

Stephan Grätzel
Eberhard Guhe (Eds.)

Life, Body, Person and Self



A Reconsideration of
Core Concepts in Bioethics
from an Intercultural Perspective

VERLAG KARL ALBER



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Introduction

The present volume is the outcome of the joint effort of philosophers, indologists, theologians and experts on religious studies to specify the concepts »body, life, person« and »self« and to investigate their relevance to the current debate on bioethical issues such as abortion, prenatal diagnostics, organ donation, stem cell research, assisted suicide and euthanasia. By taking into account the perspectives of Western philosophy, Christian theology, classical Indian philosophy (Buddhist and non-Buddhist schools including Nyāya, Jainism and Cārvāka), contemporary Buddhism and African philosophy (Igbo) the editors try to give a multifaceted cross-cultural survey over explications of these concepts in philosophical and religious literature. Moreover, three contributors to this volume (Eberhard Guhe, Jens Schlieter and Michael von Brück) conducted interviews concerning bioethical issues with Buddhist monks, nuns and laymen in Sri Lanka, Dharamsala and Ladakh. The article »Entscheidungskriterien bei bioethischen Problemen aus buddhistischer Sicht« is a résumé of their field work. All the other articles in this volume are based on paper presentations on the occasion of two conferences hosted at the University of Mainz and at Fudan University/Shanghai.¹

The concept of person and how we understand it seems to be the pivot of discussions on bioethical problems in the West. Bioethical decisions are justified on the basis of certain faculties ascribed to persons. However, as pointed out by Dirk Solies in his article »The Concept of Person – Shifting between the Conflicting Priorities of Rendering Our Practical Lives Meaningful and Providing Directions for Action«, these criteria for personhood are only seemingly descriptive. They are rather chosen in order to promote or suppress the application of certain biomedical techniques. So, the person turns out to be a prescriptive construction and as such it cannot function as an objective empirical basis for bioethical decisions.

Buddhism might offer a possible way forward in bioethical debates, since the Buddhist doctrine of non-selfhood is opposed to the assumption of a concept of a person as the owner of certain faculties.

¹ The conferences and the field work were part of a research project funded by the German Research Foundation (DFG).

However, there is also a concept of person in Buddhism, namely the so-called *puggala*. In his article »Menschenbild und Medizinethik aus der Sicht des Theravāda-Buddhismus« Eberhard Guhe explains the *puggala*-concept and its relevance to medical ethics from the point of view of Theravāda-Buddhism. The ethical implications of this concept of person are discussed in greater detail in his articles »Entscheidungskriterien bei bioethischen Problemen aus buddhistischer Sicht« and »Transplantation from a Modern Buddhist Viewpoint«.²

Despite all differences there are also certain overlappings between the *puggala*-concept and the concept of person in Western and even in African culture. Patricia Rehm-Grätzel (cf. »The Person in Search of its Author – On Hannah Arendt's Foundation of the Narrative Identity«) and Stephan Grätzel (cf. »Selfhood as a Condition for Justifying Life«) focus on the etymology of the word »person« which derives from *persona*, the Latin word for »mask«. In the ancient Greek drama a mask signified an actor's role. According to Rehm-Grätzel repercussions of this original meaning of the word »person« can be found in Hannah Arendt's concept of person. Arendt identifies a person with his or her role in society. Owing to the vicissitudes of life an individual may perform different roles at different times or even all at once. Our biographies are dynamic processes. Similarly, Buddhists regard the *puggala* as a constantly shifting psycho-physical complex. Apart from its dynamic character the *puggala*-concept is similar to the concept of person presented by Rehm-Grätzel and Grätzel in yet another respect, namely with regard to its embeddedness in a social context. As emphasized by Grätzel, the contours of a person take shape only due to one's being confronted with partners in dialogue. Similarly, according to the Buddhist concept of the interdependence of all phenomena (Skr. *pratītyasamutpāda*, P. *paṭiccasamuppāda*) the *puggala* arises from the interaction with his social environment.

There is an interesting parallel here in the philosophical tradition of Africa. As pointed out by Paul Nnodim, »African philosophers

² The articles »Menschenbild und Medizinethik aus der Sicht des Theravāda-Buddhismus« and »Entscheidungskriterien bei bioethischen Problemen aus buddhistischer Sicht« are published here in German, because the former article was the basis of the proposal for the above-mentioned project which was submitted to the DFG in German. The latter article is largely based on the final report, which was also submitted to the DFG in German. In order to avoid any further delay of the publication of the present volume as might have incurred from arranging appropriate English translations, the editors decided to leave these articles untranslated.

writing about the African conception of person during the colonial era had to distance themselves from Western liberal individualism« (»The Conception of Person in African Philosophy: Personhood in Igbo Life and Thought«, p. 87 f.). The Igbo of South Eastern Nigeria regard a person as »a creative articulation of his or her individuality within the matrix of social community. In a very fundamental sense, identity is thus shaped by the community« (ibid., p. 95).

Mahāyāna-Buddhists like Nāgārjuna go even one step further and claim that the person is a purely relational phenomenon without any inherent existence (cf. Jens Schlieter's contribution »The Ethical Significance of ›No-self‹ (anātman) and Human ›Dignity‹«, p. 210 f.). From a Western perspective this might seem rather odd. However, as noted by Stephan Schaepe in his article »Person – Body – Life. A Theological Stress Test of a Strained Term«, we find similar intuitions concerning the concept of person in the works of Christian theologians who regarded the Trinity as consisting of three persons. Thomas Aquinas and Martin Luther, e.g., distanced themselves from naïve anthropomorphic characterizations of God, Christ and Holy Spirit by conceiving of them as relational beings. Nevertheless, one should be aware that this relational concept of person was coined by Christian theologians in order to characterize divine persons, not human ones.

