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THE NOTION OF A PERSON*

Abstract: *The aim of this article is to clarify the content of the concept "person" as it figures in philosophical debates about personhood and personal identity. In order to do so, I will look at both specific philosophical problems that ask for a clear definition of this notion, as well as at the history of this concept's formation, and try to motivate the specific assumptions that are tightly connected to it.*

Keywords: *Personhood, Personal Identity, Substances, Properties*

1. Self, personality, human, or what persons are not

The concept *person* is an everyday concept that seldom needs clarification in common usage. Mike, John, Jamey and Nina are persons. They are human beings that surround us with their specific personalities, thoughts, feelings, rational choices and legal rights. If we look at the definitions of different positive laws, we will encounter similar determination – natural persons are human beings coming to existence by birth and ceasing to exist with death. Also, the common usage of the term "person" will usually coincide with the usage of the term "self". A quick search on the internet will give us definitions of the "self" as "person's essential being" or similar, which makes "self" in common usage just a different way to refer to an individuality of a single person. On the other hand, a common usage of "personal identity" will point us to different kinds of personalities and/or idiosyncrasies of a human's psychological profile.

Nevertheless, in the philosophical literature these terms are carefully kept separate and are seldomly used for mutual definitions. In other words, meanings and extensions of "human", "personality", "self" and "person" in philosophy do not necessarily coincide. For instance, if we look at the relation of *self* and *person* which are tightly connected in common use, we will find mostly words of warnings about their connection in the philosophical literature. As Heersmink (2020) notices, there are weaker and stronger

concepts of self than those of a person. For instance, minimal self is identified with the sense of ownership of one's experiences and actions, and does not suffice for constitution of personhood, while narrative self "is constituted by the content of [person's] self-narrative, and the traits, actions, and experiences included in it are, by virtue of that inclusion, hers" (Schechtman 1996: 94; cf. Heersmink 2020: 3), and thus surpasses the content of a *person*, at least the philosophical one, as we shall see in the remainder of the paper. In that sense, we should avoid identifying persons with selves.

Also, philosophers will often warn us not to conflate the philosophical notion of "personal identity" which refers to the problem of tracking persons through time, with psychological notion of a personal character or personality. Namely, in everyday communication the meaning of "personal identity" will almost exclusively be explained in terms of different character traits, inclinations, talents, set of desires, and similar. A similar connection of persons and personalities is made in most written laws with respect to personal rights. Among the rights that a person has over their body, law protects under the term "personal rights" a series of "personality aspects" such as person's talents, honor, and reputation. "Personal identity" in philosophy, on the other hand, almost always refers to the problem of diachronic identity, or the problem of determining what needs to remain the same in the changing entity which is a person to be called the same person over some given period of time. Such criteria almost never refer to personality traits and instead focus on metaphysical theories of persistence and sortal identity.

As we shall see, philosophical notion of a *person* is not even equated with that of a *human*. This is because philosophical theories of personhood look to determine the essential properties of a person, and *being human* is usually seen only as an accidental property of a person. Namely, we can imagine persons which are not humans, like intelligent Martians, or artificial intelligence that is equal or surpasses that of a human. Thus, it is frequently claimed that persons are only contingently human because the essential properties of a person, whatever they are (for now we will have to settle with a placeholder), are had only by humans in our known environment. On the other hand, the notion of personhood is seldom debated in everyday life, and we can live happily most of our lives devoid of skepsis with just equating persons with humans. Every now and then a conversation about someone's pet or a smartphone assistant will come about, and the question of their potential personhood will be often lively examined. Those debates will settle on one or the other side with arguments being previously thrown in both directions. Some of the reasoning against the idea of non-human persons can be based on "they do not have a soul", "they do not have feelings (in case of AI or both)", "they are disembodied (in case of AI)", etc. claims, while the opposite can be defended based on "they do have feelings (in case of animals or both)", "they are equally intelligent (in case of strong AI)", "they have a sense of self", etc. claims. What is clear is that our everyday notions are not equipped for settling questions about personhood. Nevertheless, we are

coming to our main question now and that is whether is philosophy better off in this manner? Just a brief look at debates about personhood and personal identity informs us about a great disagreement between different theories about what persons in fact are. So far, we got to the point of claiming that persons are not selves, personalities nor humans, but what are they then? Also, even if we cannot settle on specific essential properties of persons, can we at least settle on the unique philosophical concept of a person?

Contrary to everyday usage of a term "person", in several philosophical debates "person" is used as a theoretical term and based on a particular theory of personhood and personal identity "person" will have different meaning and different extension. According to these theories persons will usually be only contingently, and not essentially, human and they will be identified with various sets of properties – sometimes biological, sometimes physical, and sometimes psychological. Also, some of these theories will be reductive and try to identify persons with some other type of known entities, and some of them will be non-reductive – constructing persons as new kinds of special entities.

