Forthcoming in the proceedings of Action Theories: Social Action, Theory of Mind, Philosophy of Action, Religious Action

Three Concepts of Person

Roberto Poli

University of Trento and Mitteleuropa Foundation

1. Introduction

I define a 'person' as a subject with values, an entity that may, with greater or lesser ability, accede to values and accept them intentionally.[1] Unfortunately, discussion on 'personhood' comprises numerous confusions and suffers from a long-standing and serious lack of conceptualization. The necessary preliminary to any adequate theory of the person is clarification of its ontological structure and of the concepts that make up its content. I believe that it is heuristically useful for this purpose to draw a distinction among at least three different kinds of 'person', which for lack of a better terminology I shall call *person*$_1$, *person*$_2$ and *person*$_3$. These can be exemplified by referring to different thinkers who have authoritatively expounded their characteristics. I shall therefore associate Peter Singer with person$_1$, Nicolai Hartmann and Edith Stein with person$_2$ and John Finnis and Martha Nussbaum with person$_3$.

Given that these three types of person have essentially different ontological natures, it is reasonable to suppose that some of the traditional difficulties concerning the theory of the person depend on a failure to distinguish among them. Each of the three types of person has value, but each of the values differs from the others. Person$_1$ has the value corresponding to the dignity of a living being, while person$_2$ has the dignity corresponding to the acceptance or rejection of ethical values, and being the person$_3$ has the dignity corresponding to the qualities of an authentically human biography. Person$_1$ is structurally conditioned and pertains to the sphere of biological reality; person$_2$ is structurally conditioned and pertains to

[1] For more detailed treatment see Poli 2006a.

the sphere of spiritual reality; $person_3$ is structurally conditioned and pertains to the sphere of social reality. All of us are born a $person_1$; some of us *become* a $person_3$. Being a $person_1$ is a matter of fact, it is intrinsic to our nature as living beings. The quality of being a $person_1$ is not acquired, but nor is it never lost. Being a $person_3$ is instead structurally fragile: one can become a $person_3$ and one can cease to be one. A $person_3$ can accede to a higher plane of reality, but then may be unable to remain at that level, and may even choose or be compelled to leave it. We shall see later that there is nothing mysterious about this.

Possessing the dignity of a living being or having a biography are two different aspects of the person as a subject with values. For the moment setting side the case of $person_1$ (where the concept is declined in biological terms), the difference between a person as a bearer of moral values ($person_2$) and a person with a biography ($person_3$) rests on their differing capacities. $Person_2$ is constituted over and above the subject and is determined by the choice between good and evil, and then by the expression of virtues; $person_3$ consists of the capacities that constitute a biography.

2. The first meaning of 'person'

The first question to ask is this: to whom do the precepts and rules of ethics apply? The most enlightening answer points to a tendency apparent since the origins of mankind and which is still developing; a tendency which proceeds through the progressive expansion of groups of individuals subject to ethical discourse. It began with the earliest human communities and has gradually come to include the city, the nation, and the global village. The process has been much longer and more tortuous than appears from the micro-description just given. Among the many obstacles against acceptance of the idea that all human beings are authentic ethical subjects are differences of gender, religion, race and class. Supposing for the moment that these obstacles have been removed (a fanciful hypothesis), we may say that the sphere of ethics encompasses the totality of human beings.

This, however, prompts the following question. Can we consider the progressive expansion of the ethical sphere to be essentially concluded, or can we envision its continuation? In other words, would it be correct to extend the concept of person (as $person_1$) beyond the members of the biological species *homo sapiens sapiens*? The question is not an idle one, for two main reasons: (i) because it is structurally intrinsic to the historical process of the progressive expansion of the domain of 'person'; and (ii) because some scholars have not only asked the question but have answered it in the affirmative. If we accept the proposal of Peter Singer, the author who perhaps more than any other has defended this idea, we must recognize that at least some individuals that do not belong to the species *homo sapiens sapiens* should be regarded as persons. In fact, Singer's thesis is even more radical: he argues *both* that not all members of the species *homo sapiens sapiens* are persons *and* that individuals not belonging to the species *homo sapiens sapiens* may be persons.

I shall seek to show that Singer's argument is categorially unsound – albeit for reasons rather different from those cited by other critics. Nevertheless, although I believe Singer's thesis to be wrong, it has the merit of compelling us to give more precise specification to our categorial framework.

3. The boundaries of the person

I shall first reconstruct Singer's reasoning.[2] The analysis will centre on the presence of an irreducible difference between biological information and ethical information. To prevent ambiguities, I shall denote the biological point of view with the expression 'member of the species *homo sapiens sapiens*' and the ethical point of view with the expression 'person'.

The question now becomes: is it correct to state that all members of the species *homo sapiens sapiens* are persons? And complementarily: is it correct to state that all persons are members of the species *homo sapiens sapiens*? Singer's answer, as

---

[2] I shall concentrate in particular on Singer 1993.

we know, is ‘no’: there are members of the species *homo sapiens sapiens* that are not persons; and there are persons that are not members of the species *homo sapiens sapiens*.

This conclusion derives from the following train of reasoning. In order to answer the above questions fully, it is necessary to define the terms used and to state the conditions in which they can be correctly applied. The task of determining the necessary and sufficient conditions for evaluating whether a classificatory expression is applicable to some individual pertains, of course, to the discipline’s specialists. It is therefore the specialists who must tell us how to apply the expression ‘member of the species *homo sapiens sapiens*’ correctly; whilst the moralists must tell us how to use the expression ‘person’.

A first problem now arises. If we take the cladistic approach,[3] the answer in biological terms is relatively obvious: an individual belongs to the species *homo sapiens sapiens* if s/he has the genetic heritage of the species and has been bred by members of that species. In this case, the problem is entirely on the other side: what are the defining features of a person? What are the criteria that distinguish persons from non-persons? If we say that members of the species *homo sapiens sapiens* are persons by default, we are using biological categories to define an ethical category. The idea is not new: Spencer and other nineteenth-century positivists pursued this line of thought. But it is not difficult to see why an answer of this kind is structurally inadequate. If ethics were really so intimately bound up with biology, it would amount to little more than a hygienic device, a prophylaxis for evolutionarily productive behaviour. I believe that no one today would want to defend such a reductive notion of ethics.

Accordingly, other criteria are required for the correct application of the category ‘person’. For this purpose Singer uses the “indicators of humanhood” identified by

[3] There are two mains schools of classification in biology: phenetic and cladistic. Phenetists focus on similarities of form, function and biological role. Cladists instead focus on similarities among individuals from the same stock belonging to two successive generations. Put briefly, the former take a morphological point of view, the latter a genetic one.

the Protestant theologian Joseph Fletcher. I quote: “These indicators include self-awareness, self-control, a sense of the future, a sense of the past, the capacity to relate to others, concern for others, communication, and curiosity. This is the sense of the term that we have in mind when we praise someone by saying that she is ‘a real human being’ or shows ‘truly human qualities’”. What we want to say is that “human beings characteristically possess certain qualities, and this person possesses them to a high degree”.[4]

It is easy to foresee the next step in Singer’s argument: “These two senses of ‘human being’ overlap but do not coincide. The embryo, the later fetus, the profoundly intellectually disabled child, even the newborn infant – all are indisputably members of the species *homo sapiens*, but none are self-aware, have a sense of the future, or the capacity to relate to others”. It is evident that the individuals of certain biological species different from *homo sapiens sapiens* fulfil the above indicators of humanhood. Consequently, it is correct to conclude that not all members of the species *homo sapiens sapiens* are persons, and that there are persons that do not belong to the species *homo sapiens sapiens*.

As said, I do not believe that Singer’s reasoning is correct; indeed, I think it is riddled with errors. The problem, however, is that these are rather sophisticated errors, so that the reasoning is anything but easy to rebut.

Firstly, the formal validity of Singer’s argument depends crucially on two specific assumptions. The first is that indicators of humanhood – whatever they are – furnish information sufficient and necessary for definition of the concept of person. The sufficiency clause states that an individual that possesses those characteristics is a person; the necessity clause states that an individual that does not possess those characteristics is not a person. The second assumption is that the range of application of the first assumption encompasses the entire realm of living beings.

Singer’s conclusion is formally valid only if we accept both these assumptions. In fact, however, both of them can be disputed. With regard to the first, we may ask for

---

[4] Singer 1993, p. 86.

example whether the concept of person must be defined by the indicators of humanhood or whether these indicators are not more correctly taken to be attributes concomitant to, or even contingent on, the essence – or the definition – of person. We may also ask whether the essence of a person must be characterized in terms of a taxonomic definition or whether it is not more correct to characterize it in prototypical terms.

In the case of the second assumption, matters are less complex. Here the problem reduces to furnishing some persuasive reason for the choice of domain on which to have the category 'person' vary. There is nothing that obviously counsels in favour of choosing the entire sphere of the living as that domain. Since this is a choice different from that made by almost all moralists, Singer and his followers must explain *why* we must proceed in the way that they suggest.

Criticism of Singer must therefore verify the validity of the two assumptions on which his reasoning is predicated, and determine whether more satisfactory alternatives are not available.