From a Mahāyāna Buddhist point of view purely relational existence is even a universal feature of reality. All phenomena, once properly analyzed, turn out to be »empty« (*śūnya*), i.e. devoid of inherent existence. As noted by von Brück, matter should no longer be regarded as a mind-independent phenomenon. By referring to theories of the physicist David Bohm he describes reality as a fluctuating process in which the duality of mind and matter subsides: »[...] there is neither a mental realm next to a material realm, but describing the fluctuation of reality as an interrelational non-duality seems to be the best way to express this whole process.« (»Non-dualistic Models of Reality and Ethics. Buddhist Insights and Present Concerns«, p. 127)

The doctrine of non-selfhood (*anattā*) is just an aspect of universal emptiness. Mark Siderits describes the gist of this doctrine as follows: »The point is to get us to see that our sense of there being an ›I‹ results from an understandable but remediable error. This is the real purport of the Buddha's teaching of non-self, which is often understood as just the denial of any such entity as the self posited by the Nyāya, Sāṃkhya and Vedānta schools of orthodox Indian philosophy

(or more recently by Cartesians). That denial is one part of the doctrine, but Buddhist philosophers generally recognize that this is not the most soteriologically important part.« (»Non-Self and Benevolence. Śāntideva's Argument«, p. 169)

As noted by Eberhard Guhe in his article »Oceanic Boundlessness and the apramāṇa-Meditation«, evidence for the illusionary nature of a stable self can be gathered from empirical sciences and meditative experiences. Guhe shows that Adolf Dittrich's tripartite typology of altered states of consciousness (»veränderte Wachbewusstseinszustände«) can be mapped onto the kinds of transformations of a person's sense of self which are described in classical Indian sources related to meditative practice.

Since the sense of there being an »I« is a kind of default of our subjective experience, it requires some effort to abandon it. However, as Alfred Weil (former president of the German Buddhist Union) shows in his article »Nowhere to Be Found. Self and Not-Self in the Pāli Canon«, such a cognitive shift can be achieved at least partially even without meditating. For that purpose he formulates several maxims, which everybody can easily follow in his or her practical life.

But what are the benefits of the doctrine of non-selfhood? Is it not rather detrimental to any kind of moral conduct? How should we prevent suffering if there is no owner? Siderits notes that according to Śāntideva suffering is »intrinsically bad, and its badness is just its to-be-preventedness« (»Non-Self and Benevolence. Śāntideva's Argument«, p. 167). So, in the absence of a self there is still room for an ethical position which might be characterized as (negative) consequentialism. However, »we can all imagine scenarios in which taking a life would result in less overall suffering than would follow from any other available action. The difficulty is just that the cognitive distortions introduced by the ›I‹-sense make it difficult for the normal (unenlightened) agent to do the calculation accurately. Better that such beings follow a simple rule against killing, but also strive for an enlightenment that removes the distortions.« (ibid., p. 172 f.) In accordance with the Mahāyāna distinction between conventional and ultimate truth Siderits suggests a two-tier approach in ethics, which consists in »act consequentialism for the cognoscenti and some sort of indirect consequentialism (such as rule consequentialism and aretaic consequentialism) for those not yet free of the ignorance that results from taking our cognitive shortcuts too seriously.« (ibid., p. 172) »One thing Buddhist ethics might contribute here is a corrective to

the tendency in modern Western ethical theory to turn what is merely a tension arising out of practical necessities into a deep philosophical problem. There is no such problem, the Buddhist would claim, just understandable but remediable ignorance.« (ibid., p. 173 f.)

Jonardon Ganeri addresses in his article »Buddhism & Bioethics. A Theravada Defence of Individual Autonomy« the danger of a potential impersonalist reading of the doctrine of non-selfhood, which would render it ethically counter-productive: »If Buddhist ›No Self‹ is interpreted in such a way that it implies the non-existence of the individual, then it situates Buddhism entirely outside any engagement with liberal political theory, human rights discourses, and contemporary conversations in bioethics. Instead of offering a radical and progressive alternative, impersonalism locates Buddhism as having its roots in fundamentally pre-modern attitudes towards the person.« (ibid., p. 182) Ganeri rather takes ›No Self‹ to be »the advice to cultivate a second-personal attitude towards one's own mental states« (ibid., p. 186): »On the account presented here, there is no type difference between the way I relate to my own states and the way I relate to yours: the relationship in both cases is one of experiential empathy. That is enough to encourage altruism and even-handedness, since my states do not present themselves to me as mine, mine, mine.« (ibid., p. 187 f.)

Jens Schlieter argues in his article »The Ethical Significance of ›No-self‹ (anātman) and Human ›Dignity‹« that it is rather a kind of first-person ethics which ensues from the doctrine of non-selfhood: »As a ›First Person Ethics‹ I would like to define any ethics which primarily focuses on what the agent does (his intentions, combined with his actions and their supposed long term effects). It is, to be more precise, an ethics of self-transformation, or self-cultivation.« (ibid., p. 204 f.) The first-person perspective raises questions such as »What is wholesome behavior for me facing the danger of ›I-conceit‹?« (ibid., p. 227)

One may, however, wonder how human rights which hinge on respect for human dignity can be grounded in such a first-person ethics. A (victim-centred) third-person perspective seems to be called for. According to Schlieter there is a tension here between Buddhist ethics and Western human rights discourse. For a Buddhist the dignity of human life, i. e. its preciousness, derives from a kind a spiritual functionality, which consists in the possibility to use it for spiritual progress.

As indicated above, the Brahmanical schools in ancient Indian philosophy (Nyāya, Sāṃkhya, Vedānta etc.) differ from Buddhist schools (except for the so-called Pudgalavādins), insofar as they do assume the existence of a substantial self, the so-called ātman. In his article »Bioethics, Animalism and the Possibility of Bodily Transfer« Jonardon Ganeri refers to Jains and Cārvākas, the school of materialists, as further opponents of the Buddhist doctrine of non-selfhood. The Cārvākas do not assume the existence of an immaterial soul, i. e. an ātman or a jīva (as it is called in Jinism), but they can be regarded as Animalists, i. e. self-as-body theorists. In taking the reference of »I« to be the biological human being Animalism is incompatible with the idea of rebirth as a possibility that I might go from one body to another and survive the transfer. Ganeri argues that neither a theory which identifies the self with the body nor a theory according to which the self out-lasts the body can satisfy our intuitions about the concept of self. »The theory of self we are looking for is one for which having a first-person stance – an ability to conceive of my mental life as my own, including the ability to think of the states that depend on my body as my own bodily states – is a necessary condition on self-hood.« (ibid., p. 246) In Nyāya and in Jain sources he finds at least approximations to such an »embodied mind« theory.

