or “assisted suicide.” Other human beings have a “veto-power” over the action.

The paradox in this is that the proponents of euthanasia claim that it respects the “inalienable right of self-determination” enjoyed by every human being.41 In assisted suicide, it

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is claimed that we simply respect the wishes of the suffering person. This allows the sufferer to
exert a measure of control in an otherwise demeaning situation; it allows for a “dignified
death.”\footnote{As the Death With Dignity National Center explains this idea, “The greatest human freedom is to live, and die, according to one's own desires and beliefs. From advance directives to physician-assisted dying, death with dignity is a movement to provide options for the dying to control their own end-of-life care.” “About Death With Dignity,” Death With Dignity National Center, http://www.deathwithdignity.org/aboutus (accessed June 12, 2014).} However, as Spaemann says, nobody actually seems to believe that an inalienable right
to self-determination exists: “If this were taken seriously, we would have to fulfill every request
to be killed uttered by an adult, sane and informed person. This, however, is something nobody is
looking for.”\footnote{Spaemann, “Death—suicide—euthanasia,” 127.} Rather, it is typically claimed that euthanasia is only acceptable when the reasons
motivating it are “rational, i.e. understandable for those who are supposed to perform the
service.”\footnote{Spaemann, “Death—suicide—euthanasia,” 127.}

The most commonly accepted of such “rational” reasons involves the possession of an
incurable disease.\footnote{For example, Singer claims that “respect for autonomy” should induce us to accept voluntary forms of
euthanasia, yet “voluntary euthanasia occurs only when, to the best of medical knowledge, a person is suffering
from an incurable and painful or extremely distressing condition.” Singer, \textit{Practical Ethics}, 176.} However, as Spaemann points out, this logically strains the claim that one is
still respecting the self-determination of the other. Spaemann proposes an array of questions
meant to exhibit the mistake: “Why shouldn’t everyone have the right to determine for
themselves the criteria for evaluating their own lives? Why should the suicide which follows
from weighing up all the plus and minus columns be placed at a disadvantage? Why not suicide
out of unrequited love?”\footnote{Spaemann, “Death—suicide—euthanasia,” 127.}
These questions show that self-determination is not really the decisive factor in the question of euthanasia, no matter what its proponents may claim. All of the cases mentioned in Spaemann’s questions exhibit a desire for self-determination, yet they are generally not accepted as possible grounds for euthanasia. Self-determination is only accepted as a basis for voluntary euthanasia if the existential calculation involved in it seems correct to others. This is really “other-determination,” not self-determination. The judgment of other people is therefore the decisive factor in the practice of euthanasia.

Since it is the case that some judgment by others concerning what is in the interest of the suffering person is of the very essence of all forms of euthanasia, Spaemann finds it unlikely that a society would be able to limit itself to the approval only of voluntary euthanasia: “If, however, the ultimate question is not self-determination as such but the rationality of the wish to die, and if other people are allowed to decide about this rationality, then these people will also be allowed to decide on life and death in those cases where the euthanasia candidates are incapable of self-determination.” Since the rationality of the wish to die is the most important factor, and self-determination only a secondary consideration, a lack of self-determinative ability on the part of some people could not ultimately be sustained as an objection to the practice of euthanasia. For this reason, Spaemann sometimes calls assisted suicide the gateway drug (Einstiegsdroge) into the societal incorporation of the forms of euthanasia that lack consent.

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The Distinction between Killing and Letting-Die

A final aspect of Spaemann’s ethical assessment of euthanasia is his defense of the moral importance of the distinction between killing someone and permitting someone to die. Certain thinkers such as Peter Singer deny that the distinction has any ethical relevance. As Singer writes, “There is no intrinsic moral difference between killing and allowing to die.”

Spaemann’s defense of the distinction’s ethical relevance has two main aspects: first, he tries to present the moral importance of the distinction as self-evident; second, he suggests that the distinction finds its ultimate theoretic grounding in an understanding of what is natural for the human being.

The sophistical denial of the distinction. In “Death—suicide—euthanasia,” Spaemann attempts to establish the intuitive, self-evident character of the moral distinction between actively killing and permitting death. He does this by asking a rhetorical question: “Does an 88 year-old woman who has suffered massive bleeding in the brain and is unconscious have to undergo an extended operation of the brain, two days before her death?” Of course one would wish to answer “no.” This answer would show our intuitive awareness that we would not bear moral responsibility for the death of the elderly patient merely by refusing the surgery and permitting her to die. We all operate under the assumption that there is an important moral difference between killing and letting-die.


The intuitiveness of the distinction allows Spaemann to approach its attempted denial with a hermeneutic of suspicion. As he asks in one of his other articles on the subject: “Doctors understand this difference between killing—actively and to the extent of culpable omission—on the one hand, and ‘being allowed to die a natural death’ on the other, as easily as any normal human being. Why is it so difficult for philosophers?” The answer, as he suggests in “Death—suicide—euthanasia,” is that the denial of the distinction is frequently made in bad faith: “To denounce every restraint in the application of extraordinary technological methods as killing by omission is to prepare the way for active killing; this is in fact often the precise aim of such arguments.” Everyone recognizes that there is a morally relevant distinction between killing and letting-die. The denial of the distinction is thus little more than a sophistry aimed at making euthanasia seem more ethically acceptable. As Leon Kass explains the strategy, proponents of euthanasia hope “to gain assent to the more extreme claims by merging them with the more modest ones.” They attempt to place the active killing characteristic of euthanasia under the protective moral mantle of “letting-die.”

The norms established by nature. In his article “Wir dürfen,” Spaemann also briefly discusses the theoretic grounding for the moral distinction between killing and letting-die. He


begins by critiquing an example given by Singer involving the moral equivalence in the actions of the mother who would either allow her infant to starve or actively suffocate him with a pillow. Singer intends the example to show that the moral distinction between killing and letting-die is a false one. However, according to Spaemann, “This example is wrongly chosen.”56 Although Singer is correct that either behavior would be murder on the part of the mother, the example does not demonstrate that there is never a moral difference between killing and permitting death to occur.

As Spaemann explains the problem, the child in Singer’s example is naturally constituted so as to require milk in order to live: “So long as a childlike organism has a spontaneous thirst and needs to drink, it is in fact murder to refuse him the calming of the thirst.”57 As we interpret him, Spaemann is claiming that the moral distinction between killing and letting die is not simply a matter of action versus omission. Rather, the requirements of human nature serves as a norms that define what counts as ethically relevant action or omission—as killing, as opposed to letting-die: “The nature of the human being, the instinct by which is ‘ecological niche’ is defined, institutes something like a basal normativity which is what is owed to him, such that the refusal of what is owed is murder.”58

55 “Es sei kein Unterschied, so schreibt zum Beispiel Peter Singer, ob eine Mutter ihren Säugling verhungern lasse oder mit einem Kissen ersticke.” Spaemann, “Wir dürfen das Euthanasie-Tabu nicht aufgeben,” 415. Spaemann does not indicate the exact source for this thought of Singer’s.


58 „Die Natur des Menschen, der Trieb, durch den seine ‘ökologische Nische’ definiert ist, stiftet so etwas wie eine basale Normalität dessen, was wir ihm schulden, so daß die Verwiegung des Geschuldeten Töting ist.” Spaemann, “Wir dürfen das Euthanasie-Tabu nicht aufgeben,” 415.
However, the requirements of human nature are fairly minimal. Small children do indeed require milk to live. Yet as Spaemann says, “There is no natural instinct of every organism that craves artificial feeding, antibiotics, and the life-support machine.” Understanding the requirements of human nature in this way allows Spaemann to offer a counter-example to Singer’s. The mother who suffocates her child should instead be contrasted to a mother who refuses to put her terminally ill adolescent child through another round of painful and fruitless chemotherapy. As Spaemann says, “Only phenomena-blind abstraction can bring someone to say to this mother: ‘You have killed your child.’” There is no natural need of the child for such destructive and demoralizing therapy, and so the actions of the mother qualify as “letting-die” instead of “killing.”

Spaemann’s counterexample shows that there is indeed an ethically significant distinction between actively killing someone else and passively allowing death to occur. According to Spaemann, we will be able to theoretically defend the distinction so long as we are willing to recognize the “natural” as a certain culturally invariant minimum normativity (kulturinvariante, basale Normalität). We do not bear moral responsibility for actions that exceed that normativity. In such cases, we rightly say that we do not kill the other, but merely permit his death.

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61 “Die intuitive Unterscheidung zwischen Handeln und Unterlassen kann theoretisch nur eingeholt werden, wenn wir das ‘Natürliche’ als eine in gewisser Weise kulturinvariante, basale Normalität anerkennen.” Spaemann, “Wir dürfen das Euthanasie-Tabu nicht aufgeben,” 415-16. In other words, the distinction between killing and letting-die presupposes a teleological view of reality in which things have their own intrinsic requirements and goals.
2. Euthanasia and the Human Person

Having completed this exposition of Spaemann’s assessment of euthanasia, we may now consider the relationship of this assessment to his theory of the human person. We will argue that his theory of the person explicitly informs his critique of suicide—and thus, by logical extension, his critique of euthanasia. Suicide exploits the self-transcendence that characterizes the human person, destroying self-transcendence in the process. Moreover, his understanding of personal transcendence as “having a nature” is also evident in his criticisms of both voluntary and non-voluntary forms of euthanasia. Each type of euthanasia embodies a failure to recognize nature or “life” as the essential precondition of self-determination and rationality. After discussing these theoretic connections, we will conclude with a consideration of Spaemann’s assertion that there is an “intrinsic connection” between our treatment of the dead and our treatment of the dying.