4. On the definition of person

The list of humanhood indicators raises at least four problems, which should be carefully analysed: (1) the correctness of the items making up the list; (2) the presence of thresholds whereby mere possession of an attribute is not sufficient but must exceed a certain minimum; (3) the interactions among the various items in the list; (4) the partial or total substitutability of one attribute by another attribute or set of attributes. I shall set these problems aside for the moment and concentrate on the fundamental question of how the list of humanhood indicators should be read.[5]

There are two principal options, respectively tied to the interpretation 'in act' or 'in power' of the set of indicators. Although the terminology seems antiquated, the underlying idea is sufficiently clear and can be easily translated into contemporary

---

[5] We shall see that these aspects are important for definition of $person_3$.

language. Its most immediate version is as follows: an individual is a person if in fact ('actually') s/he uses or is able to use the aptitudes corresponding to the humanhood indicators. In order to forestall objections (of the type: when we are dozing or asleep, we are not using the capacities matching the humanhood indicators), I shall reformulate the thesis in slightly different terms: an individual is a person if s/he *usually* uses or is able to use the aptitudes corresponding to the humanhood indicators. The use of the expression 'usually' – which refers to the normal conditions in which we are able to take decisions, remember, or anticipate, etc. – should counter large part of the objections. A more rigid, and probably also more correct, version would use expressions like 'essentially', 'structurally' or 'by nature'. But these expressions raise complex issues which for the moment are not relevant to the argument. For this reason I shall utilize the weaker version.

Reformulated as suggested, the interpretation in act of the humanhood indicators yields a first conclusion: a definition of humanhood couched in these terms applies only to sufficiently mature (not necessarily adult) individuals who do not suffer from disabilities. Newborn infants, elderly people afflicted with senile dementia, the mentally handicapped, or coma patients would therefore not be considered persons.

If this is correct, we can only proceed with the second interpretation of the principle, the one 'in power'. This interpretation states that an individual is a person if s/he belongs to a species whose exemplars usually display these attributes. In this case, the expression 'usually' has two meanings: on the one hand it means 'normally', on the other it refers to 'fully developed' individuals. In other words, the authentic meaning of the principle is this: "normally, a fully developed individual of the species in question possesses the attributes listed as humanhood indicators". Thus, the fact that infants, some elderly people, the mentally handicapped and the victims of serious accidents are unable to fulfil the humanhood indicators is not sufficient reason for denying them personhood.

Singer himself is obviously aware of the two possible interpretations of the list of humanhood indicators. Significantly, however, he regards the first as more correct than the second. The reason that he adduces for doing so is particularly interesting,

and it concerns the role performed by evaluation criteria in ethical discourse. A simple example may clarify the point. Suppose that two candidates, Mary and John, are interviewed for a job. Despite the fact that Mary has better qualifications and experience, the job is offered to John because he is a man. Let us analyse the situation structurally. It is obvious that an injustice has been committed. However, more important for our purposes here is defining the nature of the conflict. The idea that almost everyone would probably defend is that *individual* features (qualifications and experience) are more important than any difference of a *general* kind (due to race, gender, geographical origin, religious faith, etc.).

In other words, the specific characteristics of *the individual* (in this case Mary's qualifications and experience) prevail over her *generic* ones (gender, race, citizenship, religion). If this criterion were generalizable, then Singer might be right. If it is the characteristics of the single individual that matter, then we must draw the conclusion that, as individuals, those suffering from senile dementia or in irreversible coma are not persons.

The question to be answered is therefore this: is the concept of person an individual or generic concept? Is it something that *distinguishes* among individuals or is it something that *makes them similar*? As soon as the question is asked, the answer is obvious.

The distinctions just considered (of gender, race, etc.) can be viewed as local or global (i.e. as factors of separation and distinction, or as factors of commonality and membership). To which level does the category 'person' belong? Once again the answer is obvious: the person has always been regarded as the maximum global limit of ethical discourse. In other words, the person defines the ethical level in its global dimension. In more traditional terms, the concept of person is a normative concept.

In reality, also Singer reaches the same conclusion. Starting from the incontrovertible evidence that individuals differ in infinite ways, ethical discourse would never have been possible if it had not been able to find something common to all individuals, regardless of the facts. As Singer writes, "Equality is a basic moral

principle, not an assertion of fact".[6] Although the quotation does not explicitly state to *whom* the equality applies, it seems obvious that it applies *to persons*. In conclusion, because the idea of person transcends the entire gamut of individual differences, it forms the basis on which ethical discourse can be built.

If this is true, Singer is in difficulties. On Singer's argument, the humanhood indicators should be applied locally, not globally (according to what I have called the *in act* interpretation). A principle of equality is applied to those who pass the test. But, if in order to apply this principle one must go beyond the humanhood indicators, how can one claim that equality is not an assertion of fact?

Let us follow the complementary argument that the humanhood indicators must be applied globally, not locally (according to the interpretation *in power*). As we know, Singer rejects this interpretation of the indicators, for an obvious reason: if the humanhood indicators must be interpreted in potential, the fact that an individual does not have one or more of them in act is not sufficient to deny him/her personhood.

For completeness, we must consider a third option: that of rejecting the idea of interpreting the category 'person' in terms of a set of humanhood indicators. In this case, Singer's entire argument is 'running on empty'.

The conclusion to be drawn from examination of these three alternatives is that either Singer's conclusions conflict with their premises or they are inconclusive. Whatever the case may be, they are not as limpid as Singer would have wished.

5. On the referents of personhood

Now examined is the second of the two assumptions embedded in Singer's theory: that relative to the maximum range of personhood.

A brief specification may be useful. If I want to classify cats or canaries, I choose a domain of reference and seek to establish criteria with which to distinguish among

---

[6] Singer 1993, p. 21.

cases. Obviously the most appropriate domain for cats and canaries is the animal kingdom. When I have selected the domain, the next step is to establish appropriate forms of classification (morphological or genetic or whatever) so that I can classify the various species satisfactorily.

The question now, therefore, is whether the category *person* functions in the same way as do the categories *cat* and *canary*. Singer's answer is interesting. On the one hand, he maintains that 'person' is not a biological category; on the other, he proposes to restrict the range of application of the category 'person' to the realm of living beings. The humanhood indicators have precisely the function of varying across the various biological species in order to show which exemplars of the various species satisfy them.

There are obviously no problems with the fact that the category 'person' does not pertain to the domain of biological categories: 'person' is not a biological species, nor is personhood a feature or property of some biological species. Less obvious is how to respond to Singer's proposal to have the category 'person' *qua* ethical category vary across a domain which is not restricted to the species *homo sapiens sapiens*. Here I believe various levels of analysis intersect and overlap, and much confusion is caused by failure to distinguish appropriately among these levels. Put briefly, on the one hand the various kinds of person outlined in the introduction overlap; on the other, the problem arises of the differences in value among species possessing the dignity of living beings as such.

The first opposition consists in the difference between $person_1$ and $person_3$: that is, the difference between having the dignity of a living being and having the dignity of a fully developed individual – what Aristotle called *eudaimonia*.

The expression 'dignity of a living being' summarizes a set of fundamental principles. Every form of life is intrinsically positive: it warrants respect and has the right to develop in the forms made possible by its constitution and nature. Where instinctual conditioning is not so strong that it entirely predetermines the range of possible actions, relationships among species should not violate the principle of the dignity of living beings.

The latter principle is of importance for the higher species, and especially for humans. For instance, it entails that any form of gratuitous violence against other species is ethically condemnable.

One weakness in Singer's theory is its attempt to apply considerations pertaining to the discourse on *eudaimonia* to the sphere of living beings and their dignity.

Having clarified this first aspect, now to be specified is the second level of analysis, the one relative to the differences among living species. If we accept the previous proposal that all living beings possess dignity, specification of the diverse levels of such dignity is the obvious next step. As we have seen, a first aspect of this specification is that the actions of the members of some species are freer – in the sense that they are not (entirely) predetermined by instincts – than are the actions of other species. There is nothing to prevent further articulation of the idea by distinguishing various levels of predetermination. At least for some species, the levels of predetermination differ not only among species as wholes but also among their individual members.

Two questions now arise. The first is whether there are criteria which can be used to distinguish between the dignity of human beings and the dignity of other species. The second is whether other species, or some of their individual members, possess dignity which, if not similar, is at least comparable to that of human beings.

I answer both questions in the affirmative: in effect, there are features which distinguish human beings from other living forms and which therefore legitimate the idea of differing levels of species dignity. At the same time, these differences are not so pronounced that one may presume that no other species resembles human beings. But if this is the case, the conclusion is not Singer's assertion that the concept of personhood can be directly extended to individuals not belonging to the species *homo sapiens sapiens*. The conclusion, if anything, is that some living species are persons *in the form proper to them* (*i.e. in the form deriving from their nature*). Used in this way, the category of 'person' becomes analogical and no longer displays the taxonomic features of Singer's proposal.

To sum up this section, Singer's theory (1) confuses the dignity of living beings with biographical dignity, and (2) seeks to attribute personhood according to a (definitional) taxonomy, not according to a prototypical (or, to use the standard term, analogical) classification.

The analysis conducted thus far has been based on Singer's own arguments. We may conclude that both the principles implicit in those arguments raise significant problems which suggest that they are unsound. Henceforth, therefore, my discussion will focus only on the category of personhood as applied to human beings.

