

# In defence of personal autonomy

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In their *Principles of biomedical ethics*, Tom L Beauchamp and James F Childress take 'respect for autonomy' to be one basic principle of contemporary biomedical ethics. There is widespread agreement that respect for autonomy is deeply rooted in modern common morality, but little agreement exists about its nature, scope or strength. This is why they emphasise right at the beginning that in principlism the principle of respect for autonomy is concerned with individuals' actions (p103<sup>1</sup>). Originally the term 'autonomy' referred to the self-rule or self-governance of independent (Greek) city states and later to states in general. Later, for example, in the philosophy of Kant, autonomy was ascribed to (human) persons meaning the self-ruling of practical rationality. In contemporary philosophy it is disputed what should be taken as the apt extension of 'being autonomous'. There is disagreement in philosophy whether being autonomous qualifies actions of persons or their character, their personality or their lives. Therefore it is important that readers of the *Principles* are informed straight away about the extension of the principle of respect for autonomy in principlism. Furthermore, we need some argument why in principlism the principle of respect for autonomy refers to actions and not to the structure of a person's life.

In this paper I discuss Tom L Beauchamp's arguments for the conclusion that in biomedical ethics we should refer to action-autonomy but not to personal autonomy when we use the principle of respect for autonomy in our ethical thinking. In the following, 'action-autonomy' is used to qualify actions and 'personal autonomy' is used to qualify the structure of a person's life; this distinction is not meant to imply that action-autonomy isn't a feature of a person's overall autonomy. The basic idea is that a person's autonomy can express herself both in action-autonomy and in personal autonomy.

Beauchamp has developed and defended this conclusion in different texts; two of them he co-authored: one with Ruth F Faden<sup>2</sup> and one with James F Childress.<sup>1</sup> If in the following I refer only to him, this is for stylistic reasons mainly (and because of the fact that I refer to another text Beauchamp has published alone<sup>3</sup>). Neither Faden's nor Childress' contributions are meant to be depreciated or ignored thereby.

As far as I can see there are two theses Beauchamp uses to establish his conclusion that in biomedical ethics we should restrict ourselves to action-autonomy and should not take into account personal autonomy:

► Thesis 1. Personal autonomy is neither necessary nor sufficient for the implementation of the principle of respect for autonomy in biomedical ethics. The respect for the autonomy of the

patient, which is reflected in the concept of informed consent relates only to action-autonomy.

► Thesis 2. The attempt to draw on personal autonomy as the extension for the principle of respect for autonomy leads to ethically unacceptable consequences in the context of biomedical ethics.

Provided that these two theses can be justified, Beauchamp's conclusion is plausible: if personal autonomy is not required for the implementation of a principle of respect for autonomy, but in fact to the contrary, its implementation is ethically harmful, then it is obvious that the principle of respect for autonomy should rest solely on the basis of action-autonomy. In his discussion on the connection between personal autonomy, action-autonomy and the principle of respect for autonomy, Beauchamp expresses and justifies these theses as follows.

## BEAUCHAMP'S ARGUMENT FOR THESIS 1

Based on his own theory of autonomous actions (presented in detail in<sup>2</sup>), Beauchamp poses the question of whether a hierarchical model of personal autonomy is needed for this approach. The basic idea of such a hierarchical model of autonomy is that the autonomy of a person has to be analysed as the relation between a first-order-desire ('I want to take a cup of tea') and a second-order-desire which refers to a first-order-desire ('I want to want to take a cup of tea'). In case the agent intends in his second-order-desire that the first-order-desire referred to should become effective in action and this first-order-desire becomes effective (eg, I take a cup of tea) the agent is autonomous with regard to this action.

Beauchamp's answer is, in line with Thesis 1, negative.<sup>1-3</sup> He admits that it is impossible to develop a comprehensive theory of autonomous actions which, for example, can deal with problems of multiple personality or manic depression, without giving a satisfactory account of the self that is capable of distinguishing alien forces on the self from the core self or 'real' self.<sup>2</sup> He nevertheless maintains that the model of action-autonomy suffices for a reconstruction of the concept of informed consent which is at the heart of the principle of respect for autonomy in biomedical ethics.