An Animalist concept of self is defended by Tobias Schlicht in his article »Selves – or something near enough«. Insofar as he rejects the Cartesian notion of a self as an independent substance or essence, Schlicht regards his position as still compatible with the Buddhist doctrine of non-selfhood. »Once the notion of self as substance or essence is rejected, there is room for different routes by which one may arrive at the self, or something near enough.« (ibid., p. 257) His concept of self derives from an attempt to develop an integrated theory of consciousness and intentionality. »A brief look at recent evidence from the cognitive sciences suggests that the subject or self of conscious experience and of intentionality should be understood as the whole animal, i. e. an embodied and embedded agent endowed with an arsenal of cognitive, affective and sensorimotor capacities.« (ibid., p. 274) In order to explicate the concept of animal (or organism) Schlicht refers to ideas of Varela, Maturana and Thompson from dynamical systems theory.

Matthias Kößler expresses in his article »Body and Life, Philosophically« some doubts about the possibility of a philosophically adequate characterization of an organism via concepts from the sciences.

He argues that sciences deal only with the mere physicality of a body. As a body endowed with life an organism should not be reduced to a mere physical body. Koßler refers here to the semantic distinction between the German expressions »Körper« and »Leib«, which are commonly both rendered as »body« in English. Whereas »Körper« can refer to the mere physical body, the »Leib« is a »Körper« which is alive, an enlivened body. According to Koßler Arthur Schopenhauer's understanding of the »Leib« as a manifestation of »the will to live« yields a philosophically fruitful analysis of the connection between body and life beyond the confines of purely scientific attributions.

Although the word »Körper« can be used in a purely physical sense, a different meaning of »Körper« is at stake if we talk about the »Körper« of a human being. As noted by Volker Caysa in his article »Rights of the Body and the ›Common Body‹«, a human body has rights and needs to be protected from being treated like a mere physical object. In order to guard the body of a human being against any kind of abuse Caysa espouses trans-cultural minimal ethical norms which define a so-called »common body«.

All the articles of the present volume are arranged in the order in which they have been introduced here. On a final note the editors would like to add the following acknowledgements: First of all, we are indebted to the German Research Foundation (DFG) for financing our project, i. e. the research tours to Sri Lanka, Dharamsala and Ladakh, the conferences in Mainz and in Shanghai, as well as the publication of the articles assembled here. Siriana Mouangué kindly helped to translate those articles into English which were originally submitted in German. Moreover, we would like to express our gratitude to Christopher Nixon for readying the manuscripts for publication and to the publisher »Karl Alber« for including the present volume in their program.

Stephan Grätzel and Eberhard Guhe, May 2016

The Concept of Person – Shifting between the Conflicting Priorities of Rendering Our Practical Lives Meaningful and Providing Directions for Action

Whenever the concept of person is mentioned, we are usually confronted with a fascinating and at the same time confusing plurality of meanings, which often disturbs, hinders or even prevents an understanding of what is meant by this concept in a specific context.

If we talk about a »person« we usually refer to ourselves as a persistent entity, that is, a mysterious as well as temporary continuity of our own biography, enabling us to recognize ourselves (despite individual developments) as being the same as twenty, thirty or forty years ago (at least in certain ways, which have to be defined more closely from case to case) – and that, even in spite of the fact that the manifest outer as well as inner features and states may have changed significantly between the stages, often to such an extent that the observation of a real continuity in certain individual cases may be very difficult to justify, compared to the discontinuity of shape, appearance and character. However difficult it may be to verify or justify such a continuity in certain cases – such an understanding of a person's self is as necessary for the self-understanding, the self-interest and self-care, as is the necessity to accept another person as a reference of action, as well as to be accepted by that other person.

However, we also talk about a »person« (mostly in plural form) when we refer to our *own* personhood and (in connection with this aspect of meaning) to the *personhood that is alien to us*, thus to the immediate certainty that I view myself as well as the other individuals of my social surroundings as a potentially reliably acting entity whom I can expect to be endowed with a morally relevant and legally attributable behaviour (also if or especially if this expectation is sometimes disappointed).

This second aspect of meaning results in the fact that persons are regarded as subjects of attribution – to be more precise, as the only subjects of attribution – of juristic rights and duties and therefore as

carriers of juristic rights and duties. In this sense, (and this usage of the word dates back to Hobbes' doctrine of a »feigned and artificial person« that stands in contrast to a natural person)¹ we talk about a non-natural person.

These above-mentioned aspects and their casuistic interactions are at stake if in bioethical debates (on active and passive euthanasia, on animal ethics, on questions of PID, on abortion rights etc.) the concept of person is debated in a controversial manner.

The following observations are based on a strict distinction between two basic semantic complexes concerning the concept of person. One has to distinguish between the concept outlined above along with its indispensable constitutive function of rendering our practical lives meaningful and its moral and legal relevance as a guiding principle. The interest of a critical discussion lies in a strict separation of both understandings, even in those bioethical contexts that will become apparent to us during the discussion of the concept of person. Below we will first discuss the question of the practical relevance of the concept of person before turning to the criticism of a crypto-prescriptive use of the concept in bioethical debates. Finally, it will be analyzed how indispensable the concept of person really is in bioethical debates.

1. Why Person? – On the Practical Relevance of the Concept of Person

If we look at the first of the above-mentioned aspects – person as self-ascription – we see ourselves confronted with a collection of questions that can hardly be answered with reference to the construction of a »personal identity«:

What is it that characterizes a person? Is it the »possession« of certain qualities or the »adoption of certain attitudes« that distinguishes a person from a non-person. When does a human being »become« a person? Is it legitimate to speak of a person from the moment

¹ Hobbes, *Leviathan*, chapter XVI: »Of Persons, Authors, and Things Personated«: »A person is that man whose words or actions are considered, either as his own, or as representing the words or actions of another man, or of any other thing to whom they are attributed, whether truly or by fiction. When they are considered as his own, then he is called a natural person; and when they are considered as representing the words and actions of another, then he is a feigned or artificial person.«

of birth or are there further attributive features that have to be fulfilled?