Given this diversity in individuating and identifying persons, someone might say that trying to say something generally accepted about the philosophical concept of a person must be a futile endeavor (see for instance, Travis 2015; Naffin 2011). Nevertheless, all the different theoretical concepts of a person have a common core distinct from the one of its commonsense counterparts, one which is defined by a set of specific questions that have to be resolved, at least this is what is going to be argued. The subject of this article is precisely this shared content of different philosophical *persons*, that are sometimes identified with humans, suitable biological organisms, souls, psychological entities, etc. Thus, the task before us is to determine which problems and which questions led us in a search for identifying conditions and identity criteria of persons, or in other words, which common interests of philosophers led them to construct different theories of personhood and personal identity which will in turn reveal the meaning of a philosophical concept of a person.

2. How did we come to construct the notion of a person?

We can identify at least three important historical sources of our contemporary notion of a person[1]. Namely, in the ancient concept of *prosopon* (anc. gr. πρόσωπον), Roman law's *persona*, and theological debates about the God's nature, we can find three important elements of the concept of personhood – functional, legal, and dialogical.

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1 A large part of Section 2., one that is dedicated to historical reconstruction of the concept of a person, is based on Chapter 1 of *Metaphysics of Persons* (Milojevic 2018:17–27). Some sentences might be translations of the text from this Chapter, especially those referring to historical facts.

The Greek concept *prosopon* can probably be identified as the historical origin of the modern concept of a *person.* It is a direct source of the Roman concept of *persona* and holds some of the essential aspects that we associate with persons today. Nevertheless, the starting formation of the concept was quite innocuous, and it did not have anything to do with philosophy, law nor morals. On the contrary, it was made to refer to one specific body part and afterwards it was readily appropriated in dramatic arts. Namely, "prosopon" was coined from two other words – "pros" and "ops" meaning "towards" and "eyes". Thus, the literal meaning of "prosopon" can be conceived as "a face" as it is the side of the head towards eyes, or as that which is in front of the eyes, signifying a connection to others and resonating the dialogical nature of persons (according to Vovolis 2009, p. 31). It is interesting to note, that in some languages, for instance in Serbian, the same word "lice" even today designates both a face and a person.

However, Greek "prosopon", with the development of ancient drama, changed its primary meaning into a theatrical mask. This happened with the introduction of actors into the performance of theatrical plays. Namely, at first a dramatic performer was delivering a text of the drama as himself. In other words, performers were just narrators and not actors. They were not playing a role, they were not assuming a character, instead they were just conveying the text as it was created by the author of the play. By Aristotle's testimony, it was Thespis who was the first actor that played a given role in the 6th century BC. Aristotle also writes that with Aeschylus the number of characters in a play rose to two, and with Sophocles to three. He also attributes the first use of a theatrical mask to Sophocles (*Poetics* 1449a). So, with the use of a theatrical mask, which was now called "prosopon", one actor could assume different roles at different times. In that sense, the idea of a *prosopon* can be best captured as a role or a function that a human can take – as the mask or personality that a human being assumes in a relevant context (Vovolis 2009). Thus, it is safe to say that in its origins the concept of a person did not refer to the human as a biological creature, but rather to her specific function. It is possible for one human to be or to play more than one *prosopons*, as well that she is not or does not play any *prosopons* or characters at all.

This idea of assuming a certain role was inherited by the Roman legal theory and developed in a new direction. Although Rome was established as early as in the 8th century BC, origins of Roman law are traced back to the Laws of the Twelve Tables dating to around 450 BC. The importance of looking at the conception of the legal notion of a *persona* is multifaceted. On the one side, Roman law is the basis of the contemporary European law, and it provided a framework for civil law. On the other hand, the vast majority of legal terminology comes directly from the Roman law, and the philosophical concept of a person is tightly connected to legal considerations. Namely, one of the most quoted passages about personhood nowadays is Locke's statement that

„person" is foremost a *forensic term* "appropriating actions and their merit; and so belongs only to intelligent agents capable of a law, and happiness, and misery" (Locke 1694: II, xxvii, 26) and that it applies to "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" (ibid.: II, xxvii, 9).

Thus, it is more than informative to take a look at how this term was introduced in legal/forensic context, and how it was subsequently used.

Roman law was being developed in at least two phases. The first one lasted until the 6th century and the codification of Iustinian, and the second phase, lasted from the 6th century (and especially from the 11th century onward with its Western Europe rediscovery) to the 18th and 19th century when different national laws started to develop independently and when Roman norms stopped to be followed (Mousourakis 2012: 1–2). The diversity and breadth of Roman law is admirable, but we are especially interested in one of its distinct parts, namely the one that deals directly with persons – *ius quod ad personas pertinet*. The importance of this part of the law is reflected in its position in an overall corpus of Roman law. If we look at the 6th century codification under Iustinian we will find the *Corpus Iuris Civilis*, and in this body of work we will find *Institutes* one of the three main works, which contained explanations for students of the codified law. *Ius quod ad personas pertinet* was described in the first of four chapters of *Institutes*. The law that was pertinent to persons determined their legal position in an overall social structure. It defined their rights, abilities and obligations, and it contained both status and family law. In that sense, it regulated both norms that were pertinent to individual persons as individuals and members of a society, but also those norms that applied to them as members of a family.