The Ontological Contradiction of Suicide

Spaemann’s understanding of the self-transcendent human person directly informs his critique of voluntary euthanasia, i.e. assisted suicide. It can be easiest to notice this if one first reads his account for absence. We will begin by looking at what is not important to his critique. We may immediately see that his critique does not focus on the religious failings of suicide. Though Spaemann quotes a biblical verse (Heb 5:8) in the course of his discussion, the verse is present merely as an authoritative illustration of his point about the possible transformation of suffering. The argument depends neither upon the biblical verse, nor upon any more general presumption of the existence of God. One might contrast this to Plato’s critique of suicide in the Phaedo, or to John’s Locke’s critique of suicide in Chapter 2, §6, of his 2nd Treatise of Government. Both these thinkers argue that suicide is wrong because we are not our own
property, but rather the property of God. Since we belong to God, we are not free to dispose of ourselves at will. These arguments, in contrast to Spaemann’s, present suicide as a religious failure.

We may also see that Spaemann’s focus is not on the social failings inherent in suicide. That is, he does not characterize suicide as an act of personal selfishness, as a willful alienation of oneself from others. One might contrast this to Aristotle’s brief comments on the subject of suicide in Bk. V, ch. 11 of the *Nicomachean Ethics*. According to Aristotle, suicide is not, as is commonly supposed, an act of injustice towards oneself, for no one voluntarily suffers injustice (and suicide is voluntary). This means that suicide must be an act of injustice towards other humans, towards one’s city. For Aristotle, suicide seems to be a social failure.

Spaemann’s critique of suicide is instead anchored in his ontology of the human person. Suicide turns the person into a contradiction of sorts, in which passivity and activity are violently opposed. For our purposes here, however, the important thing to notice is that only a free, self-

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62 In the *Phaedo*, this premise is simply agreed upon by the interlocutor at 62b: “However, Cebes, this seems to me well expressed, that the gods are our guardians, and that men are one of their possessions. Or do you not think so? I do, said Cebes.” Plato, *Phaedo*, trans. G. M. A. Grube, in *Plato: Complete Works*, ed. John M. Cooper (Indianapolis: Hackett, 1997), 54. By contrast, Locke’s account supplies a reason why we are the property of God: we are his “workmanship.” Locke, 2nd *Treatise*, ch. 2, §6.

63 Socrates supports this conclusion with an analogy to human ownership at 62b-c: “And would you not be angry if one of your possessions killed itself when you had not given any sign that you wished it to die?” Plato, *Phaedo*, 54. For Locke, suicide falls under the natural law’s prohibition on murder: “They are his property, whose workmanship they are, made to last during his, not one another's pleasure.” Locke, 2nd *Treatise*, ch. II, §6.

64 However, Spaemann does suggest that suicide is often a “social failure” in a more sociological, non-moral sense: “We now know that the desire to commit suicide is most commonly not the result of corporeal hardships and extreme pain, but the expression of a situation in which the person feels abandoned.” Spaemann, “Death—suicide—euthanasia,” 125.

65 Aristotle, *Nicomachean Ethics*, Bk. V, ch. 11, 1138a5-14. However, Aristotle never fully explains the nature of the social failure; he does not say how one comes to owe one’s life to one’s city, whether such an obligation has any limits, etc.
transcendent person could be capable of such an action. Indeed, Spaemann himself points this out: suicide is “the most extreme form of non-identity.”67 As we discussed in our first chapter, “non-identity” is one of Spaemann’s three primary ways of formulating the self-transcendence of the human person. Persons are those beings whose behavior cannot be fully accounted for by their instincts, or any other qualities they may possess. With the person, there is always a difference between the who and the what, between the possessor of qualities and the qualities possessed. Spaemann’s anthropology is thus central to his description of what suicide is: since the person freely has his life (i.e. he is self-transcendent), he the ability to bring about the destruction of that same life, though he destroys himself in the process. The possibility of suicide only occurs to beings characterized by this curious “non-identity.”

However, while it is easy to see the ontological contradiction in suicide—in exercising freedom, one destroys that very freedom—Spaemann’s critique ultimate needs the support of additional aspects of his theory of the person. The immoral nature of suicide is only fully established when a credible alternative has been presented. To see that suicide is not merely tragic, but also morally wrong, we need to recognize the possibility of exercising our self-transcendence in a positive, non-contradictory manner. We need to see that self-transcendence is meant to elevate self-assertion, to lift up the promptings of natural instinct into the domain of reason. This is why Spaemann prefaces his critique of suicide with a discussion of the possibility of accepting death, and thus turning death into a “human act.” Such acceptance is the form that self-transcendence ought to take in relation to death. When suffering is transformed through

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66 Spaemann, “Death—suicide—euthanasia,” 124. See also Spaemann, Persons, 123, and Personen, 132. This emphasis on the contradiction inherent in suicide makes Spaemann’s critique of suicide closer to the critique offered by Kant than to the critiques of Aristotle or Plato.

acceptance, death has “meaning.” Only then does it fit the reality of what the human person is as self-transcendent.

Spaemann’s theory of the person would also provide the theoretic grounding for another aspect of his critique, the claim that suicide involves a disordered view of the hierarchy of being. As Spaemann says, suicidal people “value their lives in relation to their states of being, rather than relating these states of being to a life principally beyond any price or evaluation.” An attribute-theorist of the human person such as Peter Singer might not see any problem in the foregoing valuation. What matters to a thinker such as Singer is not so much life, but conscious life, the sort of life one could desire to continue living. Attribute-theorists would thus see little problem in elevating “states of being” above what they would take to be the brute biological fact of “life.” One must understand the human person as Spaemann does for his remark about the priority of life to be a truly effective criticism. One needs to understand the person as having a unique indexical identity, deeper than anything that might be true of the person, in order to see suicide as an inversion of the hierarchy of being.

*Life as the Precondition of Freedom and Reason*

A different aspect of Spaemann’s philosophical anthropology grounds his discussion in “Death—suicide—euthanasia” of the transition from voluntary euthanasia to its non-voluntary and involuntary forms. As we saw above, Spaemann offers an array of rhetorical questions meant to show that there is nothing unique or “special” about the terminally ill person’s desire for self-

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[69] For example, see Singer, *Practical Ethics*, 171: “What is special about self-aware beings is that they can know that they exist over time and will, unless they die, continue to exist. Normally this continued existence is fervently desired, but when the foreseeable continued existence is dreaded rather than desired, the wish to die may take the place of the normal wish to live, reversing the reasons against killing.”
determination in regard to death. It is the same desire for self-determination that one might see in
the rationally calculated “philosophical” suicide, or even in the desire of a heart-broken lover to be euthanized.

However, Spaemann considers a possible objection to his equating of the various situations in which one might wish to be euthanized: “It is said that these suicidal persons are later grateful for having been prevented from carrying out their deed.”70 The objection suggests that there could be something like authentic or inauthentic cases of self-determination. Since the passing of time will likely lessen the desire for suicide on the part of the lovesick man, it is suggested that there is no real self-determination at issue in such cases. Spaemann rejects this line of reasoning, arguing that the suicidal man could respond: “I want to die as the person that I am now.”71 It is precisely in regard to the changes that time will bring that the lovesick man wishes to determine himself.

According to Spaemann, if one truly believes in an inalienable right of self-determination, an absolute sort of freedom, then one cannot deny the logic of the suicidal man’s position: “What could we possibly answer? Once self-determination has been placed principally above the essential precondition of every self-determination, namely above life itself, how could we possibly attempt to dictate to someone how they are supposed to understand the relation of their life to the fluctuations of time?”72 This question carries within itself Spaemann’s own understanding of the human person: the person is that being who freely relates to his own life. He “has his nature.” Yet in the human person, freedom and life are not two separate realities. The

freedom that allows self-determination is only there because a rational nature (a human life) is there. This means that life is always the precondition or context for self-determination.

Euthanasia is an attempt to deny this reality.

A similar understanding of the fundamental importance of life to the being of the human person enters the assessment a page later, this time in regard to the idea that euthanasia might be appropriate in cases where it could be “rationally justified.” Spaemann also rejects this line of reasoning: “If human beings would not come into being by nature and die by nature, we could never provide a sufficient reason justifying us to bring about the life or death of the human being. All our justifying reasons ultimately presuppose life.”73 Though we wish Spaemann had said more here, reading these lines in light of his philosophical anthropology allows for a coherent interpretation. All our “justifying reasons” presuppose life because personal being is the having of a nature, a life. As rational, human beings are free, yet life remains the condition of our rationality. In practice, this means that life serves as a sort of limit beyond which our rational consideration cannot pass. For example, how could it ever be “good” for someone to die? There can be no good or bad for a being that has become non-existent. The same response could be made to the idea that it could be “good” for someone to be brought into life. Properly speaking, someone must already exist for something to be good for him. For human persons, life thus serves as the context within which things can be assessed as rational or irrational, good or bad.

We have been arguing that Spaemann’s philosophical anthropology grounds his assessment of euthanasia. It provides him with a way of explaining the wrongness of suicide as an “ontological contradiction,” an exploitation of the self-transcendence that characterizes a person. Furthermore, his sense of personal being as “having a nature” allows him to identify the error in attempting to view either self-determination or rational judgment in abstraction from life, as occurs in euthanasia. We will now conclude our treatment of euthanasia by discussing his remarks near the end of “Death—suicide—euthanasia” concerning the need for a change in our treatment of the bodies of the deceased. We will suggest that this aspect of his ethical assessment helps to clarify the philosophical anthropology that grounds it, especially in regard to the recognition of persons.

To be sure, it is an unusual move to posit a connection between our funeral practices and the issue of euthanasia. However, in Spaemann’s understanding, interest in euthanasia arises in part because the process of dying has become undignified in Western civilization. Although it may initially sound paradoxical, he suggests that our treatment of the bodies of the dead is a contributing factor to this problem. As he says, “There is an intrinsic correlation between the way we deal with the dying and the way we deal with those already deceased.”74 It is unrealistic to suppose that we could treat the dying with great reverence and respect, only to then immediately treat the dead body as so much garbage in need of hasty removal. At least in human affairs, what comes after the process of dying is capable of “reaching back” and influencing the

process: “Clinics that remove corpses immediately to some storage room often do the same thing with the dying themselves.”  