6. Again on the idea of 'person'

In previous sections I have provisionally accepted the idea that personhood can be defined by means of a set of indicators. The procedure is certainly clear, but is it correct? The problem may be stated as follows: regardless of the extent to which Fletcher's indicators (to which we shall return) are correct, can they be considered useful heuristic devices, or are they instead full and authentically defining features of personhood? In the former case of the indicators as simple heuristic devices, no real problem arises: all one has to do is to verify whether the indicator is appropriate. But if the indicators are defining aspects of personhood, matters change. In this case, we must conclude that the indicators define the nature of personhood; they tell us *what a person is*.

Singer has certainly used the humanhood indicators in this latter and more demanding sense. And in effect, for our purposes here, it is the only one worthy of consideration. After all, the challenge confronting us is to give adequate characterization to the category of 'person'.

However, it is not clear to whom we may turn for help. At least two versions of personalism were developed in the course of the twentieth century: one was centred

on Mounier's theory; the other we may call 'phenomenological personalism'.[7] The proponents of the former theory have now openly acknowledged that it has failed, so that we may discard it.[8]

Before discussing the phenomenological concept of person, I must deal with the following problem. The fact that personhood has so obstinately resisted analysis raises the suspicion that the classifications most widely used to date are flawed. Indeed, I believe that much of the literature on personhood has serious conceptual deficiencies. Two aspects seem of particular importance. The first is illustrated by the following passage from Pareto:

> A concrete body consists of a chemical body, a mechanical body, a geometric body, etc.; a real man consists of *homo oeconomicus*, *homo ethicus*, *homo religiosus*, etc. In sum, consideration of these different bodies, these different men, amounts to consideration of the different properties of the real body, and seeks only to divide the material to be studied into portions.[9]

The quotation from Pareto efficaciously describes the problem underlying the theory of the levels of reality.[10] On the one hand, it reminds us that reality as a whole, or one of its fragments which happens to attract our attention, and our experience of it, systematically transcends our cognitive capacities. The most effective strategy used to date has been to decompose the whole of reality into sections – what we call sciences – and analyse each of those sections separately (and, one hopes, satisfactorily). The chemical body, the mechanical body, the

---

[7] For a description of the two versions see the recent Pavan 2003 and De Monticelli 2000. Unfortunately, each theory ignores the existence of the other. To be more precise, besides French and German personalism, there is also a personalism of American origin. See Schwiesing 2006.

[8] As testified by many of the contributions to Pavan 2003.

[9] V. Pareto, *Manuel d'économie politique* (Vol. 7 of the complete works, Geneva, Droz, 1968, p. 18) quoted by Dembinski 2003, p. 275.

[10] Poli 2001, 2006a,b,c.

geometric body, *homo oeconomicus*, *homo ethicus*, *homo religiosus* in the above passage denote some of the categories used to understand the many nuances of reality – from those wholly embedded in the actual structure of reality to those that are so only partially, and which are explained by reference to dimensions that transcend it. On the other hand, it should be borne in mind that the analytic strategy of decomposition may not be self-sufficient by its very nature. The world is always a whole, and the various partial categorial frameworks extractable from it are always grounded in it. The analytic strategy must therefore be accompanied by a complementary synthetic strategy which recombines and unifies – synthesises in a word – the results obtained within the various frameworks, The theory of the levels of reality has precisely the purpose of articulating categorially the two forms of categorial analysis and synthesis.

For the theory of levels, the person is firstly a level category – a category, that is, which pertains to some (and not other) levels of reality. Secondly, the person is the fulcrum for the pertinent levels, the bearer of the corresponding categorial frameworks.

7. Emotions and values

The connections between emotions and ethics have been widely investigated in recent decades. Two arguments in particular have been put forward: (1) emotions are important for correctly judging the ethical components of the situations in which we find ourselves and then act on the basis of those judgements; (2) the emotions are important because they activate the agent’s will, while the thought alone of a duty is not sufficient to prompt action.

The interesting aspect of these – and similar – positions is that they view the emotions as essentially *instrumental* elements or components. In the former case, the emotions serve to make correct judgements; in the second they serve for action. In both cases, the emotions function as instruments for performance of something different.

If these positions were correct, it should be possible to judge morally sensitive situations correctly and act appropriately with no emotional perception.[11] At bottom, if this were the case, the ancient Stoic idea of proceeding by annulling the emotions, or at least by reducing them to the minimum, may be correct.

The alternative is to recognize that the emotions – besides being good for something or other – also have intrinsic value. The idea is not a new one, because there are explicit traces of it in Aristotle, but it is worth recalling here. For theorists of the virtues, the emotions are not important just because they are parts of a morally correct action; they are important because they have a value independent of the value of the action. It is evident that there are appropriate (correct) or inappropriate (incorrect) emotions even in situations where no action is taken – or more simply, which are so independently of action. Being distressed by the pain of others or rejoicing at their happiness – even when the situation is structured so that we can do nothing about it – are the two most obvious cases of emotions that are correct independently of any possible action. Conversely, rejoicing at the pain of others or feeling distressed at their happiness are obvious cases of incorrect emotions.

The development of virtues entails the development of appropriate emotional attitudes.[12] The series of cognitive acts defined by Brentano – presentations, judgements, and acts of love and hate – provide a good framework within which to defend the thesis that emotions have intrinsic value. Brentano's third class of intentional acts, that of acts of love and hate, has all the requisite characteristics. These acts are not directed or instrumental to either the judgement (on which, as we

[11] I take the idea from Stark 2004, p. 360.

[12] Here I depart from Stark 2004. On p. 363 Stark refers to Anderson 1993 and repeats her confusion between concrete particulars ("persons, animals, communities and things") and states of affairs. Stark and Anderson maintain that concrete particulars "are objects of our values", "have intrinsic value" and are "the building blocks of value", while states of affairs have extrinsic value, a value which depends on that of the concrete particulars "contained in them". But concrete particulars, precisely because they are concrete, for reasons of categorial consistency cannot be parts of states of affairs. Moreover, it is imprecise to say that concrete particulars are objects of our values. If anything, they are objects of our acts of valuation.

have seen, they depend and which in their turn influence) or action (which may or may not ensue, according to the circumstances).

The joint development of a satisfactory theory of emotions and a satisfactory theory of values should lead to recognition of the correspondence between emotions and value responses. A situation cannot be simultaneously viewed as 'agreeable' and 'exciting'. If one response is correct, the other cannot be.[13]

8. From Brentano to Husserl

Brentano's distinction between acts of judgement and evaluative acts was taken up by Husserl, with his distinction between objectifying acts and non-objectifying acts. Objectifying acts are those which contribute to knowledge about objects, whilst non-objectifying acts do not contribute to knowledge about objects. As for Brentano evaluative acts presuppose acts of judgement, so for Husserl non-objectifying acts presuppose objectifying acts. For Brentano and Husserl, moreover, both cases involve intentional acts.

The problem that now arises is the apparent conflict between the thesis that evaluative acts (Brentano) or non-objectifying acts (Husserl) are intentional acts, i.e. acts which by definition are directed towards an object, and the thesis that non-objectifying acts do not contribute to knowledge about objects.

Husserl's solution is that non-objectifying acts are *founded* acts, or acts which must be grounded on other acts. If this is so, two different interpretations are possible: according to the first, the object of non-objectifying objects is the *object* of the underlying objectifying act; according to the second, the object of the non-

---

[13] Hartmann 2003, p. 57, with reference to Hildebrand 1916. More recently, Feinberg has sought to distinguish between what is deserved and the basis of desert, or the characteristic of the person by virtue of which s/he deserves something. It would indeed be very interesting to distinguish between the various bases of desert and what they make specifically deserved. As Hurka 1998. p. 315, points out, for every virtue only some goods are appropriate rewards.

objectifying act is the underlying objectifying *act* (and only secondarily, so to speak, its object).

Both interpretations have recently been defended.[14] Whichever of them is correct, the objects of value are in any case *founded* objects, or as the Meinongian school puts it, they are *higher-order objects*.

Both Brentano and Husserl defend the intentionality of mental acts, defining it as directedness towards an object. But Husserl introduces an important distinction not present in Brentano: that between ‘empty’ intentional acts and ‘filled’ intentional acts. In the former case, the object is anticipated in the form of a typical schema and may be only implicitly present to the agent’s awareness. In the latter case, the object is given “in concrete”. The distinction is important because it allows us to maintain the thesis that all intentional acts have correlates even when we are not aware of such correlates or do not notice them.

To be pointed out is that the distinction among different types of act has extended and enriched the traditional distinction between theoretical reason and practical reason. These are no longer viewed as reified instances of distinct faculties but rather, as we have seen, as the articulations of different families of acts with specific forms of inner organization and dependency.

Thus far, I have presented the dependence of non-objectifying acts on objectifying acts according to the ‘univocal’ and linear format introduced by Brentano: higher-level acts depend on – in the sense of ‘require’ – lower-level acts. Husserl views the matter in more sophisticated terms. He replaces Brentano’s unilateral dependence with a reciprocal multilateral dependence. Indeed, he talks of an *interweaving* among the various types of act, and therefore of their reciprocal co-determination. Husserl’s idea is probably that of a twofold constitution phase in which the dependence of non-objectifying acts on objectifying acts is accompanied by feedback from non-objectifying acts to objectifying ones. The situation should therefore be viewed in dynamic terms. Hence, the two parts of the problem consist

[14] See e.g. Gigliotti 2004 and Benoist 2004.

in the following two theses. On the one hand, "the evaluative act, essentially because it constitutes the phenomenon of value, is founded on the intellective act"; on the other, "the theoretical reason and the evaluative reason are everywhere intertwined".[15]

9. Emotional acts

So far, so good. But we have only touched upon the problem of personhood. In order to frame the problem of the person and its nature more precisely, we must explore the level of emotional acts. In the architecture described thus far, emotional acts are complex acts founded on other types of act. We now need a more fine-gauge classification of emotional acts and their internal relations.