Interestingly, if we look at the text of *Institutes* we will find a determination of a person that significantly diverges from the contemporary legal notion of a natural person. Namely, today persons are considered as entities with legal capability, or as the subjects of the law – bearers of both legal rights and obligations. And this determination is not contingent, it is considered as an essential property of a person. In that sense, according to the contemporary legal theory a person cannot be just an object of a law. On the other hand, Roman law allowed that slaves are persons too. *Ius quod ad personas pertinent* did not regulate only the status and family relations of free citizens, but also it codified norms that applied to people who lost their freedom. We can conclude that with Roman law *persona* became a legal entity, a human being in its legal relations playing its legal role.[2]

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2   Roman law recognized all humans as persons even if some persons were treated as pure objects of law – namely, slaves (as it was defined in Corpus Iuris Civilis, one of the three major parts of Institutes – great 6th-century codification of Roman law, performed under the orders of Iustinian I). It is interesting to notice that the treatment of slaves as non-

Lastly, Christian biblical exegesis brought to the fore one more aspect of personhood recognizable in the contemporary debate about persons. In an attempt to explain an apparent paradox of the claim that God is one and three at the same time, religious thinkers came up with a number of possible answers, and the most prominent one was that God is one substance, but three persons – *Una substantia, tres personae* – first formulated by Tertullian (*Adv. Prax.*; see also Tuggy 2016).[3] By using the method of prosopographic exegesis – interpretation of events through specific narratives of different dramatic roles or persons – Christian scholars noticed that trinity emerges in a dialogical relation of God to himself. God appears as three in the form of the Spirit who speaks, the Father to whom he speaks, and the Son of whom he speaks. (Ratzinger 1990: 442–443, see also Tertullian Adv. Prax. II 7–10) This dialogical nature of God which constitutes trinity was more widely conceived by St. Augustine as a relational nature of the deity and it was described by his famous analogies by which we can imperfectly gain knowledge about God (see Augustine 1991/ca. 400–420; Drecoll 2014). Thus, Christian scholarship deeply embedded in European culture further developed the concept of a person as a self-reflecting relation of an entity to itself – trait that is needed for attributing responsibilities to persons. If an entity does not have a discursive relation to itself there is no point in punishing it for its misdeeds or holding it accountable.

All three sources of the concept of a person are interrelated, but emphasize different aspects of persons: ancient Greek notion insists on a functional nature of personhood – a person is a role played in a certain context; Roman on its biological and legal aspect – a person is a human being in its legal relations to others; and Christian on its discursive dialogical manifestation – a person is constituted by a narrative relation to oneself and to other persons. We can track these ideas through history all the way to the ordinary contemporary notion of a person, which keeps these different aspects of a person by conceiving her as a human being who is capable of taking part in law by virtue of having a capacity of self-reflection or judgment of its own thoughts and actions.

We can conclude this section with the remark that contemporary notion of a person is what Locke conveniently termed a "forensic" notion. Persons

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persons, and arguments that they are less than human, arose with the Enlightenment idea that persons must be only subjects of law, due to their legal capacity as animals with rational souls. Together with the idea that souls and animals are separate entities, e.g. that there could be an animal in a human form lacking rational soul, and the fact that some human animals were treated as only objects of law, this idea opened a way to arguments that slaves lack a number of cognitive capacities and that they are inferior to rational humans.

3   The importance of the question "'What is God?' (i.e., the God whom we encounter in Scripture); and, 'Who is Christ?'" (Ratzinger 1990: 439) was already recognized by Ignatio of Antioch (c. 35 – c. 107), but it was not before the 4th century that this question became one of the focal points of theological Christian discussions.

are those entities which can play a part in legal and moral order. The notion of a natural person from the Enlightenment period is a further elaboration of this notion according to which some entities can play this part due to their natural properties, arguably by being capable of discursive self-reflection and rationality. On the other hand, the notion of an artificial persons came as a matter of convenience where some entities were granted legal status not because of their natural properties, but because it was beneficial to grant them such status by fiat. Namely, *persona ficta* is a notion that originates in the 13th century and by decree of pope Innocent the IV. At that time monasteries were granted a legal status, or they were pronounced persons that can be financially and otherwise responsible, because the maintenance of the monasteries was put in jeopardy by monks' vows of poverty. Thus, although the positive law allows for legal fictions, those fictions are based on realities such are natural persons which are the subject of our and general philosophical investigation. The reality of persons in turn depends on the validity of law and moral, so inasmuch law and ethics are real and have a valid purpose, persons are real too.