While this is an interesting phenomenal claim, what is of greater interest for our purposes here is Spaemann’s explanation of why there is such an intrinsic connection between our treatment of the dead and our treatment of the dying. His answer ultimately has to do with the practical requirements for our recognition of other persons: “As noted at the beginning of these reflections, life exists only where there is a future. It is impossible for us to deal with the dying in a human and personal way, if we know that in a few minutes we will consider what is still visible of them to be a mere thing.” As Spaemann frequently says in *Happiness and Benevolence*, benevolent action is only possible if we are “awake” to the reality of others. We cannot treat the dying in an appropriately personal way in unless we first recognize them as persons.

Yet as Spaemann’s remarks here in “Death—suicide—euthanasia” help us to appreciate, the human person is a living being, and it is part of the very concept of life that it has a structure of “tending” toward being—that is, it involves a future. Thus a special challenge confronts us in the recognition of dying persons as living beings, for in one sense, dying people have no

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76 Spaemann, “Death—suicide—euthanasia,” 129-30. Spaemann’s talk of “impossibility” here should not be read as a mere rhetorical flourish, for he again speaks of this as a sort of practical necessity several lines later on p. 130: “The idea that with the moment of death every humane expenditure of energy in our treatment of the deceased is superfluous is a terrible abstraction and an assault on human dignity, one, which will unavoidably have repercussions on the way we treat the dying.”

77 Spaemann, *Happiness and Benevolence*, 149: “This being truly awake occurs only when we are met by the reality of the person, be it a stranger or one of our own, who claims unconditioned respect or ‘benevolence’.” See also *Persons*, 184: “Duties of one to another are generated by the moment of recognition in which one person notices another. Prior to this moment there is no obligation.”

78 “Human existence has the structure of striving for being: of ‘tending’ towards being, the tendency of self-preservation and self-development. This is why there is no human life without a future.” Spaemann, “Death—suicide—euthanasia,” 123.
futures. Death is the end of the person as a living being. Our knowledge of this fact can distort our moral perception of a dying person. It can tempt us to treat him unjustly, for without a future he seems somehow less than fully human.  

Spaemann offers a paradoxical solution to this problem of our perception and treatment of the dying: we must begin to treat the bodies of the dead with greater respect (or more precisely, culturally recover such respectful treatment). If we understand dead bodies as emblems of persons, as “what is still visible of them,” this will positively influence our present conduct toward the dying. We will be enabled to see the dying as still “having a future,” at least in regard to our treatment of their dead bodies. This will help us to maintain our sense of the moral importance of not-yet-dead persons. They will not simply be people who will completely cease to exist and lose all importance in a few moments, but rather people to whom we will still have obligations (that is, we must bury them with due solemnity). As Spaemann says elsewhere, our recognition of persons is “mediated primarily through the body.” His comments about our treatment of the dying help us to see that even the dead human body can play a role in such recognition.

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79 One example mentioned by elsewhere by Spaemann would be making false promises to the dying. Such a course of action is “disrespectful of the other’s personal transcendence, treating him or her solely as a ‘phenomenon of nature’ to be pacified and handled with kid gloves.” Spaemann, Persons, 226; Personen, 241.

80 “In our culture as well as in most other cultures, something like a death-bed vigil has always belonged to our way of confronting death and dying. It is an important task of the church in our days to revitalize these customs under the changed circumstances of the times.” Spaemann, “Death—suicide—euthanasia,” 130. In the paragraphs that follow the quotation above, Spaemann also suggests that we need to recover our sense of the fittingness of burial, as opposed to cremation—especially as cremation is practiced in Western societies.

81 Spaemann, Persons, 37; Personen, 46.
3. Spaemann’s Critique of the “Brain Death” Criterion

The final ethical issue in Spaemann’s writings that we will consider in this dissertation is the diagnosis of human death based on neurological criteria, i.e. “brain death.” We will focus our analysis on the critique of the practice that he offers in his essay “Is Brain Death the Death of a Human Person?” We will begin by examining his assignment of the burden of proof in regard to the question. We will then consider three arguments he advances against equating “brain death” with the death of the human person: first, the use of such a criterion invalidates our normal human perception of death; second, the neurological criterion blurs the distinction between the irreversible loss of the function of an organ and that organ’s nonexistence; finally, scientific evidence exists that a loss of brain function is not equivalent to a total loss of bodily integration.

The Burden of Proof

Prior to advancing his own criticisms of the diagnosis of death based on the neurological criterion, Spaemann first discusses the burden of moral proof in regard to it. As Spaemann

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82 These criteria, as first proposed by an Ad Hoc Committee of the Harvard Medical School, include: 1) unreceptivity and unresponsiveness; 2) no movement or breathing; 3) no reflexes; 4) flat electroencephalogram (EEG). “A Definition of Irreversible Coma: Report of the Ad Hoc Committee of the Harvard Medical School to Examine the Definition of Brain Death,” *Journal of the American Medical Association* 205 (1968): 337-38. However, as Nicholas Tonti-Filippini points out, a diagnosis would also typically take into account the history of the brain trauma and the presence of any circumstances that might “mask the brainstem reflexes.” Ultimately, he believes that a test to ensure that there is no blood flow to the brain is the only fully adequate method of diagnosis. Nicholas Tonti-Filippini, “‘Bodily Integration’: A Response to Robert Spaemann,” *Communio: International Catholic Review* 39 (Fall 2012): 414. Since all these criteria aim at the diagnosis of a singular phenomenon, the total loss of the brain’s functioning, we will refer to them collectively as the neurological criterion of death.

notices, it is often assumed by proponents of the “brain death” criterion that those opposed to it bear the heavier burden of proof. In fact, supporters of the neurological criteria of death sometimes believe the issue is well beyond dispute. As Edward Furton (a philosopher, not a scientist) confidently writes, “Every doubt about the matter, from the standpoint of medical-moral practice, has been set aside.”

However, Spaemann does not accept the proponents’ analysis of the burden of proof. This is somewhat surprising, for he often assigns the burden of proof in ethical debates to those who wish to change the status quo. We do not believe this should not be seen as inconsistency on his part. Rather, Spaemann recognizes that with regard to the neurological criterion there is a fact of greater ethical importance: namely, there are third parties who stand to gain from “brain death” being equated with the death of the person. These third-party interests could cause the truth of the matter to be overlooked or distorted because of human bias. For this reason, Spaemann assigns the heavier burden of proof to the supporters of the neurological criterion of death.

Spaemann claims that such third-party interests are evident even in one of the first authoritative endorsements of the “brain death” criterion, a 1968 article from an Ad Hoc

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84 Spaemann, “Brain Death,” 52: “The proponents of the new definition argue from a ‘position of strength.’ They feel that it is an unreasonable demand to waste more time with arguments, aware that they have the ‘normative power of the factual’ on their side, i.e. an established medical practice which meanwhile has already become routine.”


86 See, for example, Spaemann’s comments in regard to the debate over lifting the ban on the building of new nuclear power plants in Germany: “Wer einen bestehenden Zustand zu ändern wünscht, trägt die Begründungspflicht. Er muss die Vernünftigkeit und Berechtigung des Status quo nicht jedes Mal ab ovo beweisen.” Spaemann, “Nach uns,” 86.
Committee of the Harvard Medical School. The article proposes a set of neurological criteria as
a new “definition” of death—criteria that have met with widespread acceptance. However,
Spaemann draws attention to the fact that the article also offers several non-theoretic reasons or
“interests” justifying the move away from the traditional cardio-pulmonary criterion of death.
According to him, the Committee was primarily interested in “guaranteeing legal immunity for
discontinuing life-prolonging measures that would constitute a financial and personal burden for
family members and society alike,” and also in “collecting vital organs for the purpose of saving
the lives of other human beings through transplantation.”

As Spaemann points out, neither of these reasons or “interests” corresponds to the
interests of the actual patient. Instead, “they aim at eliminating him as a subject of his own
interests as soon as possible.” The actual patient is primarily seen either as a burden to be
avoided or as a warehouse for organs, but not as an ailing person. Spaemann does not claim that
such external interests prove the falsity of the hypothesis that “brain death” is the death of the
person. However, he does claim that such interests must prompt us to adjust our approach to the
question: the recognition of an external interest should cause us “to be extremely critical, and it
requires setting the burden of proof for this hypothesis very high.”


88 Spaemann, “Brain Death,” 49. See also “A Definition of Irreversible Coma,” 337. The report of the
Committee does not initially mention “legal immunity for discontinuing life-prolonging measures” as one of its
motivations for proposing a new definition of death. Nevertheless, Spaemann’s interpretation seems accurate, for the
report mentions a need for “better law” in regard to the determination of death and includes a section exclusively
devoted to legal commentary on the issue.