Phenomenologists have discovered that for every level of the constitution of living beings there are appropriate families of emotional acts which convey specific contents. The lowest level is the organic one of life. I call it the 'level of the living'. The emotional acts relative to this level are the bodily feelings that inform us about the state of our organism (the discomfort of being cold, the pleasure of being warm), The second level is the 'vital' one: I call it the 'level of moods'. This is the subject's mental level, and the information pertinent to it corresponds to situations of joy, happiness, boredom, sadness, excitement, depression, and so on. This still has nothing that to do with the person as the bearer of value, which enters the scene only at the third level of constitution, the 'spiritual' one. Here, two different sets of values are associated with the person: the values that constitute the person, and the values that the person decides to follow once s/he has been constituted. The first set is well exemplified by the value of 'strength of character': the person sees him/herself in the way in which s/he reacts to pain, for example. We define a person as strong or weak according to how s/he responds to life-situations. However, we have still not entered the realm of authentically ethical values. A strong person may be bad, and a weak

[15] Husserl 1988, p. 72. Also quoted by Gigliotti 2004, p. 71.

person may be good. Besides the level of the constitution of the person, therefore, we must recognize the further level of the person's ethical values. In this regard, the most important decision is between good and evil, this being immediately followed by its articulations in terms of virtues and vices.[16]

Only now have we entered the realm of ethical values. Strictly speaking, the emotional acts described by Brentano concern only this third class of emotional acts. However, only by following the intricate layering of acts can we gain an accurate idea of their complexity. In the next section I shall distinguish the values that constitute the person (strength of character, for instance) from the directly ethical values of the virtues.

10. The values that constitute the person

The person is articulated along a number of dimensions, each of which is a cline ranging from a positive extreme to a negative extreme, both obviously understood in the ethical sense.

The first dimension varies from activity to passivity. By 'activity' is meant stance-taking or commitment; by 'passivity', indifference, inertia or apathy. The second dimension ranges from the capacity to suffer to the incapacity to suffer. The positive valence assigned to the capacity to suffer is signalled by the patent negativity of the incapacity to suffer. The former consists of resistance against the adversities of life, the character's tempering through suffering; the latter consists of inner fragility.

The third dimension centres on the opposition between a person's strength or weakness. Strength and activity are not synonymous: also passivity may be strong. The stance-taking associated with activity may be strong or weak; and inertia may be strong in the sense of stubborn.

[16] The scheme presented follows Edith Stein's classification of egological acts. Hartmann uses a very similar classification.

The fourth dimension is anticipation: a more or less broad vision of the future to which the person may accede. In this case, the opposition takes the common-sense form of the difference between a broad and narrow outlook on the future.

The fifth dimension is the ability to select goals and to find the means with which to achieve them. I call this ability 'purposefulness'. The sixth and final dimension, the one that sums up all the others, is freedom or free choice.[17]

A person is therefore defined as active, capable of suffering, strong, anticipatory, purposive, and free. These six characteristics influence each other in various ways. Each characteristic consists of a continuum ranging from an extreme of value to an extreme of disvalue. Each dimension also has points of breakdown where values change directly into disvalues (different from disvalues as complements). Consider the capacity to suffer. It is true that suffering tempers the character, so that the person is able to achieve higher thresholds of value. However, if the suffering exceeds the ability to withstand it, the person is destroyed and the suffering changes directly into disvalue.

Note that all the values discussed are values of act. The person is constituted in the acts that constitute her.

If we compare this list of features constituting the person with Fletcher's list of humanhood indicators discussed above, we note immediately that they are entirely heterogeneous. Fletcher's list only considers a series of psychological characteristics that can be attributed to the subject. Hartmann's list goes beyond the subject and considers the constitution of a superior level.

Note also that, in ethical terms, the person thus constituted still tells us nothing, because s/he can choose to do both good and evil. The person only enters the realm of values, or correspondingly of disvalues, when s/he opts in favour of the good or the bad.

11. Architectonic values

[17] Hartmann 2003, pp. 137-143. I have changed the order of the dimensions.

Standing midway between person-constituting values and authentically moral values are architectonic values. The family of architectonic values comprises three values that can be better defined if the values space is conceived as a territory which extends before the internal organ that sees values. With respect to the multiplicity of values and disvalues that spread out before us, architectonic valuation (a) chooses one single value (or a few interconnected values) and seeks to take them to their maximum level; (b) chooses the greatest possible number of values and seeks to synthesise them into an organic set; (c) ignores disvalues. Other structurally coherent options are obviously possible. But militating in favour of the three that I have mentioned is the fact that they are options which moralists have long recognized, although they adopt a different reasoning to do so. If they are given their traditional names, they are more easily recognized. Value (1) is nobility, value (2) is fullness, and value (3) is purity. Although my description is cruder than the usual ones, it has the merit of bringing out the structural conditions.

Nobility is the value oriented to loftiness. Its opposite value – not to be confused with its opposite as disvalue – is the common or ordinary.[18] Fullness instead aims at the fusion, coordination and synthesis of all values. Its opposite is the inability to see values: a blindness to values, but not yet wickedness.[19] Purity does not see disvalues: it views everything positively as endowed with value.[20]

12. Person-realizing values

I call moral values 'values of virtue'. This sharp distinction between values of good and values of virtue remedies a major error committed by ancient ethics: that

---

[18] Hartmann 2003, p. 192.

[19] Hartmann 2003, p. 207.

[20] Hartmann 2003, p. 210.

of considering virtue to be a good, albeit a higher-level one.[21] If the distinction between ethically important values and ethical values is correct, the realm of values can be defined more precisely and examined in more detail. I distinguish the following families of values of virtue: ancient values, Christian values, and modern values. The first two families rotate around a central value: justice for ancient ethics, love of one's neighbour for Christian ethics.[22] Perhaps it would not be too bold to claim that if modern ethics is to be authentic, it must organize itself around love for the 'distant one'.

With reference to ancient ethics, I would mention two significant aspects of Plato's virtues and the particular organization of Aristotle's virtues. Plato's four virtues – justice, wisdom, strength and control – well sum up the character of ancient ethics. Justice is defined as equality with those who are recognized and accepted as equal. Wisdom – the highest virtue – governs the entire array of values and actions. The wise recognize the value of what is endowed with value. Strength transforms the vision into reality: merely seeing values is not enough; also required is the moral strength to realize them. The final value, control, consists in a sense of proportion and scale.

Aristotle defines virtues as the 'medians' between two negative extremes. Thus, courage is midway between recklessness and cowardice; generosity is midway between extravagance and avarice; temperance is midway between self-indulgence and insensitivity; and pride is midway between vanity and humility.[23] If one does not interpret this middle way among virtues correctly, one is almost forced to regard virtue as some kind of 'golden mean'. As Hartmann writes: "This theory has always been subjected to the mockery of critics. It appears only too ridiculous that the

---

[21] Hartmann 2003, p. 155. Brentano's distinction between acts and their correlates (as objects of acts) provides the basis for the difference between ethical values (as modes of acts) and values of goods (values of the objects of acts). By construction, therefore, the values of goods are never ethical values. For details see Poli 2006a.

[22] Hartmann 2003, p. 226.

[23] Aristotle, *Nicomachean Ethics*, 1106 a26-b28.

seriousness of virtue should resolve itself into the triviality of a 'golden mean', that is, into a mediocrity".[24]

To understand Aristotle's theory correctly, it should be borne in mind that virtues may grow without losing their nature as values by doing so. In fact, "temperance, strength, justice, taken as features of value, do not have upper limits". The key is provided by Aristotle when he writes: "Thus, according to its substance or the definition stating its essence, virtue is a mean, but with respect to the highest good and to excellence, it is an extreme".[25] In one sense, therefore, virtue is a mean, in another it is an extreme. These two senses relate to two dimensions of the space of values: ontologically, values are means between two disvalues, axiologically they are points of elevation.[26]

Figure 1 illustrates the two dimensions of the values of virtue according to Aristotle. The horizontal plane characterizes the ontological oppositions, the vertical one the axiological height. Between them, the value extends in the form of a curve connecting the two extremes.[27]

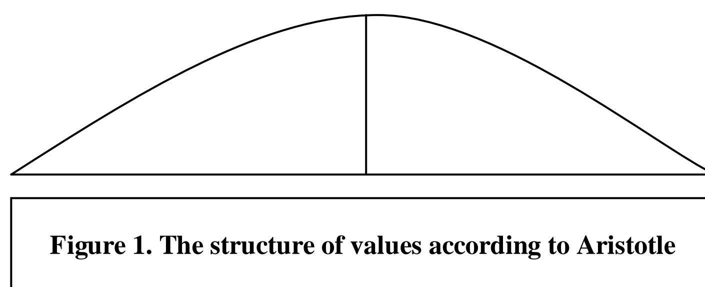

Figure 1. The structure of values according to Aristotle

[24] Hartmann 2003, p. 254.