When does personhood »end«? Does it only end with the individual death, or with the loss of certain mental abilities? And if so, which abilities belong to the pool of characteristics constituting a person?

Am I really the same person I was twenty, thirty or more years ago – not in the sense of »being similar« but in the sense of »being the same«, thus, in the sense of identity? And if so, how could such an attribution of identity be justified?

Who »belongs« to the circle of persons? No one would deny that human beings that are in full possession of their mental powers must be viewed as persons. From the bioethical debates of the past 30 years we know that the question whether all human beings can (at all times) be viewed as persons is just as difficult to answer as the opposing question, namely if some animal species should not also be equipped with individual rights.

In his essay, »Personales Leben und menschlicher Tod«, Quante (2002) identifies four semantic fields for the concept of person:

- (1) Conditions of personality
- (2) Synchronic unity of a person
- (3) Diachronic persistence
- (4) Personhood.

If we compare those four fields with the question concerning the practical relevance of the concept of person, it becomes obvious that the first semantic field (1) can be a topic in a bioethical context of discourse, while (2) to (4) cannot. The question therefore is which conditions (biological, mental, habitual) have to be fulfilled, so that one can legitimately speak of a person – we will have a closer look at those »characteristics constituting a person« later on. The resulting questions of the bioethical discourse are:

- On the basis of which features and abilities can someone be regarded as a person?
- Are all human beings at all times persons, or are there members within the biological species of *Homo sapiens* whose status as a person can be denied temporarily or permanently?
- Can only human beings be persons, or are there certain animal species (or even only a few non-human individuals) that can be equipped with the same or similar rights (and perhaps also with obligations)?

Whenever these questions occur in bioethical debates, similar ethical cases of doubt are introduced – most of the time with a certain suggestively persuading ambition – in order to illustrate the ethical relevance of the subject more clearly:

- Human zygotes and newborns undoubtedly do not yet have those mental capabilities that characterize developed persons; nevertheless, it would be counter-intuitive to treat them as a »thing«, as a non-person.
- Often people suffering from severe dementia and people in a persistent vegetative state (PVS) do not possess those mental capabilities that constitute a person. Nonetheless, only a few ethical systems represent the point of view that the loss of these capabilities (actual or habitual) amount to a complete loss of their personal rights. The history of the legal regulation of euthanasia within European countries (for example the Netherlands) shows that a very extensive legal liberalization of euthanasia always increases problematic social developments.
- Some higher developed animals (for example chimpanzees, orangutans) are capable of astonishingly complex mental performances. These include: temporal prospectivity, recognizing expressions of will as their own (interest), language usage, capability of using and producing tools etc.² On the basis of which right do we deny personal rights to this group of animals, leading activists and progressive thinkers of the animal rights movement might ask. Does this not (as was first claimed by Peter Singer), lead to an ethically untenable, thus, in a biological sense, chauvinistic »speciesism«?
- Even our own treatment of the dead should be considered critically. Although, in a pragmatic way, there is no reason why the corpse of the deceased should not be »disposed of« – as we do with our household waste, for example – or why the corpse should not be hastily buried like the beloved pet. However, denying a beloved person an adequate funeral would deeply contradict our own moral attitudes. If we take a look at fundamental, society-building functions of a culture of the dead in different societies, it becomes obvious that the respect for former persons

² Not all of these achievements are indisputable in literature; nevertheless, the answer to the question whether certain animal species are capable of certain achievements is a question which cannot be answered philosophically.

is something that is not only established firmly in our laws (such as, e.g., the criminal offence of disturbing the peace of the dead) but also in our moral institutions (Assmann 2005): the disposal of a corpse (which is also linguistically distinguished from carcass) unattended by weeping and singing would not only be illegal, but also disrespectful.

What does this complicated hotchpotch mean for the definition of a human being or, also, for certain animal species or individuals as a person? In his essay, »Selbstbewusste Tiere und bewusstseinsfähige Maschinen« Dieter Birnbacher set up a preliminary as well as elucidating, rough classification of possible positions. According to Birnbacher there are two conflicting doctrines with regard to the concept of person: the doctrine of equivalence and the doctrine of non-equivalence. While the supporters of the doctrine of equivalence assume that, in principle, every human being at any given moment is a person and that, vice versa (as a general rule) only human beings can be viewed as persons,³ the camp of the supporters of the non-equivalence doctrine can be divided into two to three camps that are characterized by a combination of two assumptions:

- (1) There are human beings that are not persons (repeatedly mentioned examples in the literature include: mentally retarded patients, comatose patients and patients in a persistent vegetative state.)
- (2) There are individuals that are persons without belonging to the biological species of *Homo sapiens* (chimpanzees, dolphins, whales etc.). (Birnbacher 2001)

The views assigned to the doctrine of non-equivalence are therefore characterized by the fact that they either support the first statement or the second statement or both.

It becomes immediately clear that the doctrine of non-equivalence is associated with the greatest potential for conflict with regard to traditional ethics. It is typical of the so-called »Western« (that is the European-Anglo-American) context (which is marked by a long historical tradition of ethics and moral philosophy) to regard only

³ Robert Spaemann is viewed as a representative of the doctrine of equivalence. »Es kann und darf nur ein einziges Kriterium für Personalität geben: die biologische Zugehörigkeit zum Menschengeschlecht«. (Spaemann 1996) Spaemann represents the view that all human beings are people. However, Spaemann also points out that this by no means automatically implies that only people can be human beings.

human beings (regardless of all possible individual or current limitations) as the only living beings capable of being a person. Therefore, Western culture provides only humans with rights, which are completely different from those rights granted to animals.

This observation has a long tradition which even dates back to Plato and Aristotle, it can also be found in a similar form in Kant's works and has even significantly shaped the thought of the »Philosophische Anthropologie« (especially in the works of Scheler, Plessner and Gehlen): it is always about the discovery of the *specificum humanum*, particularly in the face of the increasingly impressive insights into the common origin of and the morphological similarity between humans and higher developed animals.