89 Spaemann, “Brain Death,” 50.

90 Spaemann, “Brain Death,” 50.
Spaemann’s Three Arguments against the “Brain Death” Criterion

After discussing the burden of proof in regard to the neurological criterion, Spaemann openly admits his opposition to it: “I myself have to confess that the skeptics’ arguments have meanwhile convinced me.”91 He declares his intention to offer his own argument against the neurological criterion, the “new definition of death.” In fact, one can distinguish three separate lines of argument in Spaemann’s essay. We will consider each in turn, and then conclude with a brief discussion of criticisms expressed by Nicholas Tonti-Filippini in an essay on Spaemann’s position.92

The “brain death” criterion invalidates normal human perception. Proponents of the “brain death” criterion sometimes present it as ethically unexceptional in comparison to other criteria for diagnosing death. It is just as “ordinary” as any other way of discerning that another human being has died. As Tonti-Filippini says, “We can all observe when circulation and respiration have stopped, though even then we seek medical confirmation because we may be mistaken. Death by the brain criterion is the same death, loss of integration and unity. It is just differently diagnosed and the method of diagnosis is more complex.”93 Spaemann’s primary argument against the criterion directly targets such assertions. According to Spaemann, the neurological criterion differs from the traditional methods of diagnosing death in an important

91 Spaemann, “Brain Death,” 53.

92 Tonti-Filippini, “A Response to Robert Spaemann,” 413-21. See above, note 82 on p. 230. Nicholas Tonti-Filippini is the Associate Dean and Head of Bioethics at the John Paul II Institute for Marriage and Family in Melbourne, Australia. He is also a member of the Australian Health Ethics Committee of the National Health and Medical Research Council and chair of the subcommittees on the Unresponsive State and Commercialization of Human Tissue.

way: the new criterion “contradicts all appearances, i.e. normal human perception.” Plainly stated, “brain dead” patients do not appear dead. They are still warm, still breathing—and in some cases, still moving. The diagnosis of death based on neurological criterion asks us to ignore all such evidence.

Spaemann points out that in European civilization it has long been both a custom and a legal requirement that a physician be consulted to confirm the fact that a human being has died. However, as Spaemann says, “This confirmation is not based on a different, scientific definition of death, but on more precise methods to identify the very phenomenon already noted by family members.” Put differently, the physician’s role in regard to death is not that of a “giver of truth.” Rather, the physician only confirms or disconfirms other people’s assessment that a death has occurred. In certain limit-cases the physician may have to briefly assume a more authoritative role. He might have to declare that someone thought dead is actually still alive. Yet this is not because he has some sort of exclusive access to the truth. He merely uses more exact instruments, and has a more developed level of skill: “A physician may still be able to discern slight breathing, which escapes a layperson.” The physician’s use of the traditional cardio-pulmonary criterion of death may thus be said to respect and confirm our ordinary human perception of death.

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95 Tonti-Filippini tacitly acknowledges this as well when he writes about how “some members of staff, including some nursing staff, found it difficult to accept” the diagnosis of death by the neurological criterion. He even admits that “conscientious objection to participate in surgery to remove organs from someone diagnosed by the brain criterion was not uncommon.” However, he ultimately dismisses such behavior as symptomatic of our human difficulty in coming to terms with death. He does not see these reactions as revelatory of the truth of the matter. See Tonti-Filippini, “A Response to Robert Spaemann,” 419.

96 Spaemann, “Brain Death,” 47.

97 Spaemann, “Brain Death,” 47.
Spaemann thinks that the adoption of a neurological criterion of death changes the relationship between medical science and our normal human perception. The neurological criterion allows physicians to claim exclusive access to the fact of death, a gnostic sort of knowledge. The physician becomes the giver of truth. The fact that we perceive brain dead patients as still living, breathing human beings is presumed to be unimportant to the truth of the matter. We are simply to set our own human judgment of the matter aside, to ignore what appears true to us. The use of the neurological criterion is therefore not a confirmation or a correction of human perception. It is a cancellation of the truth of appearances: “It in fact invalidates normal human perception by declaring human beings dead who are still perceived as living.”

Spaemann does not fully explain what would be wrong about such an invalidation of our interpersonal perception. However, he does offer a historical example to assist his readers in thinking through the possible infelicitous consequences: “Something quite similar happened once before, in the 17th century, when Cartesian science denied what anyone can see, namely that animals are able to feel pain.” The result of such a denial of the truth of appearances led to results that are self-evidently odious: “These scientists conducted the most horrible experiments

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98 See, for example, Tonti-Filippini, “A Response to Robert Spaemann,” 419-20: “The observation of those factors that determine that a person has lost all brain function is reserved for the medical practitioners. Others rely on their judgment.”

99 A similar dismissal of the truth of appearances is implicit in Furton’s claim that “the problem of brain death is essentially the same” as the problem of understanding how other forms of cellular life, such as embryonic stem cells, can persist after the organism they belong to is destroyed. Furton, “Brain Death,” 469. The equation of the two does not do justice to the full phenomena. The “brain dead” patient still manifests himself to us as a living person. An isolated stem cell does not. This creates two quite different “problems.”


on animals and claimed that expressions of pain, obvious to anyone, were merely mechanical reactions.”102 His example thus suggests that we would not do well to entirely surrender our own sense of what is true to the judgment of “experts.”

The distinction between loss of function and nonexistence. Spaemann also objects to the way the neurological criterion equates the loss of function of an organ with the organ’s nonexistence. He characterizes this second argument as one in which “the reasons of common sense converge with those advanced by medical science.”103 He refers to the thought of physicians such as Paul Byrne, who has pointed out that a loss of brain function is not equivalent to the end of the existence of the brain (its “death”). No such assumption is made in regard to other organs such as the heart or the lungs. In fact, the lack of any such assumption has been the key to many medical advances: “Only because the cessation of breathing was not equated with the ‘death of the lung’ did it become possible to utilize mechanical ventilators to restart those functions.”104 Spaemann goes on to note that similar considerations have prompted Dr. Peter Safar and others to begin work on the resuscitation of brain functions in brains considered “dead.”105

According to Spaemann, these medical facts exhibit a problem with the concept of “brain death” that is equally accessible to ordinary human reason: loss of function and non-existence are not identical concepts. The latter concept involves a loss of “oneness,” as the entity begins to

103 Spaemann, “Brain Death,” 56. We take this sentence as a subtle acknowledgment by Spaemann that his first line of argument may be construed as critique of modern medical practice.
104 Spaemann, “Brain Death,” 57.
105 Spaemann, “Brain Death,” 57.
decompose into its elements. While it does seem true that in the particular case of the brain a loss of function does lead rapidly to the brain’s decomposition, the fact remains that the two states are not equivalent or chronologically simultaneous. The neurological criterion thus tends to blur the distinction between not functioning and not existing. This means that the neurological criterion is conceptually problematic, even aside from questions concerning its proper clinical application. Moreover, Spaemann does not think that the conceptual problems with the neurological criterion are fully solved by adopting its most rigorous form, which would demand that the loss of brain function be “irreversible” or “total.” As Spaemann says, “Irreversibility is obviously not an empirical criterion, since it can always be determined only retrospectively.” We can clinically diagnose a loss of brain function, but only with death can we say with certainty that such a condition is permanent or “irreversible.”

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106 As a neurological textbook explains the problem, “The physiological demands served by the blood supply of the brain are particularly significant because neurons are more sensitive to oxygen deprivation than other kinds of cells with lower rates of metabolism. . . . As a result of the high metabolic rate of neurons, brain tissue deprived of oxygen and glucose as a result of compromised blood supply is likely to sustain transient or permanent damage. Brief loss of blood supply (referred to as ischemia) can cause cellular changes, which, if not quickly reversed, can lead to cell death. Sustained loss of blood supply leads much more directly to death and degeneration of the deprived cells.” “The Blood Supply of the Brain and Spinal Cord,” in Neuroscience, 2nd ed., ed. Dale Purves, George Augustine, David Fitzpatrick, et al. (Sunderland, MA: Sinauer Associates; 2001), http://www.ncbi.nlm.nih.gov/books/NBK11042/ (accessed June 24, 2014).

107 For example, Tonti-Filippini understands himself to be defending the conceptual cogency of the neurological criterion, but challenging the current practice of diagnosing the loss of brain function without testing blood flow to the brain. See Tonti-Filippini, “A Response to Robert Spaemann,” 420.

108 Pope John Paul II gives a cautious endorsement to this rigorous sense of the neurological criterion: “Here it can be said that the criterion adopted in more recent times for ascertaining the fact of death, namely the complete and irreversible cessation of all brain activity, if rigorously applied, does not seem to conflict with the essential elements of a sound anthropology.” John Paul II, Address to the 18th International Congress of the Transplantation Society, August 29, 2000: paragraph 5, http://www.vatican.va/holy_father/john_paul_ii/speeches/2000/jul-sep/documents/hf_jp-ii_spe_20000829_transplants_en.html (accessed June 30, 2014).

Scientific evidence against the neurological criterion. Spaemann’s final line of argument against the use of the neurological criterion is that credible scientific evidence exists that “brain death” is not equivalent to the death of the human being. He refers to the work of Alan Shewmon, who has argued that there is evidence of bodily integration even in “brain-dead” patients. In such patients, Shewmon has detected wound-healing, coordinated muscle activity, temperature regulation, and other activities that presuppose ongoing bodily integration.111 Shewmon and Spaemann see such integration as a sign that the patients are, in fact, still alive: “According to the classical adage *ens et unum convertuntur*, it holds true for every living organism that it is alive precisely as long as it possesses internal unity.”112

As a “nonmedical person,” Spaemann finds it particularly important that there is little scientific disagreement in regard to Shewmon’s findings. In cases of disagreement about empirical results, a nonscientist would have to abstain from judgment. Yet Spaemann is not aware of any such disagreement in regard to Shewmon’s empirical findings. According to Spaemann, there was “surprisingly broad acceptance” of Shewmon’s research at the Third International Symposium on Coma and Death in 2000.113 Furthermore, even a critical article by Edward Furton does not dispute the empirical aspects of Shewmon’s work, but questions only

110 Patrick Lee and Germain Grisez attempt to avoid this problem by understanding “reversibility” in terms of an organism’s own internal capacities. A condition is “irreversible” if, to the best of our knowledge, the organism itself completely lacks the resources to produce a change in its condition. See Patrick Lee and Germain Grisez, “Total Brain Death: A Reply to Alan Shewmon,” *Bioethics* 26, no. 5 (2012): 280.