[25] Aristotle , *Nicomachean Ethics*, 1107 a 6-8.

[26] Hartmann 2003, p. 256.

[27] Hartmann resumes Kohoutek's 1923 idea. The German translation and the critical apparatus of *Nichomachean Ethics* edited by F. Dirlmeier follow Hartmann's interpretation. See Aristotle 1964.

The second family of values of virtue centres on love for one's neighbour. While justice may be external, love for one's neighbour is deeper-lying: it involves the person more profoundly. The two central values of justice and love for one's neighbour may conflict. Justice may be loveless, love may be unjust.[28] Tied to love of one's neighbour are the virtues of sincerity, loyalty, humility, and behaviour.

The third and final group is by far the most indeterminate; it may not even be a real and proper group of virtues. It comprises the value of the personality, personal love, love for the 'distant one' and future-sightedness, responsibility for future generations.[29]

The value of the personality, unlike the other values mentioned thus far, is not a general value. It can be understood as the individual *ethos* which each of us must accomplish, but we may always fail to accomplish.[30] Also personal love, like the value of the personality, is oriented solely to the individual: it is the value of a strictly personal relationship of joint accomplishment.

With love for the 'distant one' and future-sightedness we return to general values. The distinctive feature of these values is that we can expect nothing from them in return. The discovery of love for the distant one was made by Nietzsche, who called it thus in order to contrast it with love for one's neighbour.[31]

13. Values of good and bad

The person-realizing values are eminently values of good and bad. We know at least some of the difficulties that hamper definition of good and bad. With respect to the person, good and bad relate to each other like merit and guilt. This means that for a person badness is not an error, a deficiency or a lack. A bad person is not

---

[28] Hartmann 2003, p. 271.

[29] Hartmann 2003, p. 317. Da Re 1996, p. 188 points out that Hartmann does not mention the typical bourgeois virtues of diligence, parsimony, etc.

[30] Hartmann 2003, p. 343.

[31] Nietzsche 1999.

someone who lacks something. A bad person is just as much a person as a good person. S/he is a person who has not chosen the good and bears responsibility for it.

A clarification is now necessary. Perhaps the most important lesson that we have learnt from Socrates is that human beings never choose the bad because it is bad. Even when they choose a disvalue, they do so because they think that it is a value. Every purpose, *qua* purpose, is a value.

Socrates' intuition is fundamental for ethical discourse because it allows disvalue to be defined as the choice of the lesser value. Suppose that we must choose between A and B. If A and B are comparable and the value of A is greater than the value of B, we regard the choice of A as good and the choice of B as bad. This elementary situation demonstrates the importance of Brentano's analysis of the preference relation. On the other hand, the situation's intrinsic shortcoming is the assumption that values are comparable and therefore organizable into a single hierarchy.

A final remark is relevant: if ethical good and evil are in the tendency toward some purpose, then not only are the values of virtue involved, but the person-constituting values also have a role to play, although it is a subordinate one. By way of example, consider the difference between being narrow-minded and broad-minded. To the extent that the subject chooses one of the two options, s/he bears responsibility for it.

14. The strength and height of values

I distinguish between two organizing principles of values: that of strength and that of height. These two principles operate in opposite directions: the strongest values are also the least high values, whilst the highest values are the least strong ones. Usually, the lower values, the stronger ones, are also the simplest values; the superior values are the most complex.

Values of goods are stronger than values of person, but they are not as high as the latter.

The theory of values which uses the criteria of strength and height has consequences which at first sight seem surprising, but prove to be correct when considered carefully. The main consequence is this: from an ethical point of view, violating a lower value is more serious than violating a higher value. On the other hand, fulfilling a higher value has greater value than fulfilling a lower value: "sinning against lower values is ignominious, shameful, revolting, but their fulfilment only reaches the level of decency, without rising above it. Offending against higher values, by contrast, does indeed have the character of moral failure, but nothing of the directly degrading, while fulfilment of these values may have something uplifting, liberating, indeed thrilling about it".[32] By way of example: "heroism warrants admiration, but a lack of heroism arouses neither contempt nor indignation". On the other hand, whilst trustworthiness warrants respect, "a lack of trustworthiness warrants contempt or even indignation".[33]

The ultimate rationale for the principles of strength and height resides in the general nature of the levels of reality. These principles therefore orient the entire spectrum of the real and are not restricted to the particular case of actions which fulfil or violate values. The organization of the strata of reality reflects the law of strength. Although there are conditions which limit the efficacy of the law, it nevertheless performs a crucial role in organizing the strata.[34]

The strata are also subject to a law of freedom whereby the higher level is always free from the lower one. The higher level is defined with respect to a *novum* which distinguishes it from the levels that precede it and function as its bearers. As

---

[32] Hartmann 2003, p. 53.

[33] Hartmann 2003, p. 450.

[34] More thorough analysis should explicitly compare Hartmann's theory of the levels of reality with other theories developed in recent years. For most recent developments see Poli 2006b,c,d. In my theory, the presence of bifurcations in the levels, 'interwoven' levels, the possibility of 'downwards' causal effects – from higher levels to lower ones – and the forms of anticipation that characterize all levels from the life level onwards, produce a theory very different from Hartmann's. As a first approximation, however, it is convenient to maintain the latter.

Hartmann puts it: the strength of the lower structure is only "as building stones, as material".[35]

The freedom relationship holds between values of person and values of goods, as well as internally to them. Multiplicities of values organized in terms of strength and height are also present in the contexts of values of person and values of goods. These too, therefore, are organized in a way such that the higher level is free from those beneath it.

The strength of a value indicates the gravity of its violation. The height of a value expresses the merit deriving from its fulfilment. Offence and merit proceed in parallel but are not identical.

Offending against life is a grave offence and has very little merit. More in general, harm to material goods is more serious than harm to spiritual goods.[36] But fulfilment of spiritual goods, and ethical goods in particular, is a merit much greater than the merit corresponding to respect for more elementary goods.

Respect for more elementary goods is often the condition for acceding to higher goods. Those who violate lower goods are wicked. But the reverse does not hold: a person who violates higher goods, someone who fails to fulfil them, "is not on that account a bad man; his conduct threatens no one; it merely lacks the higher moral content".[37]

Structuring by levels is important not only because it furnishes us with the tectonic laws governing values, but also because it provides us with criteria to distinguish, at least in some cases, authentic values from bogus ones. If the architecture of values is based on levels of dependence, then the authentic elevation of value is also divided into levels; it develops through intrinsic stages from the lower values to the higher ones. Although the situation may still lack full theoretical

---

[35] Hartmann 2003, p. 448 and elsewhere.

[36] Hartmann 2003, p. 453.

[37] Hartmann 2003, p. 440. Hartmann also notes that the negative versions of the fundamental ethical precepts (thou shalt not kill, steal, etc.) show that they are precepts tied to the strength, not the height, of values.

analysis, it is well known in practice. A person whose behaviour is oriented to a higher value, but does not simultaneously respect the values that support it, is structurally discordant. The higher values to which s/he refers are not credible. Loving with distrust or giving with cowardice are not authentically virtuous behaviours.[38] Values are constructed step by step, proceeding from the most elementary levels upwards.

15. Atlases of values

I have discussed the two dimensions – of strength and of height – along which values are organized. A third values-organizing component consists of proximity relations among homogeneous types of value. I shall call a family of values an 'atlas'. The realm of values is therefore a series of atlases (which may have zones in common) with different levels of strength and height. The latter characterizes the structure of the atlas.

Many aspects of values are still obscure, because we do not know the dynamics operating among the various atlases. Some dynamics depend on the person subject to the value – his/her age and maturity, for example – other on historical and social conditionings. Other dynamics are structural and depend on how the atlases are arranged, and on their intrinsic strength.[39]

In figurative terms, an atlas map can be viewed as an island. The set of atlases forms an archipelago. The currents represent the forces that flow from one atlas to its neighbour.

Unfortunately, we are still trying to draw the maps of individual values, and we are not yet able to draw the overall map of the entire realm of values.

16. The third type of person

[38] Hartmann 2003, p. 456.

[39] Not to be confused with the strength of the values making up the map.

I may now turn to the third type of person mentioned in the introduction, $person_3$. The fundamental difference between the various types of person can be summarized as follows.

- $Person_1$ is anchored in our nature as living beings; it is a constitutive feature of all individuals belonging to the species *homo sapiens sapiens*, regardless of their characteristics in act.
- $Person_2$ is the only kind of person in the ethical sense, in that it addresses the realm of values and takes a stance towards them.
- $Person_3$ merges with the social being and is tied to the construction of a world worth living. The idea of $person_3$ is immediately normative and value-oriented.

One is able to become a $person_3$; whereas one is always a $person_1$ and a $person_2$ by definition. $Person_3$ is intrinsically fragile in its ontological nature because it is normatively oriented by its constitution. Keeping a $person_3$ in being requires constant care and enabling conditions. The realm of values embodied by $person_3$ has open borders: just as it is easily entered, so it is easily left.