Therefore, only man is a possible subject of immediate rights, whereas the rights reserved for animals can only be, at best, of an indirect nature.⁴ As is commonly known, it was Peter Singer with his radical claims and provocative case studies who caused a wave of indignation, initiating an intensive but in the end very productive debate on the status and relevance of the concept of person, especially in Germany. Particularly, by condemning speciesism he raised the question as to *which characteristics* justify the supremacy of a certain group of individuals in a morally relevant way.⁵

The following cognitive skills are considered as constitutive (although not exhaustive) features of personhood: intentionality, temporal transcendence of the present (temporal prospectivity), self-awareness, distance to oneself, second order preferences and rationality, as well as moral capabilities such as autonomy, self-determination, moral conduct and morality, but also the capability of making commitments and of critically evaluating oneself (cf. Birnbacher 2001, p. 312).

⁴ Regan (2000) prominently adopted this position.

⁵ Singer raised the charge of speciesism for the first time in: P. Singer, *Animal Liberation: A New Ethics for our Treatment of Animals*. New York 1975; P. Singer, *Practical Ethics*. Cambridge 1979. These books followed in the 80's: P. Singer, H. Kuhse, *Should the Baby Live? The Problem of Handicapped Infants*. Oxford 1985 (dt.: *Muß dieses Kind am Leben bleiben? Das Problem schwerstgeschädigter Neugeborener*. Erlangen 1993) – the translation of the title alone might already have complicated the commencement of a neutral, not emotionally tinged discussion to a certain extent – as well as P. Singer: *Rethinking Life and Death: The Collapse of Our Traditional Ethics*. Melbourne 1994.

2. The Crypto-Prescriptive Status of the Concept of Person – a Conceptual Criticism

What exactly are we doing when we call a group of living beings »persons«? Whoever tries to answer this question is well advised to realize its performative claim, before thinking about attributions to the concept of person. In other words: before starting a controversial discussion of the concept of person, the question of the performative status of a sentence like »all x are persons« has to be settled – of course regardless of the question concerning the extension.

In what follows, I will take the view that talking about personhood is *in principal* a crypto-prescriptive act, because, while camouflaged as a *descriptive* object definition, it is in fact a willful, moral *prescription*. In other words: By pretending to simply describe what seems to be the case, one actually shows what *should* be the case. Therefore, the use of the concept of person and its attribution to certain groups of individuals becomes a morally *binding* prescription that pretends to simply describe a fact. The extraordinary severity with which both sides – representatives of the doctrine of equivalence as well as representatives of the doctrine of non-equivalence – have dominated the discussion, is not only a consequence of the fact that all participants want to exemplify what has obviously already been included in the concept of person, while in reality the actual goal of the discussion is the question of which attributes are characteristic of a person and not the ethical conclusions that have to be drawn.

If we describe certain groups of living beings as persons, we perform a discourse act which is not aligned with a description of situations, but with the prescription of collective norms of action. This discourse act becomes relevant where norms of action (individually identified as preferable) for such prescriptions are used and where utterances such as »all x are persons« are considered binding for morally acting subjects.

Let us, first of all, recall what the term »discourse act« implies: A discourse act is an action which manifests itself through speech and especially via the coining of terms, i. e. with the intention of motivating other subjects to act. If, for example, during the Euro-crisis, German government representatives formulated the sentence »Naturally, Greece is a part of Europe«, this is not only considered as a statement, but as a discourse act in the sense mentioned above.

A discourse act is therefore defined as an action that does more

than just stating facts. Sentences such as »It is July«, »This is a table«, or »Lunch break starts at 12 o'clock« are viewed as propositional statements. Discourse acts, however, intend to make promises to others, to annoy, to unsettle, to hurt, or to console them; but more than that – and this is where this train of thought becomes relevant for our problematic connection – discourse acts want to convince, persuade and induce people to do something.

Let me clarify the difference by means of an example: The sentence »This is a table« can obtain a completely different meaning if I want to ask someone who is sitting on that table to refrain from doing so and to use a chair instead. The sentence »Lunch break starts at 12 o'clock« also obtains a completely different meaning if, during a meeting, the chairman uses it in order to address a speaker who, although at the end of his speaking time, seems to be unwilling to end his speech, etc.

So what exactly does this mean for the statement »Naturally, Greece is a part of Europe«? This comment, of course, is not a geographical statement, but it signifies the attempt at a political specification: the alleged statement is in fact a political declaration of purpose, which is »I want Greece to stay in the Euro-zone«.

Those thoughts may seem trivial at first – however, for the debate concerning the concept of person they have all of a sudden a central relevance if one considers that this purportedly descriptive statement »Naturally, Greece is a part of Europe« is not only a discourse act, but is also immediately understood by every informed listener – and rightfully so.

Informed listeners would be surprised if someone who is familiar with Europe's current economic situation (upon hearing this statement) were to take out an atlas in order to check the geographical accuracy of the utterance. Furthermore, this would amount to a basic misunderstanding of the discourse act.⁶

But this is exactly the situation which we are confronted with when it comes to the ethical debate on the concept of person. The found facts – or, philosophically speaking – the ontological facts do

⁶ However, an analysis of the circumstances would be far more difficult if the listener is only insufficiently informed, or if the real facts mentioned in the statement could not be verified immediately. – How, for example, should a statement be weighted if discussing the affiliation of Turkey to Europe?

not per se legitimize a relevant or binding statement in an ethically normative sense.

By no means is this about the general (in philosophy highly disputed) and, within this formulation, unspecific problem of the naturalistically false conclusion to derive a »the-way-it-should-be« from a »the-way-it-is«. The issue is, in fact, that with the introduction of a certain concept – that is, the concept of person – the decision whether a certain amount of rights should be given to a certain group of living beings, is diverted to a purely conceptual field. The latter decision is an ethical one; it depends on certain presuppositions concerning the worth and appreciation of life, a consideration of interests and laws of humanity.

A look at the argumentative status of the concept of person will clarify this point. Let us take, for instance, the so-called »school syllogism« that is well-known to every student of philosophy:

Premise (1): All human beings are mortal.

Premise (2): Socrates is a human being.

Conclusion: Socrates is mortal.