112 Spaemann, “Brain Death,” 45.

113 Spaemann, “Brain Death,” 61. Shewmon’s research findings were also accepted by the President’s Council on Bioethics that met in 2007, though the commission drew radically different conclusions from them than Shewmon did. See E. Christian Brugger, “D. Alan Shewmon and the PCBE’s White Paper on Brain Death: Are Brain-Dead Patients Dead?” *Journal of Medicine and Philosophy* 38 (2013): 209.
the philosophical cogency of Shewmon’s conclusions.114 From these two facts Spaemann concludes that no criticisms exist “targeting the core of his [Shewmon’s] argumentation.”115 The lack of any scientific disagreement means that even a non-scientist such as Spaemann is free to advance arguments and form judgments based on Shewmon’s empirical findings.

**Tonti-Filippini’s response to Spaemann.** Spaemann’s argumentation against the neurological criterion of death has elicited a critical response. In his article “‘Bodily Integration’: A Response to Robert Spaemann,” Tonti-Filippini advances two arguments against Spaemann’s position. His first argument is that many of the criticisms Spaemann has made are not applicable to the most correct and complete sense of the neurological criterion of death: “To some extent at least, the criticisms that Alan Shewmon has made, to which Spaemann adverts, are also applicable to the current practice in many Western countries, especially the English-speaking ones, but not necessarily the concept itself.”116 Tonti-Filippini says that Spaemann and Shewmon raise objections that do not apply to the very concept of brain death; they only apply to the current practice of diagnosing “brain death,” which is done without a test of blood flow to the brain. According to him, a complete loss of blood flow to the brain could indeed serve as sure evidence that the loss of all brain function has occurred.117 He says that Spaemann’s opposition

114 Spaemann, “Brain Death,” 62. The assessment by Lee and Grisez also follows this pattern: they completely accept Shewmon’s empirical findings, but they dispute the philosophical conclusions drawn from them. According to Lee and Grisez, Shewmon has demonstrated only “the unsoundness of the usual argument for the criterion,” not the unsoundness of the criterion itself. Lee and Grisez, “Total Brain Death,” 275.


117 However, as David Albert Jones says, such a “defense” of the neurological criterion only undermines our current level of moral certainty in regard to its use: “Thus while his [Tonti-Filippini’s] defense offers a possible
to the neurological criterion is largely based upon cases in which such a test of blood flow has
not been made; what happens in such cases, he says, is that “brain death” has been misdiagnosed.
The brain is not really dead. If, however, the blood flow to the brain had ceased, the brain would
really be dead and the patient would be dead as well, and so the true concept of brain death can
be used in determining human death. If blood flow to the brain had ceased, Tonti-Filippini says,
a patient could never exhibit the kind of bodily motions that Spaemann uses to show the
weaknesss of the criterion, such as moving an arm: “That a patient with a loss of all brain
function could reach out and touch the body of a nurse, as Spaemann reports, is simply not
possible.”118 This is Tonti-Filippini’s first argument against Spaemann.

The essence of Tonti-Filippini’s second argument against Spaemann is found in a phrase
in the quotation we offered above, when he refers to “the criticisms that Alan Shewmon has
made, to which Spaemann advert.” The phrase is like a capsule of Tonti-Filippini’s article as a
whole. His article is a “response to Robert Spaemann” but in fact it directs most of its critical
attention to the work of Alan Shewmon. The reason why it does so is that Tonti-Filippini thinks
that Spaemann’s argumentation essentially depends upon Shewmon’s findings. He writes,
“Spaemann’s position ultimately rests on Shewmon’s account, and Shewmon’s account fails
because it does not address integration in the sense of unity that is implied by seeing its absence
as confirmatory that the soul no longer forms or informs the body.”119

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route to a future restoration in confidence about neurological criteria among Catholic scholars, in relation to current
practice, his argument implies the same conclusion . . . that neurological criteria as currently applied do not provide
moral certainty of death.” David Albert Jones, “Loss of faith in brain death: Catholic controversy over the
determination of death by neurological criteria,” Clinical Ethics 7 (2012): 139.

According to Tonti-Filippini, it is necessary to distinguish between the oneness (or "integration") of a part and the oneness of the whole. The bodily processes identified by Shewmon are too localized to be considered evidence of total bodily integration, the kind of integration that occurs when the soul informs the body. The processes are instead evidence only of the integration of a "part" or subset of parts.\textsuperscript{120} Shewmon’s findings thus pose no true challenge to the neurological criterion of death. Since Spaemann bases his conclusions upon Shewmon’s research (or, more precisely, on a lack of scientific objections to that research), Spaemann’s account likewise fails as a critique of the criterion. This is Tonti-Filippini’s second argument against Spaemann.

Tonti-Filippini’s first argument is the stronger of the two. He is surely correct that the different ways of understanding and diagnosing “brain death” have introduced confusion into the moral debate. It is also plausible that some of the patients discussed by Spaemann and Shewmon are, from the perspective of Tonti-Filippini, misdiagnosed cases of “brain death.” However, we ultimately concur with the judgment of Jones: “It is difficult to account for the evidence acknowledged by the President’s Commission only on the basis of misdiagnosis.”\textsuperscript{121} Tonti-Filippini may be able to dismiss evidence such as a patient moving an arm as a case of misdiagnosed “brain death,” but this does not satisfy the total burden of proof. He needs to show that none of the complex phenomena extensively documented by Shewmon (phenomena such as wound healing, gestation of fetuses, etc.) occur in patients diagnosed by means of a test of blood

\textsuperscript{120} Tonti-Filippini, “A Response to Robert Spaemann,” 419: “Shewmon’s claim would have it that integration between some of the parts is unity of the whole. That is just not true.”

flow to the brain. If the phenomena do continue to occur in such patients, then Tonti-Filippini needs to explain in detail why these activities are not indicative of total bodily integration. For example, why is the temperature regulation of a “brain dead body” not evidence of bodily integration, of “oneness”? How would such temperature regulation be distinguished from an activity that does give evidence of total bodily integration? What is different about the sort of integration brought about by the rational soul?

Tonti-Filippini’s second counter-argument against Spaemann is more problematic. It is not entirely accurate to say, as Tonti-Filippini does, that Spaemann’s critique of the neurological criterion depends upon Shewmon’s. Spaemann’s argument that scientific evidence exists that the brain is not the sole “integrator” of the body does draw upon Shewmon’s published research, but Spaemann offers two other arguments against the neurological criterion—the argument concerning the invalidation of human perception and the argument concerning the distinction between function and existence—and Tonti-Filippini neglects to treat them. It is far from clear that either of those arguments “ultimately rests” upon the work of Shewmon, since no reference is made to Shewmon in those sections of Spaemann’s article. Moreover, those familiar with the work of Spaemann should readily recognize the first argument concerning the invalidation of our

122 One approach to the problem, suggested to us by Dr. Maureen Condic at a roundtable discussion of “brain death” at The Catholic University of America on November 4th, 2013, would be to test whether the phenomena observed by Shewmon could also occur in cell and tissue cultures. The presence of temperature regulation in such cultures would seem to suggest that it is not an activity characteristic of a unified organism.

123 In a separate and longer article, Tonti-Filippini addresses this question to some extent, opening up a debate as to what sense of “integration” is most relevant to the question of the death of the human person. See Nicholas Tonti-Filippini, “You Only Die Twice: Augustine, Aquinas, the Council of Vienne, and Death by the Brain Criterion,” Communion 38 (Summer 2011): 308-25. Shewmon has offered a lengthy response, including his own philosophical account of different sorts of integration. See Alan Shewmon, “You Only Die Once: Why Brain Death is Not the Death of a Human Being: A Reply to Nicholas Tonti-Filippini,” Communion 39 (2012): 422-94.

124 As Spaemann says, “The hypothesis of at least extensional identity of the total loss of brain functions and the death of the human being is incorrect for several reasons” (emphasis ours). Spaemann, “Brain Death,” 55.
ordinary human perception as in keeping with his typical philosophical approach. Spaemann understands himself to be a defender our unreflective grasp of the true, our *intentio recta*, and thus he would tend to trust our normal interpersonal perception of death. It is thus more likely that the first argument is actually Spaemann’s primary or “ultimate” reason for opposing the neurological criterion of death. Shewmon’s findings are valuable to Spaemann primarily as a confirmation of what we already know to be true.

4. “Brain Death” and the Human Person

We are now in a position to conclude the chapter by considering the relationship of this ethical assessment of “brain death” to Spaemann’s theory of the human person. We may immediately notice that his criticisms of the neurological criterion do not seem conceptually dependent on his philosophical anthropology. While Spaemann advances several objections to the neurological criterion of death, none of those objections are based on what we are as persons. His critique of “brain death” is therefore not metaphysically grounded in a particular understanding of the human person.

In making this judgment, we do not wish to suggest that Spaemann’s critique of the neurological criterion of death must be viewed in complete isolation from his philosophical anthropology. There are possible points of contact. For example, Spaemann’s mention of our “normal interpersonal perception of death” could be read as a reference to the intersubjectivity of the human person. One might also see Spaemann’s distinction between existence and function as a parallel to his key anthropological distinction between the person and the person’s

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characteristics. Nevertheless, such connections are only tacit; they are suggestive, but philosophically undeveloped. What is clear is that Spaemann’s three arguments against the neurological criterion may be appreciated without any additional knowledge of his philosophical anthropology.

_Furton’s Attribute-based Theory of the Person_

However, Spaemann’s theory of the person does inform his ethical assessment in a different, more epistemological way in a concluding section of the article. In the section, he offers a critical appraisal of Furton’s article on “brain death.” Unlike Tonti-Filippini, Furton does not dispute that a “brain dead” patient is a unified, living organism. To that extent, Furton is willing to accept Shewmon’s scientific findings. Yet Furton defends the neurological criterion of death by claiming that the living organism (i.e. the body of the patient) no longer participates in the reality of personhood. As Furton writes, “Although the difference between the death of the person and the decay of the body had long been obvious, it is only in our time that the difference between the life of the person and the life of the body has become apparent.”