Beauchamp suggests to look at how well the analysis (of autonomy; MQ) would function in the moral life, where it will inescapably be connected with the principle of respect for autonomy as one, maybe even the most important test of the adequacy of an analysis of autonomy (p265<sup>2</sup>). This test serves him as evidence for the thesis that personal autonomy is neither necessary nor sufficient for the implementation of this principle. Beauchamp's objection against personal autonomy

is that this is insufficient for the emergence of informed consent. Since personal autonomy is aimed at the general capacity of leading one's life autonomously, but not at the individual exercise of this capacity, it is *not sufficient* as the basis of informed consent. Informed consent is only worthy of respect because it is the actual manifestation of these capacities. Conversely, it is only by way of an appropriate conception of action-autonomy that respect for informed consent can become intelligible. But action-autonomy is, on this consideration, not only a *necessary condition* for the implementation of the principle of respect for autonomy. As the treatment of patients in psychiatric institutions who cannot mould their lives completely according to the yardstick of personal autonomy, action-autonomy of agency is also a *sufficient* condition.

Let us understand personal autonomy as a second-order capacity of persons to reflect critically upon their first-order preferences, desires, wishes, and so forth and the capacity to accept or attempt to change these in light of higher-order preferences and values (p20<sup>4</sup>). The life of a person is autonomous if this person has these capacities and has exercised them significantly often in the course of his life. In general we cannot ascribe such capacities as those that are necessary and sufficient for personal autonomy to an individual if this individual does not exercise them at all (or not often enough). But from this it does not follow that a person qualifies as being autonomous in this sense only if she exercises these capacities all the time. Demanding this would not only be demanding too much, it would surely also result in a crude misinterpretation of our practice of ascribing personal autonomy. Therefore, exercising the capacities necessary for personal autonomy in a single case cannot be necessary for qualifying as being autonomous in this single case.

Let us assume that we have a list of capacities and conditions necessary for an action to qualify as informed consent (see Faden and Beauchamp<sup>2</sup> for an elaborated theory). If these capacities are exercised in the right way and if all the conditions are met, the action of giving consent (or refusing to do so) has to be respected as an expression of the autonomy of the person. It is clear that it will not help to refer to my general capacity to give informed consent to justify my decision if I have not used these capacities in the concrete situation (or if other conditions are not met). Therefore, reference to capacities alone is not sufficient in this case; and since personal autonomy can be ascribed in a concrete situation without the capacities for personal autonomy being exercised in that situation, Beauchamp is right in saying that personal autonomy cannot be sufficient for justifying respect in such a case of giving consent.

If we want to avoid declaring personal autonomy as too strong an ideal for human beings we should not demand that a person has personal autonomy only if she has critically reflected every preference, want, wish or belief which is part of her self. From this it follows that not exercising the capacities necessary for personal autonomy cannot be sufficient for not being autonomous at all. Theories of personal autonomy operating with second-order-attitudes and the notion of identification avoid being too demanding by introducing a capacity which itself contains a counterfactual: a person has personal autonomy with respect to a first-order-attitude if she would be able to exercise the capacities necessary for personal autonomy if she noticed this first-order-attitude (or if someone asked her to critically reflect her first-order attitude). This means that one can have personal autonomy in a single case without exercising the relevant capacities if there is nothing operative which blocks the capacity for critical assessment of the first-order attitude (see<sup>5 6</sup> for details). If we avoid a too demanding theory of

personal autonomy we have to weaken the conditions this way. If we do this (as we have to for getting a notion of personal autonomy that fits our practice of ascribing autonomy) we can agree with Beauchamp's claim that personal autonomy is not necessary for the principle of respect for autonomy in biomedical ethics—but with one qualification. Personal autonomy is not necessary if we read it as 'the actual exercise of the capacities necessary for personal autonomy in a given situation is not necessary'. From this it does not follow that personal autonomy in the sense suggested here (using the capacity including a counterfactual claim) is not necessary.