But given that the concept of a person is so tightly connected to legal considerations why don't we follow the law and say that persons are simply people? If we remember the reasons for not adopting such an answer, they were based on hypotheticals about possible extraterrestrial creatures being deserving of a status of a person or similar farfetched possibilities. So, the question is should we be led by such hypotheticals and prolong our search for "proper" persons, or proper essential properties of persons, because persons are "only contingently people" in our immediate surroundings? Why shouldn't we instead rely on practical considerations and just proclaim that for all relevant purposes persons are human beings? Why not settle with the claim that persons are at least contingently human and possibly necessarily human? Well, besides the obvious philosophical need to clarify our conceptual landscape and to give a better foundation to both legal and moral theories, there is also an additional real practical need to revise our legal concept of a person. Namely, with the rise and the development of new technologies there are more and more pressing issues about the real nature of persons. Mentioned hypotheticals about beings which are not human but are deserving of the status of being a person are not anymore just mere hypotheticals. There are at least two kinds of entities which are not purely biological or human which deserve attention of both law and philosophy in this context, and those are hybrid entities and potential strong AI systems. Development of various technological aids and prosthetics blurred the boundaries of originally biological persons, and a number of authors argue that in some cases we can talk about extended or hybrid persons – persons that are partly constituted by highly integrated artifactual aids to cognitive and perceptual processing of these extended systems (Clowes 2020; Hongladarom 2016; Milojevic 2020; Piredda & Candiotto 2019). These blurred boundaries already started to have an effect on legal practice when it comes to deciding if a certain damage to an

artifact is just another property damage or a personal injury, like in the case of the damage of Neil Harbisson's "eyeborg" (see Milojevic 2017), but also in cases of privacy violations under the assumption that mental states can be stored on external devices (Palermos 2022).

Thus, we can conclude that investigating the question of what or who are persons has both theoretical and practical merit, and that is of utmost importance to define the core assumptions of different approaches to personhood and personal identity.

3. Questions that (mis)guide us in understanding what persons are

In order to determine what persons are several questions are usually separated. First, there is a question "What makes an entity to be a person?". Then, there is a question "What makes that entity or a person to be the person that she is?". Third, we have to ask given that the entity in question might change during a period of time "What makes this person in t_2 to be the same person in t_1?". And finally, "What are the physical boundaries of this particular person?". Thus, there are at least four questions and four kinds of criteria that need to be set, those of: 1) identification, 2) individuation, 3) persistence, and 4) embodiment. They are all equally important from legal and moral point of view as well. We need to know to which entities law and morals apply, how to differentiate these entities, how to track them through time in order to, for instance, attribute them with responsibilities for past deeds, and what physical parts are parts of a person in order to know when a person has been, for instance, injured.

All these questions can have different answers and various theories will advocate different sets of criteria for some or all of them (some theories will, for instance, consider only the criteria for persistence). Persons can be seen as reducible to different known kinds of physical, biological or psychological entities, or on the other hand as a new kind of entities. They can be individuated by various sets of properties that vary in kind. Their persistence can be determined by different kinds of continuity, for instance, bodily or psychological. Also, it can be argued that person's boundaries are boundaries of parts of organisms like brains, organisms, extended hybrid entities, disembodied souls, or else. We can notice that these questions and criteria are connected and some of them are more tightly mutually connected than the others. For instance, someone might say that if we claim that persons are humans as an answer to identification question, then we already have an answer for the embodiment question. The connection between the identification question and embodiment one is, thus, such that it seems that they are just two sides of the same coin. Nevertheless, if we identify persons with a functional kind that allows for multiple realizability, then the question

of embodiment becomes the question of realization which has separate answers. Also, individuation and persistence criteria seem to be dependent of each other, but it should be noticed that the first is concerned with synchronic identity and the second with diachronic identity conditions. In the end, it seems that whatever we chose as the nature of persons and how we identify them will dictate how we answer the other questions too. However, this is proven as weak heuristic. There are theories like Baker's (2000) which endorse psychological continuity as determining the personal identity through time, but do not claim that persons are a kind of psychological entities, rather they are in a physical sense constituted by their bodies. Thus, although connected, these questions should be kept separate, and in the literature we can find that authors most often focus either on identification or persistence.