For these reasons, the responsibility of $person_3$ is structurally different from the responsibility of $person_2$.[40]

$Person_1$ has the dignity of a living being by definition and enjoys the supplement of dignity which characterizes our species owing to our greater capacity to influence reality and its dynamics. As we well know, greater freedom may also lead to disaster. But the danger of adverse outcomes can only be averted by moving to the higher and more fragile level of $person_3$. Between them lies $person_2$, as their direct and indispensable mediator with ethical values.

[40] $Person_2$ has the responsibility of taking a stance, of being good or bad. A bad person is always a person – in the sense of $person_2$. If $person_3$ is unable to access its constitutive values, it is simply not a person.

The *dignity* of living beings is not a biological concept. In biological terms, the nature of a living being – at least with respect to the species closest to it – is characterized by specific phases of development (infancy, youth, maturity, senescence) and by the widely varying pace of such development. If nothing impedes them, the phases of development and their pace proceed in an orderly manner. This (and much else besides) is the basis for the ethical evaluation of a living being in terms of dignity, that is, in terms of a positive value. The aspect of interest here is that all living beings have dignity, which means that they have a prior right to existence. The next step in this general discussion is to define the particular form of dignity associated with the form of life that characterizes us. Put briefly: our species and its individual members *usually* have characteristics that distinguish us from other species, in the twofold sense that (i) we have greater cognitive capacities and therefore (ii) also have greater responsibility for both nature and other species besides ourselves. The dignity that we possess as a species depends on the baggage available to us as a species.

The dignity relative to $person_2$ is the dignity connected with recognition and acceptance of ethical values.

The concept of $person_3$ alludes to something different: to another level of reality which an individual may be able to access or which s/he may instead fail to do so. The differences lie at diverse levels. Firstly, the values referred to here are not only ethical values; they are also those which belong to the more general set of values as such. They are, for example, aesthetic values, the value of knowledge, and every other type of recognizable value. Secondly, access alone is not enough. Besides the simple datum of access to the entire realm of values, consideration must be made of the breadth, depth, variety and duration of the access to values. In short, $person_3$ corresponds to the idea of a fully developed and fully human person able to see the corresponding values and to adopt them.

If we consider the two extreme cases of $person_1$ and $person_3$, every individual is born as a $person_1$, no individual is born as a $person_3$, but some individuals become $persons_3$. If the difference that I am describing between the different kinds of

personhood is correct, there ensue important consequences as to the nature and tasks of institutions and of politics more generally, which have the crucial duty of creating the best possible conditions for the largest possible number of individuals to become full and stable persons$_3$. This part of the discussion obviously transcends the boundaries of ethical discourse in the strict sense.

Probably the simplest access route to the concept of person$_3$ is via human rights, on which various theories have been put forward in recent decades. Here I shall restrict my discussion to only two of these theories, those that I regard as especially significant: they are the theory of natural rights proposed by authors terming themselves 'neoclassical', Finnis in particular,[41] and Martha Nussbaum's theory of capabilities.

16. John Finnis's natural rights and goods

Finnis's neoclassical theory results from a methodology which resembles – surprisingly, some might think – phenomenology. Nevertheless, there is a fundamental difference between them: the neoclassical account lacks a theory of the a priori, which is perhaps the most significant component of the phenomenological approach to values (and not only). Finnis conducts his a priori analysis by adopting a principle of evidence – which, moreover, he states in very weak terms as "rational non-derivability".[42] Aware of this weakness, we may reconstruct Finnis's theory as a strictly rational theory of natural law and natural rights. To forestall

[41] These authors have developed a version of Thomism which seeks to distinguish itself from the better-known Neo-Scholastic theories. In short, neoclassicals like Grisez and Finnis grant full autonomy to ethical discourse and do not constrain it to anthropology or metaphysics. For an introduction to the main positions taken, see Grisez, Boyle and Finnis 1987.

[42] Viola 1996, p. xiii. Finnis is aware of the problem. Indeed, he writes that "There are important objections to be made to Aquinas's theory of natural law. O'Connor rightly identifies the main one: Aquinas fails to explain 'just how the specific moral rules which we need to guide our conduct can be shown to be connected with allegedly self-evident principles". See Finnis 1984, p. 34. The reference within the quotation is to O'Connor 1967, p. 73.

misinterpretations, Finnis declares that the topic of his book "does not rely, even implicitly, on the term 'human nature'".[43] The reason is that: "the way to discover what is morally right (virtue) and wrong (vice) is to ask, not what is in accordance with human nature, but what is reasonable".[44]

Whatever the case may be, for Finnis the natural law consists in the principles followed by the reason when it guides action. The rational principles of action are identified by working backwards from their actual use in actions to their subsequent distillation through rational reflection on the actions performed.

This reverse procedure produces a series of ultimate reasons or principles which underpin a corresponding series of natural goods. The goods thus identified are differentiated and mutually irreducible: that is, they cannot be organized into a hierarchy of ultimate goods.

Finnis describes the principles of natural law as follows. Firstly, they are "a set of basic practical principles which indicate the basic forms of human flourishing as goods to be pursued and realized". Secondly, they are "a set of basic methodological requirements of practical reasonableness … which distinguish sound from unsound practical thinking and which … provide the criteria for distinguishing between acts that … are reasonable-all-things-considered". Finally, they are "a set of general moral standards".[45]

The principles of natural law do not have a history.[46] Moreover, following Aquinas, Finnis points out that the principles of natural law are self-evident and indimostrable".[47]

---

[43] Finnis 1984, p. 50.

[44] Finnis 1984, p. 36. Here Finnis is commenting Aquinas.

[45] Finnis 1984, p. 23.

[46] Finnis 1984, p. 24.

[47] Finnis also points out that his perspective is very different from that of Rawls. Rawls's primary goods (liberty, opportunity, wealth, self-respect) are primary because "it is rational to want these goods whatever else is wanted, *since* they are in general *necessary for* the framing and the execution

In effect, “All human societies show a concern for the value of human life; in all, self-preservationb is generally accepted as a proper motive for action; and in none is the killing of other human beings permitted without some fairly definite justification. All human societies regard the procreation of a new human life as in itself a good thing unless there are special circumstances. No human society fails to restrict sexual activity; in all societies there is some prohibition of incest, some opposition to boundless promiscuity and to rape, some favour for stability and permanence of sexual relations. All human societies display a concern for truth, through education of the young in matters not only practical (e.g avoidance of dangers) but also speculative or theoretical (e.g. religion)”. Finnis then cites the values of cooperation, the common good, justice within groups, friendship, *meum* and *tuum*, play, the deceased and religion.[48]

From this broad set of references Finnis derives seven basic natural goods:

- Life,
- Knowledge,
- Play,
- Aesthetic experience,
- Sociability (friendship),
- Practical reasonableness,
- Religion.[49]

Each of these basic goods occurs in a wide variety of forms. It is also evident that there are many other values which pertain to none of the seven types listed. In this regard, Finnis suggest that “other objectives and forms of good will be found, on analysis, to be ways of combinations of ways of pursuing (not always sensibly) and

---

of a rational plan of life”. The quotation is from Rawls 1999, p. 380, the emphasis is added by Finnis. The passage is from Finnis 1984, p. 82.

[48] Finnis 1984, pp. 83-84.

[49] Finnis 1984, pp. 86-90.

realizing (not always successfully) one of the seven basic forms of good, or of some combination of them".[50]

It should also be pointed out that there is nothing magical about the number seven. "More important than the precise number and description of these values is the sense in which each is basic".[51] Put briefly, (1) each of them is a form of good like any other; (2) none of them can be analytically reduced to a simple aspect of one of the others, or to a mere instrument to obtain them; (3) each of them, when we concentrate upon it, can be reasonably considered the most important.

Each of us is free to balance the basic values as we wish, giving more weight to some of them and less weight to others. The pattern which emerges, the ordering of values, is the individual's *life plan*.[52]

Two further points should be borne in mind. The first is that for Finnis virtues like "courage, generosity, moderation, gentleness, and so on, are not themselves basic values; rather, they are ways (not means, but modes) of pursuing the basic values".[53]

The second and final point concerns the *requirements of practical reasonableness*. In short, these are:

- adopt a rational life plan,
- consider all the basic values, without discounting or exaggerating them,
- avoid arbitrary preferences among persons,
- adopt a coherent life plan,
- maintain a balance between fanaticism and apathy,
- bring about good in the world,
- reject acts that impede the realization of goods.[54]

---

[50] Finnis 1984, p. 90.

[51] Finnis 1984, p. 92.

[52] Finnis 1984, p. 93.

[53] Finnis 1984, pp. 90-91.

[54] Finnis 1984, pp. 100-136.

I shall not analyse this list of requirements, but instead conclude this section on Finnis by noting that justice is not one of his seven basic values. Justice may be a way to realize goods, but it is not itself one of the basic goods.

17. Martha Nussbaum's basic human capabilities

The theory of capabilities was first proposed by Amartya Sen, Nobel prize-winner for economics in 1987. Sen's theory was then taken up by Martha Nussbaum, who has developed a partially different version of it in several stages. Here I shall deal principally with two texts by Nussbaum. I shall first consider the version of her theory set out in the weighty *Upheavals of thought. The Intelligence of the Emotions*,[55] a text which provides an interesting and detailed theory of the emotions and their rational components (whence the title) – discussion of which, however, I shall not make. I then supplement the ideas set out in this book with those in *Women and Human Development*.[56]

The point of departure for Nussbaum's theory is the distinction between 'functionings' and 'capabilities'. Functionings are what agents actually do; capabilities are the spaces of possibility from within which agents select the functionings that they enact, "what people are actually able to do and to be".[57]

Nussbaum's theory is intentionally presented "in a manner free of any specific metaphysical grounding. In this way … the capabilities can be the object of an *overlapping consensus* among people who otherwise have very different comprehensive conceptions of the good".[58]

Nussbaum provides the following list of the basic human capabilities:

- Life.
- Bodily health.