In this more fine-grained (and more realistic) version, personal autonomy is a necessary condition of autonomy. We can see this if we ask ourselves what to say in a situation where consent is given by a person who relies on first-order attitudes she has not critically reflected on before. Let us assume that the physician (or someone else) encourages this person to critically reflect on one of the first-order attitudes relevant for her decision, but that she cannot do this. Take a daughter consenting to be a living donor for her father, based on her maxim that daughters should do everything for their fathers, which was induced by socialisation in her without ever having been made explicit. Let us assume further that there is some evidence that there is reason to doubt that being a living donor is what this woman really wants. In this case, I think it is evident that her incapacity to critically reflect her first-order attitude is a good reason to doubt that her consenting to become a living donor deserves respect. If this is plausible we have found a case in which personal autonomy is relevant due to the capacity which implies the counterfactual mentioned above. And it is also plausible to assume that in at least some of these cases the consent is such that it satisfies the criteria for action-autonomy (this is possible since the latter do not include criteria for personal autonomy).

To sum up so far: Beauchamp's Thesis 1 seems to be right if we presuppose the demanding version of personal autonomy, but it seems to be wrong (or at least implausible) if we take a more realistic version of the concept of personal autonomy. Our discussion shows that cases in which the counterfactual condition of the capacity for personal autonomy is not met, are also cases in which we have reason to doubt that a given consent deserves our respect. Sometimes this is difficult to see since there can be another source for our respecting a person's decisions or actions although they neither meet the criteria for action-autonomy nor personal autonomy. If we take Beauchamp's example of a Jehovah's Witness (p265<sup>2</sup>; p313<sup>5</sup>) who is devoted to religious convictions he has never reflected on nor has the capacity to do so, we might respect him because we respect the integrity of his personality. If we accept, as we should do, that personal integrity doesn't imply personal autonomy we do have a third source of personal respect (besides action autonomy and personal autonomy).

If this result can be established we have to conclude that in biomedical ethics we need both action-autonomy and personal autonomy. Since this would allow broadening the focus of the principle of respect for autonomy which is mainly restricted to informed consent in Beauchamp's account I think this result should be welcome. But before we can nail down this conclusion we have to discuss Beauchamp's second thesis which warns us that personal autonomy leads to ethically unacceptable consequences in biomedical ethics.

## BEAUCHAMP'S ARGUMENT FOR THESIS 2

According to Beauchamp, establishing the principle of respect for autonomy relying on a concept of personal autonomy gives

a wrong description of our common morality. Furthermore (as he claims in Thesis 2) it is not acceptable to take personal autonomy as the basis of a principle of respect for autonomy because it is oriented on an ideal of autonomy that overtaxes the capacities of normal deciding and acting persons.<sup>1 3</sup> Many actions we would normally consider autonomous do not qualify as such if we use personal autonomy as a standard. Beauchamp blames the condition of authenticity for this unwarranted effect of theories of personal autonomy, but he concedes that such theories of personal autonomy do not necessarily have to be so demanding that the autonomy of an action is understood as to “conform to an autonomous person’s elected life plan” (p262<sup>2</sup>).

In the following I will formulate a general counter-objection against Thesis 2. Subsequently, I shall discuss Beauchamp’s examples, which are intended to prove that the factual implementation of the principle of respect for autonomy does not depend on personal autonomy but on action-autonomy. This will show that these examples cannot be counted as proof of Beauchamp’s thesis.

My objection against Beauchamp’s critique is that even his own conception of action-autonomy is not shielded per se against the objection of excessive demand. As he explains, one must not infer from the fact that actions are never completely informed, voluntary or autonomous that they are never adequately informed, voluntary or autonomous (p101<sup>1</sup>). As a consequence, he does not use an ideal standard in his theory of action-autonomy, but a concept of substantial autonomy, the fulfilment of which is realist (p241<sup>2</sup>). The question now is why such a standard should not be applicable in the framework of personal autonomy too. In principle, there is no reason not to substantiate the degree and extent of reflection presumed for personal autonomy in the same manner.<sup>7</sup>

Beauchamp discusses two basic strategies for a theory of personal autonomy for dealing with the problem of excessive demands, which correspond largely to the further developments of the hierarchical approach presented above. One could use a less ominous criterion for replacing identification with mere stability or coherence among the values underlying a decision. As our case of the daughter who ‘wants’ to become a living donor makes clear that coherence or stability simply are not enough for autonomy (although it might be taken as an indicator which is sufficient to shift the burden of proof in estimating the case under discussion; but this can be explained by the fact that personal integrity comes into play—or so I would claim). The other strategy, which Beauchamp regards as more promising, consists in replacing identification with the absence of resistance (p266<sup>2</sup>). If we read ‘absence of resistance’ in such a way that the fulfilment of the crucial counterfactual is covered by it, the improved version of personal autonomy mentioned above can be taken to follow this train of thought.

