

The Citizen: An Ubuntu Personalism Conception

Wade Seale



Thesis Presented for the Degree of

DOCTOR OF PHILOSOPHY

in the

**Department of Philosophy
UNIVERSITY OF CAPE TOWN**

February 2025

Under the Supervision of Ass. Prof. George Hull

The copyright of this thesis vests in the author. No quotation from it or information derived from it is to be published without full acknowledgement of the source. The thesis is to be used for private study or non-commercial research purposes only.

Published by the University of Cape Town (UCT) in terms of the non-exclusive license granted to UCT by the author.

Contents

ACKNOWLEDGEMENTS	5
PLAGIARISM DECLARATION	7
ABSTRACT	9
GLOSSARY	10
CHAPTER ONE	
INTRODUCTION: TOWARDS A GROUNDING FOR THE PLURALIST POLITICAL ARRANGEMENT BASED ON HUMAN RIGHTS	13
1.1) Introduction	13
1.2) Ubuntu, narratives of return & questions of context: on method	13
1.2.1) <i>On Ubuntu and narratives of return</i>	14
1.2.2) <i>On Ubuntu and the role of context</i>	15
1.2.3) <i>One way of doing African philosophy</i>	16
1.3) On liberalism, the invention of the individual, and human rights	17
1.4) The structure of this thesis	21
CHAPTER TWO	
JUSTICE AND THE LIMITS OF LIBERALISM: WHY RAISE THE QUESTION OF PERSONALISM AT ALL?	24
2.1) Introduction	24
2.1.1) <i>Thin agreements, thick reasons</i>	24
2.1.2) <i>Chapter outline</i>	28
2.2) Political Liberalism: A Brief Overview	28
2.2.1) <i>Perfectionist and Political Liberalism</i>	29
2.2.2) <i>Homing-in on John Rawls</i>	32
2.3) First issue: on the scope of justice in PL	35
2.3.1) <i>The manifest discrimination against the severely cognitively disabled</i>	36
2.3.2) <i>The structural discrimination of the severely cognitively disabled</i>	36
2.3.3) <i>The problematic political conception of the person</i>	39
2.3.4) <i>Nussbaum, the human being, and severe cognitive disability</i>	40
2.4) Second issue: the thick conception of the person in PL	42
2.4.1) <i>The veil of ignorance is a thickening agent</i>	42
2.4.2) <i>Does the overlapping consensus rescue Rawls from this critique?</i>	45
2.4.3) <i>A Rawlsian retort: on the reasonableness of doctrines</i>	54
2.4.4) <i>Concluding Rawls</i>	55
2.5) Two foundationalist conceptions of liberalism	55
2.5.1) <i>The thick, vague conception of the good</i>	55
2.5.2) <i>Perfectionist liberalism & the problem of individualism</i>	58

2.6) Conclusion	62
CHAPTER THREE	
ALL HUMANS ARE PERSONS: AN INTRODUCTION TO PERSONALISM	64
3.1) Introduction	64
3.1.1) <i>All humans are persons</i>	64
3.1.2) <i>The pluralist polity based on human rights: our lodestar</i>	66
3.1.3) <i>Chapter outline</i>	67
3.2) What is Personalism?	68
3.3) The five tenets of personalism	70
3.3.1) <i>Persons & Non-Persons</i>	70
3.3.2) <i>Human Dignity</i>	76
3.3.3) <i>Interiority & Subjectivity</i>	79
3.3.4) <i>Freedom & Self-determination</i>	84
3.3.5) <i>Relationality & Communion</i>	86
3.4) On the issue of scope in <i>PL</i>	90
3.4.1) <i>The personalist argument</i>	91
3.5) On the issue of theoretical coherence in <i>PL</i> and justifying foundationalism	93
3.6) Conclusion	97
CHAPTER FOUR	
INDIVIDUALISM, COLLECTIVISM, & THE FRAGILE PROMISE OF A THIRD WAY: THE KIND OF PERSONALISM WE NEED	100
4.1) Introduction	100
4.1.1) <i>The story so far</i>	100
4.1.2) <i>The political arrangement based on human rights</i>	101
4.1.3) <i>Chapter outline</i>	104
4.2) Human dignity and is/ought	105
4.3) Developing the question and situating personalism	110
4.3.1) <i>Individualism & collectivism: a closer look</i>	110
4.4) Relationality and Communion in the philosophy of Burgos	113
4.5) The personalism of Wojtyla, the cosmological dimension of personhood, and <i>the social constitution of individual persons</i>	117
4.6) The cosmological dimension: <i>person</i> as a relation term	123
4.6.1) <i>Person: a short conceptual history</i>	123
4.6.2) <i>Drawing from the well of intellectual history</i>	126

4.7) The personalism of John Macmurray	128
4.7.1) <i>Social constitution in the philosophy of Macmurray</i>	128
4.7.2) <i>Macmurray, agency and lessons for collectivism</i>	131
4.8) Conclusion	133

CHAPTER FIVE

UBUNTU PERSONALISM:

THE GROUNDWORK TO A CONCEPTION OF THE CITIZEN **136**

5.1.) Introduction	136
5.1.1) <i>The story so far – five pieces of intellectual silver</i>	136
5.1.2) <i>The road ahead</i>	139
5.1.3) <i>Chapter outline</i>	140
5.2) Ubuntu Personalism – A metaphysical account of personhood as the good	141
5.2.1) <i>From language to metaphysics</i>	141
5.2.2) <i>Personhood, humanity, species</i>	148
5.2.3) <i>The severely cognitively disabled and their counterparts</i>	153
5.2.4) <i>A metaphysics of Ubuntu in sum</i>	158
5.3) Ubuntu Personalism – the groundwork to an ethos	160
5.4) The annulment of a dichotomy between individualism and collectivism	168
5.4.1) <i>Metz and the Oyowe debate</i>	168
5.4.2) <i>A personalist response</i>	175
5.4.3) <i>Metz’s reading of ‘a person is a person through other persons’</i>	181
5.4.4) <i>The problem of collectivism</i>	184
5.5) Ubuntu ethos and the transcendence of the self – grounding the polity in a marriage of metaphysics and normativity in the person	186
5.5.1) <i>‘Transcendence’ in the Ubuntu philosophy of Augustine Shutte</i>	187
5.5.2) <i>Mogobe Ramose comments on Shutte</i>	194
5.5.3) <i>Shutte’s Ubuntu and personalism</i>	196
5.5.4) <i>A UP critique of Shutte</i>	199
5.6) A clear statement on the Ubuntu Personalist conception of the citizen	200
5.6.1) <i>Human exceptionalism</i>	200
5.6.2) <i>Human Dignity</i>	204
5.6.3) <i>Interiority & Subjectivity</i>	206
5.6.4) <i>Freedom</i>	207
5.6.5) <i>Relation and Communion</i>	210
5.7) Conclusion	214

CHAPTER SIX

THE CITIZEN: AN UBUNTU PERSONALISM CONCEPTION **216**

6.1. Introduction	216
6.1.1) <i>Taking stock</i>	216
6.1.2) <i>Chapter outline</i>	218

6.2) A list of fundamental rights	218
6.2.1) <i>Inherent dignity and the right to have your dignity respected</i>	220
6.2.2) <i>The right to equality</i>	221
6.2.3) <i>The right to life & bodily integrity</i>	221
6.2.4) <i>Freedom of choice & conscience</i>	223
6.2.5) <i>Freedom of association</i>	224
6.2.6) <i>Freedom to stand for office</i>	226
6.2.7) <i>The right to private property</i>	226
6.3) Ubuntu Personalism as a foundation for the pluralist political order	227
6.3.1) <i>The person as foundation to the political arrangement</i>	227
6.3.2) <i>Case study 1: Marriage</i>	233
6.3.3) <i>Case Study 2: Female genital mutilation</i>	235
6.3.4) <i>Case Study 3: Abortion</i>	236
6.4) A look to the future...	237
BIBLIOGRAPHY	241

Acknowledgements

Ad maiorem Dei gloriam, this thesis is my humble attempt at saying what it means to be a citizen, today and in the future.

The initial seeds of this project were sowed during a sojourn at the University of Malaga, Spain, under the guidance of Don Jose Maria Rosales. Our encounter was brief but it made a lasting impact on my life – personally and intellectually.

The project was developed and completed at the University of Cape Town under the supervision of Ass. Prof. George Hull. While perfecting the balance between giving me time and space to read and think on the one hand, and putting me on terms to produce work at acceptable intervals on the other, it is Ass. Prof. Hull's philosophical acumen and command of the literature that inspired trust and confidence. And that, in my view, is the secret sauce of any excellent supervisor. He deserves recognition for the quality and completion of this work.

The Department of Philosophy at the University of Cape Town deserves high praise for the stimulating intellectual environment, with Prof. Bernard Weiss, the Head of Department; and Marchelle Erasmus who is always at hand to assist in the most important ways, deserving special mention. Ass. Prof. Tom Angier has my gratitude for standing in as my supervisor during Ass. Prof. Hull's sabbatical in 2019.

The financial assistance of the National Research Foundation (NRF) towards this research is hereby acknowledged. Opinions expressed and conclusions arrived at, are those of the author and are not necessarily to be attributed to the NRF.

The financial assistance of the National Institute for the Humanities and Social Sciences, in collaboration with the South African Humanities Deans Association towards this research is also hereby acknowledged. Opinions expressed and conclusions arrived at are those of the author and are not necessarily to be attributed to the NIHSS and SAHUDA.

The conception of the citizen that you'll find in these lines is informed by my theory of personhood – what I mean when I say “I” or “you”. And I've said that an *I* is the sum and balance of all the other persons that that *I* encounters – from before the moment of conception until after one has passed away. And so it is with me completing this thesis. I am the sum and balance of countless persons who have gone before me, persons who have dedicated aspects of their lives to me and my existence, and persons for whom I live, those alive today and those yet-to-be.

I truly am because we all are.

For Daniel,

Kim,

Jack & Layla:

Sum quia sumus, et quoniam sumus, ideo sum.

Plagiarism Declaration

I declare that this thesis, titled *The Citizen: An Ubuntu Personalism Conception*, is my own original work, both in concept and execution. It has not been submitted in whole or in part to any other institution for the purposes of obtaining a degree or other qualification. All sources used, whether published or unpublished, have been duly acknowledged and cited according to academic standards. Where the work of others has been incorporated, it has been appropriately referenced. I affirm that this thesis is free from plagiarism and that I have adhered to the ethical principles of academic integrity.

Abstract

In this thesis, I argue for an Ubuntu personalism conception of the citizen as a foundationalist account of a grounding for the pluralist political arrangement based on human rights.

I start with John Rawls who employed what he called *a political conception of the citizen* to develop a neutralist theory of justice. In expounding this, I argue that he excluded certain categories of human beings in an unacceptable way, most notably the severely cognitively disabled; and that the neutralism he targeted – his major contribution – is illusive.

I then go in search of an alternative grounding for the pluralist political arrangement based on human rights. I explore philosophical personalism as an alternative, identifying major strengths in the intellectual movement for the purposes of grounding the pluralist political arrangement. But I also identify major weaknesses in personalism – in the thought of Juan Manuel Burgos, which is a current, cutting-edge version of personalism; as well as in the thought of the older John Macmurray – an excellent example of social constitution of persons theory.

This opens the way for an exploration of Ubuntu personalism. I explore a metaphysical account of Ubuntu, as well as Ubuntu as an ethic, and show how this leads to a socially constituted conception of the person which sits at the intersection of metaphysics and ethics. I say how the citizen is this kind of person and show how it is this conception of the person that best grounds the pluralist political arrangement based on human rights.

Glossary

Citizen/ship	the individual member of the political community; legislation e.g. around the requirements for citizenship fall outside of the scope of this thesis.
Collectivism	theories which emphasize the value of the community, or values from the community, over other values (such as the value of the individual).
Comprehensive doctrine	any theoretical system that informs a person's worldview, and synonymous with <i>a conception of the good</i> . It need not be systematically developed as an academic entity – some people hold un-academic ideas of the good informed by folk tradition and custom. It can include religion, culture, philosophies, and so on.
Conception of the good	synonymous with a comprehensive doctrine, it is the idea that a person or people have about what 'good' is.
Conception of the right	is contrasted with <i>conception of the good</i> and is defined as the process employed to generate principles of justice without recourse to a conception of the good. In the philosophy of Rawls, political liberalism relies on a conception of the right based on reason.
Foundationalism	a political system based on a single conception of the good. Perfectionist liberalism, where liberalism is offered as the conception of the good on which to base society, is an example. Ubuntu personalism, as argued for in these lines, is another such example.
Individualism	theories which emphasize the value of, and values derived from, the individual person, above other values (such as the value of, or values derived from, the collective).
Moral force	that which deters or motivates an individual, morally speaking. In other words, for the Kantian, the idea not to lie derives its moral force from its rationality. For the orthodox Jew, the moral force of the ideal not to lie comes from the fact that God commanded this.
Neutralism	a political system that has no particular conception of the good grounding that political system. Rawls's political liberalism is the best representative of such a system – it produces principles of justice which are neutral amongst the competing conceptions of the good, as it is based on a conception of the right.
OP	"original position" from the famous thought experiment in the philosophy of Rawls.
Political legitimacy	justification for the use of violence by the state in respect of those citizens who don't subscribe to the organising theory (e.g. political liberalism, Ubuntu pluralism, etc).
Political stability	a concept borrowed from Rawls, referring to a diverse political arrangement's capacity to remain intact even when one of the cultures gains significant power; the opposite of a <i>modus vivendi</i> , which is a kind of compromise for the sake of living together, and which will not remain intact once one of the cultures attains sufficient power.
PL	"political liberalism"
SCD	"severe cognitive disability", which refers to human beings with atypical cognitive development such that they are unable to perform even the most basic of functions for themselves.
Transcendence	the capacity to go beyond the material/physical realm and to dwell in the immaterial realm; to go beyond the particular and to inhabit the world of what is common; but also

to go beyond the actual world and to consider and relate to counterparts of beings in other possible worlds.

UP

“Ubuntu personalism”; a new conception of Ubuntu, and a new conception of Personalism, where each is placed in conversation with the other to theorise a conception of the citizen based on the insight that persons are constituted in relation.

Introduction: Towards a grounding for the pluralist political arrangement based on human rights

1.1) Introduction

The citizen: an Ubuntu personalism (*UP*) conception grounds the pluralist political arrangement based on human rights. It responds to and improves upon the shortcomings of the political liberalism (*PL*) of John Rawls, which I think is the most elegant grounding for the pluralist political arrangement based on human rights to date. The *UP* conception of the citizen is the result of a conversation of two equal partners in and between the African philosophy of Ubuntu on the one hand, and the intellectual movement of personalism on the other. The substantiation of the *UP* conception of the citizen is what you will find in this thesis, and in this introductory chapter, I would like to detail a map of that substantiation.

1.2) Ubuntu, narratives of return & questions of context: on method

In 2013, Bernard Matolino and Wenceslaus Kwindigwi argued for the end of Ubuntu on two fronts. First, by analysing the narrative of return, they argued that “Ubuntu as an ideology is not well rooted in the ethical experiences of modern people *qua* moral beings” (2013:198). Second, they argue that Ubuntu “lacks both the capacity and context to be an ethical inspiration or code of ethics in the present context” (2013:198). I want to start this journey by looking at each ground respectively. You see, the question as to what African philosophy is is not an uncontroversial question. What or what can rightly lay claim to the label ‘African philosophy’? What exactly makes African philosophy different to Western philosophy? In the main, is the difference methodical or substantive? And who can do African philosophy?

My intention here is not necessarily to exhaust the debates on these questions, but rather to point to what it is that I am interested in doing. I will deal with the narrative of return ground first, and then with the question of context.

1.2.1) On Ubuntu and narratives of return

Matolino and Kwindingwi start with a reference to Christian Gade, who they say observes two characteristics of narratives of return. First, narratives of return are discussed within the context of social transformation, and elitists such as political leaders, academics, and others “attempt to identify past values that they believe should inspire politics in general and the future of society” (2013:198). Second, history is broken into three phases, namely, the pre-colonial phase; the colonial phase; and the third phase of recovery, after the colonial phase. This third phase is marked by the attempt of Africans to restore what was lost in the second phase by returning, in various ways, to the pre-colonial phase¹.

The problem with narratives of return, however, is that “the project of return to the ‘original’ is neither new nor successful” (2013:198). This project has taken various guises according to Matolino and Kwindingwi: Nyerere’s *ujamaa* (1968); Nkrumah’s *consciencism* (1964); Senghor’s *negritude* (1964); Kaunda’s *humanism* (1966); Callaghy’s *Mobutuism* (1980); arap Moi’s *nyayo* (1986); and *African socialism*, more generally². The pursuit of these projects, Matolino and Kwindingwi argue, have had disastrous results both economically and politically. Economically, “it led to the impoverishment of large swathes of the continent, leaving many citizens leading undignified and pained lives” (2013:198). Politically, “the narrative of return led to suppression of political space [and] tyrannical dictatorships [which were] developed in pursuit of a one-party state that was supposed to be an embodiment of the people’s aspirations” (2013:198).

Matolino and Kwindingwi add another aspect to the discussion around narratives of return. This is related to the extent to which these narratives are presented as being “the authentic African mode of being” (2013:199). The problems which arise from this aspect of the narrative of return are as follows. They present Africans as being incapable of individual thought. Additionally, they present “African life as hegemonic in its pursuit of a particularised African idealised mode of being” (2013:199) – roughly, the idea that there is a single way of being African. This, they argue, contrasts our present-day understanding of people as moral beings.