The premises (1) and (2) lead to the conclusion »Socrates is mortal« and *if* both premises (1) and (2) are true, then the conclusion *has* to be true. Furthermore, it expands the content; we learn something about the person Socrates that we did not know before or, more specifically, something that the term Socrates does imply. Only by identifying Socrates as a human being and by identifying human beings in general as mortal can we reach the content-expanding realization that the individual Socrates is mortal. This school syllogism does exactly what syllogisms generally do: it relates two terms (mortality, Socrates) by inserting human being as a middle term. And, provided that we accept human beings in general to be mortal and also the individual Socrates to be a human being, we cannot sensibly deny our assent to the conclusion that Socrates is in fact mortal.

It is quite a different matter if we look at the ethical »person syllogism«:

Premise (1): All persons have personal rights.

Premise (2): The being X is a person.

Conclusion: The being X has personal rights.

Although this syllogism, from a mere logical perspective, may be true, there is a difference between this syllogism and the school syllogism, since this time the middle term »person« is not well known. Because we *do not know what a person is* if and as long as we refrain from dealing with the question that results from it, namely, how these beings should be treated. Whoever deals with the concept of person *only pretends to be* deciding whether a being is a person or, more specifically, whether it can be viewed as a person. In reality, what the discussion is about is the ethical status of a human being – notabene the question which rights have to be awarded or denied.

But this corresponds exactly to the criticism of a crypto-prescriptive use of the concept of person: Talking of a person is not a description of existing facts, but is the anticipative prescription of a deliberate ethical practice.

3. Refraining from Using the Concept of Person – an Alternative?

In the past the polemic regarding the concept of person had already led well-known authors to call for the abolition of the concept from ethical debates. In her book, »Personsein in Grenzsituationen«, Thea Rehbock takes the attitude that the concept could and should not be a decisive criterion for solving bioethical problems. Dieter Birnbacher, who we quoted above, points to a necessity for »eine feinkörnige Analyse und Begründung moralischer Rechte« (*a fine-grained analysis and justification of moral rights*):

»Ein Verzicht auf den Personenbegriff bietet Chancen für eine feinkörnigere Analyse und Begründung moralischer Rechte. Eine Person zu sein, ist eine Alles-oder-Nichts-Angelegenheit, während man bestimmte moralische Rechte haben kann, ohne jedes mögliche moralische Recht zu haben.« (Birnbacher 1997, p. 76). (*A renunciation of the concept of person offers opportunities for a more fine-grained analysis and justification of moral rights. To be a person is an all-or-nothing-matter: one can have certain moral rights without having every possible moral right.*)

Viewed from the perspective of this criticism regarding the crypto-prescriptive use of the concept of person, there is only one thing to be added, namely that a renunciation of the concept does not affect the semantic significance of the concept »person« as a temporally persis-

tent entity, as described in the beginning. Seeing *oneself* as such a personal identity, a temporally persistent entity, is possible even if one decided to make the decision whether a certain living being or a group of living beings should be awarded certain rights independent from the concept used. The first is a necessity of an individual performance of identification, which every individual constantly executes – it is the contrastive dealing with Buddhist approaches that will clarify whether it has to be like this. The decision as to whether such an identification of the self is desired or not depends on religious-ideological decisions that do not necessarily fall within the scope of ethical decision making.

But regardless of this practical (desirable or undesirable) semantic significance of the concept of person, its disputed moral and juridical relevance still have to be decided upon. The previous analysis has shown that an attribution of rights on the basis of the concept of person is problematic, since a concept is being introduced that does not simplify ethical decision-making, but unnecessarily complicates and emotionalizes it instead, since the central concept of individual self-identification is used for an ethical decision.

The attribution of rights has to be based on *criteria of gradualism*, that is, on different criteria, of which the capacity of consciousness (as the debate initiated by Singer has shown) is only one among many others. A true human viewpoint would furthermore always have to take into account the similarity between humans and some animals. The cultural- and religious-contrastive analysis of the concept of person, and of ethical decision-making practice will provide valuable insights on this topic.

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Menschenbild und Medizinethik vom Standpunkt des Theravāda-Buddhismus

Im Folgenden sollen das Menschenbild des Theravāda-Buddhismus und seine Implikationen für die Medizin-Ethik erörtert werden, wobei wir insbesondere der Frage nachgehen werden, ob die Ethik des Theravāda-Buddhismus – ähnlich wie in der abendländischen Philosophie – an einen Personenbegriff geknüpft ist.

Der erste Teil des vorliegenden Beitrags bietet Hintergrund-Informationen zur Entstehung des Theravāda-Buddhismus und zu den Werken der Theravāda-Literatur, auf die wir hier Bezug nehmen werden. Als nächstes wird die Lehre von den sogenannten »Aggregaten« (P. *khandhā*) erörtert. Es handelt sich dabei um die Gegebenheiten, die nach Theravāda-Lehre den Menschen konstituieren. Im dritten Teil soll anhand des Wagengleichnisses aus dem der Theravāda-Tradition zugeordneten Milindapañha untersucht werden, ob man dem Theravāda-Buddhismus einen Personenbegriff zuschreiben kann. Im vierten Teil sollen die Unterschiede zwischen der stark am Personenbegriff orientierten westlichen Medizin-Ethik und der Theravāda-Ethik aufgezeigt werden.

1.

Als »Theravāda« bezeichnet man eine Richtung innerhalb des Buddhismus, die bis heute in Sri Lanka, Myanmar, Thailand, Kambodscha, Laos und teilweise auch in Vietnam verbreitet ist. Die Entstehung des Theravāda-Buddhismus geht auf eine Spaltung der buddhistischen Gemeinde im 3. Jh. v. Chr. zurück, bei der der Orden in die beiden Sekten der »Sthaviras«, d. h. der konservativen »Ältesten« und der »Mahāsāṅghikas«, d. h. der »der großen Gemeinde Zugehörigen« zerbrach. Ein möglicher Auslöser dieser Spaltung war ein Meinungsstreit über die Eigenschaften des sogenannten »Arhat«, d. h. des buddhistischen Heiligen, der, nachdem er die buddhistische

