



## What Is A Person And How Can We Be Sure? A Paradigm Case Formulation

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### Abstract

A Paradigm Case Formulation (PCF) of Persons is developed that allows competent judges to identify areas of agreement and disagreement regarding where they draw a line on what is to be included as a person. The paradigm case is described as a linguistically competent individual able to engage in Deliberate Action in a Dramaturgical Pattern. Specific attention is given to the ability of paradigm case persons to employ Hedonic, Prudent, Aesthetic and Ethical perspectives in choosing their Deliberate Actions and Social Practices.

It is sometimes said that animals do not talk because they lack the mental capacity. And this means: “they do not think, and that is why they do not talk.”  
But---they simply do not talk. Wittgenstein (1953)

Apparently, humanity has matured enough for us to ask in a non-trivial way, “Are human beings the only persons we encounter?”

Historically, we have only recognized others who share our human embodiment as fellow persons. This matters legally, morally and ethically since we grant people rights, privileges and protections that are not offered to nonpersons. These rights, privileges and protections are subject to revision. We no longer allow people to be kept as the property of other people.

The capacity to revise and reorder appraisals is a fundamental feature of what it means to be a person. This includes moral and ethical judgments, and appraisals of who is to be treated as a person.

I am going to offer a Paradigm Case Formulation of what we take to be a Person. Ethical and moral progress is a fundamental possibility inherent in this conceptualization. It follows that if we recognize nonhuman animals (or other entities) as persons, asking, if we are holding them in slavery becomes a legitimate question.

### **What is a person? And what is a Paradigm Case Formulation?**

Sometime in the mid 1960's, NASA asked the Descriptive Psychologist, Peter Ossorio, "If green gas on the moon speaks to an astronaut, how do we know whether or not it is a person?" (Schwartz 1982). Note that simply asking this question acknowledges the possibility of a person who does not share human embodiment.

So how can we sort out what constitutes a person if we allow that the category is not based only on having a particular body? Toward this goal I am going to use the Descriptive Psychological method of Paradigm Case Formulation (PCF) (Ossorio 2013). I will show how it is reasonable to include non-humans as persons and to have legitimate grounds for disagreeing where the line is properly drawn. In good faith, competent judges using this formulation can clearly point to where and why they agree or disagree on what is to be included in the category of "Persons".

I am going to make explicit what is already implicit in what we mean by "Persons" by making explicit what we already know and act on. We already have an implicit understanding of what it means to be a person since this understanding is fundamental in order to *act as one of us* with the shared expectations required to competently engage in the social practices of everyday life. We engage with our fellow persons differently than we do with what we take to be nonpersons.

The value of a Paradigm Case Formulation (PCF) is to achieve a common understanding of a subject matter in cases where an ordinary definition proves too limiting, various, ambiguous or impossible. These formulations are helpful when it is reasonable to assume there are legitimate grounds for disagreement about specific possible examples. I think the concept of "Person" presents this definitional problem.

A PCF should provide competent users a starting point of agreement. PCFs are designed to be as inclusive as possible in order to capture, as a starting point, all possible examples. Generally they should consist of the most complex case, an indubitable case, or a primary or archetypal case. It should be a sort of "By God, if there were ever a case of "X", then that's it."

Finding a fully inclusive definition is a common conceptual dilemma. Consider how difficult it is to exactly define what is meant by the word "family" or the word "chair" if we wish to achieve agreement on all possible examples of "families" and "chairs". Must families all have two parents of different genders plus their children? Must all chairs have four legs and a backrest?

For example, most would agree that a group of people living together consisting of a married father and mother and their biological son and daughter is a family. But what if there is only a husband, his husband and their dog? Or three best friends who live under one roof and make their significant decisions together? What elements must be present and what can we change, add or leave out and still meet what different people call a family? Notice the parameters of gender, number of participants, presence or absence of marriage, presence or absence of children,

presence or absence of “living together” and so on. The content of each of these parameters is subject to deletion or substitution, with the result that with each alteration a judge may no longer accept the new variation as within the domain of what they take to be an appropriate instance of the concept in question.

By starting with a paradigm case that everyone easily identifies as within their understanding of a concept, it becomes possible to delete or change features of the paradigm with the consequence that with each change some people might no longer agree that we are still talking about the same thing. But because of the shared paradigm, it becomes possible to show where there is agreement and disagreement and where various judges draw the line.