The debate about personhood and personal identity usually follows, but is not limited to, arguments and counterarguments from two broadly construed camps – one that advocates physical and biological criteria, and the other that focuses on psychological properties of persons. It is interesting to notice, though, that such separation and conflict between these two camps could not even exist prior to Descartes's separation of body and mind. Namely, in the medieval times persons were identified with ensouled bodies or with rational souls which were substantially united with suitable bodies. Boethius and Thomas Aquinas called them, „individual substances with rational nature" or "naturae rationabilis individua substantia" (Aquinas, *Summa Theologiae* t, q. 29, a. 1, obj. 1.; also Boethius, *Con. Eut. et Nest.*, ch. 3). Following Aristotelian metaphysics, a human or a person was seen as a living organism which had a soul as both her living and thinking principle. According to such a view, soul was a formative principle which gave functional organization to an organism which in that way gained the capacity for rational thinking and telling right from wrong, thus becoming a person. Also, it is extremely important to notice that according to Aristotle's hylomorphism souls as substantial forms could not exist in separation from their bodies. Because of such unity of biological and psychological in human substances, the dispute about the true nature of persons could not even get off the ground – there was only one contender for persons which united both kinds of properties in one essence. Debates about personhood during that period, thus, stayed away from the topics about persons' nature, and were mostly concerned with questions about temporal existence of persons – whether persons come into existence at conception, forty days after, or at birth (for an overview see Jones 2004). On the other hand, when the body and soul became separated in Cartesian philosophy the question of which one of these is a person became a valid one. Even today, when substance dualism is mostly an abandoned position with respect to the mind-body problem, property dualism and autonomy of special sciences perpetuate the duality of psychological and biological entities.

Let us look briefly at different prominent theories of personhood and personal identity in order to get a better grip on what persons are considered to be. We are going to consider a) brute physical fact theories, b) psychological theories, and c) constitution views of persons.

a) Brute physical fact accounts of personal identity adhere to the view that such identity is to be spelled out in terms of brute physical facts or relations and without the need to refer to psychological properties. Entities which are suitable for entering such a relation are, for instance, organisms and bodies. The identity of a body or an organism X_2 from t_2 with a body or an organism X_1 from t_1 consists in a brute physical fact or their physical continuity. If this relation holds for us too than we can say that we continue to exist if and only if our bodies or our organisms continue to exist. Our persistence is a matter of brute physical fact.

Proponents of brute physical fact view can be separated in two groups: radical ones which would claim that persons *are* bodies or organisms, and moderate ones which claim that *our* identity holds in brute physical facts, but we are not necessarily persons. In the first group we can, arguably, find Thomson (1997), Williams (1973, according to Parfit 2012), and Mackie (1999), and in the second group we find animalists such as Olson (1997) and Snowdon (1990). This separation is strictly provisional, and it certainly does not help that some authors use the term "person" ambiguously. Mackie, for example, does this explicitly and claims that he accepts Thomson's claim that there are dead persons (as the corpse is physically continuous with a living body) if we read "person" with a small "p" which does not ask for psychological endowment (Mackie 1999). Nevertheless, both groups of authors seem to be driven by insights such as the one that it seems that we exist even when we do not have certain psychological capacities or properties, when we are embryos or vegetative patients. Olson also argues that if we were to accept a psychological criterion for our persistence this would create a too-many-thinkers problem. More precisely, if what is necessary and sufficient for our persistence is a sort of psychological continuity, then we are not organisms, as we would persist in a different organism if our brain were transplanted. If this is so, and we also concede that organisms can think, then there are two spatiotemporally coincident thinkers – my organism and my psychological being which is not my organism, and I cannot tell which one is me doing the thinking.

In spite of these advantages, brute physical views face a number of problems especially the radical versions. If we claim that persons are bodies or organisms, we will get a neat ontology of persons based on the reduction to a known kind of entities, but the question would arise are they the right sort of entities (Baker 2000: 124). Baker heavily criticizes such a view because it does not offer a unique sort of criteria for tracking and identifying persons and by doing so it does not make them different from other kinds of physical entities. Also, such a view does not make a reference to person's psychological

capabilities which make her suitable for entering appropriate legal and moral relations. Additionally, the argument that is often given to defend animalism – view that we are animals, but not necessarily persons – can be turned against radical versions of the brute physical fact view. According to this argument, it is unintuitive to consider fetuses or unresponsive patients in vegetative state to be persons because they lack relevant psychological features needed for legal capacity (see Boyle 1979; Sherwin 1981; Olson 1997).

In the end, there are famous brain transplant and mind upload scenarios that put this position to the test. We can imagine my brain being transplanted in a different body, and given that I am my body according to such a view, I would remain in a donor body and a different person would get my brain. Such an interpretation of the brain transplant scenario seems implausible, and we have strong intuitions that I would wake up in a new body after the transplant. Also, given that I am my body I cannot ever have a different body. This would stop mind upload scenarios, and all other scenarios where we would be differently realized, in their tracks. Thus, according to the brute physical fact view I cannot ever be uploaded to a computer or to a robotic body, not as a matter of contingency, but as a matter of conceptual necessity.