[55] Nussbaum 2001.

[56] Nussbaum 2000.

[57] Nussbaum 2000, p. 5.

[58] Nussbaum 2000, p. 5.

- Bodily integrity.
- Senses, imagination, thought.
- Emotions.
- Practical reason.
- Affiliation.
- Other species.
- Play.
- Control over one's environment.[59]

The set of basic capabilities is highly articulated, therefore. Nevertheless, "the list remains open-ended and humble".[60]

Each individual capability occurs in a graduated form, from lower to higher degrees. Owing to the continuous nature of capabilities, Nussbaum gives especial importance to the idea "of a *threshold level of each capability*, beneath which it is held that truly human functioning is not available to citizens".[61] She stresses that "the notion of a threshold is more important in my account than the notion of full capability equality".[62]

Secondly, for Nussbaum "all the capabilities are equally fundamental" and, therefore, there is no need of "a lexical ordering among them". Moreover, the capabilities "should be understood to be valuable for each and every person".[63]

The list does more than collect separate components together. Capabilities influence each other in many sophisticated ways. Their reciprocal influence also tells us that it is not acceptable to barter or to sell one capability for another.[64] Many capabilities require activation and constant exercise if they are to become fully developed abilities.

---

[59] Nussbaum 2000, pp. 78-80, 2001, ch 8.

[60] Nussbaum 2000, p. 77.

[61] Nussbaum 2000, p 6..

[62] Nussbaum 2000, p. 12.

[63] Nussbaum 2000, p. 12.

[64] Nussbaum 2000, p. 81.

On one occasion, Nussbaum has described her theory as a “thick vague” theory. The thickness is due to the fact that the capabilities theory is not a formal, minimal theory; on the contrary, it is content-rich. The theory’s vagueness is due to the fact that capabilities may be realized in numerous different ways. The theory does not lay down a specific recipe for the realization of capabilities. Every tradition, culture and social context, like every individual, may follow its own route. “Each of the capabilities may be concretely realized in a variety of different ways, in accordance with individual tastes, local circumstances, and traditions”.[65]

Capabilities are freedoms, not constraints. There is a fundamental difference between choosing to fast for personal reasons and having to fast because there is nothing to eat. The capabilities theory directs attention to the conditions that must obtain for people to be able to lead fully human lives. How life should actually be lived is not a problem of capabilities, but of functionings.

Before concluding, I outline the aspects that, according to Nussbaum, distinguish her theory from Sen’s. Briefly, Sen:

- does not use the concept of threshold;
- “has never produced explicit arguments against relativism”;
- has never “attempted to ground the capabilities approach in the Marxian/Aristotelian idea of truly human functionig”;
- has never listed the basic capabilities;
- has never sought to derive general political principles from capabilities.[66]

The final point to make is that the capabilities approach resembles human rights theory in many respects. Nevertheless, Nussbaum draws a sharp distinction between them, on two main grounds. The first is that “the idea of human rights is by no means a crystal-clear idea. Rights have been understood in many different ways, and difficult theoretical questions are frequently obscured by the use of rights language,

---

[65] Nussbaum 2000, p. 105.

[66] Nussbaum 2000, p. 13. Nussbaum also points out that here distinction among three types of capability (basic, internal and combined) has no parallel in Sen, and that she does not use distinctions robustly employed by Sen, in particular that between well-being and capability to act.

which can give the illusion of agreement where there is deep philosophical disagreement”.[67] Secondly, “the language of capabilities has one further advantage over the language of rights: it is not strongly linked to one particular cultural and historical tradition, as the language of rights is believed to be”,[68] and therefore may easily serve as a general theoretical framework independent of bias and particular points of view.

18. New challenges

Contemporary ethics is faced by numerous new challenges. On the one hand, radically new problems arise which have nothing to do with historically accumulated ethical experience: suffice it to consider the problems associated with the environment, the natural world, genetic engineering, the Internet, and the new information technologies. On the other, many traditional values are now viewed afresh and addressed in innovative ways.

The intensive exploitation and mismanagement of environmental resources have probably now reached a level such that natural dynamics are affected. Increasing intervention in the genetic heritage of vegetable and animal species yields results that may impact upon the earth’s capacity to host life forms. Without taking sides between the pessimists and the optimists, I shall restrict my discussion to a single problem: what in ethical debate is called the problem of future generations. In its most anodyne form, the problem can be stated as follows: for many of us it seems reasonably true that our world is liveable; it feeds us and shelters us, and it also enables us to develop our potentialities to a more or less full extent. But, in that we have a liveable world, do we have the obligation to ensure that those who come after us – the future generations – will have a world that is at least equally liveable? In

[67] Nussbaum 2000, p. 97.

[68] Nussbaum 2000, p. 99.

slightly less anodyne form, the question becomes: do we have the *duty* to ensure that there actually *will be* future generations?

If it can be proved that we are bound by a duty of this kind, it is obvious that this has major implications for the decisions that individually and socially we are obliged to make. Unfortunately, it seems that the principal formulations of our duties towards future generations are intrinsically fragile.

Before I suggest a solution to the problem, a brief juridical digression will be useful. Both European civil law and Anglo-American common law recognize that only actually existing, or previously existing, agents have rights and duties. The most extreme case is probably inheritance law. This states that entitlement to inherit attaches even to subjects who, although they are not yet born, had been conceived before the moment when owner of the property died. Those subjects with an even lower level of actuality, those who will be conceived at some time in the future, do not have inheritance rights. They will have them when they begin to exist. If they have no rights, then we obviously have no duties towards them.

If we assume the categorial framework of positive law, the discourse goes no further. There obviously still remains the possibility that a change in the law's categorial structures will lead to rights being granted to future generations. This is a possibility, and it is not a remote one; but for the moment the situation is obviously different.

Perhaps bluntly, but efficaciously, we may ask: what have the future generations done for us? If, as is obvious, they have done nothing, then we have no obligations towards them. Aside from the crudeness of the example, it shows that it is very difficult to defend the rights of future generations from a contractualist point of view.

As pointed out by Jonas, one of the scholars who has most forcefully called attention to the problem of future generations, “the nonexistent has no lobby, and the

unborn are powerless", also because the future is not represented in any collegial body.[69]

There is a fundamental difference between individual choices and the global ones which involve or may involve the whole of humanity: "we may risk our own life—but not that of humanity".[70] In other words, "an imperative responding to the new type of human action and addressed to the new type of agency that operates it might run thus: 'Act so that the effects of your action are compatible with the permanence of genuine human life'; or expressed negatively: 'Act so that the effects of your action are not destructive of the future possibility of such life'; or simply: 'Do not compromise the conditions for an indefinite continuation of humanity on hearth'; or, again, turned positively: 'In your present choices, include the future wholeness of man among the objects of your will'".[71]

On the other hand, Jonas himself acknowledges that to underpin our obligations towards the future theoretically is by no means easy and admit that it is perhaps impossible without religion.[72] In any case, "its ultimate grounding can only be metaphysical."[73] For these reasons, we assume a duty of responsibility towards the future generations "without proof, as an axiom".[74]

Jonas tries anyway to furnish some justifications for this duty of responsibility towards future generations. One argument in support of this thesis is that the prophecy of doom is to be given greater heed than the prophecy of bliss.[75] We must, that is, allow "more weight to threat than to promise".[76]

---

[69] Jonas 1984, p. 22.

[70] Jonas 1984, p. 11.

[71] Jonas 1984, p. 11.

[72] Jonas 1984, p. 12.

[73] Jonas 1984, p. 11.

[74] Jonas 1984, p. 12.

[75] Jonas 1984, pp. 31.

[76] Jonas 1984, p. 32.

Prophecy of doom must take priority over prophecy of bliss because we have total responsibility for humanity; a responsibility that "must continually ask: 'What comes after that? Where will it lead?'".[77] A responsibility of this kind "must … not so much to determine as to enable".[78]

Jonas sees responsibility in this sense as "the moral complement to the ontological constitution of our *temporality*".[79]

I believe that Jonas's analysis is substantially correct. However, the way in which it is conducted makes it essentially inconclusive. Jonas himself acknowledges that something is lacking from his analysis. I mentioned above his assumption that the responsibility principle must be taken as axiomatic. Yet the most profound reason adduced by Jonas in defence of his principle is that "there is … an *unconditional* duty for mankind to exist, and it must not be confounded with the conditional duty of each and every man to exist".[80] The ellipsis consists of the following words: "as has yet to be shown".

The problem is that the proof that Jonas seeks to provide is constructed along the lines that I have just briefly outlined.

19. Between hope and responsibility

Justifying the rights of future generations requires something not to be found in Jonas. Put briefly, needed for the purpose are arguments of various kinds which, for reasons that I shall make clear, can be grouped within the category of anticipation.