**A PERSON is a INDIVIDUAL who PARADIGMATICALLY ENGAGES in DELIBERATE ACTION ( An INTENTIONAL or GOAL DIRECTED ACTION in which the ACTOR Is both COGNIZANT of what HE/SHE/ETC is doing and CHOOSES to do it)LANGUAGE (DELIBERATE SYMBOLIC VERBAL BEHAVIOR)**

**The SIGNIFICANCE of which reflects the Person's PERSPECTIVES and CONCERNS with**

- 1. HEDONICS (pleasure, pain, disgust, noxiousness, etc)**
- 2. PRUDENCE (self interest, what is to my advantage or disadvantage, etc)**
- 3. AESTHETICS (fittingness in the Artistic, Intellectual & Social domains)**
- 4. ETHICS (right or wrong, fair or unfair, just or unjust, carries duty or obligation)**

**RESULTING in a “DRAMATURGICAL PATTERN” of intelligible “THROUGH-LINES” (i.e. Significance Patterns )**

A *Person* is an individual whose history is, paradigmatically, a history of *Deliberate Action* in a *Dramaturgical Pattern*. Deliberate Action is a form of behavior in which a person (a) engages in an *Intentional or Goal Directed Action*, (b) is *Cognizant* of that, and (c) has *Chosen* to do that. A person is not always engaged in a deliberate action but has the ability to do so.

Deliberate Action is fundamental to any claim of personal autonomy insofar as autonomy is linked to the ability to make personal choices. As deliberate actors, Paradigm Case Persons act on *Hedonic, Prudent, Aesthetic* and *Ethical* reasons when selecting, choosing or deciding on a course of action. Why only these four? These are the ones we know. There may be more; if another is invented or discovered, it would be included, somewhat like cooks now agree there is a fifth taste, umami, in addition to sweet, sour, bitter, and salty.

Hedonics, prudence, aesthetics, and ethics provide intrinsic or fundamental motivation (Ossorio 2013). They provide reason enough to do something. They stand on their own. These reasons for action can be in conflict, operate in a complementary or independent fashion, and so on. Tautologically, if you have two or more of these reasons to do something, you have more reason than if you had only one of them.

These four classifications are "family resemblance groups". Hedonics refers to the value of pleasure, pain, disgust, and so on; prudence to self-interest; aesthetics to the artistic, social and intellectual values of truth, rigor, objectivity, beauty, elegance, closure and fit; ethics with right and wrong, fairness and justice, the level playing field, the Golden Rule and kindred notions.

Hedonic and prudent motivations can operate with and without cognizant awareness. They can be an aspect of both deliberate and non-deliberate intentional action. As a fundamental aspect of the general case of goal directed behavior, they are probably features of all sentient animal life, whether human or not. They provide a basis for cross species empathy and shared understanding. I can be sensitive to my dog's pain. I have reason to believe he is sensitive to mine.

Aesthetic and ethical motivations are in an important way different from hedonic and prudent concerns. Aesthetic and ethical motivations are only relevant when deliberate action is also possible since aesthetic and ethical action require the ability to choose or refrain, to potentially think over a desirable course to follow. In the service of being able to choose, and perhaps think through the available options, a person's aesthetic and ethical motives are often consciously available (Schwartz, 1984).

It is reasonable to claim that I can't help but that it feels good, or that I see it as in my self-interest. I simply and directly know it that way without having to deliberate about it, but as a mature paradigm case person, I can consciously attempt to refrain from seeking pleasure or self-interest on aesthetic and/or ethical grounds. And, at times, I might set my ethics and aesthetics aside for the sake of pleasure and self-interest.

It is a matter of one's personal characteristics how an individual weighs their hedonic, prudent, ethical and aesthetic reasons in a given circumstance, and how these perspectives operate independently, antagonistically, harmoniously, and so on. To remain a member in good standing in the general community of persons, central to our social contracts, we expect that the normal mature human can employ all of these motivational perspectives. Any adult human who does not have these interests will likely seem primitive or pathological. Any general theory of human behavior that does not adequately address these motivations will be defective.

It is the formal requirement that ethical and aesthetic acts are potentially deliberate that positions

these motives as quintessential qualities of persons. Any action that is motivated by ethical or aesthetic concerns is evidence of the involvement of a person.