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126 See Furton, “Brain Death,” 469: “Admitting these points, we can see that there is no reason to contradict any of the evidence presented by Shewmon concerning the continued biological functions in the brain-dead body. The body does have a variety of ‘integrative functions’ that can perdure independently of the life of the brain.”

127 Furton, “Brain Death,” 467. Furton’s statement is in some tension with his earlier claim on p. 457 of the same article that “brain death criteria confirm certain long-held philosophical views about the nature of death and the human soul within Catholicism.” If it has only recently become apparent that the life of the person and the life of the body are distinct, then how could this fact be a confirmation of “long-held” views?
Furton, the difference is ultimately that the “life of the person” is characterized by intellectual cognition, and this cognition requires a functioning brain.128

Spaemann’s anthropological understanding helps him to see the philosophical implications of Furton’s position: it is an attempt to separate human person and human nature. As Spaemann says, “Furton is only able to sustain his thesis of ‘brain death’ as the death of the human being by distinguishing between the death of the human being as a person and the death of the human being as a living being.”129 Spaemann does not explain why this attempted distinction between human person and human nature is infelicitous. He instead offers a classification of Furton’s position: “This, now, is exactly the position of Peter Singer, and it is incompatible with the belief of most religions, and certainly with that of Christianity.”130

Furton holds an attribute-based theory of personhood, a theory that Spaemann also associates with Singer, Parfit, and Locke. As we saw in our first chapter, attribute-based theories of personhood equate the possession of some quality, usually rational thought or at least the capacity for it, with the being of the person.131 Only those human beings who possess the relevant attribute are understood to be persons. It is typical of such theories to posit some sort of

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128 See Furton, “Brain Death,” 467: “Medical science tells us that the brain is the seat of cognitive life. If the human being is a substantial union of intellective soul and physical body, which union takes place through the organ of intellectual cognition, then it is logical to conclude that when the brain is dead the soul has departed.”


130 Spaemann, “Brain Death,” 63. Spaemann offers similar classifications of Furton’s position on pages 66 and 67.

131 Furton’s focus on the exercise of rationality as the “person-making” characteristic is also implicit in his claim that “if there ever were a patient who recovered from a properly diagnosed state of brain death, that fact alone would completely disprove the validity of neurological criteria.” Furton, “Brain Death,” 462. Why is recovery so important? The exercise of rationality, not integrated organic life, seems to be the only thing that truly convinces Furton that a human being is a person.
real separation between the human person and the living human being, since there are many human beings who are impeded in various ways from exercising their rational faculties.

The identification of Furton’s position with Singer’s is significant for readers familiar with Spaemann’s philosophical anthropology. Spaemann understands the attribute-theorists of the person to be his primary philosophical opponents, and he presents his own theory of the person as a corrective to their theories. If Furton’s position is identical to Singer’s, then it is logically antithetical to Spaemann’s. In this sense, Spaemann’s classification of Furton as an attribute-theorist does have explanatory power. The classification indicates in an abbreviated way what is wrong with Furton’s position. If Furton is an attribute-theorist, then his theory is subject to the same problems as the theories of Singer, Parfit, Locke, and others.\(^{132}\)

Spaemann’s theory of the person thus grounds his assessment of the neurological criterion of death, albeit in a more restricted sense than we have seen in regard to other issues. His arguments against the criterion do not depend upon his anthropology, but his theory of the person provides him with categories with which to understand the essentials of the opposing arguments and philosophically evaluate them.\(^{133}\) In this the “defensive” character of his philosophy is evident. His theory of the person becomes activated in response to inadequate

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\(^{132}\) For a discussion of these problems, see our section on “Self-transcendence as Non-Identity” in our first chapter. Spaemann also contests Furton’s interpretation of the philosophical anthropology of St. Thomas Aquinas, but an analysis of that aspect of their dispute is beyond the scope of this dissertation. See Spaemann, “Brain Death,” 64-66.

\(^{133}\) Spaemann’s classification of Furton’s theory is somewhat surprising, for Furton is not obviously a philosophical “opponent” of Spaemann’s. Furton is the editor of the National Catholic Bioethics Quarterly, and he is in broad agreement with Spaemann on other subjects such as the immorality of abortion, euthanasia, etc. See, for example, Edward J. Furton, “How Physician-Assisted Suicide Violates American Values,” Temple Political & Civil Rights Law Review 15, no. 2 (2005-2006): 415-22.
theories. As Spaemann himself admits, “Furton’s primarily philosophical arguments in favor of ‘brain death’ convinced me more than anything else of the opposite of his position.”

134 Spaemann, “Brain Death,” 62. In this context, it is worth recalling that Western philosophy itself arose, in large part, as a defense against the Sophists. Spaemann’s philosophy should be seen as part of this tradition.
Conclusion

In *Happiness and Benevolence*, Spaemann says that the basis of all moral decision-making “is the perception of the reality of the other and even of one’s own self.”¹ A few lines later, he explains what this statement means for ethics, our reflection on moral decision-making: “This evidence [of the reality of the other] is the real basis of all ethics. There is then no ethics without metaphysics.”² Our project in this dissertation has been to test this claim in terms of Spaemann’s own applied ethics. We have explored some of Spaemann’s assessments of genetic manipulation, the use of embryos, abortion, nuclear power, euthanasia, and “brain death.” We have asked whether these assessments find their theoretical basis in his philosophy of the human person, or whether these ethical problems are too far removed from the realm of everyday human experience to have any connection to Spaemann’s thought.

We are now in a position to give the question a positive answer. Spaemann’s philosophical anthropology does inform his ethical assessments, but it does not always do so in the same way. His understanding of the human person serves as a touchstone for his applied ethical thought in several distinct senses. In many places, his theory of the person grounds the assessments *metaphysically*: ethical practices are critiqued on the basis of whether they are in keeping with the full reality of the person. In other places, his theory of the person grounds the assessments *epistemologically*: it provides him with categories with which to understand the important anthropological presuppositions implicit in rival ethical assessments. In still other


places, his understanding of the human person grounds the assessments *dialectically*: his philosophical anthropology provides him with particular explanations and arguments that he uses to critique opposing theories. In the sections that follow, we will review the evidence for these various functions in greater detail, and we will reply to a possible objection to our thesis. We will then conclude the dissertation with two more general points of evaluation in regard to Spaemann’s applied ethics as a whole.

*The Person in Spaemann’s Ethical Assessments*

**The metaphysical grounding for Spaemann’s assessments.** Spaemann’s ontology of the person provides an important theoretic basis for his ethical assessments. This “metaphysical” grounding is the primary way in which his philosophical anthropology informs his ethical thought: ethical practices are critiqued on the basis of whether or not they conform to the reality of the person. The being of the person serves as a standard by which the moral adequacy of various ethical practices are judged.

As we saw in our second chapter, most of Spaemann’s criticisms of genetic manipulation (including the possibility of human cloning) ultimately have to do with the way the practice offends the freedom and intersubjectivity that characterize the human person. Ameliorative genetic manipulation would preemptively curtail the freedom of human person for reasons that could, in the final analysis, be nothing but arbitrary. The possibility of human cloning would involve a similar offense against freedom, adding to it the particular injustice of taking away the openness of the future for the clone. Even the general methods by which genetic manipulation could be carried out are not in keeping with the freedom of the human person, for they seek to effect changes directly, rather than through education. Furthermore, Spaemann’s worries about
genetic manipulation’s likely effects on personal bonds, as well as its larger societal effects, both presuppose the intersubjective character of the human person. Since persons are social beings, qualitative changes cannot be confined to particular individuals.

As we also saw in our second chapter, the intersubjectivity of the human person is important to one of Spaemann’s main criticisms of the destructive use of embryos. To destroy an embryo in the service of some “higher purpose” ignores the perspective of the embryo. Spaemann’s objection presupposes that personal intersubjectivity ought to have a rational character: persons should rationally recognize that other persons are centers of being with their own interests. Other persons must be understood to have such interests even if—as is the case with embryos—they are somehow impeded from expressing those interests. To be a person is to be called to occupy a “de-centered” position in regard to the relational field of persons; the destructive use of a fellow person represents a rejection of that position, a refusal to “de-center” oneself.

As we saw in our third chapter, Spaemann’s assessment of abortion draws upon his ontology of the person in several different ways. Spaemann believes that it is a basic intuition of humanity to see human person and human nature as linked. In other words, the pre-reflective understanding of humanity is that a person is present whenever a human nature is present. Our possession of such an intuition means that the onus of proof falls on the proponents of abortion. It is up to them to present credible evidence of a substantial change in the development of the embryo, the sort of change that might be indicative of a beginning of personal being at some point later than conception. However, the continuity in the development of the embryo means that this burden of proof cannot be met. Moreover, we saw that Spaemann’s clarification of the nature of conscience—a term frequently misused in the abortion debate—presupposes that
human persons are self-transcendent. To have a conscience is to be capable of recognizing an
objective hierarchy of goods independent of one’s own needs and desires. Finally, we saw that
the intersubjectivity of the human person is also presupposed in Spaemann’s contention that the
abortion debate itself serves as a sort of evidence of the personhood of the unborn. Discourse
about the personhood of the unborn is significant precisely to the degree that persons are
intersubjective, in the sense of being naturally ordered to the recognition of other persons.

As we also saw in our third chapter, an understanding of the intersubjective character of
the human person grounds Spaemann’s critique of nuclear power. It is sometimes supposed that
we can only speak metaphorically of “obligations” to our descendants (since those persons do
not yet exist). However, such logic actually abstracts from the reality of personal being. Because
persons are living beings, each generation receives its being, and its freedom to act, from prior
generations. This biological dependence means that the community of persons is spread out
across generations, and so our obligations to our descendants are real. Spaemann’s claim that the
use of nuclear power could strain civic loyalty also seems premised upon the intersubjectivity of
the human person. Persons realize themselves through the recognition of other persons. Thus, if a
state refuses to recognize particular classes of human beings as persons (i.e. the coming
generations, embryos, etc.), it sets itself in opposition to human nature, the nature of persons. In
this way a state may come to forfeit all claims to loyalty from its citizens.