Lehre kennengelernt hat, den Erlösungsweg des Buddha zu Ende gegangen ist und das Nirvāṇa erlangt hat. Den Ehrentitel eines Arhat wollten natürlich möglichst viele Mönche haben, s. d. manche die Anforderungen an die Erlangung dieses Ehrentitels herunterschrauben wollten, indem man z. B. zuließ, dass ein Arhat noch nicht frei sein müsse von Unwissenheit und Zweifeln, oder dass er auch mit fremder Hilfe auf dem Erlösungsweg fortschreiten könne. Solchen Liberalisierungstendenzen, für die sich die Mahāsāṅghikas einsetzten, wollten die Sthaviras entgegenwirken, indem sie die aus ihrer Sicht ursprüngliche und unverfälschte Lehre in eine strenge Form gossen. Zu diesem Zweck wurde von einer Sekte der Sthaviras, nämlich den Vibhajyavādins, der sogenannte Pāli-Kanon verfasst. Benannt ist dieses Werk nach der Sprache, die man dafür verwendete, nämlich dem Pāli. Im Pāli wird die Sanskrit-Bezeichnung Sthavira mit »Thera« wiedergegeben. »Theravāda« bedeutet somit »Lehre der Ältesten«. Der Pāli-Kanon, auf den sich die Theravāda-Buddhisten berufen, besteht aus drei Teilen und wird deshalb auch »Tipiṭaka« (wörtl. »Dreikorb«) genannt, nämlich aus der Sammlung der Ordensregeln für die buddhistischen Mönche und Nonnen (Vinayaṭṭaka), der Sammlung der Lehrreden des Buddha (Suttaṭṭaka) und der Sammlung der systematischen Abhandlung über die Lehre (Abhidhammaṭṭaka).

Zu den Quellen, auf die ich mich im Folgenden stützen werde, um das Menschenbild im Theravāda-Buddhismus herauszuarbeiten, gehören neben dem Pāli-Kanon noch zwei weitere Werke der klassischen Theravāda-Literatur, nämlich »Visuddhimagga« und »Milindapañha«.

Der Visuddhimagga (»Weg zur Reinheit«) wurde im 5. Jh. n. Chr. von Buddhaghosa verfasst und bildet unter den in der Pāli-Sprache erhaltenen Werken die bedeutendste und umfangreichste Darstellung des gesamten buddhistischen Lehrgebäudes.

Der anonym überlieferte Milindapañha, der vermutlich aus dem 1. Jh. v. Chr. stammt, wurde ursprünglich in einem nordwestindischen Dialekt verfasst. Erhalten sind aber nur Übersetzungen ins Pāli und ins Chinesische. Es handelt sich bei diesem Werk gewissermaßen um das Protokoll eines (möglicherweise sogar authentischen) Dialogs zwischen einem buddhistischen Mönch namens Nāgasena und einem griechischen König namens Menandros. »Menandros« wird im Pāli mit »Milinda« wiedergegeben. So erklärt sich der Titel »Milindapañha«, was soviel bedeutet wie »Die Fragen des Milinda (bzw. Menandros)«. Die Fragen, die Menandros Nāgasena in diesem Werk stellt,

drehen sich um die Lehren des Buddhismus, denen der König zunächst skeptisch gegenübersteht. Am Ende gelingt es Nāgasena aber, Menandros' herausfordernde Fragen überzeugend zu beantworten, s. d. dieser Buddhist wird.

Einen König namens Menandros hat es tatsächlich gegeben. Er beherrschte um die Mitte des 2. Jahrhunderts v. Chr. ein indo-griechisches Königreich im Nordwesten des Subkontinents, eines jener Staatengebilde, die nach dem Ende des Alexanderfeldzuges im östlichen Teil des von ihm eroberten Gebiets entstanden ist. Die uns erhaltenen Quellen über die politische Geschichte jener Zeit sind in mancher Hinsicht recht widersprüchlich, doch darf als gesichert gelten, dass Menandros einer der bedeutendsten indo-griechischen Herrscher gewesen ist. Er hat seinen Machtbereich weiter ins nordindische Kernland ausgedehnt als seine Vorgänger, weit über das Indus-Land hinaus.

2.

Die Faktoren, aus denen sich aus der Sicht des Theravāda-Buddhismus ein Mensch (oder auch ein Tier) zusammensetzt, sind die sogenannten fünf »Aggregate« (P. *khandhā*). Sie umfassen das gesamte leibliche und geistige Dasein. Es handelt sich dabei um den Körper (P./Skr. *rūpa*), das Erkennen bzw. das Bewusstsein (P. *viññāṇa*) als zentrale geistige Instanz und drei weitere geistige Faktoren, nämlich das Gefühl (P./Skr. *vedanā*), die Wahrnehmung (P. *saññā*) und die Gestaltungen (P. *saṅkhārā*).

Die geistigen Faktoren mit Ausnahme des Erkennens, also das Gefühl, die Wahrnehmung und die Gestaltungen werden als »Name« bezeichnet, wobei man zuweilen auch noch das »Erkennen« unter den Begriff »Name« subsumierte. Der Körper wird als »Form« bezeichnet. Name und Form, für die man im Theravāda-Buddhismus das Kompositum *nāmarūpa* (P./Skr.) verwendet, und das Erkennen sind also die Gegebenheiten, die einen Menschen oder auch ein Tier konstituieren.

Die eigenartige Bezeichnung »Name« hat ihren Ursprung wahrscheinlich in vedischen Vorstellungen, denen zufolge der Name einer Person »ausdrückt, was nur diese Person und keine andere ist.« (Oldenberg 1921, S. 256) Nach Oldenberg ist die Vorstellung, dass die als »Name« bezeichneten Faktoren etwas mit der Individualität zu tun

haben, »auch aus den buddhistischen Texten nicht ganz verschwunden.« (a. a. O.)

Allerdings wäre es verfehlt, den Namen oder auch das Erkennen als eine Art statischen Wesenskern oder als eine Seele zu betrachten.