### **What about language?**

Also paradigmatic of persons is language use, the ability to share symbolic representations that correspond to the concepts used in social practice. The detection of language is both vital and problematic in assigning the status of person to a nonhuman entity. Shared social practice based on shared "forms of life", as Wittgenstein (1953/2009) put it, creates a dilemma since both embodiment and environment are relevant in what is shared. Evidence of language is vital in the detection of deliberate action since with language we can symbolically represent a choice, both what was chosen and what was renounced. I can tell you what I did and what I decided not to do. Language may not be required for a particular deliberate action to be possible, but it hard to get around its central place in the detection of persons.

We don't have direct access to what goes on in another person's head. We can only observe each other's overt performance, including what we tell each other about what we are up to. Language is the ideal format for representing option and choice, since we can speak about what we did not do, what we rejected or refrained from.

You see me take the low road but unless there is some way of representing that I was aware that I could have taken the high road, you might be hard pressed to successfully argue my behavior was deliberate and that I am accountable for the choice.

Language is especially significant in a person's ability to reorder priorities. Since language can be used to represent the consequences of a course of action not yet followed, it serves as a fundamental means of personal and social negotiation. I can weigh the consequences of my potential acts and you can tell me your thoughts about them. The reordering of priorities is a vital aspect of social life, hard to accomplish without language.

This is also partly why the behavior of persons is less stereotyped and predictable than the behavior of nonpersons. People can develop, invent and reconsider. They can think about their thinking. They can change their mind (or at least they can try). And, central to my interests in this writing, people can gather evidence that an entity they had not considered a person might be one.

### **What about the Dramaturgical Pattern?**

That life is lived in a dramaturgical pattern is to say that people's lives are potentially understandable. Their stories can be intelligibly told. Life consists of episodes of unfolding and overlapping social practices in response to the changing circumstances. A person's history is not a random or arbitrary collection of performances but instead a meaningful unfolding of behavior given what a person is attempting to accomplish. A person's actions have an ongoing significance creating intelligible through-lines that an observer can employ in recognizing behavior that is both in and out of character for the actors (Schwartz 2013). Of course, accidents and the unintended can happen; but for the most part, people have their reasons for doing what they do. The drama of a person's life is created in a manner akin to an improvisational play. The characters and the setting are a given but we have to wait and see how it will play out. The script can only be written in retrospect, after the actions have occurred.

The PCF offered here allows for nonhuman persons, potential persons, nascent persons, manufactured persons, former persons, deficit case persons, primitive persons, and, I suppose,

super-persons. *A human being is an individual who is both a person and a specimen of Homo sapiens* (Ossorio 2013).

I am not going to include the political and legal claim that corporations are persons since that involves a language game that is played for different reasons than my concerns here. Corporate personhood has its own logic of contract and responsibility.

### **Some implications**

Although deliberate action is not dependent on the availability of language, language use is a form of deliberate action essential for the full paradigm. A person without language would be a deficit case. Different judges will have their reasons for granting or rejecting a deficit case as a full person along with the corresponding rights, obligations and expectations that follow from that accreditation or degradation (Schwartz, 1979).

Must a person have an ethical and aesthetic perspective to count as a person? Or is the ability to engage in any sort of deliberate action enough? Clearly to me, my dog Banjo is a deliberate actor. But our conversations are pretty one sided. He has, I feel sure, hedonic and prudential perspectives. About his ethical and aesthetic perspective, I am not sure, except that I think I would have a hard time building a case that he has these values. I think he appreciates affection and gentleness similar to me, but I would not trust him with my lunch. I do not doubt that he is an intentional actor, although I am uncertain about the range and nature of his deliberations. But regardless, apart from the extent I consider Banjo to have some person qualities, he is a member of my family and is to be treated as such. He is a beloved companion.

The ability to weigh hedonic, prudent, ethical and aesthetic interests are defining personal characteristics since these perspectives shape an individual's social practices and ways of life. The dramaturgical pattern of a particular life is significantly dependent on a person's values. A robot or manufactured person, given its physical form, might not have an hedonic perspective since the visceral sensations of pain or pleasure might not be available; a chimpanzee person, apparently lacking language, probably has underdeveloped or absent ethical and aesthetic concerns and this suggests a sort of primitive status. Still, underdeveloped is different from absent. Our descendants may look back at our values and see them as underdeveloped. We are a work in progress.

The line that constitutes language use from nonlinguistic communication is also blurred. Evidence that chimpanzees and other Great Apes use a flexible system of non-vocal gestures to communicate may reasonably be considered a "sign language" by some observers (Hobaiter and Byrne, 2014).

Human children, while developing their perspectives, have nascent person status and are treated differently than full "legal" persons by not being given the same span of rights and responsibilities granted adults. But the distinction between childhood and adulthood is clearly arbitrary. Is adulthood reached at 21, 18, 16, 12, or 35? Rights and obligations change as values, knowledge and competence matures but is finally a matter of political and legal decision.

The PCF provides a way to classify different sorts of persons based on the motives they are competent to use in recognizing their options and choosing a course of action. The ability and disposition to manifest and refine hedonic, prudent, aesthetic and ethical values are fundamental status markers relevant to a consideration of appropriate rights and responsibilities. Implicitly or explicitly we employ these distinctions in our interactions with others whether adult or child,

human or otherwise.

### **What about other animals?**

Years back, I was pursuing a pod of bottlenose dolphin when a small one smacked the stern of my kayak, hard. As the calf re-approached, a large female nudged it away. I was astonished, relieved and grateful. Not wanting to push my luck, I paddled back to shore.

Are dolphins good candidates for personhood? Do they engage in deliberate action in a dramaturgical pattern? Do bottlenose dolphins speak to each other? Did a dolphin protect me from mischief? I don't know. I don't have sufficient evidence that dolphins fill the paradigm case. Some people have reason to think they might. Using a PCF, I can point to where the evidence is robust and where it is lacking. Language seems to be the sticking point.

What about the other *Cetacea*, the elephants, the nonhuman primates, and various parrots? I suspect they fill out some of the paradigm case. Other judges reasonably believe they fill out more. To the extent other animals are not domesticated (or enslaved), they can't or don't "talk" with us. Nonhuman animal communication, including the possibility of language use, is difficult to study when there is an absence of "shared forms of life."

The domesticated are interdependent with humans in a way other animals are not and this partly accounts for my sense of their companion status and our shared practices. We work, play, eat, exploit and otherwise interact with the domesticated in ways we do not with the "wild". They become our pets, livestock, guards and companions. We treat them, for better or worse, accordingly. As our ethical and aesthetic standards evolve, we revisit what we take to be the right way to engage with them (or we should).

Do animals in the wild talk with each other and could they talk with us? We may not have sufficient shared social practices to make inter-species communication, speech, and translation feasible, so it's very hard to tell. This is a difficult empirical issue. Rather than simply communicate, some observers believe they speak to each other in a linguistic fashion. There is no consensus but the evidence is mounting that they do (see, for example, Savage-Rumbaugh, 2009).

Since language requires shared social practice, an animal's ecologically bounded options limit its expected communicative range, concerns, and actions. Humans are adept at disrupting their environments. We're very skilled at coercing them and killing them to further our goals. If they wanted to talk to us, I am not sure we'd welcome what they have to say.

If someone actually taught nonhuman animals to competently use language, would that be teaching them to be a person? Yes, that is an implication of the paradigm offered here. By this same reasoning, we teach our human children to be persons, too.

### **What are the ethics of uncertainty?**

So what should we do with our uncertainty? Logically, we are never in a position to prove that something is a person, but we can adopt a policy that if we have any strong grounds for seeing the other as one of us, we should treat that entity as a person until we have reason enough to feel we are misguided. With persons it should be I to Thou. There are people whose cultures and social practices leave me mystified, but it is prudent and ethical to proceed from the belief that I simply

do not understand what they are about. The same should hold for other animals.

I am not particularly concerned with initial false positives. In my scientific training, I was told to avoid anthropomorphism. I have become skeptical about the morality of this stance, whether it involves an animal's possible slavery or how I treat them as food.

A significant ethical question remains: After the line on personhood is drawn, what considerations apply to the treatment of animals that do not fall into the person category? Sentient animals are intentional actors and have an interest in the avoidance of suffering (Singer 2009). Is it ever ethical to inflict harm if there is a way not to? What priorities need be weighed?

Person status defines a domain where social and legal rights reside, hence a proper abhorrence of slavery and murder. Judges in good faith might differ as to what animals are included as persons, but it is a moral and ethical mistake to limit concerns about the quality of a life to whether that life is also a person. Part of being a person is to understand this.

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