Beauchamp scrutinises such a modified hierarchical analysis of personal autonomy in which not critical identification, but the weaker form of the absence of explicit repudiation is required. One advantage of this conception, mentioned by Beauchamp, is that in this way actions which according to Beauchamp’s criteria for action-autonomy must be viewed as autonomous while not being intuitively evaluated as such in common morality, can be classified as not being autonomous. Beauchamp considers examples of weak willed actions and pathologically compulsive acts that are experienced by the acting person as compulsion and are only executed with reluctance (eg, ablutomania).

Beauchamp counteracts my objection against Thesis 2 with the observation that such even a modified theory of personal autonomy would invert everyday forms of action in which possible opposition or reluctance of the agent did not really endanger the autonomy of the action. Here, the proposal to specify the absence of reluctance as necessary and sufficient for autonomy would again force us to count actions which are autonomous according to our prior understanding, as not being autonomous.

Beauchamp’s example is a housewife who wants to free herself from the ideals tied to this role and thus does the necessary housework reluctantly (p267<sup>2</sup>). But her activities continue to be uncontrolled, intentional and invested with a high degree of understanding and therefore certainly autonomous. As I see it this example of non-pathological everyday actions, which are executed with some reluctance, does not make for a convincing objection. For one thing, it should be noted that actions are only executed intentionally, willingly or reluctantly under certain descriptions. In the case of the housewife this means that, for example, she evaluates making coffee positively under one description (‘to be able to drink coffee with a piece of cake’), but negatively under another (‘as an expression of the reduction of women to the role of the housewife and of the dominance of the patriarchic world’). Even if the actions are one and the same, qua intentional and evaluated actions they are still not independent of the (true) descriptions. Furthermore, if one considers that action-autonomy (as Beauchamp has made clear) and personal autonomy can come in degrees, then such an action can be counted as autonomous as long as the reluctance does not lead to incapacity of action<sup>8</sup> or falsifies the counterfactual condition which is part of the modified conception of personal autonomy. The presence of resistance does to a certain extent harm the condition of autonomy but such a gradual evaluation does correspond fully to our intuitive perception in daily practice.

## CONCLUDING REMARKS

The arguments Beauchamp has presented for his conclusion that contemporary biomedical ethics should avoid referring to personal autonomy can be refuted if one improves on the conception of personal autonomy along the lines sketched above. Furthermore, there is evidence to the fact that in common morality action-autonomy and personal autonomy too is important. This means that we should differentiate the principle of respect for autonomy into two sub-principles. In most cases both will go hand in hand, but in some situations and in some types of case both can diverge (this is why these cases are so puzzling). Since the conception of personal autonomy is more demanding and less easy to operationalise, action-autonomy should be the default condition concerning informed consent in biomedical ethics. This means that in cases of conflict the one opting for over-ruling action-autonomy in terms of personal autonomy has the burden of proof.

But sometimes (and not only in bizarre cases) the aspect of personal autonomy may rule out the aspect of action-autonomy; in rare cases the integrity of a person deserves respect even in situation where autonomy is not at issue. What is more, some aspects hinted at by the term ‘dignity’ (compare p346<sup>1</sup>) can be spelled out in terms of personal autonomy in such a way that they fit into contemporary biomedical ethics.<sup>9</sup> This is to say that autonomy cannot be reduced to informed consent in biomedical ethics as it cannot in ethics generally; and I don’t think that Beauchamp is committed to denying this. To my mind—and surely to Tom Beauchamp’s mind, too—it will be a good thing

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to develop a detailed and fine-grained conception of autonomy which allows for a more complex principle of respect for autonomy. Doing so will strengthen both: principlism and the principle of respect for autonomy. And so it should result in better practice in the end.

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