¹ There is some controversy around this division of history, but this controversy does not affect my argument or project at all.

² These texts are cited here as they appear in Matolino & Kwindingwi (2013).

That said, it shouldn't be hard to see how Ubuntu can be seen as part of narrative of return projects. It is often accompanied with appeals to being African, as if the virtue of being African is sufficient for an argument in favour of adherence to a particular worldview. Nor should it be difficult to recognise that Ubuntu is used by some academic and political elites, without much conceptual clarity, to further often but admittedly not always dubious ends.

1.2.2) On Ubuntu and the role of context

The second, more important critique which Matolino and Kwindigwi mount is that Ubuntu is more suited to small, communal political arrangements of villages than to the large, multicultural societies of modern countries. They say that,

Ubuntu, as an ethical theory that is taken to be natural to the people of sub-Saharan Africa...can only be fully realised in a naturalistic and traditionalistic context of those people. However, such a natural habitat that would favour the chances of Ubuntu has largely disappeared because of the irreversible effects of factors such as industrialisation and modernity. The disappearance of such natural and favourable conditions renders Ubuntu obsolete. It is obsolete by virtue of the fact that the context in which its value could be recognised is now extinct. We are of the view that in order for these values to be realised they have to be embedded in the strictures of communalism (Matolino & Kwindigwi, 2013:203).

It is not hard to understand the force of Matolino and Kwindigwi's claims. Ubuntu is almost naturally associated with small villages in which sharing the excess milk harvested from your three cows with your neighbours seems almost logical; the alternative being that it sours. In the meantime, things are slightly different. Yes, there are still villages in Africa, but for the most part, we now live in an industrialised society marked by multiculturalism and consumption. Highly skilled labourers demanding high wages and consumption are natural features of the industrialised society. And these societies are diverse: the effects of globalisation, whereas the pre-colonial political arrangement is perhaps captured best by the idea of cultural homogeneity.

The essay referenced above from Matolino & Kwindiwi forms part of a multiple-essay debate with Thaddeus Metz, who is perhaps distinguished for developing a most detailed philosophical reconstruction of ubuntu – but more on him later. Metz (2014) responds to Matolino and Kwindiwi, in turn, responds to Metz (2015). Here, even though I do engage with the debate at a superficial level, I'm not so keen to conduct a thorough analysis of that debate and its fruits *per se* but would like instead to draw from it to advance my position within the context of, broadly, the metaphilosophical questions on African philosophy identified above.

1.2.3) One way of doing African philosophy

In specific response to the two points highlighted here, I find myself in proclivity towards Metz's view. Using a theory such as Ubuntu as a sufficient basis for a narrative of return doesn't mean that Ubuntu is necessarily a narrative of return.

To treat Ubuntu and other African philosophies as static theories and/or worldviews is to engage in cultural anthropology, not philosophy. Philosophy implies critique, and critique, in turn, implies theoretical development. Yet a narrative of return necessarily implies the unearthing of a static theory of a bygone era, otherwise it would not be a 'return'.

To critically engage the tenets of worldviews, which includes the critique of those worldviews and their concepts, and the development of those theories and their concepts for different, future contexts, is to do philosophy. Matolino and Kwindiwi may critique some scholars for claiming to do philosophy by merely presenting a narrative of return; but engaging a theory, which includes critiquing that theory and developing its concepts, does not equate to a narrative of return project. When Alasdair MacIntyre offers an Aristotelian account of virtue today, we don't think he is advancing a narrative of return to Ancient Greece. If we proceed similarly in respect of Ubuntu, we would not be advancing a narrative of return either.

This leads us to the second point of Matolino and Kwindiwi's essay - the question of context. The issue of context is only an issue for a theory when the theory itself is locked to a particular historical context. From the quote above the authors think that Ubuntu is locked into its historical context. But this seems to me to be unsubstantiated. The most basic and literal descriptions and explanations of Ubuntu – sharing, empathy, humanity, hospitality, oneness,

and so on³ – all point to something that is certainly not locked into the specific contexts implicit in Matolino and Kwindingwi’s essay.

Substantiated here in admittedly broad strokes then, it should be clear that I disagree with Matolino and Kwindingwi’s views on the end of Ubuntu, which is the heart of their essay and project in the broader debate with Metz. I am a firm believer in travelling back to retrieve what makes us African. But we must not go back to stay there, for this indeed is the narrative of return project and it is not the work of the philosopher. As philosophers we must go back, in order to develop our theories and concepts, precisely for the future.

This is what I am aiming to do in this thesis. I am not so interested in conducting a history of philosophy project in which I aim to unearth the philosophies of bygone generations and cultures which don’t even exist today anymore, though there certainly is intellectual value in doing just that. I want to consult the past in developing a political system for the future, by provoking direct conversations between typically distinct sub-areas of political philosophy. Nor will there be any pretence that our development of the concept of Ubuntu will be entirely spontaneous. On the contrary, the direction of that development is entirely influenced by Ubuntu’s interaction with philosophical personalism in these lines. And the lodestar of that development will also be an adequate response to the shortcomings which we have raised in respect of political liberalism.

1.3) On liberalism, the invention of the individual, and human rights

That then, is how we are going to do African philosophy: we are going to look to concepts and theories from the past, respond to the challenges of today, and propose conceptual solutions for the future⁴.

³ With reference to Dandala (1996:70) and Mthembu (1996:218), Matolino & Kwindingwi (2013:199) say that “Ubuntu rests on some core values such as humaneness, caring, sharing, respect and compassion”.

⁴ Here it is important to say that we must be careful about the sense in which we use *ubuntu*. For instance, Metz’s Ubuntu is different to the ubuntu practiced in pre-colonial times, and while the ubuntu practices in pre-colonial times might be a lived philosophy even to the present day, we must still be able to distinguish it from Metz’s philosophy, which is both different and subsequent to the pre-colonial way of life.

As much as we want to avoid narratives of return in respect of African philosophy, so too we must avoid narratives of return in respect of liberalism and Western philosophy⁵. In other words, when we approach human rights in this thesis, we are not interested in a static theory from the past. We are interested in conceptual solutions for the future. Too often, *human rights*, *individualism* and *liberalism* are treated somewhat synonymously. Let us therefore test some assumptions in this respect.

I need only point to the abstract of the conceptual historian Jose Maria Rosales' essay *Liberalism's Historical Diversity: A comparative conceptual exploration* (2013) to see what is treated as a truism, i.e. that liberal ideas are "[rooted] in late seventeenth-century theories of rights". The essay in question is concerned *inter alia* with the way in which liberalism is often treated as a single tradition developing in a neat trajectory, when in reality, Rosales argues, the initial seeds were planted but its spawn took root all over the world, in different contexts and languages, to develop into what we today generally and broadly refer to as *liberalism*. But of its starting point, Rosales (2013:73) is unequivocal:

Liberalism's meanings were not prefigured in its philosophical antecedents. They have been created by the conceptualisations of an original series of ideas that first produced a conceptual constellation, and the primary theoretical *corpora*, in the 1790s.

In other words, it appeared on the scene spontaneously in the 1790s, disconnected from the philosophical traditions which preceded it. That is *prima facie* hard for me to believe; that anything can come into existence spontaneously, without regard to any previous intellectual and cultural developments. I am not interested, at least in these lines, in picking a fight with Rosales. What I am keen to show is that there is a view that holds that liberalism as we know it today has its roots in the 1790s.

Larry Siedentop (2017) offers a well-researched alternative to the one canvassed by Rosales. Siedentop's task spans some two millennia. He starts with a discussion of the most primitive of societies: those centred by family bloodlines. These families, and extended families which eventually develop into tribes, formed the basis of social organisations which existed at the

⁵ These terms – "African philosophy" and "Western philosophy" – have only approximate meaning. I beg indulgence from readers in my invocation of these and such.

time. Furthermore, worship and belief in the afterlife had a significant conception and situation. Immortality was realised in the perpetuation of the family: the source of the centrality of the *paterfamilias*. The *paterfamilias* exercised absolute control over young members of the family, male and female. Women, when they marry, exit the bloodline of their fathers, and join the bloodline of the husband's family. All efforts are then directed to the perpetuation and strengthening of the bloodline, hence the importance of having children, especially male children.

The big shift, for Siedentop, comes much earlier than 1790: in the emergence and development of Christianity, starting with St. Paul. Paul is the first to formulate notions of human agency and equality⁶. Siedentop's thesis is that it was the obliteration of the familial systems of social organisation, spearheaded by the Christian Church, that ultimately laid the foundation for the rise of liberalism later. He argues that Christianity provided the moral and intellectual soil in which liberalism could take hold; it provided the tools in the form of assumptions that made liberalism possible. So, there is sufficient dispute around the roots of liberalism, individualism and human rights.

In the meantime, in a different world amongst the Bantu⁷ peoples of Africa, Symphorien Ntibagirirwa (2017) writes of how we can trace in history and geography, the African concept of *ubuntu* taking root. These peoples were spread over central, south-eastern, and southern Africa – roughly from the present-day Congo all the way down to South Africa. As we will see later, there was a developing sense of the value of the person, and a developing conception and theory of morality around the concept of personhood. The root *-ntu* seen in the words 'Bantu', 'ubuntu', and others means *being*, and the prefix *bu-*, as in *ubuntu*, is an abstraction of substantiality⁸. As we will see in Chapter 5 when we delve into more detailed discussion of the metaphysics of Ubuntu, as the abstract of substantiality of being, *ubuntu* means *personhood*. In other words, as the concept of personhood was developing in the West, in Africa *personhood* was seen as the highest form and substantiation of being.

⁶ Paul, who for the first part of his life was a Jew, would have been trained in philosophy and other disciplines. There can be no doubt that there is great Judeo influence in Paul's writing and thinking, and to that extent, the origination of the idea must be seen in this light, i.e. at the point of fusion between Judaism and Christianity.

⁷ The word *Bantu* may be used or interpreted offensively in certain settings. I mean no such offense. I am using it here to refer to a broad, linguistic group of people, and as will become apparent below, the word is of metaphysical import.

⁸ In *African Philosophy Through Ubuntu* (1999), Mogobe Ramose offers a similar linguistic analysis.

This was all happening long before 1790.

Then, Desmond Tutu, in his famous memoir on the Truth and Reconciliation Commission of South Africa after apartheid, explained ubuntu by saying “if you want to give somebody high praise, you say ‘*Yu, u nobuntu*’ which means ‘*hey, he or she has ubuntu!*’” (2000:34). Tutu explains that this means this person shares with her neighbour, she is hospitable, giving and magnanimous. It was also within the context of how it was possible that Black people were able to be so forgiving of White people after the horror of apartheid, ready to build a new South Africa, that Tutu offered these thoughts on ubuntu. In effect, Tutu is saying according to the philosophy of Ubuntu, Black South Africans were able to do so because they have ubuntu – a variation of “*Yu, u nobuntu!*”. But to say ‘*Yu, u nobuntu*’ is really a certain way to tell someone, ‘*You are a person*’. To paraphrase Tutu, according to this philosophy, to give high praise to someone because they exhibit virtues of giving, forgiveness, hospitality, friendship and so on, you say to them, ‘*you are a person!*’.

The philosophy of Ubuntu is focused more on responsibility towards others than it is on rights, i.e. more on the responsibility of individuals towards others than on rights which individuals might enforce against others. Whereas we might then think of rights with corresponding responsibilities in terms of the liberal framework; in Africa, people were thinking of responsibilities with corresponding rights. Is it possible that this could shed light on human rights as we typically understand it? Is it possible to say something different to our typical understanding of human rights by focusing on our responsibilities towards others? How does this complement what is valuable and what we learn from the liberal worldview? We will revert to this discussion later in this thesis – in Chapter 5.

For now, I want to draw a line here, for this is not a project in the conceptual history of liberalism. I want merely to say something about the roots of liberalism and its emphasis on equality, freedom, and the dignity of the individual; and to make the point that the claim that it appeared spontaneously in the 1790s is not as uncontroversial that someone like Rosales might be happy to present as a truism in passing. The point is that liberalism has no monopoly on human rights. The idea of rights certainly predates even Rosales’ liberalism. The Romans, for instance, recognized property rights for its citizens long before 1790. While the emergence of the term may be an important development in human rights intellectual history, let us note that

the history of the human rights of the individual indeed is much broader than the conceptual history of liberalism. And certainly, one can be a supporter of human rights without subscribing to liberalism as conceived by Rosales or Rawlsian *PL*.

As stated, the human rights culture is intertwined with liberalism so that human rights is seen as *individual* human rights. Human rights seek to protect the individual citizen against oppression and the like from others. While this is indeed so, it does not mean that the human rights tradition may be conflated in any way with the liberal tradition – the two are sufficiently disparate. And this means that our society does not need to conform to the canons of liberalism to be a human rights society.

But it also means that we can test our assumptions about the notion of human rights. What are the kinds of constraints attached to human rights? What kinds of clues do we receive from the roots of human rights and the rise of the individual in this regard? To what extent does the modern conception of the person – individualist – influence our understanding of human rights? And is there another conception of the person which could do a better job at giving human rights a solid justificatory foundation? Is there another way to approach the issue of human rights? What are the theoretical implications of framing human rights in terms of responsibilities?

All of this is on the table.

1.4) The structure of this thesis

This thesis is divided into three parts over six chapters.

Part one, Chapter 2, is devoted to setting out the question. As a theoretical endeavour, liberalism has failed. Since its early days it has taken many different guises, with the perfectionist liberalism of Joseph Raz and Isaiah Berlin, and the *PL* of John Rawls, being the most recent, most developed versions. *PL* is an improvement on perfectionist liberalism because the latter offers liberalism as the grounding for a *foundationalist* system – that is to say, liberalism treated as a comprehensive doctrine ordering the just society. *PL*, on the other hand, is an attempt at setting out a *neutralist* system, which is to say that there is no single comprehensive doctrine –

not even liberalism – that orders society. Justice, instead, is conceived based on a conception of the right. And so, part one as found in the first chapter identifies the major target of this project: *political liberalism*. I will demonstrate just why *PL vis-à-vis* perfectionist liberalism is such an elegant political philosophy to subscribe to if the topic at hand is a theoretical basis for organizing the diverse political arrangement based on human rights. But I will also argue that, despite its elegance, it misses the mark and results in a dilemma. Either its prized *overlapping consensus* – which serves to bring stability to the pluralist political arrangement – is illusory, or *PL* is just a comprehensive doctrine itself, given the work that its allegedly neutral political conception of the person in the original position (OP) does.

That means we are left with a situation in which liberalism in its most developed forms cannot ground the pluralist political arrangement based on human rights. Do we abandon the pluralist political arrangement based on human rights as an ideal?

I think not. In the positive aspect of this thesis, I propose a new grounding for the pluralist political arrangement based on human rights. The grounding is the *UP* conception of the citizen. That is the lodestar for the remainder of the thesis – parts two and three.

In part two, I consider philosophical personalism. An eclectic intellectual movement, personalism is described in these pages specifically in response to the problems we identify with *PL*, with one eye on the pluralist political arrangement based on human rights. This description unfolds in Chapter Three. In Chapter Four, I look a little closer at exactly the kind of personalism we need. I pay homage to the work of Don Juan Manuel Burgos of Spain who is presently driving the personalist project known as *integral personalism*⁹. I present the fruit of my engagement with Burgos's work in the way in which I can show the greatest respect: by critiquing his system for being *individualist*. Then I look to another work of personalism: John Macmurray, who offers a relational constitution of personhood theory of personalism. While there is much to profit from this work because I too proffer a relational constitution of personhood theory, I do close my reflection on Macmurray in critique of his conception of agency – rejecting it for being counterintuitive. That brings both Chapter Four and Part Two of this thesis to a close.

⁹ This intellectual project is set out most clearly in Burgos (2019).

Armed with a question which we spelt out in Chapter Two, and the groundwork to an answer in chapters Three and Four, Part Three of this thesis makes the case for *UP*. My treatment of the fifth chapter is to develop a relationally constituted conception of the person by first describing an Ubuntu metaphysics, and then analyzing Ubuntu as an ethos in terms of the Ubuntu metaphysics. Then, by putting what was said about Ubuntu in conversation with what was said about personalism in the previous two chapters, I set out in precise terms the conception of the person. This conception of the person will inform a conception of the citizen which will ground the pluralist political arrangement based on human rights. In Chapter 6, we conclude with a concrete expression of the way in which our conception of the citizen based on *UP* might ground fundamental rights in a theory of justice.

Justice and the limits of liberalism: Why raise the question of personalism at all?

2.1) Introduction

2.1.1) *Thin agreements, thick reasons*

In *Man and the State* (1951), which is a reflection on his role on the development of the Universal Declaration of Human Rights, the personalist philosopher Jacques Maritain (1951:76) writes:

[Owing] to the historical development of mankind, to ever widening crises in the modern world, and to the advance, however precarious, of moral conscience and reflection, men have today become more aware, more fully than before, though still imperfectly, of a number of practical truths regarding their life in common upon which they can agree, but which are derived in the thought of each of them – depending upon their ideological allegiances, their philosophical and religious traditions, their cultural backgrounds and their historical experiences – from extremely different, or even basically opposed, theoretical conceptions.