As we saw in our fourth chapter, Spaemann’s main criticisms of euthanasia find their
ground and completion in his theory of the person. His critique of euthanasia, as a form of
suicide, can only be classified as “metaphysical.” While he does not deny that suicide and
euthanasia may involve social or religious failings, Spaemann’s focus is on the way the practice
simultaneously depends upon and exploits the self-transcendence of the human person. In suicide
and euthanasia, the person turns his freedom against himself. Such practices create an "ontological contradiction" in the human person. Moreover, Spaemann’s argument that voluntary euthanasia is a "gateway practice" to other forms of euthanasia is also founded upon his theory of the human person. Because persons are living beings, the exercise of freedom (either in self-determination, or in our actions toward others) always has life as its limiting condition. Euthanasia attempts to invert this reality. It attempts to make life dependent upon freedom, and thus it deprives human freedom of its natural guiding principle. Without life serving as a limit on our actions, there can be no rational limitation only to "consensual" forms of euthanasia. All of our reasoning takes place within the context of life.

However, in our fourth chapter, we also saw an exception to Spaemann’s general tendency to ground his ethical assessments in his ontology of the person. His three main arguments against the neurological criterion of death (i.e. “brain death”) do not seem to draw upon any particular understanding of the human person. The lack of any such connection may simply reflect the fact that Spaemann has not written as much on “brain death” as he has on the other ethical matters addressed in our dissertation. Moreover, as we will review in the next section, his theory of the person is still important to his assessment of the neurological criterion of death, albeit in a different, more epistemological way.

The epistemological grounding for Spaemann’s assessments. Spaemann’s theory of the person sometimes plays a different role in his ethical assessments, a role we have called “epistemological.” By the term, we mean that the Spaemann’s philosophical anthropology gives him a certain intellectual sensitivity to important anthropological presuppositions in rival ethical assessments. It provides him with categories through which opposing assessments may be
understood and evaluated, and in this manner it “grounds” his analysis. His grasp of the truth of the person alerts him to the inadequate understandings of the human person implicit in arguments on behalf of abortion, euthanasia, etc.

As we saw in our second chapter, Spaemann employs his philosophical anthropology in this way in regard to the destructive use of embryos. He is able to recognize that the ethical assessment of Zypries ultimately depends upon a relational theory of the person. The embryo in vitro is said to “lack dignity” and to have only an “abstract possibility” of further development precisely because the embryo requires recognition and assistance from other persons in order to survive. In a similar way, Spaemann is able to recognize that Nida-Rümelin’s linkage of human dignity to “self-respect” is, in its essentials, an attribute-theory of the person. It is a covert way of making personhood dependent upon the active exercise of rationality.

As we saw in our third chapter, Spaemann also makes use of his theory of the person in this “epistemological” way in his assessment of abortion. He frequently inserts his own criterion of personhood (biological membership in the human species) into the assessments in an abbreviated form. It is there to serve as a strategic contrast that reveals the rival theories of personhood presupposed by proponents of abortion. His philosophical anthropology also provides him with a way of understanding what is inadequate in the theory of the person generally presupposed by Rüpke—the person as an “ideal subject.” Such a theory gives no importance to human nature. In fact, nature is seen as an impediment, something to be “mastered” by persons. Yet as Spaemann points out, it is nature that gives rise to freedom. Nature and freedom cannot be separated in the human being. Every attempt at “mastery of nature” leads to the mastery of some human beings over others.
As we saw in our fourth chapter, Spaemann’s theory of the person informs his assessment of “brain death” in this epistemological way. Though Furton attempts to present his defense of the neurological criterion of death as grounded in the “Catholic philosophical tradition,” Spaemann notices that Furton makes the fundamental mistake of attempting to separate personal life from bodily life. Furton is thus revealed to hold an attribute-theory of the person, much like Locke, Singer, and Parfit. For such thinkers, personhood is understood to depend on the active exercise of rationality.

The dialectical grounding for Spaemann’s assessments. Spaemann’s theory of the person also plays a “dialectical” role in certain spots in his ethical assessments. That is, it provides him with a set of particular explanations and arguments that he draws from in order to respond to other thinkers.

As we saw in our second chapter, Spaemann’s assessment of the destructive use of embryos draws upon his philosophical anthropology in this dialectical sense. In response to the theory of Zypries, Spaemann argues that relational theories of the person violate our elementary intuitions of justice, because those who are denied social recognition are left with nothing (indeed, not even with their lives). In response to the theory of Nida-Rümelin, Spaemann employs two arguments that frequently appear in his works of philosophical anthropology. First, he says that to make personhood dependent upon the possession of some attribute is to accord greater respect to a characteristic than to the bearers of that characteristic. Second, Spaemann points out that excessive emphasis on the actuality of mental states ignores a phenomenon familiar to all of us as persons: we unify both our current conscious states and our prior
unconscious states under the same “I.” Our intuitive, everyday sense of what we are as persons includes more than just what we are thinking at the moment.

As we saw in our third chapter, Spaemann’s assessment of abortion also depends upon his philosophical anthropology in this dialectical way. Spaemann presents the aforementioned argument concerning the unification of the conscious and unconscious phases of our lives as a piece of “social-psychological” evidence against the relational theory of the person proposed by Rüpke. Also in response to Rüpke, Spaemann mentions a point that he repeats in *Persons*: mothers and caregivers spontaneously treat small children as persons, not as pseudo-persons or potential persons. These facts indicate that personal being is a reality independent of wider societal recognition.

As we also saw in the third chapter, Spaemann’s assessment of nuclear power includes some dialectical material. Specifically, Spaemann considers the question of whether it might be possible to make the possession of human rights dependent upon certain basic achievements (such as understanding those rights and laying claim to them through discourse). His response is one we also see in his assessments of the use of embryos and abortion: to make the possession of human rights dependent on the discretion of other human beings robs those rights of their absolute character. Humans either seize their rights by virtue of membership in the human species (and not by membership in a particular legal community), or all talk of “human rights” is empty.

**A restatement of our conclusion, and a reply to an objection.** We may conclude from all of this evidence that Spaemann’s theory of the person is of vital importance to his ethical thought. His ethical assessments are supported by his theory of the person—not only
metaphysically, but also epistemologically and dialectically. In these ways, his theory of the
person informs and enriches his thought on particular ethical issues.

However, we also saw in this dissertation that Spaemann’s ethical assessments contain
many arguments and clarifications that do not seem to bear any relation to his theory of the
person: this material may be understood and appreciated without any prior knowledge of or
agreement with his philosophical anthropology. The presence of such material leads to a possible
objection to our thesis: could it be an overstatement to make the general claim that Spaemann’s
ethical assessments are informed by his theory of the human person? According to this line of
thought, we should limit our claims to the ethical issues we have examined in this dissertation.

While these are valid concerns, we believe that our general conclusion continues to hold.
Our dissertation has considered some of the most prominent issues in Spaemann’s applied ethics,
issues such as abortion, euthanasia, and nuclear power. Discovering significant connections to
Spaemann’s philosophical anthropology in his assessments of these major issues would be
enough, in and of itself, to justify our general conclusion. These are some of the ethical issues to
which he has devoted the most attention: it is thus likely that they best exhibit the character of his
applied ethical thought. Yet we also wish to point out that our dissertation has taken into
consideration several more minor issues in Spaemann’s applied ethical work, issues such as the
destructive use of embryos and “brain death.” In regard to these issues, too, we found significant
connections Spaemann’s theory of the person. The depth and breadth of our analysis thus allows
us to be confident in our conclusion. The nature of the human person is one of Spaemann’s key
philosophical insights, and it naturally comes to serve as the ground for his particular ethical
evaluations. To state our conclusion in a slightly different way: one is likely to find some
consideration of the reality of the human person in any ethical issue upon which Spaemann writes.³ The being of the human person serves as a first principle in his ethical thought.⁴

Spaemann’s Ethical Assessments: An Evaluation

We now would like to bring our dissertation to a close with a brief evaluation of Spaemann’s applied ethical work. We will suggest that the recurring consideration of the reality of the human person gives Spaemann’s applied ethics an attractive unity. However, we also wish to suggest that this theoretic grounding has another consequence. To some degree, it causes the persuasiveness of Spaemann’s ethical assessments to depend upon the persuasiveness of his theory of the person. Whether one finds his account of the person to be persuasive will ultimately depend on the model of philosophy that one accepts. A reader with a different understanding of the nature of philosophy will thus be less likely to find Spaemann’s ethical assessments convincing.

The unity of Spaemann’s applied ethics. Zaborowski has rightly noted that Spaemann’s philosophy is “not systematic in the modern sense of systematic philosophy.”⁵ The judgment is accurate even in terms of Spaemann’s applied ethics. As we have noted repeatedly in our second,

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³ For example, even a 2012 Die Zeit article by Spaemann on the morality of circumcision finds its theoretic ground in his philosophical anthropology. He writes of the absolute character of the person, meaning that no one’s rights take precedence over the rights of others: “everyone counts“ (Jeder zählt). Moreover, his main argument in the article is that there can be no such thing as an undetermined, neutral standpoint in human life. This argument presupposes his understanding of the human person as a being who relates freely to a finite nature—that is, to a nature with its own determined characteristics. See Spaemann, “Der Traum von der Schicksallosigkeit,” http://www.zeit.de/2012/28/Beschneidung.

⁴ In Happiness and Benevolence, Spaemann even understands ethical principles such as eudaimonia and duty to be based on a more fundamental recognition of the reality of other persons.