These unintuitive consequences show us that even if these accounts can potentially individuate persons and successfully track them through time, such persons are very different from what we usually assume under the concept of a *person*. Maybe they are what Mackie (1999) termed persons with a small "p". Namely, if "person" is a forensic term as Locke (1694) claimed, and we attribute them with responsibilities, rights and other legally and morally relevant attributes, then the consequences of the defended view seem wrong and inadequate. For instance, in the case of brain swaps a person who would donate a brain of a serial killer would be still held accountable for her actions after the swap and the person who received it would be deemed innocent. So, if we doubt that persons are bodies or organisms, let us see if they are psychological entities instead.

b) Psychological view of personal identity is most famously defended by Derek Parfit (1984). According to Parfit to establish personal identity, the following has to obtain:

> (1) There is psychological continuity if and only if there are overlapping chains of strong connectedness. X today is one and the same person as Y at some past time if and only if (2) X is psychologically continuous with Y, (3) this continuity has the right kind of cause, and (4) it has not taken a 'branching' form. (5) Personal identity over time just consists in the holding of facts like (2) to (4). (Parfit 1984: 207)

Some explanations are in order. First, we should briefly establish what is psychological continuity, and then why such continuity should not take a branching form.

Psychological continuity depends on psychological connections which are causal relations between mental states. If subject S_1's mental states are caused by S_2's mental states, or if S_2's mental states are caused by S_1's mental states, there are psychological connections between S_1 and S_2. If there are multiple chains of such connections, then there is a psychological continuity between S_1 and S_2. (Parfit 1984: 206)

Introducing psychological continuity instead of physical persistence solves the problem of brain transplants – a person which is psychologically continuous with the one who committed a crime would be held responsible, meaning the one with the transplanted brain, and not the donor. Also, psychological continuity deals better with teleportation cases. Namely, if we imagine a device like the one from Star Trek and someone would have stepped into it, and she would be transported to a different place, we have a strong intuition that that person would be teleported and that she would continue to exist. Nevertheless, if a bodily criterion is a criterion of personal identity, then the transported person would be a different one than the one who entered the teleporter and whose body was destroyed in one place just to be recreated in another. The transported person is psychologically continuous with the original one, but physically discontinuous, thus psychological criterion of personal identity safeguards our intuitions about teleportation. However, teleportation and other means for differently realizing or instatiating mental states that form psychological continuity (e.g., mind uploads) open a possibility of "branching". Branching occurs when there is more than one entity that is psychologically continuous with some entity from a previous time. It can occur in different cases of fission and duplication – in cases of one-by-one brain hemisphere transplants in two different bodies, in cases of faulty teleporters which do not destroy original bodies or create two or more copies in different places, or in cases of mind uploads where the original mind retains its biological form. Branching is possible because psychological continuity is not a transitive relation, but this also makes psychological continuity different from identity relation which is transitive. In branching cases, multiple entities from a later time are psychologically continuous with an entity from a prior time, but they are not mutually psychologically continuous. So according to Parfit, in order to secure personal identity, we need to make sure that branching did not occur. The possibility of branching, thus, creates a serious problem for psychological continuity as a contender for a criterion of personal identity. Namely, the overall criteria that Parfit offers, which ask us to make sure that branching did not occur make the identity relation contingent. This, in turn, breaks the rule which Wiggins called "only a and b":

> "In notionally pursuing object a in order to ascertain its coincidence or non-coincidence with b, or in retracing the past history of b to ascertain its identity link with a, I ought not need to concern myself with things that are other than a or other than b" (Wiggins 2001: 96).

Parfit was not particularly concerned with such consequences. His most acclaimed view is, after all, that identity is not what matters in survival and other practical matters, but psychological continuity instead. It is, also, clear that relying on such a criterion of personal identity we are not coming closer to an answer to identification and individuation questions about persons. Afterall, there is "no entity, without identity" (Quine 1969). Quine's famous credo was formulated because of his dissatisfaction with identity criteria for various abstracta, and now we can be equally dissatisfied with the identity criteria for persons. Again, Parfit did not concern himself too much with the contingency of personal identity, nor with the ontology of persons and he just elliptically claimed that they are probably closer to nations or clubs (1984) and that their identity conditions are more like those given for audio-systems (1995) than for members of natural kinds. But can we after all constitute an ontology of persons whose diachronic identity relies on psychological continuity?

Thomson (1997) notices that psychological theories are usually not motivated by ontological claims and are unable to construct viable ontologies, which was one of the main reasons why she turned to the bodily criterion of personal identity. Nevertheless, there are multiple suggestions how to build psychological ontology of persons. One of them is to identify persons with brains or relevant parts of brains (McMahan 2002; Campbell and McMahan 2010). Nevertheless, such suggestion cannot meet our intuitions about teleportation, although it handles well the brain transplant cases. Also, it would betray the psychological criterion of personal identity unless we adopt identity theory of the mental – theory which is mostly abandoned and replaced with some version of functionalism about the mental. Namely, we would not be able to talk about the same person through time unless she has the same brain even if there is psychological continuity between the past and future person according to functionalism – like, for instance, in mind upload or teleportation cases.