Maritain goes on to argue that it is this idea that forms the basis for the Universal Declaration of Human Rights. It is a powerful idea: that while the citizens of a diverse political society might adhere to different philosophical, religious, and other theoretical comprehensive doctrines, they are nevertheless able to come together and agree on practical principles that could make life in that society just.

This idea¹⁰ appears sometime later as part of a systematic political philosophy in the work of John Rawls, starting with *A Theory of Justice* (1971) and continuing over the following 30 years

¹⁰ I am unaware of an attribution in any of Rawls's works to Maritain.

and more. His work is ranked amongst the greats, and one might wonder if the influence of his work brought attention to liberalism and *PL* such that the personalism of e.g. Maritain has not really enjoyed mainstream attention.

What makes the *PL* of Rawls so attractive is that, in organizing the multicultural political community, it requires us to make a distinction between *the good* and *the right*,

- a) *the good* – different cultures which each have their own thoughts on what good is; and
- b) *the right* – rules for organising society made up of different cultures.

Consider for a moment a homogenous society such as Pakistan, where Sharia Law informs the organization of society. In Pakistan, Islam and Sharia Law form part of a comprehensive doctrine which informs what *good* is in that society. Contrast that with a diverse country such as the United State of America, which is built on diverse and often opposing cultures, so that what *good* is is a controversial issue. This is a key problem in political philosophy – opposing ideas of what *good* is in diverse political arrangements.

In *PL*, *the right* is a system of rules that is neutral to competing conceptions of the good on which to organise society and which rules everyone can be expected to agree upon. And, the story goes, if society is organized in a way that adheres only to *the right*, then the society can avoid many of the conflicts which arise out of competing or disagreeing comprehensive doctrines. As we will see, *PL*'s value is in turning the focus of the conversation about organising society away from *the good* and onto *the right*, setting to one side the conflicting conceptions of the good. So, for Pakistan the organization of society is based on the conception of the good as found in Islam and Sharia Law. In the society based on *PL*, conceptions of the good such as Islam are put to one side¹¹, and the discussion is focused on *the right*.

¹¹ Such conceptions of the good/comprehensive doctrines are put to one side in the sense that they form part of what Rawls calls the “noninstitutional or moral identity” (1993:30) of citizens, as distinct from the “public or institutional identity” (1993:31). There must always be some compatibility between the two identities, and the conception of the right must always be ‘acceptable’ to the comprehensive doctrine. We will revisit this subtle point when we consider and discuss the overlapping consensus further below – how the moral identity of citizens gives moral impetus to the principles of justice in the overlapping consensus. For now, let us note that it is nevertheless clear that Rawls is concerned more with the public, institutional identity, and that the moral identity is relegated to the personal – important as it may be. “On the road to Damascus Saul of Tarsus becomes Paul the

We might say that Maritain’s “practical truths regarding [citizens’] life in common” is what Rawls would refer to as a conception of the right, and that citizens’ “ideological allegiances, their philosophical and religious traditions, their cultural backgrounds and their historical experiences” are what Rawls would refer to as *comprehensive doctrines* and *conceptions of the good*. And as we will see when we consider Rawls’s overlapping consensus idea, Maritain says that these “practical truths” are “derived in the thought of each of [the citizens] and their respective comprehensive doctrines”. So, there are important parallels between Rawls and Maritain.

What enjoys especial significance in Rawls is that he takes this idea that we’ve identified in Maritain and develops it to the fullest and greatest detail. But he does so within the broader liberal tradition and thereby creates a new category of liberalism. As I explain in greater detail below with reference to a 2011 essay by Martha Nussbaum, other versions of liberalism such as perfectionist liberalism use liberalism to form the basis of a moral *and* political system, and so proponents of perfectionist liberalism argue to persuade readers to subscribe to liberalism. Rawls, in contrast, works on the basis that interlocutors remain committed to their conceptions of the good, and instead works towards the construction of a conception of the right which he will describe as *a module* which can be supported by any of the different comprehensive doctrines in the diverse political arrangement. I will detail both Rawls and the other forms of liberalism more below.

Digging deeper into that sketch is one of the things I intend to do and take issue with below. I also intend to take issue with the scope of *PL*. Specifically, I intend to take issue with the exclusion of severely cognitively disabled human beings from the political arrangement in *PL*. This is not a novel critique of *PL* – it is something that Rawls acknowledged as a weakness of his system (Rawls, 1999b:448). It is also something that a self-proclaimed political liberalist in Martha Nussbaum¹² had attempted to address in *Frontiers of Justice* (2006). But it is a powerful challenge to *PL*, both because, for one, inclusion of the severely cognitively disabled into the

Apostle. Yet such a conversion implies no change in our public or institutional identity, nor in our personal identity as this concept is understood by some writers in the philosophy of mind” (Rawls, 1993:31).

¹² In *Perfectionist Liberalism and Political Liberalism* (2011b) Nussbaum describes her admiration and allegiance to *PL*.

political arrangement as bearers of rights is something fundamentally intuitive; but also because, for two, the exclusion which we encounter in *PL* goes to the heart of the system – and here is where the novelty of my argument enters the fray. We treat the severely cognitively disabled as citizens equal in dignity to cognitively abled citizens.¹³ We are scandalized by the death of the psychiatric patients in the Life Esidimeni scandal in South Africa around 2016, described by Advocate Dirk Groenewald as one of “the greatest causes of human rights violations since the dawn of our democracy”¹⁴. And yet, *PL* is unable to account for why this would constitute a human rights violation.

Finally, it must be understood that in political philosophy, the human rights standard is generally understood in terms of liberalism. Human rights culture is something that a society must aspire to. And then, in assessing this societal aspiration, very specific interpretations of moral and political values are invoked. These interpretations are generally *liberal* interpretations. When we think of e.g. feminism and women’s rights, we don’t think of interpretations of the role of women as subordinated to men – these are exactly the kinds of interpretations that are opposed. Rather, when we think of feminism and women’s rights, we think of equality amongst the sexes; we think of treating women as individuals and agents in their own rights, with the freedom to choose for themselves and so on. We think in terms of liberalist interpretations of what *women’s rights* means.

The various human rights-based political arrangements in history have sought to base the multicultural society within the liberal tradition, and in doing so, the general formula has been to observe the fundamental human rights of individuals, often against *the collective*¹⁵. This has therefore had significant implications for how human rights are understood; how they are interpreted; how we determine which human rights citizens should have; and so on. And another objective in this thesis is to put that on the table as well: to ask, what unwarranted assumptions are we making in terms of understanding the notion of human rights? And are there alternative, *better* ways in which human rights can be understood?

¹³ Severely cognitively disabled human beings might not be entitled to all the rights as cognitively typical human beings are, but that can be worked out at a later stage. I am making the point here specifically in terms of inherent human dignity, which I argue, all human beings, including severely cognitively disabled ones, are bearers of.

¹⁴ This quote is taken from a news article by Bornman, J. (2017) published by the Mail & Guardian.

¹⁵ *Collective* is used here as an approximation and/or aggregation of *society*, *majority of citizens*, and so on.

This brings us to a third issue raised against *PL* – in addition to the issues of *theoretical aims* and *scope*: the issue of *individualism*. Liberalism has always referred to the *liberty of the individual*. To focus on the liberty of the individual, we must presuppose a conception of the citizen¹⁶, i.e. that the citizen is in fact *an individual*. But the citizen is not a monkey or a donkey. The citizen is not car or a plant. The citizen is a person, and this means that we are necessarily confronted by the branch of metaphysics known as philosophical anthropology¹⁷. It is here that we will question the idea that the citizen is an individual – a problematic notion if *person* does not quite mean *individual*, as I will go on to argue.

2.1.2) Chapter outline

I begin with a discussion of *PL* (§2.2). I first say why *PL* is so elegant by contrasting it with perfectionist liberalism (§2.2.1) and then I look more closely at the philosophy of Rawls (§2.2.2). Then, having sketched out liberalism in ways relevant to this project, I move on to offering two issues with *PL*: the issue of scope (§2.3) and the issue of theoretical coherence (§2.4). That would conclude my discussion of *PL*, and by then I would have dismantled *PL* and neutralism completely. I will therefore shift my focus back to foundationalist liberalism (§2.5), looking firstly at Martha Nussbaum's thin, vague conception of the good (§2.5.1), and then finally at perfectionist liberalism and the problem of individualism (§2.5.2).

2.2) Political Liberalism: A Brief Overview

While it is true that it predates him, liberalism must recognise of itself in John Rawls a major and influential figure. To understand this, we will look briefly at the thought of Isaiah Berlin and Joseph Raz in the sections that follow and will revert to them after dealing with *PL*. For now, the work of John Rawls takes centre-stage. Another influential figure is Martha Nussbaum, who carries on in the field of *PL* with her work in the capabilities approach. Some mind will also be paid to her work. Nussbaum's work in the capabilities approach is considered an influential school within the *PL* tradition¹⁸. The motivation behind establishing this limitation in our reflection on liberalism is to focus on the strongest cases for liberalism.

¹⁶ By *citizen* I specifically mean *individual member of the political community*.

¹⁷ By *philosophical anthropology*, I am broadly referring to questions around personhood, e.g. *what is a person?*

¹⁸ Thom Brooks (2015) has written an interesting essay in which he argues for the central importance of social minimums in securing political stability – with the social minimums being spelt out in terms of the capabilities approach.

2.2.1) Perfectionist and Political Liberalism

Perfectionist liberalism is the view that citizens of the liberal state ought to adopt liberal values. Perfectionist liberalism takes as its starting point the importance of the autonomy of the individual in the political community. According to Joseph Raz (1986:369):

[In] western industrial societies a particular conception of individual well-being has acquired considerable popularity. It is the ideal of personal autonomy. It transcends the conceptual point that person well-being is partly determined by success in willingly endorsed pursuits and holds the free choice of goals and relations as an essential ingredient of individual well-being.

Exercising personal autonomy then, is a matter of individual well-being. And not merely in the sense that it is one element amongst many: for Raz, personal autonomy is the conception of individual autonomy that has gained widespread traction in western societies. Success and achieving goals are good, but it is the ability to achieve success in the goals that the individual has chosen for herself that really matters. “The ideal of personal autonomy is the vision of people controlling, to some degree, their own destiny,” Raz (1986:369) continues, “fashioning it through successive decisions throughout their lives.” It “is an ideal of self-creation...[and] consists in the successful pursuits of self-chosen goals and relationships” (Raz, 1986:370). More to the point, Raz says that “autonomy is opposed to a life of coerced choices...[and] contrasts with a life of no choices, or of drifting through life without ever exercising one’s capacity to choose” (Raz, 1986:371).

In the passage quoted in footnote 179 (1986:370), Raz compares his idea of personal autonomy to Kant’s idea of moral autonomy. Raz notes a contrast in that for Kant, while the will is the author of the law to which all persons are subject¹⁹, personal autonomy is “the freedom of persons to choose their own lives”. Despite this, the parallel to Kant is worth noting, especially in terms of the conception of autonomy that shines through in the third chapter of the *Groundwork to the Metaphysics of Morals* (2008). Here we find a bare autonomy constrained

¹⁹ “The will is therefore not merely subject to the law, but is so subject that it must be considered as also making the law for itself and precisely on this account as first of all subject of the law (of which is regard itself the author)” (Kant, *Fundamental Principles of the Metaphysics of Morals*, tr. H. J. Paton, London, 1956. Pp 98-9, in Raz, 1986:370 fn. 179.). I’ve checked and confirmed the text in Kant (2017).

only by the limits of reason and rationality – moral force is activated in the reasons of rational beings. For Kant, it is not constrained by any conception of the good outside of the autonomous individual. Raz, as we note above, doesn't regard his conception of autonomy as Kantian, but insofar as his idea of personal autonomy gives rise to moral force, on the part of the individual or others, there is something to note about a broader consistency with Kant²⁰. This reference to Kant²¹, as we will see in a moment, is important for the work that Rawls will later do.

In reverence to the primacy of autonomy, furthermore, perfectionists insist on the truth of pluralism. Leydet (2023) explains that questions arise within the context of the need to bring about the peaceful coexistence of members of diverse and multicultural societies. And liberals of both the perfectionist and political persuasion locate the problem facing multicultural societies in conflicting comprehensive doctrines. The solution proposed by perfectionist liberalism is to recognise that there is no single comprehensive doctrine which is independent of the autonomous individual. Rather, an important part of being autonomous means that individuals adopt or determine their own comprehensive doctrines²². This is pluralism: there is no one comprehensive doctrine. In *Crooked Timber* (1991:79), Berlin describes pluralism as requiring us

²⁰ It is worth noting that when Nussbaum (2011b) discusses Raz, she doesn't describe a distinction between the conceptions of autonomy as found in Raz and Rawls. As I argue in this chapter, I'm fully convinced that Rawls and *PL* employ a typically Kantian conception of autonomy – we need only look to the structure of the original position and its prominence in *PL* to see why. The difference, Nussbaum says, comes in where Raz holds the truth of autonomy and pluralism; Rawls, only autonomy. Importantly, this point is not to dispute Raz's claim that personal autonomy is different to Kant's moral autonomy – such a dispute is not really the focus of the present inquiry. The point is rather to show a parallel between the two; even to suggest Kantian rootedness. When Raz therefore looks at the man in the pit and the woman on the island with the carnivorous beast in his discussion on the Adequacy of Options (1986:373) for instance, it is hard to miss the broad strokes of Kant's discussion of how freedom is key to understanding the autonomy of the will – and in which we see Kant categorise even natural necessity, say survival, as heteronomous (Kant, 2008:41). Anyway, it is impossible not to import (at least some) moral value even into Raz's personal autonomy – these acts of personal autonomy are to be protected, in the sense that we must ensure that they are possible – and Raz is clear about that in his discussion on autonomy; and once an individual makes a choice on the basis of personal autonomy, that choice must be respected. And in both the instances of ensuring that personal autonomy is possible and respected, we are bound by a moral force.

²¹ It is important to point out that I am dealing with and responding to a very specific reading of Kant, i.e. the neo-Kantian constructivist reading. There are many other approaches to Kant. And whether Kant himself would have considered himself a neo-Kantian constructivist is up for debate.

²² I'm not highlighting a metaethical position here, and so the idea that moral value or a conception of the good arises out of autonomy or autonomous action should not be read into this section. Furthermore, there are certain conceptions of the good, e.g. Nazism, which pluralists do not consider equally true and valid. I am not referring to these controversial conceptions of the good and am happy to accept for the sake of argument the pluralist position that Nazism and other such conceptions of the good are wrong.

to look upon life as affording a plurality of values, equally genuine, equally ultimate, above all equally objective; incapable, therefore, of being ordered in a timeless hierarchy, or judged in terms of some one absolute standard.

The political community as a whole, then, cannot prioritise any single comprehensive doctrine above all others.²³ Equally, individuals are required to see the various comprehensive doctrines as “equally genuine, equally ultimate, above all equally objective”. Nussbaum (2011b:8) describes pluralism as “a thesis about values and their objective status, and a thesis that is supposed to be true”.

Suffice to note here then the two main points of perfectionist liberalism: autonomy and pluralism. We now turn attention to *PL*.

PL, too, recognises the primacy of individual autonomy. Again, the requirement to recognise the truth of all the different comprehensive doctrines is understood to be a major cause of conflict in the diverse and multicultural political arrangement. How political and perfectionist liberalism responds to the conflict differs. Whereas perfectionist liberalism requires that all valid comprehensive doctrines are viewed as having equal truth value, *PL* requires that comprehensive doctrines be treated as irrelevant to questions of the political arrangement²⁴.

According to *PL*, the only thing that ought to matter is the autonomy of the individual members of the political arrangement. The various comprehensive doctrines are not relied on to generate the principles of justice. The principles of justice are generated using a procedure that is neutral amongst competing comprehensive doctrines – it is generated on the basis of a conception of the right which is neutral amongst comprehensive doctrines. And since the procedure is neutral, the principles of justice are neutral. Then, these neutral principles of justice will form an

²³ Along the lines quoted in the text above, Raz (1986:396 – 397) introduces a lengthy definition of what he calls strong pluralism with a short description of what he calls weak pluralism. He then goes on (398) to say quite explicitly that the preceding chapter “supports strong pluralism”. He also says (398) that “[if] valuing autonomy commits one to the creation of value which in turn presupposes strong pluralism, then assuming the value of autonomy one can prove strong value-pluralism”.

²⁴ For *PL*, the view is that reasonable people can come to their own conclusions about the good, even if their comprehensive doctrines are not held by others. The requirement is therefore not for all in the political arrangement to accept the truth of these various comprehensive doctrines, but rather to bracket them and treat them as irrelevant to the issue of the political arrangement, even if, as we will see later, the comprehensive doctrines justify the principles of justice in the overlapping consensus.

overlapping consensus amongst the citizens of the diverse community, and each of them will observe these neutral principles of justice based on the comprehensive doctrine which each of them subscribes to based on their autonomy. In other words, the neutral principles of justice derive their moral force and validity from the comprehensive doctrines of each of the citizens in the diverse political arrangement, even though the comprehensive doctrines are put to one side when the principles of justice are generated by the conception of the right.

It is in this sense that autonomy in *PL* is said to be “freestanding” (of comprehensive doctrines). Whereas perfectionist liberalism requires that citizens adopt the values of liberalism as a comprehensive, foundationalist doctrine, i.e. because autonomy and pluralism go together; *PL* recognises the central importance of autonomy but requires that conflicting comprehensive doctrines, *including liberalism as a comprehensive doctrine*, are not considered when setting up the political arrangement. According to *PL*, setting up the political arrangement should be done on a basis neutral to such differing comprehensive doctrines, including liberalism itself.

Having set out the strands of perfectionist and political liberalism skeletally, we now shift our focus specifically to the work of John Rawls. Knowledge of face-value descriptions of his theory of justice is assumed here. I will concern myself with demonstrating that the neutralist approach that Rawls aims at doesn't work. And after doing this, I will revert to foundationalist approaches to liberalism, represented by the perfectionism of Raz and Berlin, and Nussbaum's thin, vague conception of the good, to see how they respond to the challenges which Rawls faces.

2.2.2) *Homing-in on John Rawls*

Central to Rawlsian justice is the original position (*OP*) thought experiment. Simply put, the *OP* is the perspective from which the Rawlsian social contract is entered. According to Rawls (1993:23),

...the fair terms of social cooperation are conceived as agreed to by those engaged in it, that is, by free and equal citizens who are born into the society in which they lead their lives. But their agreement, like any other valid agreement, must be entered into under the appropriate conditions. In particular, these conditions must situate free and equal persons

fairly and must not allow some persons greater bargaining advantages than others. Further, such things as threats of force and coercion, deception and fraud must be excluded.

For a start then, fair terms of social cooperation must be chosen. But then the first challenge arises. How does the *OP* ensure that some persons don't have greater bargaining advantages than others? How does it ensure that landlords don't have greater bargaining advantages than tenants; Catholics than Muslims; and so on?

The veil of ignorance shields the parties contracting in the *OP* from their *particular* positions in society. Rawls (1993:23):

The reason the original position must abstract from and not be affected by the contingencies of the social world is that the conditions for a fair agreement on the principles of political justice between free and equal persons must eliminate the bargaining advantages that inevitably arise within the background institutions of any society from cumulative social, historical and natural tendencies.

In other words, advantages held by particular citizens, and which may obtain in the society once the veil of ignorance is lifted, are kept hidden from the parties in the *OP*. In this way, the parties to the contract choose principles of justice which are self-interested, but also fair.

One of the virtues of John Rawls's *OP* is the way in which he derives neutral principles of justice which would be justifiable by the light of any (reasonable) comprehensive doctrine²⁵. Or so he argues. Behind the veil of ignorance, the individual in the *OP* does not know what her specific convictions will be. Instead, she only knows that once the veil is lifted it may be revealed that she may well hold comprehensive doctrine A or comprehensive doctrine B, where B may be the direct opposite of A. Not knowing which will apply to her, the individual is motivated to decide about questions of justice in a way that is neutral and fair between comprehensive doctrines A and B, by being justifiable in the light of both doctrines A and B.

²⁵ Principles of justice differ from other areas of morality because they need to form the basis on which people might be curtailed in what they can do, or arrested and sent to jail if they misbehave. This is why looking for neutral principles of justice is so important, so that they are fair to all.

This virtue is the way in which Rawls proposes to resolve questions which arise around the political arrangement of the pluralist society. It is different from perfectionist liberalism which demands the truth of pluralism²⁶. This is expounded by Nussbaum almost 40 years later in her essay *Political Liberalism and Perfectionist Liberalism* (2011b). Here she praises Rawlsian *PL*'s achievement in establishing itself as *freestanding* of metaphysical systems. For it is usually these metaphysical systems which cause trouble in the diverse, multicultural political arrangement. By remaining merely procedural and not attaching itself to any conception of the good based on a troublesome metaphysics, *PL* is able to coordinate diverse systems of belief in a multicultural society.

Crucial to understanding what makes *PL* so elegant is understanding the distinction between the procedural and the substantive. Procedural constraints do not require individuals to subscribe to any substantive conceptions of the good. The *OP* is based on such a procedural constraint. It asks any individual "if you were in the original position behind the veil of ignorance, what principles of justice would you choose?". Constrained only by reasonable procedure, Rawls can build *PL* from the ground up to then show substantive principles of justice. But it is generated by *rational procedure*. It avoids substantive conceptions of the good, even a substantive conception of the good based on liberalism, and is therefore impartial to the myriad conceptions of the good in the multicultural community, which makes it fair. It is constrained not by one of these (substantive) conceptions of the good, but by the (procedural) limits of reason.

Before moving on, it may be noted that there was considerable debate in the time between the initial publication of *A Theory of Justice* in 1971 and *Political Liberalism* in 1993. The latter book may be read as a refinement of the former. One of the major themes of the latter book seen as an answer to much of Rawls' interlocutors was the point that *PL* detached itself from any comprehensive doctrine. This is crucially important for its success as a political philosophy

²⁶ While I am speaking of moral pluralism here, it is important to note that Rawls and Nussbaum do rely on a specific but different kind of pluralism, i.e. epistemic pluralism. The idea here is that the "burdens of judgement" are such that it is almost impossible to be justified in saying that one comprehensive doctrine is false while another (yours) is correct. This slight distinction doesn't however detract from the main point which I am building up to - that *PL* claims to be *freestanding* of troublesome comprehensive doctrines which cause conflict in multicultural societies, when in fact it relies on a conception of autonomy that is itself a troublesome comprehensive doctrine.

because it is precisely what sets it apart from all other political philosophies. What I have described above is consistent with the later Rawls. His is not a comprehensive doctrine or based on any metaphysical system. *PL* is a system neutral amongst competing comprehensive doctrines in the multicultural society.

Or is it?

2.3) First issue: on the scope of justice in *PL*

Imagine you visited me at my home and, after seeing a kennel but no dog, you inquired why I have the kennel. If to this I responded that my severely cognitively disabled brother sleeps in the kennel outside, you would presumably be scandalized – and rightfully so! In common-sense terms, i.e. outside of the ivory towers of academic philosophy, we don't think of severely cognitively disabled human beings as *not* being bearers of dignity in the way that we think cognitively typical citizens are. We are horrified when we read that the Nazis thought nothing of performing horrible experiments on severely cognitively disabled human beings. We note reports of animals on a dairy farm that have starved to death with outrage, but our outrage is even greater when we hear that severely cognitively disabled human beings starved to death in the Life Esidimeni tragedy. It is counter-intuitive to say that the severely cognitively disabled are not entitled to basic rights²⁷ such as life, access to health care, protection of property, protection from slavery, privacy, security and so on. Intuitively, these human beings do enjoy dignity and certain rights which flow from that dignity.

And yet they are entirely excluded from *PL*. There are four important ways in which this is brought to light.

²⁷ There are clearly questions around which rights should be afforded to severely cognitively disabled human beings. For example, should they have political rights such as voting or standing for office? The answer is probably no. On the other hand, as mentioned in my appeal to intuition above, it seems fairly clear that they are entitled to certain rights such as life and access to health care. At this stage then, and as part of our inquiry, the issue of defining the rights to which severely cognitively disabled human beings are entitled is noted but left unresolved.

2.3.1) The manifest discrimination against the severely cognitively disabled

Firstly, the individual in the *OP* is a rational decision-making creature. Anybody may be included in the *OP*, provided they are able to *choose* principles of justice from behind the veil of ignorance. This is often viewed as a virtue: it means that discrimination on the bases of race, sex, religious views and so on are negated. Unfortunately, it excludes creatures who are not rational decision-making creatures. This is necessary because *PL* bestows rights and responsibilities on citizens, and the justification to demand that citizens perform their responsibilities in the ideal political arrangement comes from the contract nature of *PL*. As a rational creature, I am prepared to make concessions required by the two principles of justice if, once the veil of ignorance is lifted, I see that I am a billionaire, because I recognise that prior to knowing that I am a billionaire, behind the veil of ignorance, I reconciled with the possibility that I might be a pauper-philosopher on the other side of the veil of ignorance. But this requires the faculty of reason, and it is simply impossible for the same concessions to be made of a severely cognitively disabled human being who is a slave to her passions and unable to reconcile any possibilities from behind the veil of ignorance.

2.3.2) The structural discrimination of the severely cognitively disabled

There is a second way in which the problem in *PL* insofar as the severely cognitively disabled are concerned is brought to light. *PL* is generally hailed for inclusiveness by pivoting the *OP* on the capacity for reason. We may describe apartheid as a system that pivots only White people in an *OP* thought experiment to choose principles of justice. We may also say other unjust systems such as extreme patriarchy pivot only men to enter the *OP*; and so on. In pivoting reason, *PL* overcomes all of these traditional mechanisms of discrimination so that Blacks, Jews, women, homosexuals and so on are all included in the *OP*. But as the astute reader already noticed a few lines up, the severely cognitively disabled are excluded from the *OP* in just the same way that Blacks, Jews, women and homosexuals are excluded in other unjust systems.

This is a problem with all contract theories. Contract theories, hypothetical as they may be, require participants to understand the terms of the contract which they enter, and in that fundamental aspect to the nature of contract theories, they exclude severely cognitively disabled

human beings. These human beings cannot understand the terms of contracts, and so are not able to participate.

We may anticipate a counterargument to this criticism of contract theories which goes as follows. In the civil contract law, a court may appoint a curator on behalf of a person with limited capacity to act because of severe cognitive disability. Is it therefore not possible for a similar type of curator to enter the *OP* to act on behalf of the severely cognitively disabled human being? Or what if the individual in the *OP* was ignorant of being severely cognitively disabled once the veil of ignorance was lifted?

The first problem with this approach would be that it would justify other systems which are more obviously unjust. For example, we may then ask, can we not use this system that typically excludes homosexuals and have a heterosexual “curator” in the *OP* on behalf of the homosexual? The same may be said of Jews, women and so on in other systems. Such systems would negate the rights of Jews, homosexuals, women and so on to stand in the *OP in their own right*. The same must be said of the severely cognitively disabled. They enjoy entitlements in their own right, precisely as human beings, and not as a kind of caricature of the ‘real’ human being. We don’t think of Black people deserving of rights only in terms of them being White. Similarly, we shouldn’t think of severely cognitively disabled human beings as deserving of rights only in terms of them being cognitively typical.

To put it differently, when it comes to the severely cognitively disabled, it is simply not enough to say we will put a rational representative in their place, or that they are unaware that they are severely cognitively disabled once the veil of ignorance is lifted, because in such cases, we are requiring them to be something they are not. Including Black people in a theory of justice on the basis that they are White because being behind the veil of ignorance means you are White *as a matter of principle*, does not really include Black people at all and remedy the discrimination²⁸. And this is the sense in which *PL* is discriminatory; the sense in which *PL* becomes akin to e.g. apartheid. In the same way that apartheid looks to a feature which Black people don’t possess in determining its principles of justice, i.e. Whiteness; so too *PL* looks to a feature which severely cognitively disabled human beings don’t possess, i.e. rationality. And

²⁸ In fact, it is principally impossible for the individual in the *OP* to be Black once the veil is lifted in the apartheid system – that is just baked into the nature of the *OP* thought experiment. I expand on this below.

just as apartheid doesn't remedy its abhorrence by putting a White representative of Black people in the place of Black people, so too, *PL* cannot remedy its abhorrence by putting a rational curator of severely cognitively disabled human beings in the *OP* on behalf of severely cognitively disabled human beings²⁹.

But there is also a logical problem with the curator proposal. If a Black person is represented in the *OP* by a White person, then the interests of the White person will be furthered, precisely as a White person's, to the detriment of the Black person. Recall the way in which Rawls' thought experiment works. It is entirely hypothetical, and the principles of justice are arrived at specifically through a reasonable process. It is only possible because of rationality. Therefore, the irrational is excluded. This is the very structure of *PL*, and it means that the severely cognitively disabled are excluded from *PL* in principle. The interests of the reasonable are pursued; the interests of the unreasonable are specifically negated. In analogous terms, it would not be possible to ask what principles of justice a Black person would choose if he were White because then he would choose principles of justice which specifically serve the interests of White people. The veil of ignorance does the work of ensuring that the individual in the *OP* chooses reasonable principles of justice, negating and excluding the unreasonable. Even if the severely cognitively disabled has a cognitively typical curator in the *OP*, the curator will still only choose principles of justice which are in the interests of the cognitively typical and exclude the severely cognitively disabled; just as the White curator would choose principles of justice for White people and exclude Black people. This inevitability is built into the structure of the *OP* thought experiment and, by implication, *PL*.

If you ask the rational individual to choose self-interested principles of justice for the irrational human being, the rational individual will have to proceed irrationally, and the thought experiment falls apart. In this way, and because of the structure of the contract device, the difference between being Black or White is different to the difference between being rational

²⁹ Keep in mind that there is no actual representative in the practical sense. The idea of a representative is an analogue. The criterion of rationality, as argued in the previous section of this chapter, is so crucial to *PL* that the moral force of justice in this system depends on it. And this then really is the same as identifying the moral force of justice in something like Whiteness. Arguing that severely cognitively disabled human beings can't understand the principles of the contract is as arbitrary as arguing that Black people cannot be the bearers of White-rights because they are not White. Test the assumption – which Rawls sneaks into his system – that moral value is situated in rational decision making and it becomes plain as day.

or irrational. Rationality is baked into the structure of the device in the same way that Whiteness is baked into apartheid.

2.3.3) *The problematic political conception of the person*

The third way in which the question of the severely cognitively disabled activates a problem for *PL* is in the political conception of the person. The political conception of the person has a sense of justice and a capacity to form an idea of what is good. Again, the severely cognitively disabled is excluded from this conception of the person as they lack the capacity to form ideas about what good is and do not have a sense of justice. The exclusion of the severely cognitively disabled from the liberalist picture is no secret. I need only point to Nussbaum again, who says that

the core rational and moral personhood is something all human beings share, shaped though it may be in different ways by their differing social circumstances. And it does give this core a special salience in political thought, defining the public realm in terms of it, purposefully refusing the same salience...to gender and rank and class and religion (1999:70).

The quote above gives salience to one human characteristic, i.e. cognitive typicality, while recognizing the risk of proffering salience to other human characteristics such as gender or religion. Be that as it may, it should be clear that the political conception of the person in the *OP* is challenged by comprehensive doctrines and intuitions which recognize the personhood of the severely cognitively disabled. In this sense, the severely cognitively disabled further undermines the arguments proffered in support of the wide acceptability of *PL* – it is not widely acceptably after all.

They offer powerful challenges to the scope of justice. Through the way in which the *OP* thought experiment is structured, the severely cognitively disabled, as a category of human beings who have entitlements, are excluded. As far as Rawls is concerned,

[the severely cognitively disabled are owed] compassion and humanity...[but they, along with other animals and the rest of nature] are outside of the scope of the theory of justice,

and it does not seem possible to extend the contract doctrine so as to include them in any natural way (1999b:448).

This means that, for Rawls, they might be objects of compassion, but they do not come out as bearers of the (core) human rights, and certainly not as equal in dignity to cognitively typical human beings. As far as this project is concerned, the scope of justice in *PL* represents a form of discrimination and cannot be accepted. It is, in clear terms, a morally outrageous conclusion akin to discrimination of Black, homosexual, or other categories of persons, and should be treated as such. It really is for disciples of Rawls to address this issue. I don't understand why it is passed over in silence.

2.3.4) Nussbaum, the human being, and severe cognitive disability

Before concluding, I must make mention of Nussbaum's work in including human beings with cognitive disability into the scope of justice – a fourth way in which the severely cognitively disabled brings out the problem of *PL*. Her most detailed work on the matter is perhaps to be found in *Frontiers of Justice* (2006). I am able to accept what she is saying with a slight nod without compromising my arguments because what she is talking about is cognitive disability, whereas my use of the word “severe” is quite intentional. In *Frontiers* Nussbaum is concerned with the example of a nephew who is on the autism spectrum. I, on the other hand, am interested in human beings who are unable to perform the most basic functions for themselves because of the severity of their cognitive impairment. Of my interest she has the following to say in an earlier work (2000:231):

At one extreme, we may judge that the absence of capability for a central function is so acute that the person is not really a human being at all, or any longer – as in the case of certain severe forms of mental disability or senile dementia. But I am less interested in that boundary (important though it is for medical ethics) than in a higher one, the level at which a person's capability is ‘truly human’, i.e. ‘worthy’ of a human being.

Earlier, Nussbaum (1992) provides a list of features which will be “part of any life that we will count as a human life” (1992:216). The first feature on this list is *mortality*, which means the

list is fundamental. One of the features is practical reason, and it would only be fair to quote the description of practical reason in full:

All human beings participate (or try to) in the planning and managing of their own lives, asking and answering questions about what is good and how one should live. Moreover, they wish to enact their thought in their lives – to be able to choose and evaluate and to function accordingly. This general capability has many concrete forms and is related in complex ways to the other capabilities, emotional, imaginative, and intellectual. But a being who altogether lacks this would not be likely to be regarded as fully human in any society (1992:219).

One would expect that, if Nussbaum had any way of including severely cognitively disabled persons in the fold, then she would have addressed the matter at this juncture. But it seems she is quite happy to avoid the issue as such human beings are, according to her, “not...likely to be regarded as fully human in any society”. Later in the same paper she again bumps into the issue:

It will sometimes be very difficult to say whether a certain patient with senile dementia or a certain extremely damaged infant has enough of those basic capabilities to fall under the concept (1992:227).

She leaves it at that, shifting focus to ways in which her system *does* include categories of human beings who were excluded in the past, such as women.

To determine what is worthy of a human being without saying clearly what a human being is, i.e. whether human beings with severe cognitive disability are human being at all; seems to me to be putting the cart before the horse. Nobody would say that a being born of two human being parents is *not* a human being. And yet, in expounding the conception of the human being at the heart of her capabilities approach, she seems to exclude this category of human being. This is fatally problematic.

I am happy to draw a line here and make the point that Nussbaum’s work on the topic of cognitive disability does not affect the questions I raised here specifically in terms of our intuitions about human beings with severe cognitive disability. As far as I can see, she brings

out the fourth way in which humans with severe cognitive disability pose a problem to *PL*, and she is in the same boat as Rawls.

2.4) Second issue: the thick conception of the person in *PL*

2.4.1) *The veil of ignorance is a thickening agent*

Consider the following logic of how rights and obligations in the political arrangement might be obtained. A political arrangement is an arrangement for persons. These persons are the bearers of political rights, which derive from moral rights, which in turn derive from an inalienable dignity. The kinds of rights (moral and political) which persons ought to have will depend on the nature of the person, which in the political community is synonymous with *human being*, because the rights flow from inherent *human dignity*. The nature of human beings is therefore a source of moral value, articulated here as *inherent human dignity*. Note in this description the links between the nature of the being and the rights and obligations which obtain within the political arrangement³⁰.

The constraint of reason, be it in the Kantian categorical imperative or Rawlsian *OP*, relies on the conception of the human being as a rational creature, otherwise this characterisation of the political conception of the person in the *OP* will be arbitrary. What is more, it is only this fact about human beings, i.e. that they are rational decision-making creatures, which is considered when formulating Rawlsian principles of justice. This places a substantive, and not merely procedural, constraint on individuals, because there are comprehensive doctrines which claim that human nature is different in significant ways for the purposes of justice. Placing a substantive constraint on the individual in the *OP* is a serious problem for *PL* because it makes the system thick, i.e. it makes it a troublesome comprehensive doctrine.

There is another way to formulate this point. *PL* seeks to solve the problems of multiculturalism by setting autonomy free from the shackles which they see to be the source of the conflict: the diverse and contrasting comprehensive doctrines which individual members of the political

³⁰ Of course, I am speaking of all the human beings in a particular political community – not all of the human beings who, for instance, are alive at a given moment.

community subscribe to. Autonomy, with only reason as its constraint, is seen as the central aspect of the anthropology underlying *PL*. See here what Nussbaum (1999:57) says:

At the heart of [the tradition of liberal political thought] is a twofold intuition about human beings: namely, that all, just by being human, are of equal dignity and worth, no matter where they are situated in society, and that the primary source of this worth is a power of moral choice within them, a power that consists in the ability to plan a life in accordance with one's own evaluation of ends.

Rawls uses the exact same language. “[Since] persons can be full participants in a fair system of social cooperation,” he says (1993:19),

we ascribe to them the two moral powers connected with the elements in the idea of social cooperation...: namely, a capacity for a sense of justice and a capacity for a conception of the good.

The “power of moral choice” is the capacity for reason, and the capacity for reason and acting reasonably is central to Kant’s understanding of autonomy. But as a source of primary worth then, the liberal tradition places more than just procedural constraints on individuals in the *OP*, despite their claims to the contrary. Even though *PL* claims not to impose any substantive ethical demands on citizens in the political arrangement, it is nevertheless based on a philosophical anthropology which is a source of ethical demands. We see it above in what Nussbaum says: the source of equal dignity and worth in each human being comes from “a power of moral choice within them”. This is clearly a theory about what human beings are. When the individual in the *OP* is characterised in just the way that he is, a theory about what humans are and how moral force is activated is employed. Other comprehensive doctrines view the human being, what moral choice³¹ is, and the value of rational/reasonable human choices in very different ways – in philosophically significant ways.

³¹ Keep in mind that it is not merely a matter of human beings having moral choice within them that is important for the liberal worldview, but specifically that human beings have the power to choose moral ends and a life that they value. And this life that they have chosen, on the liberal worldview, then enjoys moral value as such. This is a very specific conception of “a power of moral choice within them” – it is not simply the power to make moral decisions *vis-à-vis* a tortoise who has no moral power whatsoever.

But in this way, *PL* fails at the task it sets out to achieve. It attempts to avoid the battle of competing comprehensive doctrines by requiring people to focus on procedure, but then situates its comprehensive doctrine at a different step in the procedure to other comprehensive doctrines. In the procedure, other comprehensive doctrines are placed in front of the veil of ignorance, and the individual in the *OP* is shielded from those comprehensive doctrines. In this way we are led to believe that comprehensive doctrines are excluded from the question of justice, and that, because this procedure is impartial to comprehensive doctrines, its outcomes must be impartial too. But all that is happening is that a specific and not uncontroversial conception of the person is being employed using the veil of ignorance, and the comprehensive doctrine is at work on this side of the veil of ignorance in the individual in the *OP*.

This problem is rehearsed in differing terms in Nussbaum's (2011b) appeal to *autonomy*. The problem with perfectionist liberalism, Nussbaum argues, is that it makes substantial ethical demands on citizens which cannot be justified in the liberal framework because this is precisely what liberalism sets out to avoid. It is not even justified in service to liberalism, which is what the perfectionists attempt to do – more on this later. Instead, Nussbaum says, we should put at bay all metaphysical systems which cause conflict in the diverse political arrangement, including liberalism as a comprehensive doctrine, and only honour the autonomy of the individual citizen. In this way, we avoid the conflicts between competing metaphysical systems altogether, and can put forth principles of justice which are neutral and fair.

Nussbaum does not however see that *autonomy* itself is a controversial metaphysical concept, which no doubt will invoke various controversial metaphysical systems depending on who is engaged. The invocation of autonomy on the part of Nussbaum is the idea that individuals act freely, with the implication of moral force in the free action of individuals. This free action is very specific, distinct from other metaethical systems. Indeed, part of the projects of Rawls, Nussbaum and other liberal theorists would be to claim that while the conception of the person at play may be viewed substantively, it is one that can nevertheless be shared by all plausible comprehensive doctrines - a *thin* concept. “*Who*”, they might ask, “*would not agree that the person is an autonomous creature?*”. It is, however, not so simple. In the Catholic view, to name but one, human beings are created in the image and likeness of God - the ultimate autonomous being. Human beings therefore act autonomously when they act according to the law and precepts of God. Ratzinger (1991) describes an “understanding of the Catholic

essence which expounds Christian faith from the basis of freedom and as the very principle of freedom itself'. Probably accepted more widely in Christianity, this is a far thicker conception of autonomy; one which stands distinct from the liberal conception, and one which liberal theory cannot accept. Add to the picture utilitarians who believe that human persons are rational choosers but that pleasure and suffering are sources of normativity, and we see that there is a subtlety at work in the controversy around competing conceptions of autonomy, making autonomy itself a metaphysically thick concept.

To resolve this section, let me say that Rawls should be able to concede that the veil of ignorance is arbitrary if he is to insist that his system is neutral because his veil of ignorance is what substantiates the conception of the person and the metaethics, i.e. how the principles of justice obtain their moral force, at work. But the veil of ignorance does a lot of work for Rawls – too much work. It is the element of what makes his system universalizable – and therefore the element of his system which makes it Kantian and comprehensive. In a system that is supposedly impartial to competing comprehensive doctrines, there should be no reason why we should use the veil of ignorance to constrain the individual as opposed to Sharia Law, or any other constraint. But if we remove the veil of ignorance, then the thought experiment and the system come apart. The veil of ignorance is not arbitrary. It enforces the constraint of reasonableness and gives the resultant principles of justice their neutrality, but also their moral force. Rawls must accept that there is a subterranean comprehensive doctrine at work, and a controversial one at that because there are several competing systems which do not see moral force obtaining through the rational moral choice of individuals.

As such, the veil of ignorance is a thickening agent.

2.4.2) Does the overlapping consensus rescue Rawls from this critique?

Rawls and his disciples are likely to appeal to *the overlapping consensus* as the mechanism to rescue *PL* from the charge in §2.4.1. Here is how it works. Because the principles of justice are generated from a neutral process, Rawls argues, the principles of justice themselves are neutral amongst competing comprehensive doctrines. Because the principles of justice are neutral, all citizens can agree to them. And as all agree to the principles of justice, they form an overlapping consensus amongst the various comprehensive doctrines. Each of the comprehensive doctrines

which citizens subscribe to then substantiate the principles of justice in the overlapping consensus: for Catholics, the principles of justice are substantiated on the basis of Catholicism; for Muslims, on the basis of Islam; and so on. So, it is not neo-Kantian constructivism which gives Rawlsian justice its moral force: it is the comprehensive doctrines to which citizens subscribe, and which citizens are able to use in justifying the neutral principles of justice in the overlapping consensus.

Let us examine *the overlapping consensus* more closely. For Rawls, there are “two main points about the idea of an overlapping consensus” (PL, 1993:144), namely that of a) reasonable pluralism and b) “the public conception of justice should be, so far as possible, presented as independent of comprehensive religious, philosophical and moral doctrines” (PL; 1993:144). *Reasonable pluralism* refers to the exclusion of unreasonable worldviews. Here we are happy to treat that as uncontroversial. It is the second point that is important to us, because it is the *independence* from any one comprehensive religious, philosophical or moral doctrine that makes the political conception of justice. And there must be an overlapping consensus in respect of the principles of justice which the political conception of justice generates amongst adherents to the various comprehensive doctrines in the diverse political arrangement.

What does this mean in terms of Rawls’s system? Let me state the neutral principles of justice:

First Principle: Each person has the same inalienable claim to a fully adequate scheme of equal basic liberties, which scheme is compatible with the same scheme of liberties for all;

Second Principle: Socio and economic inequalities are to satisfy two conditions:

- a. They are to be attached to offices and positions open to all under conditions of fair equality of opportunity;
- b. They are to be to the greatest benefit of the least-advantaged members of society (the difference principle) (Rawls, 2001:42-43).

Now, the fact that these principles of justice are independent of any one comprehensive doctrine and is instead based on the right means that all reasonable comprehensive doctrines will agree

to them. Thomas Nagel (2003:84) says that the overlapping consensus “does not mean the derivability of common principles of justice from all the comprehensive views in the pluralistic bouquet but rather the compatibility of each of those comprehensive views with a free-standing political conception that will permit them all to co-exist”. And then, while these principles are established independently of comprehensive doctrines, it is these very comprehensive doctrines that end up giving the principles of justice in the overlapping consensus their moral force.

How might this work with an example? Let us say that X is “do not tell a lie”. Call to mind how this ideal is captured in the ninth of the Ten Commandments which Moses received on Mount Sinai – *thou shalt not bear false witness*. Call to mind also Kant’s moral philosophy in terms of the categorical imperative and telling a lie. Now we have an overlapping consensus between, say, Kantian atheists and orthodox Jewry. These are two diverse groups of people. Both agree that it is morally wrong to tell a lie, but their motivations are different: for Kantian atheists it is unreasonable and an infringement of the categorical imperative to do so; for orthodox Jews it goes against the commandments handed to Moses by God. There is consensus, even though Jews see it as an instruction from God, while the atheists see it as irrational.

Now the example about telling a lie is limited to the extent that lying is a moral issue, where *PL* is a political philosophy. The simple example of telling a lie does the work of demonstrating the relationship between i) an ideal, ii) diverse motivations for the ideal, and iii) how they form an overlapping consensus between diverse groups. Most important for the political arrangement is that nobody is going to (practically) lie – ideally speaking.

Recall what was said earlier about the strategy of Rawlsian justice. The strategy is to avoid the troublesome comprehensive doctrines *in developing* principles of justice, but to use the comprehensive doctrines *in supporting* the principles of justice. To take a side-glance at the example of the *truthfulness* ideal, there is consensus between atheist Kantians and orthodox Jews, i.e. peoples who hold opposing worldviews, on the moral wrongfulness of telling a lie. And this means that despite their diversity, they can agree that telling a lie is morally wrong. If you’re trying to work out how the diverse political arrangement might be organized, this is an interesting point. And it should remind us of what we said about Maritain earlier: citizens of opposing beliefs can agree on practical principles for the purposes of living together.

Rawls wants to leverage this point for his system. Like Maritain did, Rawls says we should avoid the troublesome philosophical reasons as to *why* people hold ideal X and, for the purposes of the political arrangement, focus on the fact *that* diverse peoples hold X. In the case of telling a lie, we should avoid arguments for the existence of God, Jewish theology, Moses and all the rest, i.e. *why* orthodox Jews hold that telling a lie is morally wrong; and we should avoid Kantian metaphysics, Kant's anthropology, the categorical imperative along with the rest of his moral philosophy, i.e. *why* Kantian atheists hold that telling a lie is morally wrong; and focus simply on the fact *that* both Jews and atheist-Kantians acknowledge that telling a lie is morally wrong. *That* both groups hold that telling a lie is morally wrong is where the overlapping consensus is.

Rawls therefore relies on the convictions of the individual citizens in terms of their own comprehensive doctrines to give the principles of justice in the overlapping consensus their moral force. He constitutes his principles of justice on the basis that they are neutral, and then in the overlapping consensus, they are supported by the different comprehensive doctrines in the diverse society. As with the ideal *not to lie*, some in the diverse society will observe the ideal because it is one of the Ten Commandments, others because it coheres with the categorical imperative and so on. In this way the principles of justice in the overlapping consensus derive their moral force from the comprehensive doctrines in the diverse political arrangement, as they apply to the adherents of these comprehensive doctrines. It is not therefore the case that comprehensive doctrines have no role to play in Rawlsian justice, even though the political conception of justice is freestanding of all of these; rather, citizens are morally invested in the freestanding ideals of the political conception of justice *because* of the prescripts of *their own* comprehensive doctrines.

The result of this is that the overlapping consensus does much in the way of providing stability to the political arrangement. Because all of the reasonable comprehensive doctrines support the ideals in the overlapping consensus, Rawls says that,

those who affirm the various views supporting the political conception will not withdraw their support of it should the relative strength of their view in society increase and eventually become dominant (1993:148).

So, the political conception of justice is developed independently of comprehensive doctrines in the diverse political arrangement. But reasonable comprehensive doctrines nevertheless support the political conception of justice for their own reasons, and so not only do they give the principles of justice moral force, but they also ensure that adherents will observe the principles of justice even if they amass the political power to dominate other worldviews. “In these circumstances,” Rawls (1993:169) says,

a balance of reasons as seen within each citizen’s comprehensive doctrine, and not a compromise compelled by circumstances, is the basis of citizens’ respect for the limits of public reason.

That is the overlapping consensus and the work that it does.

Now recall that I alleged that there is a subterranean comprehensive doctrine at work in Rawls’s system. This means that Rawls’s system comes apart because his programme of neutrality is illusory. I have argued that while he tries to formulate a system that sits above all the competing comprehensive doctrines in the diverse society, what his system eventually bottoms-out as is one of the competing comprehensive doctrines. And this is a fatal problem for Rawls. His neutral system, after all, is supposed to generate neutral principles of justice. He is supposed to avoid all the “...comprehensive doctrines [in order] to bypass religion and philosophy’s profoundest controversies so as to have some hope of uncovering a basis of a stable overlapping consensus” (Rawls, 1993:152).

The problem is that the principles of justice are a product of the *OP* thought experiment. It is based on a specific conception of the person, and in turn, a very specific, thick comprehensive doctrine. We see this very specific conception of the person on display in the way in which for instance severely cognitively disabled human beings are excluded from the political arrangement. But these roots of the Rawlsian system shoot out and have far-reaching consequences to the tips of the very branches of his system.

Rawls’s move is to say he has only a very specific, limited interest in comprehensive doctrines, i.e. to give the principles of justice their moral force in the overlapping consensus. Rawls will claim that the political conception of the person and society is sufficiently coherent with, for

instance, the Catholic conception of the person for the political conception to serve as a module which can be supported by Catholic doctrine. But while Catholicism does agree that persons are choosing creatures, Catholics do not hold that the rational and reasonable choices of persons is what gives moral imperatives their moral force, which immediately puts Catholics at odds with neo-Kantian constructivists³². Nor do Catholics agree that “the primary source of [the equal dignity and worth] of human beings is a power of moral choice within them...”. Now admittedly, that is Nussbaum, not Rawls. But Nussbaum is no lightweight. She styles herself as an adherent of *PL* (Nussbaum,2011). And the individual in the *OP* is included in the thought experiment because of his power to choose. As we have already argued, non-choosing human beings such as the severely cognitively disabled are excluded from the *OP* thought experiment.

Rawls might wave his arms in frustrated disagreement and insist that the *OP* is used as a neutral module merely to generate the principles of justice. He will say that Catholicism is a reasonable worldview and that there exists an overlapping consensus between Catholics and members of other reasonable worldviews. But it is hard to see how this is the case if Catholics do not give the same philosophic meaning to the fact that persons are choosing creatures. And this is precisely where Rawls’s strategy, promising as it at first seemed, comes apart. Disagreements between troublesome comprehensive doctrines exist because these are attempts to answer the very difficult questions about life. When people therefore ascribe to a scheme of equal basic liberties, they do so based on their worldviews which substantiate *equal basic liberties* – in quantity and quality. Catholics therefore do agree that all should be entitled to a scheme of equal basic liberties, but that is a *necessarily* thick ideal: it necessarily involves e.g. a principled distinction between the sexes so that there will never be a female priesthood, doctrinal acceptance of transgender people, gay marriage, and so on. I’m certain this is not what Rawls has in mind when he speaks of equal basic liberties.

For those not convinced yet, let us spell out the case of Catholics, freedom of choice as a basic liberty, and the overlapping consensus. While Catholics will agree that persons are choosing creatures, and while they will agree that citizens should have an adequate claim to equal basic liberties, for Catholics, at the centre of that claim is a conception of the moral value of human

³² In *The Catechism of the Catholic Church (1995)*, see sections 1954 to 1960 for the Church’s position on morality from Natural Law; sections 2032 to 2040 on the role of the Magisterium, i.e. the teaching authority of pastors, on moral matters.

life from conception to natural death that denies liberties such as access to abortion and other reproductive healthcare for women – something other reasonable worldviews might take for granted when discussing basic liberties. This conception of the value of human life also functions to negate the permissibility of assisted suicide. Catholicism views the moral value of human life such that the human person herself cannot infringe that moral value³³ even in respect of her own life. Now it is conceded that Rawls does not expressly consider access to sexual reproductive health or assisted suicide as basic liberties, but this is precisely the point: Catholics *would* consider these issues as relevant. Because of the importance of the moral value of human life and human sexuality, the positive theory of Catholic anthropology is central to what Catholics believe about matters of justice. Catholics cannot therefore wait to make their case at a later stage, once the political arrangement is established. Catholics cannot treat the issue of human life as a non-political issue that falls into the category of an unjust imposition of comprehensive doctrine on non-Catholics. For Catholics, the issue of human life goes to the heart of justice. Rawls says that the fact that Catholics are agreeable to a scheme of basic liberties in principle is sufficient to avoid disagreeable discussion informed by Catholic doctrine, but nevertheless establish an overlapping consensus. This is simply not true, because when you study what Catholics mean by “basic liberties” you will soon enough find that it is something very different to what Rawls means by basic liberties, and very different to what other comprehensive doctrines might say about basic liberties. The moral value of human life is central to the Catholic worldview and will inform any scheme of basic liberties that it supports. When Catholics talk about basic liberties, the moral value of human life is at the top of that list informing everything else on it.

To polish this argument even further, let us identify neo-Kantian constructivists, noting that one part of my argument is that Rawls’s system is neo-Kantian constructivist. To ensure that the two groups in our specific example are sufficiently opposed, let us also add that the neo-Kantian constructivists are atheists³⁴. So, we have our two groups: Catholics, and atheists who subscribe to neo-Kantian constructivism. Let us also consider the specific example of the freedom to choose – a right which will be found at the heart of Rawls’s basic liberties in his first principle

³³ There are cases where human life might justly be taken – private defence, just war and so on. These are not relevant to the present discussion though.

³⁴ Neo-Kantian constructivists, of course, don’t have to be atheist, but given that Catholics have to believe in God, we introduce this additional characteristic to ensure that the two groups in our example are sufficiently opposed.

of justice³⁵. The question is, do Catholics and neo-Kantian constructivist atheists share a consensus on *the freedom to choose*?

Both will agree that persons (ought to) have the freedom to choose in the political arrangement. For Rawls, the freedom to choose is generated by the *OP* thought experiment as one liberty in the scheme of basic liberties. And then, through the work of the concept of the overlapping consensus, Catholics will rely on the Catholic worldview to justify freedom to choose, just as the neo-Kantian constructivists will rely on neo-Kantian constructivism to justify freedom to choose. That's what Rawls argues.

Rawls is right in that both of our two groups will support the proposition that citizens (ought to) have freedom to choose in the political arrangement. But the overlapping consensus is superficial in the sense that what Catholics and neo-Kantian constructivists *mean* by freedom to choose are very different. Let me say how.

For neo-Kantian constructivists, the free choice of rational creatures is what gives rise to moral value. When rational creatures make rational choices that generate reasons to act, those reasons to act become morally binding upon those rational creatures. Freedom to choose means acting in accord with the rational will. Here then freedom to choose something like abortion is morally permissible – indeed, morally binding if the rational creature has a reason to so choose. This is precisely why and how the issue of abortion is presented as an issue of women's rights: respect is demanded for any being with a genuine will to choose freely, whereas the unborn – and the severely cognitively disabled for that matter – lack this capacity.

Catholics too believe that rational creatures can make rational choices, and that these choices must be respected. This is because persons with the capacity to choose are created in the image and likeness of God, who is also the Good. *Rational choices* therefore yes, but the choices must conform to the rational choices of the Rational Creator-God, the God who has made Himself known in history through, for instance, the issuance of the Ten Commandments and in the

³⁵ The two principles of justice are even prior to the constitution of a country, and so Rawls wants the basic liberties to provide for the right of citizens to vote for political representatives who will act on their behalf to further establish the political arrangement. Front and centre then of Rawls's first principle of justice is the freedom to choose. It might be said that Rawls is somewhat fast and loose with the basic liberties as such, but there can be no doubt that the freedom to choose is crucially important for the Rawlsian (and liberal) picture.

person of Jesus. For Catholics God is the lawmaker, and acting rationally is moral when acting in accord with the will of God. And this is what Ratzinger means when he speaks of the “Christian faith from the basis of freedom and as the very principle of freedom itself”. For the Catholic, God is Freedom: to act freely is to conform to the will of God. And since it is God who wills the creation of every human being, there can be no freedom to choose abortion where such freedom is incompatible with the will of God. Acts that go against the will of God can never be chosen freely by rational human beings, and abortion is a typical example of such an action.

This means that, even though there is a *literal* overlapping consensus between Catholics and neo-Kantian constructivists in *freedom to choose*, what is meant by the two worldviews by the words “freedom to choose” is disparate in fundamental ways. The way in which freedom to choose functions is different on the two worldviews. And this is only seen when you look to the troublesome comprehensive doctrines behind the worldviews that Rawls is intent on avoiding.

In our example there is no overlapping consensus in the freedom to choose. Any overlapping consensus spoken of is superficial.

The same point can be made of vegans who believe that moral force is found in sentient beings and that freedom of choice excludes actions which will cause certain kinds of pain on sentient creatures – and so on. Or to Muslims who believe that freedom of choice is substantiated in terms of the Quran and the Hadith. This is quite a subtle problem that I believe can be generalized to apply to most worldviews.

The net effect of my argument is that Rawls faces a fatal dilemma. Comprehensive doctrines either align with liberalist interpretations or they don't. *If they don't align*, then the overlapping consensus is superficial and illusory, and *PL* collapses. *If they do align* with the liberalist interpretations, then *PL* works. In fact, that is the only time that one can make anything out of *PL* at all – when the different comprehensive doctrines are interpreted in terms of liberalism. But that simply means that Rawls has smuggled in his own comprehensive doctrine – liberalism – and that his system is not neutral. *PL* therefore collapses.

2.4.3) *A Rawlsian retort: on the reasonableness of doctrines*

What Rawls might respond to all of this? I suspect that Rawls's responses might be found in an appeal to the reasonableness of doctrines. He might say that the worldviews which I've considered hereinabove are not reasonable, and that if they are reasonable, they'd be consistent with the neutral principles of justice. There are two things to say to this.

The first is that in typical Rawlsian style, he discusses and conceptualizes the idea of the reasonable doctrine in various places without giving a concrete definition upfront and proceeding accordingly. Nevertheless, we can discern that reasonable doctrines consist in the following three features: i) theoretical reason, ii) practical reason and iii) a tradition of thought and doctrine. A reasonable doctrine needs to tell a story of the so-called big questions of life (theoretical reason), it needs to provide a theory of how they offer rules for life, and then it also needs to be situated within an intellectual tradition. Rawls explains that the "account of reasonable comprehensive doctrines is deliberately loose" (1993:59).

For Rawls to respond that Catholicism, Islam and other such comprehensive doctrines are unreasonable would contradict the above definition of reasonable comprehensive doctrines. From the text, it seems that it is Rawls's intention to include all these worldviews. Ergo, we must say that Catholicism, Islam and other worldviews *are* Rawlsian reasonable, even if we are unable to establish a deep overlapping consensus between them.

The second thing to say would address the same issue at two different levels. At one level, Rawls might say that for the purposes of *PL* and specifically the overlapping consensus, it is important to give a reasonable interpretation to comprehensive doctrines like Catholicism. At another level, Rawls might say that certain aspects of Catholicism are reasonable, while others are unreasonable.

At both levels, what we have said about *PL* being a comprehensive doctrine applies. The difference here is that the thickening agent is the word *reasonable*. Rawls uses a controversial, and therefore thick, conception of the person in the original position to generate what he says are neutral principles of justice. I have argued that this means that his system is not a conception of the right, but rather one of the many competing comprehensive doctrines. And this argument

will be vindicated most by a move from Rawls that says, “the overlapping consensus only works for worldviews like Catholicism when they are either *reasonable* or given a *reasonable interpretation*”. Rawls might as well say “the overlapping consensus only works for worldviews like Catholicism when they are either liberal or given a liberal interpretation”.

2.4.4) *Concluding Rawls*

It should be clear that even though *PL* sets out to use a neutral procedure to generate neutral principles of justice that can be supported by reasonable comprehensive doctrines in the diverse political arrangement through an overlapping consensus, it nevertheless ends up producing a dilemma. Either it is indeed neutral but then the overlapping consensus is illusory; or it gives clear criteria which comprehensive doctrines must conform to, but then it is no longer neutral.

It must be emphasized that, posed as a serious question, Rawls’s account of a neutralist system is the most detailed, most well developed. And in that sense, he deserves his place in history amongst the greats. But in taking down Rawls’s account – for discrimination and for being subject to a dilemma – we are left having to return to the approach of a foundationalist account of the basic structure of society to justify the human rights-based pluralist political arrangement. If *PL* can’t substantiate a coherent theory of neutrality, we must infer that neutralism is a hopeless aspiration.

2.5) Two foundationalist conceptions of liberalism

Having justified the abandonment of the neutralist approach, there are two more systems that I must address. The first is the thick, vague theory of the good of Martha Nussbaum – a kind of hybrid between *neutralism* and *foundationalism*. The second is the foundationalist approach to liberalism.

2.5.1) *The thick, vague conception of the good*

In no uncertain terms, Nussbaum stands as a titan of the capabilities approach – a system focusing on developing public policy based on giving individual citizens the capabilities to pursue the lives they value as individuals. “The list is a list of capabilities,” Nussbaum

(1992:225) says “and not actual functions, precisely because the conception is designed to leave room for choice”. Access to food is covered by the list, for instance, but because choice is central, that citizens *eat* is not the concern. If citizens want to fast, then that must be their choice. What is important is that citizens don’t starve.

Now the list of capabilities covers a wide range of aspects including i) life, ii) bodily health, iii) bodily integrity, iv) senses, imagination and thought, v) emotions, vi) practical reason, vii) affiliation, viii) other species, ix) play, and x) control over one’s environment. The reasoning is that public policy should form around these capabilities. So, in terms of the first capability *life* the substance is “being able to live to the end of a human life of normal length; not dying prematurely, or before one’s life is so reduced as to be not worth living” (Nussbaum, 2011a:33-34). Public policy should therefore seek to reduce child mortality rates so that citizens who are dying as young children might instead be able to live a life of normal length. And so the story goes.

Of especial interest to us here is an essay Nussbaum wrote in 1992 which argues in favour of a specific kind of *essentialism*. Nussbaum distinguishes between external essentialism, which is essentialism based on a realist metaphysics and which is *external* to the human being, and internal essentialism which is based not on something external to the human being, but based on the human being itself. According to Nussbaum (1992:223), “the list does not derive from any extrahistorical metaphysical conception, or rely on the truth of any form of metaphysical realism”. Rather, Nussbaum goes on,

it’s guiding intuition is that we do recognise as human, people who do not share our own metaphysical and religious ideas; it aims to get at the root of those recognitions (1992:223).

The 1992 essay responds to and rejects anti-essentialist worldviews in favour of strongly pluralistic worldviews; worldviews which subscribe to forms of relativism about what human beings are and related ethical and cultural issues. Nussbaum recognizes the problem of the diverse political arrangement and agrees that we cannot base the just political arrangement on any one comprehensive doctrine; but rejects a relativist pluralism which recognizes the equal

truth of all comprehensive doctrines. And it is on this basis that she develops a thick, vague conception of the good based on her list of core capabilities.

The first point, and the structure of this point was applied to Rawls above, is that it is hard to understand how Nussbaum can claim that her “conception is emphatically not metaphysical” (1992:215) when it so clearly *is* based on a conception of the human being/person that is controversial. There is obviously a conception of the human being at work in her formulation of the list of capabilities. We have already said that this conception of the human being fails to accommodate the severely cognitively disabled in an acceptable way as equal citizens. Further, we can ask why should it be *this* list of items and not another? Nussbaum *just says* that this list is the core capabilities and avoids any metaphysical discussion on why it should be *this* list and not another, precisely because her system is not supposed to be metaphysical. But this is a bad thing, because John Finnis (1980) has a list of seven basic human goods: i) life, ii) knowledge, iii) play, iv) aesthetic experience, v) sociability (friendship), vi) practical reasonableness, and vii) religion, which differs from Nussbaum’s list of capabilities. Why should we choose her list and not his?³⁶ In the absence of a (metaphysical) argument from Nussbaum, it is hard to resolve this. But more importantly, as we said with Rawls, when you articulate a conception of the person, you are doing metaphysics, *necessarily*. As with Rawls, Nussbaum wants to avoid this – so she too is stuck with Rawls between the same rock and the same hard place. To show why we should prefer her conception of the human being over another – e.g. Finnis’s (1980) – she must engage in metaphysical discussion. Talk of the nature of the human being is metaphysics. If she avoids this, then she, like all other tyrants, simply insists that we must subscribe to her disguised metaphysics over others for no good reason. But the minute she does this; the minute she remedies *that* problem and engages in metaphysical talk, then her system loses its charm – it loses its thinness and its universal appeal.

And then, as we have said with Rawls’s overlapping consensus, when you go beyond the texts of Nussbaum’s list of capabilities, we start to see that it is not thin at all. According to Nussbaum, her system “aims to be as universal as possible” (1992:215). In reality, it bottoms-out as rather parochial. Take for instance the second capability, *bodily health*, which includes “being able to have good health, including reproductive health” (2000:78). With Rawls we

³⁶ I discuss this issue in Seale (2015) as well.

made the example of the Catholic Church, which would agree with Nussbaum at face-value that “reproductive health” is crucially important, but where artificial contraception and abortion are prohibited. So, while the Catholic Church agrees with Nussbaum on the importance of reproductive health literally, when one looks beyond the text as to what the Church means, it probably goes without saying that this is not quite what Nussbaum has in mind. Her third capability, bodily integrity, includes “having...choice in matters of reproduction”, and the same point applies. The Church would agree, we should have choice in matters of reproduction, but the choice to have offspring could only be made within the context of marriage between one man and one woman. And so on.

In the meantime, with his list based on natural law, Finnis makes no mention of other species, as Nussbaum does. Now it is important to note here that I am arguing neither for nor against Nussbaum’s eighth capability. Rather, I am pointing out the disparity between the lists of Nussbaum and Finnis. And so, there is not only a lack of consensus on the text which appears on Nussbaum’s list, but also a lack of consensus on what should count as a capability or human good at all.

2.5.2) Perfectionist liberalism & the problem of individualism

Before concluding, let us say something about one other category of liberalism: perfectionist liberalism. We have considered Rawlsian hard neutralism and said why it has failed. And we have considered the soft, essentialist neutralism – the thick, vague conception of the good – of Nussbaum, and said why it doesn’t work either. We noted that Nussbaum sees her system as a kind of module which is freestanding of worldviews, and which the troublesome comprehensive doctrines can fit into. And then we said why this subtly different version of neutralism also failed.

Let us return to the most developed foundationalist approach to liberalism chronologically prior to *PL* – perfectionist liberalism.

Recall from a few lines up in our description of perfectionist liberalism that we said that Raz, who is the paradigmatic perfectionist liberalism figure, argues for the centrality of autonomy. In footnote 23 above we noted that according to Raz (1986:396 – 397),

[if] valuing autonomy commits one to the creation of value which in turn presupposes strong pluralism, then assuming the value of autonomy one can prove strong value-pluralism.

But as we also noted, Nussbaum (2011) argues, convincingly in my view, (strong) value-pluralism undermines autonomy. *Respecting* that which other persons hold sacred as a corollary of respecting persons is one thing. *Accepting as true* what other persons hold sacred, even for the purposes of valuing autonomy, undermines one's freedom of thought, religion and belief, and therefore ultimately, one's autonomy. It is hard to see how the Catholic is respected as autonomous while also demanding that the Catholic accept as true the neo-Kantian view that women ought to have the freedom to choose an abortion. Similarly, pluralism itself demands that one hold the truth of the opposite of pluralism. We know this criticism from the logic of the common critique against relativism – relativism is self-defeating. The extent to which pluralism therefore is a euphemism for what is really an undercover relativism must be noted.

Then, there is also the problem of the exclusion of categories of human beings – the severely cognitively disabled applying in equal measure as in the cases of Rawls and Nussbaum. This really is a problem, for liberalism, that goes back all the way to Kant.

A far more serious challenge with the value pluralism we see in perfectionist liberalism is the presumption that definitive truth cannot be attained. Recall the words of Berlin (1991:79), when he calls upon us “to look upon life as affording a plurality of values, equally genuine, equally ultimate, above all equally objective”. And this pluralist approach is demanded by the morality of freedom and autonomy – valuing autonomy commits one to believing pluralism. And recall Nussbaum, who says that at the heart of the liberal tradition is the intuition that all humans are of equal dignity because of an inherent power to choose – autonomy.

It is Nussbaum's characterization that provokes us into questioning the liberal project. Why should the power to choose, which gives rise to dignity for Nussbaum and pluralism for Raz, be *the only* and/or *most important* truth about persons?

And the formulation of the question quite so makes clear two points. One, liberalism itself relies on a non-negotiable, ultimate truth: the moral worth of the individual human being based on

her ability to choose. And two, liberalism subordinates all other moral values, however generated and/or formulated, to this non-negotiable. And once this is brought into view, we understand both liberalism as a category and what is fatally problematic about it. It focuses on the individual human ability to choose and prioritizes this above all else. It interprets all else in terms of this. This goes all the way back to Kant (2017) in *The Groundwork*.

But there are other truths that are non-negotiable, and which must be considered. Killing an innocent person, for instance, is morally wrong in a non-negotiable way. This is not a value which is acceptably prioritized in different manners from worldview to worldview, so that it is acceptable to kill an innocent person in certain cultures when doing so is in observance of some other superior value. Nor is killing an innocent person *extrinsically* wrong because it denies an individual person her *intrinsically valuable* ability to choose. Killing an innocent person is morally wrong *just because*, as one might say when speaking colloquially. Killing an innocent human being is intrinsically wrong. In fact, the moral impermissibility of killing an innocent human being is self-communicable in a way that causes us to question moral systems which allow for such killing. That such systems are wrong is made clear by the killing of severely cognitively disabled human beings – human beings who lack the capacity to choose.

Nor is it possible to see political systems such as apartheid or Nazism as morally correct and just – *ever*. It is true that people in the past believed that Nazism and/or apartheid was morally correct – but that is exactly the deception of pluralism and relativism. A political system which systematically discriminates against groups of people because of a feature or characteristic which those people possess and share is *intrinsically* morally wrong, and not because of some corollary such as the infringements on the rights of those people to choose in those systems. We see this in an uncontroversial way in the systematic and principled discrimination against severely cognitively disabled human beings in the system of Rawls. Nobody thinks that their inability to choose is a justification for treating severely cognitively disabled human beings as non-human animals. And today, as we are scandalized by the wanton disregard of such human beings under Hitler, we ought to be equally scandalized by the wanton disregard of such human beings under Rawls.

Another such truth, which is crucially attacking to the liberal worldview and its priority of choice, is the truth that we live in community. As Metz (2014a) describes, the communitarian

charge that liberals think that persons can live outside of community is a strawman – the liberal position is far more subtle and sophisticated. But this only goes to show how much work the thick, controversial conception of the person employed by liberalism is doing. “The specific contribution of the liberal tradition,” Raz says, “has always been its insistence on the respect due to individual liberty” (1986:2). The concept of ‘individual liberty’, and therefore liberalism, needs a person that is individual and capable of choice. It rejects ideas in which personhood is constituted by and in community; it rejects ideas in which the (rational) choices of individuals curtailed or infringed upon by anything from without the individual. And yet, this is exactly what persons are – very obviously. Persons are found in community – as Metz admits – and there are no purely autonomous, purely free – in the Kantian sense of freedom – choices. Choices are made based on an interaction between the subjective reality of the individual, and the objective reality outside of the individual in which the individual exists, which includes truths such as the immorality of the wanton killing of innocents and the moral value of the community in a fundamental way. So, what do liberals do, according to Metz (2014a)? They isolate the individual for the philosophical moment for a very specific purpose – political philosophy. And this seems to me to be a very sophisticated way of saying that liberals soak the premises of their arguments in a concoction of vinegar and spices, and expect us to be surprised when their conclusions are pickled: liberals set up their systems on individualist terms and then act impressed when their systems produce individualist conclusions.

Not only do individuals live in community, but the reality and truth of the community also cannot be ignored or attenuated to a secondary level. And this is where we come to the heart of the matter in a political philosophy reflection. The community, which is part of the objective reality outside of the individual, is an intrinsic aspect of doing political philosophy. We are, for instance, talking about *this* kind of political community and not *that* kind of political community. Rawls, in his later work, reduced the scope of his inquiry to constitutional democracies, which are much narrower than the more universalist focus in *A Theory of Justice*. Raz is clear, especially in *The Morality of Freedom* (1986), where he argues that values and moral principles are societal and context specific. But the values and moral principles are subordinated to individual freedom when these come into conflict, undermining the reality of the community.

There are truths which must feature in the political arrangement. These truths are not all covered by the human capacity to choose.

Perfectionist liberalism doesn't pretend to be neutral amongst competing comprehensive doctrines, as the systems of Rawls and Nussbaum do. Perfectionist liberalism is quite open about the fact that it is a foundationalist system. It is open about the fact that its argumentative strategy is to convince interlocutors of its correctness as a comprehensive doctrine. But, as with all of liberalism, its starting points are fatally problematic in the sense that they place an undue weight on the freedom of the individual who is abstracted from her social context, at least when the value of freedom comes into the conflict with the social context. And recognizing this in perfectionist liberalism enables us to see the problem with liberalism in general: it is the problem of individualism.

2.6) Conclusion

Why raise the question of personalism at all? Has John Rawls not set us on a path that would eventually solve questions around the bases for the pluralist political order?

John Rawls's strategy of staying above conflicting comprehensive doctrines by pursuing a conception of the right was, with no exaggeration, brilliant. Notwithstanding that he ultimately failed to achieve his goal, his attempt remains thorough and detailed. In pursuing this goal, his commitment to rationality meant that he is committed to the abhorrent discrimination of categories of human beings, most notably the severely cognitively disabled. This is lamentable. I can't see how this doesn't place his political philosophy in proximity to other philosophies that discriminate against categories of human beings – Nazism, apartheid, and so on. One of the goals of this essay is to urge followers of Rawls to address this deplorable situation – if possible though, as Rawls himself was not hopeful.

But not only does his system then result in discrimination against a category of human beings, the subterranean conception of the person at work thickens his system and undermines the overlapping consensus which he hopes will provide his system with much needed stability. Rawls theorised himself into a dilemma: either his system is indeed thin and the overlapping consensus is superficial and illusory, or the overlapping consensus is not illusory because it

includes only reasonable comprehensive doctrines – in which case his system is thick because *reasonable* is more substantial than a neutral system can permit.

Where does this leave us?

Well, we must confront the fact that our best candidate to ground the pluralist political arrangement, *PL*, has come apart. Not only that, our best candidate for a neutral grounding of the pluralist political arrangement has come apart. And, as we have also seen, well developed foundationalist systems such as perfectionist liberalism also fall short because to acknowledge and respect the autonomy of the individual on the foundationalist views, you have to accept the truth of pluralism, which undermines the autonomy of the individual.

We must therefore look elsewhere for a grounding of the pluralist political order based on human rights. We saw in the first chapter that the rise of the individual predates liberalism. This is really a way to say that it is possible to think of the individual and her dignity independently of the liberalism framework³⁷. And even though this might not be a neutral system as *PL* endeavoured to offer, perhaps a foundationalist approach is not necessarily problematic. Perhaps it is possible to resuscitate the search for an appropriate foundationalist approach by looking not to the specific configuration that human dignity has taken in liberalism, but by rather looking to human dignity itself.

An examination of the extent to which philosophical personalism can perform this task is what follows.

³⁷ Keep in mind that in this thesis we are calling into question that concepts of person and individual – what they are, and the role they play in intellectual history.

All humans are persons: An introduction to personalism³⁸

3.1) Introduction

3.1.1) *All humans are persons*

We noted in the previous chapter that while *PL* seemed to offer an elegant theoretical grounding for the pluralist political arrangement based on human rights, it has failed. And while I have attempted to engage *PL* with charity, the conclusions of my arguments demand that I be a little more forceful. I have raised two major issues: *scope*, which speaks to its inability to include certain categories of human beings and guarantee them their entitlements, and I've argued that this issue is baked into the structure of *PL*; and *theoretical incoherence*, based on the claim which Rawls makes that *PL* is neutral, when in fact it is not. The aim of Rawlsian justice is neutralism: one for which Rawls fights valiantly. But it is doomed. In the end we see that Rawls either simply insists that his comprehensive doctrine is the one which we should go with, as the worst of the other comprehensive doctrines do; or we see that his neutralism is superficial, and that the minute we investigate what different comprehensive doctrines mean by the different items in the overlapping consensus, the overlapping consensus really does very little in the way of the kind of stability that Rawls needs.

These allegations against *PL* are serious, and it is for adherents to deal with these issues satisfactorily or subscribe to a theory which is akin to those grounding apartheid and Nazism.

³⁸ While this chapter is sub-titled "An introduction to Personalism", it is important to point out that personalism as a philosophic movement is broad and eclectic, and it will not help this already lengthy project to spend time on a general description of personalism. I therefore move quickly and directly to how personalism will be used in this thesis.

As I said at the end of the previous chapter, I think an appropriate grounding of the pluralist political order based on human rights is to be found elsewhere. That is what I want to shift my attention to.

To start: why personalism? This is a question that should occupy our reflections at the outset. As we have just said, we pointed out in Chapter Two that the treatment of certain categories of human beings such as severely cognitively disabled human beings, is unacceptable and a major problem with *PL*. We therefore need a system that recognizes that *all human beings are persons*. Personalism does that, as we will explain. Human dignity as a matter of species, freedom and subjectivity, as well as the profound importance it places on relationality and communion – these are all important aspects which personalism brings to the table. But personalism is not without its pitfalls, and my proposal is therefore that reading personalism through an Ubuntu lens sheds light on personalism and its insights for a philosophy for the future.

But we also noted at the outset in the Introduction that we are not interested in offering a narrative of return, i.e. we are not interested in unearthing a theory or concept from a by-gone, pre-colonial era. As the world has changed, so too our theories and understanding must change. We are also happy to put to one side for instance the views of Africans who say that White people are incapable of having ubuntu because we recognize that as racist. In the same way that Ubuntu will shed light on personalism, it is also my hope that personalism will shed light on Ubuntu.

What we *are* in search of is a philosophy for the future, and in this context, that is a theoretical grounding for the human rights-based society inspired by both the African philosophy of Ubuntu and philosophical personalism. And we are in search of a theoretical grounding that can shed further light on our understanding of the human rights-based society. It is to this end that I want to explore a new, personalist reading of Ubuntu.

Most of all, and sitting at the heart of this new, personalist reading of Ubuntu, I am interested in the idea of the social constitution of persons – that is, that persons are constituted in relation; that there can never be an absolutely single person; that the identification of one person necessarily implies the existence of another person, and so on. This seems to me to be a profoundly interesting idea. It certainly does fly in the face of the predominant conception of

the person. There are strands of personalism that view the person as socially constituted – and in this regard we will engage with and build on the thought of John Macmurray in the next chapter. But this conception of the person also seems to make sense of the most intriguing and insightful aspects of Ubuntu – aspects which seem to lose their charm when Ubuntu is viewed with an individualist conception of the person. So, we’re going to plug the holes of *PL* with personalism, and then fortify our working conception of personalism with a socially constituted conception of the person. This will make up Part Two of this thesis. And then in Part Three, over chapters 4 and 5, we’ll put this personalist conception of the person in conversation with Ubuntu, showing how Ubuntu improves on even this conception of personalism, to ground our pluralist political arrangement based on human rights.

In terms of the chapters, in this one and the next, I want to do two things. I want to say how personalism will improve on liberalism, and I want to say why the social constitution of persons variation of personalism is better.

3.1.2) The pluralist polity based on human rights: our lodestar

Before I provide a chapter outline, let me give a clearer picture of what I mean by *pluralist polity based on human rights*. In Chapter 6, after we’ve laid all the groundwork, we will set this out in much greater detail, including a list of fundamental rights. For now, let us make a broad point about how we are interested in justifying the kind of society in which all human beings are seen as bearers of inherent human dignity. That is a crucially important point – the starting point. We rely on our reference to events such as the Holocaust or apartheid, but also to scandals such as Life Esidimeni in which severely cognitively disabled wards of the state died due to neglect. The immorality of these ways of treating human beings is capable of self-communication and finds expression in the suggestion that all, just by being members of the human species, are bearers of inherent human dignity.

This, in turn, means that all human beings in our society must be treated as equal with a fundamental, human dignity, and are therefore equal before the law. Because this dignity is inherent, in contract terms we might say that human beings enter the social contract with this human dignity, and all parties to the social contract must observe and be constrained by this value. There might be qualifications to this rule of equality, so that nobody below a certain age

of maturity will participate in elections. But in general, everyone is equal before the law. Furthermore, because everyone has human dignity and is equal before the law, general matters of law and policy in our society will be resolved democratically, through mechanisms such as democratic elections. But this democracy will function within a system of constraints based on human dignity and certain basic, fundamental rights which give expression to the citizen's identity as a citizen, and which each human being needs to enjoy to give effect to a functioning democracy. These basic, fundamental rights will include rights such as freedom of association, freedom to run for political office, freedom of speech, bodily integrity with the implication of a minimum level of free health care offered by the state, and the right to private property. As stated, this is the picture of the political order which we are after, and it will be detailed in Chapter Six.

In general, what we mean by *pluralist polity based on human rights* is the base minimum just described in a general way. And the reason for setting this out here at this stage is to provide a lodestar for our reflections on both personalism and Ubuntu, which will account for the following four chapters.

3.1.3) Chapter outline

I begin by saying what personalism is: what is meant when people use the word *personalism* generally, but also to say in exactly what sense we are using the word *personalism* here – in terms of political philosophy and its candidature to ground the pluralist political arrangement (§3.2). I then look at each of the five major tenets of personalism and expound them with reference to our lodestar described in §3.1.2 above, as well as any other issues relevant to political philosophy within the context of this thesis (§3.3). Next, I make the argument as to why personalism is theoretically better than *PL* at grounding the human rights-based society, making the case that personalism better deals with the two issues which we've levelled against *PL*. I deal with each issue independently – first the issue of scope (§3.4) and then the issue of theoretical coherence (§3.5). I do so against the backdrop of arguing for a viable theoretical alternative to ground the pluralist political arrangement, having demonstrated that Rawlsian *PL* is fatally flawed, rendering its conclusions unsupported.

A firm theoretical basis of personalism, as well as how it responds to the challenges levelled at Rawls, should pave the way for the next step in this thesis – that being the shortcomings and dangers of extant personalist systems, which will serve as the focus of Chapter Four.

3.2) What is Personalism?

Williams & Bengtsson (2022) describe personalism as a “diffused and eclectic movement”, lacking at its core “one particular thinker or even one central work which serves as a canonical touchstone”. They point out that it is “perhaps more proper to speak of personalism as a ‘current’ or a broader ‘worldview’, since it represents more than one school or one doctrine”. This is not to say that personalism is so diverse that it is impossible to conceptualize. There is a general affirmation amongst all forms of personalism of the centrality of persons in philosophical thought, whether that be human persons or non-human persons. “Personalism” Williams & Bengtsson (2022) say, “posits ultimate reality and value in personhood – human as well as (at least for most personalists) divine”. Personalism at once places great emphasis on the “significance, uniqueness and inviolability of the person, as well as the person’s essentially relational or social dimension”. Even here, at this early stage, it would benefit us to point out the connection to Ubuntu. According to Williams & Bengtsson (2022),

Personalists believe that the person should be the ontological and epistemological starting point of philosophical reflection. Many are concerned to investigate the experience, the status and the dignity of the human being as person, and regard this as the starting point of all subsequent philosophical analysis.

When asked, *what does Ubuntu philosophy mean?*, the answer in Zulu is “*umuntu, ugumuntu ngabantu*”: “a person is a person by people”. The other common English meaning given to Ubuntu is “I am because we are, and we are because I am”. Both personalism and Ubuntu therefore have, at their respective centres, the person, conceived as a relational being. According to Mbiti (1990:48), “African ontology is firmly anthropocentric...”. When coursing through the lines of this chapter, I ask the reader to keep this in mind.

Let us note the adequate distinction with which we must approach political systems based on personalism because these cannot fall into the typical individualist/communitarian categories. We see that personalists observe “the significance, uniqueness and inviolability of the [individual] person” as individualist and atomist systems do, but at the same time, they also place great emphasis and import on “the relational or social dimension” of the person. Consider, as an instance, Oyowe’s (2013) frustration at Metz’s Ubuntu, i.e. that Metz could not at the same time prioritize the community and/or relations in Ubuntu *and* observe individual human rights; and Metz’s response (2014a) that human dignity, which gives rise to human rights, is constituted in the capacity to commune. It is worth noting that the debate is presented in terms of the individualist/communitarian dichotomy, and, to my reading, Metz defends his system as being consistent with individualist, human rights-protecting systems. Metz’s system turns

on the individual's *capacity to commune* as the source of dignity. The capacity to commune, even in a unique personal way, is in no way constitutive of the individual person. And, most importantly, the capacity to commune is conceptually distinct from *actually* communing.

To state it explicitly, Metz's Ubuntu locates human dignity in *the capacity to commune*, i.e. a characteristic or feature internal to the individual, and it is therefore a kind of individualist Ubuntu³⁹. Individual persons have the capacity to commune. As noted, this *capacity to commune* is quite distinct from *actually* communing, and while Metz describes moral actions as those actions which promote relations (2011), the relations are nevertheless between individuals who possess the moral value of human dignity because of a capacity which they possess, and not because of their nature as human beings.

