Personhood

What can we mean when we use the word ‘person’? In ordinary speech it usually refers to a human being. But a gorilla, Koko, who had learned to sign over 1000 words described herself as a ‘fine gorilla person’. So, this seems to be a contradiction in terms – a ‘fine gorilla person’ doesn’t seem to be possible. But philosophical discussion often challenges this and raises the possibility of non-human entities being persons and of humans being non-persons. In the philosophical sense of personhood, the terms ‘person’ and ‘human being’ should not be taken to be synonymous.

We can more or less specify what a human being is in biological terms but the nature of personhood doesn’t seem to be something that can be described in that way.

Notions of Personhood

There seem to be basically three types of personhood:

Metaphysical

Moral

Legal

These categories are definitely not mutually exclusive. On the contrary, there is considerable overlap between them.

Metaphysical

This is the personhood that we seek to define when we ask ‘what is personhood fundamentally, what is the reality of personhood?’. John Locke (1632-1704) defined it as:

> “a thinking intelligent being, that has reason and reflection, and can consider itself as itself, the same thinking thing in different times and places; which it does only by that consciousness, which is inseparable from thinking, and as it seems to me, essential to it; It being impossible for anyone to perceive, without perceiving that he does perceive”

A later philosopher Harry Frankfurt (1929-2023) proposed that, what he termed as the capacity to have second-order desires or *volitions*, was the key to metaphysical personhood. Many animals have first-order desires like eating and seeking warmth etc. but only persons (such as a typical human being) have desires to have desires, or volitions. For example, you are hungry and someone offers you a cup cake and your first-order desire is to accept it and eat it. However, because you want to eat more healthily you opt to have a salad instead. The second-order desire, or volition, to eat healthily overrides your first-order desire. Even if you take the cup-cake every time, the fact that you have the volition to eat healthily qualifies you as a person. Having *volitions* in this special sense is, according to Frankfurt, what defines personhood.

However, it seems that all the attempts to clearly define metaphysical personhood are incomplete and can be criticised. If we consider a new-born baby, or even an infant, they certainly don’t fit Locke’s or Frankfurt’s description of personhood, but most of us would consider them persons in some sense. Certainly not things. On the other hand, some non-

human animals such as great apes and dolphins seem to come under the category of metaphysical persons when we consider some of their capabilities and attributes.

Moral

This is the personhood that pertains to entities that are perceived to act as moral agents or to warrant moral recognition or moral status of some kind. All human beings generally fall within this scope – although some cases are debated (e.g. humans in persistent vegetative state). The main point, though, is that this is what we are considering when we try to define or describe moral personhood. And *moral* here means determining the rights and wrongs of a situation. The philosopher Amy Kind in her book 'Persons and Personal Identity' gives a scenario to clarify the meaning of moral personhood:

> "Suppose that Bill has come to visit his friend Jack and that, after a few too many drinks, Bill becomes increasingly belligerent for no apparent reason. First he picks up Jack's favourite lamp and smashes it to bits. Next he kicks Jack's cat. And finally he slaps Jack across the face. Clearly, each of these actions was wrong, and Bill is probably not going to be invited over again anytime soon. But while it was wrong to slap Jack *because it wrongs him*, and while I suspect that many of us would agree that it was wrong to kick the cat *because it wrongs the cat*, matters are different when it comes to the lamp. What makes the smashing of the lamp wrong was *not* that it wrongs the lamp. The fact that the lamp belongs to Jack, and that he values it, makes it unacceptable for Bill to smash it. But the lamp, lacking any interests of its own, cannot be morally wronged. It is not the kind of thing that can have any rights, and likewise, not the kind of thing to which we have any moral obligations. Unlike Jack and the cat, the lamp lacks moral status."

She goes on to mention that saying Jack and the cat have moral status does not commit us to to say that the wrong done to Jack and the wrong done to the cat were on a par. Some philosophers have claimed that moral status – and therefore moral personhood – comes in degrees so that perhaps a human has a fuller degree of moral personhood than a cat. However, Kant (1724-1804) didn't think a cat has any degree of moral personhood at all. His view, apparently, would be that the cat, like the lamp, is just a thing.

Defining the attributes that an entity must have to qualify for moral personhood has proved very difficult for philosophers. Generally they tend to revolve around mental capacities such as consciousness, self-consciousness, rationality, autonomy, sentience, emotion and such like. Hence one can start to see an overlap with approachs to metaphysical personhood. Additional factors, though, have been put forward such as relational ones. The idea that our moral duties to one another derive from our place in a complex web of social and interpersonal relationships.

Legal

This is personhood in the sense of how it relates to the law. The first (important) point is that it is determined by which jurisdiction the entity, defined as a legal person, comes under. And for any given jurisdiction, it has changed historically over time.

There are basically two types of legal person: human and non-human. In law, a human person is called a *natural person* and a non-human person is called a *juridical person*. Examples of a

juridical person are entities such as corporations, partnerships, and government agencies. Juridical persons can be subject to the same legal processes as humans (natural persons), such as suing and being sued, ownership of property, entering into contracts, being prosecuted under criminal law etc.

Humans acquire their legal personhood merely by being born, whereas juridical persons acquire it through a legal process of some kind (e.g. registration of a company). Usually humans have to reach a certain age before they get full legal personhood (normally called *legal capacity*). The age can vary depending on the particular legal process concerned. For example, in England and Wales the age of criminal responsibility is 10 years old and anyone under the age of 18 lacks the legal capacity to hold a registered title to a property (but they can hold beneficial ownership of a property by way of a trust until they are 18).

Historically legal personhood has been denied to certain classes of human beings such as women and slaves. Up to the middle of the 19th century British law did not recognise married women as legal persons. A woman's legal existence was 'incorporated and consolidated into that of the husband' wrote Sir William Blackstone in *Commentaries on the Laws of England* in 1765. In the middle of the 19th century slaves in the U.S. were considered as property, not persons, according to the law.

Conversely, apparently there have been rare cases where a non-human animal was given the status of a legal person via a legal process. In 2014 a court in Argentina ruled that an Orangutan called 'Sandra' should have the status of a 'non-human person'. She had been kept in a concrete and steel bar cage in Buenos Aires Zoo and had had her baby separated from her and sold to a zoo in China. Lawyers representing her argued that she should not be treated as an object because of her intelligence and complex ways of thinking. There have also been successful writs of habeas corpus made by an organisation called The Non-human Rights Project for certain great apes in captivity in the U.S. – not going so far as granting 'personhood' but getting a step closer.

Questions to ponder

- Can the universe be categorized into just two types of entity: either persons or things? Or is there a spectrum with 'full person' at one end and 'full thing' at the other? Would the type of personhood (Metaphysical, Moral or Legal) have any bearing on this?

- If it's just either 'persons' or 'things', what are the necessary attributes an entity must have to qualify as a person?

- Can you think of any attributes that would be *sufficient* to make an entity a person?

- These are very difficult questions to find answers to. In fact, it seems to be very difficult to formulate the questions in the first place. Do you think it's important to pursue the quest to formulate and answer them? If so, why?