So far, we have seen that brute physical fact views have neater ontologies but ones that do not fit our intuitions about persons nor our starting concept of a person, on the other hand psychological criterion preserves our intuitions about persons and keeps the concept of a person applicable in legal and moral contexts, but psychological views do not tell us what persons are as entities.

In the end, we are going to consider a group of theories that try to reconcile psychological criterion of personal identity with ontologies similar to those offered by some proponents of the brute physical fact view.

c) Advocates of constitution views accept a psychological criterion of personal identity and claim that although not identical, persons are constituted by their bodies. According to such a view, persons are entities spatially

coincident with organisms or bodies that have some extra properties. These extra properties make them non-identical to organisms/bodies. The most prominent advocates of constitution view are Shoemaker (1999) and Baker (2000), and their accounts differ with respect to properties that separate persons from their bodies.

Shoemaker endorses a view that properties are defined by causal roles they impart to their bearers, and by differentiating thin and thick properties he defends a view that mental properties can be properly attributed only to persons and not to animals. We can predicate "it has a cerebrum in physical state P" to both an animal and a person, but the animal and the person will have different thin properties that belong to this predicate and which present individual disjuncts of an appropriate thick physical property. It is only the person that has the appropriate mental property thanks to the appropriate causal roles that the state of the cerebrum plays in the cognitive dynamics of the psychological life of the individual that realizes the thin physical property. By defending this position, Shoemaker motivates the claim that persons are not identical with bodies, organisms nor animals, but that they are still constituted by them. Also, he answers the already mentioned too-many-thinkers argument against psychological views by excluding animals from the extension of "thinking beings".

Although, this position has many advantages – it has a plausible criterion of personal identity, the psychological one, and it gives a plausible account of embodiment of persons – it faces a number of objections. Its ontology seems artificial and *ad hoc*, produced specially to attribute relevant properties only to persons and thusly defining their essence. Árnadóttir (2010) complains that such a view implies that animals that constitute us cannot have relevant thoughts, which seems contrary to our intuitions. Furthermore, and more importantly, such a view leads to unnecessarily high standards of mentality.

Baker (2000) does not separate thin and thick properties like Shoemaker, and she does not limit mentality to persons. Instead, she introduces relevant relational properties as the properties which differentiate persons from their bodies. The example that she amply uses to illustrate the point that there could be spatially coincident non-identical objects is the one of Michelangelo's statue of David and the piece of marble in the shape of David. It was probably Aristotle who first noticed that the statue differs in some respects from the lump of clay from which it is made, and thus formulated the puzzle of non-identity of some spatially coincident objects. Baker's answer to this puzzle is that the statue has a number of properties that the piece of marble does not. The statue has properties that connect it to the art world essentially. If there was no art world the statue would not exist, or so it is claimed, even if the piece of marble would. Thus, Baker

claims that the relation between the statue and the marble is the one of constitution and not identity, because the statue has relational properties which are not properties of the marble at the same time. The same relation holds between a person and her body in Baker's view. The only question now is what are the properties that separate a person from her body? Baker argues that those are the relational properties of persons to themselves or the ability to take on the first-person perspective. In turn, Baker defines this ability in a dispositional way – object x has an ability to take on the first-person perspective at t iff it has suitable structural properties, and it has manifested this ability in a previous time, or it is in an environment suitable for developing this ability (Baker 2000: 92). This in turn enables the attribution of personhood to both fetuses and mentally disabled that protects their rights and legal and moral treatment, without the need to attribute them full-blown mental states at the same time.

Although Baker's view does not face the problem of "person chauvinism" according to which only persons can have mental states, like Shoemaker's, it is still troubled with multiple problems. For instance, given that Baker's view calls for extrinsic essential properties it is subject to the anthropic objection (see Sosa 1987, Sider 2001). This objection claims that if we allow for extrinsic essential properties there is no end in arbitrary selection of existing entities. There is no definitive answer what would make some such properties suitable for individuation and some unsuitable. In case of the statue of David would David on the table be a new entity – table statue – when it is in table circumstances? (see Wasserman 2009) Thus, if we do not answer the arbitrariness question our ontology would become overcrowded and useless.

This brings us to the end of this section. We have overviewed some of the prominent views on personhood and personal identity omitting a large number of alternative positions, some being Lewis's (1976), and Sider's (1996) perdurantist or four-dimensional accounts of persons, Nozick's (1981) "closest continuer" theory, etc. But even with this limited overview we can identify a noticeable trend. Namely, that the theories which are closer to our big "P" person concept, in Mackie's terms, one which connects persons to legal and moral issues and focus on the psychological abilities that enable attribution of relevant legal and moral attributes to them, give plausible personal identity criteria but are unable to give a consistent and unproblematic ontology of persons. On the other hand, views which have unproblematic ontologies and clear persistence criteria do not fit with our intuitions about persons and can be seen as views that give criteria of personhood and personal identity of persons with a small "p" – like the Thomson's view that allows for dead persons and persistence of de-brained ones. These insights lead us to our last section.