⁵ Zaborowski, Robert Spaemann’s Philosophy of the Human Person, 27.
third, and fourth chapters, his ethical assessments are characterized by a freedom of approach. While Spaemann does consider it important to advance arguments concerning the immorality of the practices in question, his assessments contain a wealth of other material. In fact, his arguments are often rather condensed, comparatively speaking. He often devotes larger amounts of space to explorations of the origins of the ethical dilemmas, of the burden of proof in regard to them, and of ambiguities and sophistic misuses of terms in the moral debate. He makes no attempt to give his applied ethics a quasi-mathematical, deductive character. Spaemann has instead, as Zaborowski writes, “a preference for the discursive.”

The fact that Spaemann’s ethical assessments are not “systematic” should not lead us to the incorrect inference that they lack unity. We have seen in this dissertation that the opposite is the case. Spaemann draws upon his understanding of the human person in various ways in all of his ethical assessments. Allowing his philosophical anthropology to serve as a resource in regard to these different issues imparts an attractive internal unity to his ethics. It gives his ethical assessments a distinctive and recognizable character. His applied ethics may therefore be seen as a cohesive whole, in the sense that the reality of the person serves as a touchstone for his ethical assessments. The ethical assessments, in turn, illuminate and clarify various themes in Spaemann’s philosophical anthropology.

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6 Zaborowski, Robert Spaemann’s Philosophy of the Human Person, 27.

7 Further evidence of this internal unity in his ethics may be seen in the way Spaemann is able to draw parallels between various ethical issues. For example, as we saw in our second chapter, Spaemann claims that genetic manipulation offenses against the “temporal shape” of the human person, and he then claims that the artificial extension of life or its violent termination (i.e. in euthanasia, or murder) involves a similar offense. Moreover, as we saw in our third chapter, Spaemann suggests that we should practice “chaste conduct” in regard to both destructive embryonic research and further research into nuclear fission.

8 At times Spaemann says we need to stop thinking about issues in environmental ethics in relation to their possible consequences for human beings, for such “functionalization” tends to lead to the depletion of natural
There is great value in such a cohesive approach, for it allows a philosopher such as Spaemann to speak about matters of public importance without thereby losing his distinctive character as a philosopher. The political involvement of the philosopher is, of course, an old problem. Plato tells us in the *Republic* that such involvement is somehow necessary. He does not think the philosopher should simply be allowed to lead a life of blessed contemplation here on earth; the philosopher should instead “return to the Cave” to assist his fellow men in achieving the truth. It is a paradoxical suggestion, for earlier in the same work, Plato expresses a measure of pessimism as to the success of any such mission. In the Allegory of the Cave, Plato suggests that the philosopher who attempts to help his contemporaries will be perceived either as foolish or dangerous. The philosopher will be seen as foolish if he attempts to participate in the typically vapid discourse, the “games,” of the prisoners. He will be seen as dangerous if he attempts to politically involve himself in a more direct way by removing the “chains” of the prisoners and forcing them to deal directly with a painful truth.

Recalling this Platonic problem allows us to recognize the value in Spaemann’s recursive consideration of the being of the person in his ethical assessments. His applied ethics do not devolve into political punditry, for Spaemann grounds his assessments in a philosophical insight: the stable reality of the human person. To put the issue back in Platonic terms, Spaemann keeps resources. However, such statements should not be understood as a denial of the importance of the reality of the person to environmental ethics. Rather, since personal being is the paradigm for being, Spaemann believes that it would be appropriate for us even to think about nature in a somewhat more “personal” way, as having an analogical sort of “selfhood” (*Selbstsein*). That is, we should think about natural things as being internally oriented to their own goods and perfections, not as raw material for our own purposes. See Spaemann, “Technische Eingriffe,” 36-38.

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9 Plato, *Republic*, 519d.

10 Plato, *Republic*, 516c-517a. The Allegory is also revelatory of his love and esteem for philosophy, for Plato cannot bring himself to mention an even sadder possible outcome, but one that may be familiar to us: the philosopher might simply return to his former mode of life in the Cave. That is, in attempting to help his fellow men, the philosopher might lose his distinctive character as a lover and possessor of wisdom. He would become one more voice arguing about shadows on the wall.
in mind his vision of the “Form” of the human person, and he allows this vision to “in-Form” the ethical debate. Yet his freedom of approach, his consideration of many different aspects of the ethical dilemmas, makes Spaemann’s work palatable to a wider audience. This approach allows him to keep the attention of his readers and interlocutors, while still assisting them to recognize the essential, necessary aspects of the realities involved. Spaemann’s work is thus at least a partial fulfillment of Plato’s old hope that the philosopher would be able to help his contemporaries toward the truth. The philosopher can do so because he has the ability, even in the darkness of the “Cave,” to “know each image for what it is and also that of which it is the image.”

Spaemann’s applied ethics and the nature of philosophy. We have just suggested that Spaemann’s technique of relating various ethical problems to the reality of the person imparts a unity to his applied ethics. However, this technique has an additional consequence: it makes his ethical conclusions to some degree logically dependent on his theory of the person. Put differently, one will generally only be convinced by a “grounded” ethics if one finds the “ground” to be solid and true. A reader who does not accept Spaemann’s understanding of the human person will not be likely to accept Spaemann’s conclusions in regard to the ethical issues we have examined in this dissertation. Yet we wish to propose that there is an even more

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11 A concern for the welfare of one’s contemporaries would also seem to be a logical extension of Spaemann’s own philosophical anthropology. If persons are intersubjective, then they are naturally oriented to the defense of other persons. In this sense, Spaemann’s ethical assessments serve as a confirmation and completion of his theory of the person.

ultimate factor that must be recognized: whether or not one accepts Spaemann’s understanding of the human person depends on how one understands the nature of philosophy.

When we speak of the “nature of philosophy,” we are not referring to the difference between analytic and continental philosophy. Rather, the problem to which we refer is older and more fundamental: namely, what is the relationship between the philosopher’s grasp of the truth and the non-philosopher’s grasp? Does philosophy give us the truth, or merely help us to clarify a truth already achieved? Do we understand philosophy to be the result of a transition away from our ordinary understanding, perhaps even a “purification” of it? Or do we instead see philosophy as standing in continuity with our ordinary understanding, a reflection on what we already know?

Though it would perhaps be an exaggeration to fully identify any philosopher with either of these two possible positions, it is nonetheless the case that most philosophers tend toward one “side” or the other. Plato and Kant lean towards a “truth-giving” understanding of philosophy. In fact, they sometimes write as though the philosopher alone manages to achieve the truth. For example, in \textit{Phaedo} 68d, Plato writes that “it is fear and terror that make all men brave, except the philosophers.”\footnote{Plato, \textit{Phaedo}, trans. G.M.A. Grube, in \textit{Plato: Complete Works}, ed. John M. Cooper (Indianapolis: Hackett, 1997), 59.} The philosophers alone have true virtue, because they alone know what is true: “The only valid currency for which all these things [fear, terror, pleasures, pains, etc.] should be exchanged is wisdom.”\footnote{Plato, \textit{Phaedo}, 60.} In a similar way, Kant claims in the \textit{Grounding for the Metaphysics of Morals} that “philosophy is distinguished from ordinary rational knowledge by its treatment in a separate science of what the latter \textit{comprehends only confusedly}” (emphasis
Irrational inclinations overwhelm our ordinary moral reasoning abilities. According to Kant, this means that we must “seek help in philosophy” in order to receive “information and clear instruction.” As we saw in our first chapter, many contemporary philosophers such as Peter Singer and Derek Parfit also stand in this tradition of what we might call “corrective philosophy” or “truth-imparting philosophy.”

By contrast, thinkers such as Aristotle and St. Thomas Aquinas see the philosopher’s role as clarifying a truth already achieved by other men. Such an understanding of the role of philosophy is evident in Aristotle’s description of his own methodology in the *Nicomachean Ethics* 1145b1-7: “We must, as in all other cases, set the observed facts before us and, after first discussing the difficulties, go on to prove, if possible, the truth of all the common opinions about these affections of the mind.” Aristotle does not place philosophy in competition with our everyday involvement with truth; instead, philosophy seeks to support the accuracy of our judgments. St. Thomas makes a similar use of philosophy, especially in his *Summa Theologiae*. As Spaemann notes, St. Thomas’s most famous articles in the *Summa*, the “Five Ways” of proving the existence of God (*ST* I, q.2, a.3), all conclude by associating the truth achieved by philosophy with the truth achieved in ordinary experience: “And this is what all mean when they say ‘God’.”

As we mentioned in our introduction, Spaemann approaches philosophy in this latter, “truth-clarifying” sort of way, and his theory of the person is no exception. Though his style

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15 Kant, *Grounding*, 3.

16 Kant, *Grounding*, 17.


18 Spaemann, “Brain Death,” 49.
obviously differs greatly from that of Aristotle or St. Thomas, Spaemann’s philosophical anthropology is not a correction of our everyday, “erroneous” notions. It is instead a reflection on and clarification of what we already—and always—know to be true of the human person. However, to borrow a phrase from St. Thomas and Spaemann, such a way of philosophizing is not “what all mean when they say ‘philosophy’.” Our sense is that most contemporary philosophy leans towards a more corrective, “truth-giving” understanding. Our typical ways of speaking are judged to be intellectually confused, and so they are often converted into symbolic notation in order to be purified of error.

We suggest that the current success of this rival, “truth-giving” conception of philosophy is likely to affect the reception of Spaemann’s applied ethics. Because Spaemann’s ethical assessments find their theoretic basis in his philosophical anthropology, they also come to indirectly depend upon his understanding of philosophy. His applied ethics can therefore only be fully “grounded” if his approach to philosophy can be shown to be correct or, at least, highly preferable. We have formulated this as a point about Spaemann’s ethical assessments, but perhaps we can reformulate it as a general statement. To think well about abortion, nuclear power, euthanasia, or other ethical matters, it is ultimately necessary to think well about the nature of philosophy itself.
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