[77] Jonas 1984, p. 106. Total responsibility for humanity is matched by numerous forms of local responsibility: "The ship's captain does not ask his passegenrs what they did previously or what they will do later—whether they undertake the journey with good or evil intentions, to their salvation or damnation, to the advantage or detriment of third parties. None of this is his concern. As his business is transporting them safely from one place to another, his responsibility begins and ends with their presence on the ship" (p. 105)

[78] Jonas 1984, p. 107.

[79] Jonas 1984, p. 107.

[80] Jonas 1984, p. 37.

By 'anticipation' I mean the ability to take decisions at the present time in relation to the future state of ourselves or of our environment.

The description just given is formulated in anthropomorphic terms. However, it is not at all difficult to propose a 'neutral' formulation: an 'anticipatory' system is one containing a predictive model of itself and of its environment which allows it to assume a certain state according to the model's predictions relative to a later state.[81] An anticipatory system is one that decides what to do now in relation to a prediction about the future.

Research on anticipatory systems is a leading-edge sector of current scientific inquiry.[82] A minimally acceptable description of it would require a depth of detail which here I certainly cannot provide. However, I would call attention to two main considerations: the first has direct ethical significance; the second more generally concerns the structure of reality.

The ethical consideration has two aspects. On the one hand, we should not forget that among the person-constituting values are stance-taking, commitment, anticipation (meaning the person's broad or narrow outlook on the future), purposefulness (the capacity to set goals and find the means to achieve them), and freedom. This multidimensional network of values is structurally future-oriented. A person is a forward-looking entity. Assuming responsibility for the future is constitutive feature of the person: an inability to look forward debases and falsifies the person.

As we know, however, the person-constituting values are not yet ethical values. Those that we have just seen are therefore the preconditions for ethical stance-taking. This set of conditions find direct ethical supplementation in the third group of values of virtue, which includes the values of love for the 'distant one' and future-sightedness, and therefore responsibility for future generations.

---

[81] Rosen 1985, p. 341. See also Rosen 1991 and 2000.

[82] See e.g. the special issue of *Axiomathes* 2006, 1-2, devoted to Rosen and the development of his ideas.

Moving to the second consideration, which more generally concerns nature, the majority of the systems which articulate reality into its numerous forms are anticipatory systems. As we ascend from the living stratum of reality to its psychological and social stratum, we constantly come across anticipatory systems. Anticipation takes a wide variety of forms, however. The definition given above concerns only the type of anticipation which uses models, but besides this more formal type there are others which operate in different manner.[83] Restricting the discussion to persons and their bearers, forms of anticipation are to be found in the innermost structures of personhood. One of Husserl's most significant findings was that there is an anticipatory component present in the architecture of the moment-now. Schütz subsequently developed Husserl's theory by distinguishing three systems of relevance: thematic, interpretative and motivational. The motivational system governs action and its projects and is characterized by a further, specific form of anticipation.

A person's forms of anticipation intersect with and condition those of the organism, on the one hand, and those of the social context in which s/he acts, on the other.

The conclusion to be drawn is that there are different types of anticipation at differing levels of organization. The diverse forms of reality – the diverse levels of reality – with the possible exception of the levels of inanimate reality, all exhibit more or less sophisticated forms of anticipation.

In its turn, the person, as we have seen, is constituted by future-sightedness. At the scientific level, the theory of anticipation entails development of a science which acknowledges that reality is not exclusively determined by the past. In parallel, ethics is beginning to realize that good and bad are embedded in the corresponding tendencies towards values and disvalues. The unsuspected correspondences between these two different but parallel transformations may perhaps lead us to both a science structural open to values and to an ethics that is fully scientific.

---

[83] For existence, 'calibration' of a dynamic system's parameters.

References

Anderson 1993 E. Anderson, *Value in Ethics and Economics*, Harvard University Press, Harvard, 1993.

Aristotele 1964 Aristoteles, *Nikomachische Ethik*, übersetzt u. kommentiert von F. Dirlmeier, Akademie, Berlin, 1964, 3a ed.

Benoist 2004 J. Benoist, "La fenomenologia e i limiti dell'oggettivazione: il problema degli atti non oggettivanti," in B. Centi e G. Gigliotti, a cura, *Fenomenologia della ragion pratica. L'etica di Edmund Husserl*, Bibliopolis, Napoli, 2004, pp. 151-176

Brentano 1969 F. Brentano, *The Origin of Our Knowledge of Right and Wrong*, Routledge, London, 1969.

Brentano 1973 F. Brentano, *The Foundation and Construction of Ethics*, Routledge, London, 1973.

Da Re 1996 A. Da Re, *Tra antico e moderno. Nicolai Hartmann e l'etica materiale dei valori*, Guerini e associati, Milano, 1996.

Dembinski 2003 P. H. Dembinski, "La trappola dell'economicismo: quando l'aritmetica sostituisce l'etica," in A. Pavan, a cura, *Dire persona. Luoghi critici e saggi di applicazione di un'idea*, Il Mulino, Bologna, 2003, pp. 265-289.

De Monticelli 2000 R. de Monticelli, *La persona: Apparenza e realtà, Testi fenomenologici 1911-1933*, Raffaello Cortina editore, Milano, 2000

Feinberg 1970 J. Feinberg, "Justice and personal desert," in J. Feinberg, *Doing and Deserving: Essays in the Theory of Responsibility*, Princeton University Press, Princeton, 1970, pp. 55-94.

Finnis 1984 J. M. Finnis, *Natural Law and Natural Rights*, Clarendon Press, Oxford.

Gigliotti 2004 G. Gigliotti, "Materia e forma della legge morale nell'interpretazione husserliana del formalismo di Kant," in B. Centi e G. Gigliotti, a cura, *Fenomenologia della ragion pratica. L'etica di Edmund Husserl*, Bibliopolis, Napoli, 2004, pp. 13-114.

Grisez, Boyle e Finnis 1987 G. Grisez, J. Boyle e J. Finnis, "Practical Principles, Moral Truth and Ultimate Ends," in *American Journal of Jurisprudence*, 32, 1987, pp. 99-151.

Hartmann 2003 N. Hartmann, *Moral Values*, Vol. 2 of *Ethics*, Transaction Publishers, New Brunswick and London, 2003.

Hildebrand 1916 D. von Hildebrand, "Die Idee der sittlichen Handlung," *Jahrbuch für Philosophie und phänomenologische Furschung*, 3, 1916, pp. xxxxxxx.

Hurka 1998 T. Hurka, "Two Kinds of Organic Unity," *The Journal of Ethics*, 2, 1998, pp. 299-320.

Husserl 1988 E. Husserl, *Vorlesungen über Ethik und Wertlehre*, Kluwer, Dordrecht, 1988.

Jonas 1984 H. Jonas, *The Imperative of Responsibility*, The University of Chicago Press, Chicago.

Kohoutek 1923 M. L. von Kohoutek, *Die Differenzierung des* anthropinon agathon. *Eine Studie zur Werttafel der Nikomachischen Ethik*, Marburg, 1923.

Nietzsche 1999 F. Nietzsche, Thus spake Zarathustra, Dover Publications, Mineola NY, 1999.

Nussbaum 2000 M. C. Nussbaulm, *Women and Human Development. The Capabilities Approach*, Cambridge University Press, Cambridge, 2000.

Nussbaum 2001 M. C. Nussbaum, *Upheavals of Thought. The Intelligence of Emotions*, Cambridge University Press, Cambridge, 2001.

O'Connor 1967 O'Connor, *Aquinas and Natural Law*, London 1967.

Pavan 2003 A. Pavan, a cura, *Dire persona. Luoghi critici e saggi di applicazione di un'idea*, Il Mulino, Bologna, 2003.

Poli 2006a	R. Poli, *Fra speranza e responsabilità. Introduzione alle strutture ontologiche dell'etica*, Polimetrica, Monza.
Poli 2006b	R. Poli, "First Steps in Experimental Phenomenology," in A. Loula, R. Gudwin, J. Queiroz, eds., *Artificial Cognition Systems*, Idea Group Publishing, Hersey, PA., pp. 358-386.
Poli 2006c	R. Poli, "Levels of Reality and the Psychological Stratum," *Revue Internationale de Philosophie*, special issue on Ontology, 2006, 2, pp. 163-180.
Poli 2006d	R. Poli, "Three Obstructions," submitted.
Rawls 1999	J. Rawls, *A Theory of Justice*, Oxford University Press, Oxford, 1999 (revised edition).
Rosen 1985	R. Rosen, *Anticipatory Systems. Philosophical, Mathematical and Methodological Foundations*, Pergamon Press, 1985.
Rosen 1991	R. Rosen, *Life Itself. A Comprehensive Inquiry into the Nature, Origin, and Fabrication of Life*, Columbia University Press, New York, 1991.
Rosen 2000	R. Rosen, *Essays on Life Itself*, Columbia University Press, New York, 2000.
Schwiesing 2006	K. Schwiesing, "A History of Personalism," http://www.acton.org/research/ /pubs/papers/history_personalims.html, retrieved January 2006.
Singer 1993	P. Singer, *Practical Ethics*, Cambridge University Press, Cambridge, 2ND ED. 1993.
Stark 2004	S. Stark, "Emotions and the Ontology of Moral Value," *The Journal of Value Inquiry*, 38, 2004, pp. 355-374.
Viola 1996	F. Viola, "Introduzione" to the Italian translation of Finnis 1984.