Concluding remarks: are persons entities or we were misguided

At the beginning of section 3. we have separated several questions that need to be answered in order to determine what persons are and how they persist. Two leading questions were the one about identification or criteria of personhood and the one about persistence or criteria of personal identity. We saw that various theories either give plausible answers to one or the other of these questions. Also, if they give unquestionable ontologies, they do not usually fit our most common concept of a person, one that identifies persons as bearers of legal and moral attributes. This leads us to the hypothesis that persons might not be concrete individuals or primary substances in Aristotle's terms in the end, and that the first and second question misled us into searching for such entities. So, if persons are not concrete individuals, what can they be? They can be properties or modes just like Locke claimed (1694), and why he claimed that a demonstrative science of morals is possible, they can be closer to artifacts as Parfit (1984) suggested, or they can be phase sortals as Olson (1997) argued. We are going to briefly look at Olson's reasoning for his claim.

In the previous section we mentioned that animalists adopt some sort of brute physical fact view with respect to our identity, but that they do not simultaneously hold that we are essentially persons. Thus, Olson frames his position as non-essentialist. He claims that we are animals, and that in some points in our lives we are persons too, but not always and not necessarily. We would like to make a similar point with a change in emphasis. Instead of focusing on our animal nature and the claim about personal non-essentialism, we would like to focus on non-substantialism of persons without any claim, for now, about what we are. Olson in "Movers and Thinkers" (chapter 2 section iii. of *The Human Animal* [1997]: 31–37) argues that the term "person" is a functional rather than a substance term, and that it stands for a phase and not a substance sortal. In order to substantiate his claim, he likens persons to artifacts, more specifically to locomotors. To make a comparison he first asks us to answer the question "What is a locomotor?" Different things such as humans, crabs, and cars are locomotors, and what makes them locomotors is their capacity to move themselves. But Olson says that we cannot answer a second valid question "What kind of thing is a locomotor? Is it a human, or a boat, or something else?" There is no structural intrinsic nature that makes locomotors to be locomotors. Furthermore, according to Olson locomotors come into existence by gaining a capacity of self-moving and come out of existence by losing this capacity. By analogy, there is nothing in the structure of a thing that makes it a person. It is rather its capacity for rationality, self-consciousness, and similar psychological abilities. Also, these capacities are had by things like humans only temporarily, after a suitable development

and before irreparable damage. Thus, Olson concludes that *being a person* is rather a phase and not a substance sortal which answers to the question "What it does?" and not "What is it?". In other words, it is closer to phase sortals like *being a child* than to substance sortals like *being an animal*.

There are several arguments against Olson's argument which is very modestly portrayed here. For example, Hershenov (2005) contests Olson's conclusion that we must be animals instead of persons because this is the most plausible substance sortal that applies to us. He does that by showing that *being an animal* is a functional term similarly to *being a person*. On the other hand, Nichols (2010) argues that many substance sortals are functional (Wiggins 2001, also allows for substance sortals to refer to functional properties). Even concepts of fundamental particles make reference to what they are capable of doing like having a certain spin. Nevertheless, even if these arguments are sound they do not show that persons are substances, they just show that reasoning from functionalism to non-essentialism is flawed, and that animalism is not the only contender even if *being a person* is a phase sortal. Olson's reasoning seems to be on the right track, but it needs amendments which would show that functions which are part of the content of the concept *person* are such that they do not constitute a substantial kind (Milojevic, unpublished).

This way we are coming full circle. We started from what persons are not in a philosophical literature, then we proceeded to survey historical origins of this notion. By identifying three sources of this notion, we singled out several aspects which are inextricably connected to the concept *person*: its functional, its reflexive, and its forensic nature. Consequently, we looked at how is philosophical research in this domain carried out, and we have identified several questions which led this research. Now we can say that some of these questions were misleading. By asking for criteria of personhood and individuation we were led to search for a kind of primary substances or concrete individuals. This search led Thomson (1997) to claim that psychological theories are inadequate and to postulate an implausible bodily criterion for personal identity. It also led advocates of constitution views to postulate questionable ontologies. While Parfit's account has all the "right" consequences that lead to unsubstantiality of persons, he never focused on ontological claims and he has not developed an account of what persons are. In the end, Olson's view clearly advocates non-substantiality of persons, but lacks a further justification of its claims. We can conclude that the vast philosophical research about what personhood and personal identity are, led us back to the historical origins of the notion of a person that emphasized that persons are roles that a human or another entity can assume, and that this concept refers to different psychological capacities that make this entity capable of law and morals. Thus, persons are best seen as functional properties and not as substances, and the further research should be directed at specifying what kind of properties they are, or at least this is what was argued for in this paper.

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