»Körper wie Seele existiert nicht als eine in sich geschlossene, sich in sich selbst behauptende Substanz, sondern allein als ein Komplex von mannigfaltig sich verschlingenden Prozessen des Entstehens und Vergehens. [...] Wir müssen uns hier der Vorstellungsweise völlig entäußern, welche das Innenleben nur dann als ein verständliches gelten lässt, wenn sie seinen wechselnden Inhalt, jedes einzelne Gefühl, jeden Willensakt zu einem und demselben bleibenden Ich in Beziehung setzen darf. Diese Art zu denken widerstrebt dem Buddhismus von Grund aus. Hier wie überall verwirft er den Halt, den wir dem Treiben der gehenden und kommenden Ereignisse durch die Vorstellung einer Substanz, an oder in welcher jene sich ereignen, zu geben lieben. Ein Sehen, ein Hören, ein Erkennen, vor allem ein Leiden findet statt; von einer Wesenheit aber, die das Sehende, Hörende, Leidende wäre, weiß die buddhistische Lehre nichts.« (Oldenberg 1921, S. 290 f.)

Im Pāli-Kanon stellt Buddha in der berühmten Rede von den Kennzeichen des Nicht-Ich klar, dass es keinerlei Zusammenhang gibt zwischen den Aggregaten und der in den Upaniṣaden vertretenen vorbuddhistischen Lehre von einer unvergänglichen Individualseele, einem »Selbst« (Skr. *ātman*), das den Tod des Körpers überdauert:

1 Bārāṇasīyaṃ nidānaṃ Migadāye || || 2–3 Tatra kho Bhagavā pañcavaggiye bhikkhū āmantesi || la || etad avoca || || 3 Rūpaṃ bhikkhave anattā || rūpaṃ ca bhikkhave attā abhavissa nayidaṃ rūpaṃ ābādhāya saṃvatteti || labbhettha ca rūpe Evaṃ me rūpaṃ hotu evaṃ me rūpaṃ mā ahoṣīti || || 4 Yasmā ca kho bhikkhave rūpaṃ anattā tasmā rūpaṃ ābādhāya saṃvattati || na ca labbhati rūpe Evaṃ me rūpaṃ hotu evaṃ me rūpaṃ mā ahoṣīti || || 5 Vedanā anattā || vedanā ca hidam bhikkhave attā abhavissa na yidaṃ vedanā ābādhāya saṃvatteti || labbhettha ca vedanāya Evaṃ me vedanā hotu evaṃ me vedanā mā ahoṣīti || || (SN, 22.59, 1–5 [S. 66 f.]) – »At Benares, in the Deer Park was the occasion (for this discourse). At that time the Exalted One thus addressed the band of five brethren: ›Body, brethren, is not the Self. If body, brethren, were the Self, then body would not be involved in sickness, and one could say of body: ›Thus let my body be. Thus let my body not be.‹ But, brethren, inasmuch as body is not the Self, that is why body is involved in sickness, and one cannot say of body: ›thus let my body be; thus let my body not be.‹ Feeling is not the Self. If feeling, brethren, were the Self, then feeling would not be involved in sickness, and one could say of feeling: ›thus let my feeling be; thus let my feeling not be.‹ [...]« (Woodward 1992, S. 59)

In derselben Weise wird auch in Bezug auf die anderen Aggregate klargestellt, dass sie nicht mit dem Selbst gleichzusetzen sind. Dann fährt Buddha mit der folgenden Bemerkung zum Körper fort:

17 Tasmā ti ha bhikkhave yaṃ kiñci rūpaṃ atītānāgatapaccuppannam ajjahattam vā bahiddhā vā olārikaṃ vā sukhumaṃ vā hīnaṃ vā paṇītaṃ vā || yaṃ dūre santike vā sabbaṃ rūpaṃ netam mama neso ham asmi na meso attāti evam etaṃ yathābhūtaṃ sammappaññāya daṭṭhabbaṃ || 18 Yā kāci vedanā || || 19 Yā kāci saññā || || 20 Ye keci saṅkhārā || || 21 Yaṃ kiñci viññāṇaṃ atītānāgatapaccuppannam ajjahattam vā bahiddhā vā olārikaṃ vā sukhumaṃ vā hīnaṃ vā paṇītaṃ vā || yaṃ dūre santike vā sabbaṃ viññāṇaṃ netam mama neso ham asmi na meso attāti evam etaṃ yathābhūtaṃ sammappaññāya daṭṭhabbaṃ || (SN, 22.59, 12–21 [S. 68]) –
»Therefore, brethren, every body whatever, be it past, future or present, be it inward or outward, gross or subtle, low or high, far or near, – every body should be thus regarded, as it really is, by right insight, – ›this is not mine; this am not I; this is not the Self of me.« Every feeling whatever, every perception whatever, all activities whatsoever (must be so regarded). Every consciousness whatever, be it past, future or present, be it inward or outward, gross or subtle, low or high, far or near, – every consciousness, I say, must be thus regarded, as it really is, by right insight: ›this is not mine; this am not I; this is not the Self of me.« (Woodward 1992, S. 60)

Wenn man die Aggregate als die Bausteine der »Persönlichkeit« deuten möchte (vgl. Frauwallner 1953, S. 207), so muss man dabei auf jeden Fall von einem dynamischen Verständnis des Persönlichkeitsbegriffs ausgehen. Oldenberg bezeichnet die Aggregate treffend als »Funktionen« (Oldenberg 1921, S. 256). Man könnte diese Auffassung vielleicht sogar im mathematischen Sinne weiterdenken und die Aggregate als sich in Abhängigkeit von der Zeit verändernde Zustände deuten, die graphisch als zwar stetig aber auf keinem Intervall konstante Kurven darstellbar sind. Nun wird auch klar, warum man die fünf Gegebenheiten, die einen Menschen oder ein Tier konstituieren, als »Aggregate« (d. h. als aus mehreren Teilen zusammengesetzte Gebilde) betrachtet hat. Aggregate sind sie in dem Sinne, dass jede dieser Gegebenheiten eine Gesamtheit bzw. ein Aggregat von wechselnden Zuständen ist. Dies gilt auch für die geistigen Gegebenheiten, von denen man jede einzelne – im Gegensatz zu dem aus mehreren organischen Bestandteilen zusammengesetzten Körper – sonst nur schwer als aus mehreren Teilen zusammengesetztes Gebilde interpretieren könnte. Betrachten wir nun die fünf Aggregate im Einzelnen: