

The Notion of Person: a Reappraisal from the Side of Human Rights

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My aim here is to defend the plausibility of identifying the subject of human rights through the concept of 'moral person', by reflecting on the inherent connection between the concept of person and that of human rights in their moral dimension, that is in the light of an 'ethics' of human rights, an ethics in which human rights represent the fundamental moral values.

I will speak of the 'moral dimension' of the concept of person to stress the difference between this dimension and the 'legal dimension' of the concept of person, which refers not only to individual human beings, but also to social units and, in being so applied, presupposes the existence of a body of law. This because in the legal dimension the person, from the analogy with the mask used by classical actors during performance and, therefore, with the character they represented, is conceived first and foremost as an 'agent' that responds publicly for its own actions and its own choices.

While, in its moral dimension, the concept of person, presupposing 'only' a moral evaluation of life and the condition for dignity and respect in the context of social interaction and cooperation, is not co-extensive with that of an agent who is accountable for actions and has rights and responsibilities. As we shall see, it is the capability to 'communicate' (actively but even passively), to appreciate the value of otherness and not the capability to act morally or rationally, that represents the pre-eminent value of the person as authentic subject of human rights. The unsuccessful distinction between these two dimensions of the concept of person, from my point of view, is one of the major causes of misunderstanding about the role the concept of person can play as 'the subject of human rights'.

It has been observed that, "if we think of a person as [...] a creature possessed of inherent moral dignity, [we have] a theory that begins with, and always centres on, the person and his or her inherent dignity. Human rights establish and protect the social conditions necessary for the effective enjoyment of moral personality" (J. DONNELLY, 1985, p. 31). And in 1966 the International Covenant on civil and political rights recognized that 'human rights derive from the inherent dignity of the human person'.

But we could say also the other way round, that human rights represent the set of conditions in which a moral subject can identify and exercise his or her 'personality' in a conscious way. It is this second way that will be defended here: as J. Locke argued, the term person stands for 'a thinking intelligent being, that has reason and reflection and can consider itself the 'same' thinking thing, in different time and places'. And, in our perspective, the person can consider itself the 'same' thinking thing only by means of human rights, only by means of an ethics in which human rights represent the fundamental moral values.

This is not a new argumentation (after all, it gives a lot to the reflections of classical authors like Cicero – in his elaboration of the Greek concept of 'persona' –, J. Locke, D. Hume and, today, of authors like Dennett, A.I. Melden and B. Ackerman), but its plausibility can be confirmed by referring to the fact that the concept of moral person,

conceived in his/her capability to 'communicate', to appreciate the value of otherness and not the capability to 'act' morally or rationally, seems to be a concept not too thin and not too thick, that is a concept by means of which we try to avoid the current criticisms against the adoption of 'person' as the subject of human rights – or too much entities are persons or too less human beings are persons.

1 It is commonly said that human rights are those universal rights one has simply because one is a human being. Anyway, besides their universality, the essential characteristic of human rights seems to be their moral 'status': the exact import of this status is unclear, but at least it suggests they represent basic moral values in the life of humans, high-priority norms, strong enough as normative considerations to prevail in conflicts with other norms, less strong and less valuable.

Human rights are distinguished also by their moral 'weight', their existing independently of recognition or implementation in the customs or legal systems of particular countries.

Human rights are weaker than positive rights only in terms of implementation; their moral force, usually, is stronger, precisely because, even if they may not be 'effective' rights until legally implemented, they exist as moral standards of argument and criticism independently of legal, cultural or conventional implementation.

It is in this way that we can speak of an ethics of human rights, as a way to guarantee the integrity and the autonomy of persons with respect to power and positive laws. Because of this, it becomes difficult to avoid referring to the concept of person to clearly understand what human rights and their defense really mean; and it seems plausible to suppose that the identification of the subject of human rights should be done on moral grounds.

Anyway, the importance of the notion of person for human rights could emerge better from a comparison with the concepts of individual, human being, and self, commonly used to indicate the same ontological entity, a biological, social and self-conscious being, but with distinct meanings, accordingly to their use. When used to refer to human rights, what concept exhibits the best use?

If we refer to ordinary language, we find that the term person is commonly used by people as the singular noun, which refers to another specific being of the same biological species. This means that in its ordinary use the term is understood though underdefined. But to show why to prefer the concept of person for human rights we must clarify the meaning and value of interrelated concepts like that of individual, human being and self (that represent different modes under which people are understood).

As known, reference to the term 'individual', as a distinctive feature of the liberal tradition, holds a place of priority in the understanding of human rights. As noticed above, the Universal Declaration claims that human rights appeal directly to the 'integrity of the individual', which could be translated in the respect for the separateness of individuals.

But today, it seems that the principle of the separateness is better sustained by means of pluralism. Today, in fact, the appeal to human rights has tempered the individualism of classical theories of natural rights and people are conceived as members of families, of groups and communities, not as isolated individuals who must be given reasons for entering civil society. In the Universal declaration we read, for example, that 'the family is the natural and fundamental group unit of society and is entitled to protection'.

But we must consider that critics of the ethics of human rights very often refer to individualism to say that it represents a morality that does not recognize any intrinsic value in any collective good. Using the term 'individual' to indicate the subject of human rights, then, could be criticized in so far as this is the age in which the separateness of people is better defended through the appeal to pluralism, to the respect of the integrity of various and different unities and their goods, like groups and communities, which are separate, but inserted in an articulated system of social interaction, reciprocation and global communication.

And we may take the separateness as something similar to a principle of equality, a principle not requiring equal treatment, but requiring that different - plural - matters regarding people being treated with equal regard.

Can we obtain anything better using the concept of 'human being'? Fundamentally, the concept of human being represents a way of understanding individuals as biological entities. For this reason, in ordinary language we find the conviction that one need not do anything special in order to hold human rights, because they are the rights one has simply because one is a human being. But, to identify the subject of human rights with the 'human being' as such is simply to commit us to 'speciesism', the famous prejudice, pointed out by P. Singer, toward the interests of members of one's own species and against those of other species (P. SINGER, 1963), and to 'biologism', as pointed out by B. Williams, that is to identify the human species only through biological criteria (B. WILLIAMS, 1986).

Also, it seems that for a human entity to count as a person it is not enough for it to be identified as a member of a particular species, that is, the meaning of the term person is not co-extensive with the meaning of human being. We must refer to something else than our biological identity.

The same we can say for the word 'self'. It seems that the self represents the 'internal' experiential nature of an individual. But private experience is not enough to be a subject of human rights.

The subject of rights, therefore, does not seem to be either a biological unit, or a 'solipsistic' unit, but rather the individual in so far as he or she is a moral, rational, communicative and social entity, a holder of values such as dignity and freedom, that is in so far as he or she is a person. As I. Melden writes, "the concept of a person is the concept of an individual human being whose features enable him to join some segments of his life with others" (I. MELDEN 1977, p. 227).

2 What does it mean to be a 'person'? As Hume noticed, humans are in a situation in which there is a scarcity of resources and a strong need for cooperation and reciprocation. It is in this sense, I think, that a person can be conceived as 'an individual human being whose features enable him to join some segments of his life with others'. But what does it mean exactly this definition? What is primarily necessary to 'join some segments of our life with others'?

The Greek etymological origins of the term person seem to give us important suggestions here. As known, person derives from the classical Greek term 'persona', the mask dressed by actors in the Greek tragedy to conceal their identity and, at the same time, to exhibit their character.

In its origins, then, and after in the Latin culture, the term person was peculiarly a cultural term, ambivalently situated between concealing and showing, but at the same time very rich in content, indissolubly linked to the dimension of 'recognition' and relation among the various persons.

To understand the meaning and value of human rights today, then, it could be useful to restate the semantic extension the term person had achieved in the reflections of Latin thinkers, above all with Cicero. It was Cicero, in fact, by stressing not only the aspect of concealing, but first and foremost the aspect of recognition and relationship among masks who reciprocally interact and reveal themselves, that conferred to the term person its most valuable extension. With Cicero, the term person plainly assumes the moral connotation we need today: person becomes the symbol of the most dialectical form of communication individuals can exhibit in their social interaction, representing at the same time 'the delicate meeting point of the decisive elements for the moral destination of human life'. Individuals, becoming moral persons, appreciate the value of otherness and, at the same time, reveal themselves; in a reciprocal communication, they can 'feel' the others directly in their interiority and can join some segment of their life with them.

3 Thus, the moral dimension of the concept of person appears in all its clarity. With respect to the concept of self, that of person is characterized by a strongly social, communicative dimension and not a 'solipsistic' one; with respect to the concept of human being, it appeals to the value of dignity, to moral possibilities, to the moral nature of human existence, and not only to the biological nature; with respect to the concept of individual, finally, it is capable of mediating between public and private, between selfish and collective demands.

From this perspective, we can also avoid that the notion of person become a factor of discrimination within the human species. It is precisely in the communicative and relational dimension of the moral dimension of the concept of person, in fact, in the ambiguity that is also extreme potentiality, between concealing and showing, being and appearing, that lies the moral force of the person, and not only in its identification with a moral or rational agent.

This means that the 'moral' concept of person, contrary particularly to the 'legal' concept of person, is not co-extensive with that of an agent, that is, one who is accountable for actions and has rights and responsibilities. It is the capability to communicate (actively or passively), to appreciate the value of otherness and not the capability to act morally or rationally, that represents the pre-eminent value of the person as authentic subject of human rights.

It is in this sense that we say that the concept of a moral person is 'the concept of an individual human being whose features enable him to join some segments of his life with others'.

From this perspective, therefore, the notion of moral person is, potentially at least, anything but a factor of discrimination for the human species, a concept not too thin and not too thick.

References

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