But as Williams & Bengtsson (2022) describe, personalism is a balancing act accommodating both the relational and communal nature of persons, while at the same time protecting the dignity and rights of individual persons. And this is because, for personalists, "a person combines subjectivity and objectivity, causal activity and receptivity, unicity and relation, identity and creativity". The individual person consists in both a relational existence with other persons, as well as with a radical interiority which only the specific subject-person is absolutely privy to. And it is in this middle way between the individualism into which we can even slot somebody like Metz on the one hand, and the collectivism in terms of which African philosophy is typically interpreted, further explored below, that personalism finds its value in the present project. Personalism places emphasis on important aspects of both individualism and collectivism, and therefore, in a paradoxical way, it can accommodate both and be slotted into neither. It acknowledges the subjectivity and freedom of the individual and therefore cannot be slotted into collectivism; but it also places great emphasis on relationality and communing, so Metz's Ubuntu philosophy which emphasizes the mere capacity to commune is distinguished from personalism as well. And, as will be seen later in this essay, Ubuntu as African personalism will pursue the goal of a kind of socially constituted conception of the person which will distinguish itself even more from Metz's focus on the mere capacity to commune.

In personalism, the balancing act is located within the human person itself, who possesses both subjectivity and interiority as an individual and who is an entity fundamentally affected by relations and

³⁹ I explore Metz's Ubuntu in the greatest detail in Chapter Five, where I also say explicitly why Metz's Ubuntu is not consistent with personalism. In short, we note here that Metz's Ubuntu excludes those human beings who are not able to commune – the severely cognitively disabled. His system therefore does not emphasize human beings as a matter of species – the first of the tenets of personalism.

communion⁴⁰. The typical disputes therefore rage between whether to give priority to individualist imperatives over collectivist imperatives; or whether to give priority to collectivist imperatives over individualist imperatives. Personalism positions itself in neither camp, offering a middle ground between the two by balancing both imperatives: individualism and collectivism. There is a subtle but important distinction there.

With this overview of what personalism is, let us now move on to the major characteristics of personalist thought. There are five important tenets of all personalist systems. In what follows, I will discuss these five tenets and provide a link to the inquiry in this thesis which is anchored by a grounding for the pluralist political arrangement based on human rights.

3.3) The five tenets of personalism

3.3.1) Persons & Non-Persons

At the outset, it should be clear that personalists interpret reality in terms of persons and non-persons. For a start, personalists see persons as categorically distinct to non-personal reality – as a matter of kind, and not merely as a matter of degree. This means that human beings are different to other animals such as dogs and apes, but the difference between a human being and a dog is different to the difference between a dog and a cat, or a dog and a daffodil for that matter. And this is because what makes a human being different to other beings is that human beings are persons. See here the words of Jacques Maritain (in Williams & Bengtsson, 2022):

Whenever we say that man is a person, we mean that he is more than a mere parcel of matter, more than an individual element in nature, such as an atom, a blade of grass, a fly or an elephant...Man is an animal and an individual, but unlike other animals or individuals.

What makes persons just so unlike other animals or individuals? In short, each person is unique in a radical way. In *Person und Sache*. (vol 2), William Stern (as quoted by Williams & Bengtsson, 2022) writes:

⁴⁰ It is worth noting that at the moment, I myself am walking a tight rope in describing personalism in general, which recognizes the fundamental importance of relation and communion, but in which it is not necessarily the case that persons are socially constituted. Not all personalist theorists hold that persons are socially constituted. Some do – John MacMurray, as we will see, is a good example of one. And I will go on to position myself in that number.

Despite any similarities by which persons are identified as members of humankind, a particular race or gender, etc., despite any broad or narrow regularities which are involved in any person events, a primal uniqueness always remains, through which every person is a world of its own with regard to other persons.

Williams & Bengtsson (2022) point out that personalists “react not only to the main forms of idealism, the materialism, and the determinism of the nineteenth century, but even to the objectivism of Aristotle”. Aristotle had developed the methodology of defining species relative to proximate genus and specific difference, and it was out of this methodology that he would define man as a rational animal. For personalists however, this definition is limiting to the human being by its reduction of the human being to the world of objects. In this sense, personalists see this definition as telling only half the story. This represents a radical departure from the mainstream view of seeing the distinguishing feature of the human being as rational. In other words, to say that the human being is a rational animal is to say that the human being is of the same kind as all other animal-creatures, and in a different sense, of the same kind as all other beings; with the distinguishing factor being that the human being is rational. When personalists say that human beings are distinguishable from other beings, they mean so in a way that sets human beings apart from all other beings as a matter of kind. Williams & Bengtsson (2022) describe this as “the basic irreducibility of the human being to the natural world”, and it is this that makes persons so radically different.

This distinction in kind and what makes the human being irreducible to the natural world is in the view that it is only “the human being that is typically conceived...as simultaneously object and subject” (Williams & Bengtsson, 2022). Personal subjectivity, for personalists, “assures that the human being’s proper essence cannot be reduced to and exhaustively explained by the proximate genus and specific difference. Subjectivity becomes then, a kind of synonym for the irreducible in the human being” (Williams & Bengtsson, 2022).

That said, and before we proceed, it is important to flag at this point the need to deal with what we have accused Rawls of. The conception of *human being* hereinabove relies very much on the human being’s capacity for reason. The notion of human being as irreducible is associated with typical cognitive capacity. But what of non-rational human beings? What of human beings who lack the capacity for reason? What does it mean to treat a non-rational human being as a Subject? Is it possible to treat a non-rational human being as a Subject?

Robert Spaemann tackles this issue head-on. “Are all Human Beings Persons?” (2012:236-248) he asks. He (2012:236) argues: “Human beings have certain definite properties that license us to call them

‘persons’; but it is not the properties we call persons, but the human beings who possess the properties”. The point then is that even on accounts in which personhood is constituted in a specific trait – say, reason – it is nevertheless the human being that is called the person, and not the trait. He continues:

what [the] separation of the biological from the personal fails to grasp, is that personhood is situated in the life of human beings. Fundamental biological functions and relations are not apersonal; they are specifically personal acts (*actus humani* [‘human acts’], as the scholastics said, not merely *actus homini* [‘acts of man’]. They are embedded in rituals, they provide focus of many forms of community life, they stand at the centre of many cults. Something similar applies to sexual intercourse...[where] the biological function is integrated in a personal context... (2012:239).

So, *person* is an individual substance of a rational nature as Boethius said, but the individual substance of a rational nature is necessarily located in a real context involving rituals, community, friendship, family, love and so on. The reference to sexual intercourse offers especial exposition. It is a biological function and activity, yes, but when it comes to persons, it is situated in a *corpus* of meaning categorically different to the sexual intercourse of other animals. This doesn’t mean that personal sexual intercourse is any less biological than what takes places between non-person animals. The biological reality is however complemented with a further ontological dimension – the personal, so that to sexual intercourse attaches all kinds of other relations, cultures, rituals, and so on.

Here we might also say that Spaemann would think Rawls’s political conception of the person, isolated in the original position behind a veil of ignorance from all other persons and from her true self on the other side of the veil of ignorance, is an oddity. For Spaemann, personhood is situated in *person life*. For Spaemann, we have a community of human beings who partake in rituals and actions of person life. What about those human beings who are “so severely disabled that they cannot even co-ordinate their movements” (2012:242) he asks? These are patients, Spaemann argues. We do not think a broken chair is not a chair – we think it is a compromised chair. The alternative would be to think a broken chair is a non-chair, and when it is fixed, it is a chair. This is counter intuitive. So too with human beings living person lives. We do not think that because a severely cognitively disabled human being is compromised that they are not persons deserving of personal care. As a matter of fact, these human beings – these persons – are seen as deserving of *even more care*⁴¹.

⁴¹ Marya Schechtman (2014) advances what she calls the Person Life View, which says that those creatures which participate in person lives – sleep in person-beds, wear person-clothes, eat person-food etc., are to be included in the person-fold. She wants to include severely cognitively disabled human beings, but she doesn’t want to give any special value or importance to human beings as a species, as Spaemann does. And this is a problem for

Now we might want to linger at this juncture to take note of the complexity of this issue – *are all human beings persons?* The debate as it unfolds in the Roman Catholic Church is interesting and relevant to this thesis for a few reasons. First, with a long tradition influenced heavily by Aquinas and Aristotle – both titans in Western intellectual history – what the Church has to say has import, *prima facie*. Second, the Church in its various roles in societies around the world, including the academy, is a prominent advocate of the view that *all human life is to be respected*, hence its opposition to abortion, euthanasia and so on. Read Slosar, Repenshek, Bedford & Trancik (2017) as an example of lively academic engagement in which the view of the Church is tested in applied bioethics⁴², or Finnis (2011) as an example of similar academic engagement in the field of law⁴³. And there are countless other such examples of the Church’s position – that all human life is to be respected. Let us therefore take the Church’s view as representative of this position – all human life is to be respected.

Within the Church’s own theological and philosophical framework though, Camosy (2017) notes that the Church has not committed itself to the principle that *all human beings are persons*. In general, in line with the famous definition from Boethius, the Church holds that a person is an individual substance of a rational nature. If we accept that the development of a human being is a transitional process from gametes to fertilized egg to healthy, new-born baby; as opposed to it being a momentary event, then the fact that the Church has refused to declare a healthy, fully formed human embryo a person is significant. At least in principle, we can say that some human beings, i.e. human embryos, and therefore some human life, are not recognized as persons by the Catholic Church. The Church has committed itself to a weaker position. According to the Congregation for the Doctrine of the Faith (“the CDF”), while being

aware of the current debates concerning the beginning of human life, concerning the individuality of the human being and concerning the identity of the human person...[it] has not expressly committed itself to an affirmation of a philosophical nature in regard to the personhood of the human embryo” (1987).

In *Dignitatis personae* (2008), the CDF confirmed this position, saying that “in order to avoid a statement of an explicitly philosophical nature, [*Donum Vitae*, the 1987 document] did not define the embryo as a person”. The reasoning behind this can be discerned from John Paul II⁴⁴ who in *Evangelium*

Schechtman, as shown in an article by Beck & Oyowe (2018) titled ‘*Who gets a place in person-space?*’. All this is interesting but not *really* relevant.

⁴² This paper looks at questions around viability and the Catholic principle, as found in Aquinas, of proportionate reasoning. It is part of a collection of papers by various authors on Catholic bioethics.

⁴³ This paper looks at the issue of intention as it pertains to killing or letting permanently unconscious human beings die. It is part of a collection of essays by Finnis on similar topics.

⁴⁴ It is worth noting here that John Paul II is the same person as Karol Wojtyła, who is also referenced elsewhere in this thesis. When referencing “John Paul II”, I do so to indicate works of Karol Wojtyła in his official capacity

vitae (1995) says that even though “...the presence of a spiritual soul cannot be ascertained by empirical data...” with respect to the human embryo, “...what is at stake is so important that, from the standpoint of moral obligation, the mere probability that a human person is involved would suffice to justify an absolutely clear prohibition of any intervention aimed at killing a human embryo” (1995). To be clear, and as just noted, the Church is not opening the door for the justification of the intentional killing of human embryos; rather, in the words of Camosy (2017:57), we have “at least the logical possibility that an embryo is not a person; otherwise the Church wouldn’t hesitate to make the stronger claim”.

From this, I’d like to say that of interest to this thesis is that the Catholic Church does see personhood as conditional upon a feature or characteristics that a human being has – a spiritual soul, with reference to John Paul II. And it is worth noting that this is something that this thesis questions, as it did with respect to Rawls. Of course, the Church’s cautionary approach of treating certain human beings – human embryos – as persons is very different to Rawls’s approach of excluding non-rational human beings from the political arrangement altogether. And it is important to note that the Church doesn’t say that embryos are not persons. Rather, it leaves the question open, out of what we might call a kind of epistemic caution.

The danger of denying certain categories of human beings their personhood remains though, even in the case of embryos. We have already said that it is a major shortcoming of Rawls’s philosophy that it excludes severely cognitively disabled human beings. And we have said that even though the National Socialism of Nazi Germany was rationally set out as a theory and philosophy, we nevertheless reject it because of the way in which certain groups of humans were treated. And the same applies to apartheid in South African and more. From all of this, there are two common denominators amongst all of these political systems. First, all these systems are deplorable⁴⁵. And second, all these systems base personhood on a particular feature and/or characteristic which human beings either have or don’t. We must therefore chart a different course, and that course will be to acknowledge that all human beings, just by being human, are persons⁴⁶.

as pope, and which therefore carry authority from the perspective of the institutional church. Reference to Karol Wojtyła, on the other hand, is done to reference works of the man in his personal capacity, published not as authoritative works of the institutional church, but as his own, personal scholarly work, as an academic philosopher.

⁴⁵ We might say that the Church bases its conception of personhood on a feature or characteristic – a spiritual soul, but escapes the charge of being deplorable because as we have seen from John Paul II, it nevertheless argues that the human embryo must be treated *as if it is* a person.

⁴⁶ We will describe an ontology and argue more forcefully for how and why this is so when we look at the relational constitution of personhood in Chapter Five. For now, we make the point of the need to acknowledge that all humans are persons in terms of political philosophy.

But as we have seen in Spaemann, human beings who lack the features and characteristics typical of persons – rationality, for example – are nevertheless still regarded as persons because they are compromised. Similarly, the human embryo should be regarded as a human being not yet fully grown, if not as a complete, healthy human being at a specific stage of development; and therefore, as a person. Camosy (2017) argues similarly: if we say humans with Alzheimer's, for which there is no cure, are not persons because they lack rationality and any potential thereof, and tomorrow a cure is found, it will lead to the counter intuitive position that they will then, all of a sudden, actually be persons, with the existence of a cure being the deciding factor.

No, all human beings are persons. This is the only viable conclusion that all these reflections have led to: a self-evident injustice is committed whenever human beings are not treated as persons. And this is because, rather than personhood being a function of a particular feature or characteristic of the human being, for the different reasons we have discussed above, it is an ontological status of the human being belonging to the species *Homo sapiens*. This means that all human beings, just by being human beings, are persons. Personhood is part of what it means to be a human.

This resolves the issue of the severely cognitively disabled which we raised against Rawls. But this answer then raises a different challenge for personalists. Suppose we discover members of a different species – say, pandas – who exhibit person properties; the very properties which, as Spaemann says, licenses us to call human beings, persons. Does human exceptionalism mean that we do not call these pandas persons? This would mean that personalists are happy to consider severely cognitively disabled human beings persons, but not advanced pandas. Such an appeal to species seems utterly arbitrary.

In this regard, Spaemann is equally clear and logically sound: human exceptionalism arises out of the fact that human beings are, typically, persons. But this is not so necessarily to the exclusion of other species. See what Spaemann (2012:234) says here:

The rights of persons are human rights. Yet if there exist within the universe other natural species of living beings possessing an inner life of sentience, whose adult members usually command rationality and self-awareness, we would have to acknowledge *not only those instances but all instances* of that species to be persons.

Other species are therefore not excluded. We only talk of human persons because we are only aware of human persons.

In terms of personalism then, as a matter of species, all human beings are persons. Within the context of the political arrangement, this means that all human beings are to be afforded their just entitlements. *All human beings are persons* means that all citizens in the political arrangement based on personalism must be equal in dignity and, as such, must be treated equally before the law. And because this principle would constitute a fundamental right – because of its centrality to the person – all subsequent laws passed by the political arrangement would have to meet the standard of treating all, just be being human beings, as persons.

3.3.2) *Human Dignity*

Next, we consider the importance of human dignity within the personalism framework.

This reflection of human dignity is within the context of political philosophy and its role in the political arrangement, so we begin by making an important point about human dignity itself. The Bill of rights in the South African Constitution regards human dignity as “inherent” and therefore prior to any agreement which human beings can come to regarding how to live, i.e. the political arrangement. Why is this significant?

Let us distinguish two kinds of human dignity – Hobbesian dignity and Kantian dignity. Hobbes (1651) articulated a dignity which was described as the price set on an individual human being, where the price was determined by the commonwealth⁴⁷. For instance, consider the example of a slave who is priced at a certain amount, which amount is determined by the market according to various criteria. A young, muscular, healthy male slave may be worth much more than an older slave susceptible to sickness. Similarly, Hobbes envisioned a kind of valuation of one individual, which valuation would vary relative to other individuals based on various criteria, so that a nobleman or member of the royal family might be worth more than a mere peasant. This implies some kind of quantification in the sense that one individual might be worth more than the next. In the quantification, it also implies a possible limit on the value of the individual. Unlike in the reference to slaves, we are of course not talking about monetary or economic value when we are talking of human dignity – we are speaking here of moral value. But

⁴⁷ In the *Leviathan* (1651), Hobbes says “[the] value or worth of a man is, as of all other things, his price; that is to say, so much as would be given for the use of his power, and therefore is not absolute, but a thing dependent on the need and judgement of another. An able conductor of soldiers is of great importance in time of war present or imminent, but in peace not so. ... And as in other things, so in men, not the seller, but the buyer determines the price” (54-55) and “[the] public worth of a man, which is the value set on him by the Commonwealth, is that which men commonly call dignity. And this value of him by the Commonwealth is understood by offices of command, judicature, public employment; or by names and titles introduced for distinction of such value” (55).

importantly, for Hobbes, there was no value in the pre-political state of nature. Moral, economic, and other value were set and determined in the social contract.

This Hobbesian view is contrasted with the Kantian view of dignity which firstly sees individual persons as enjoying inherent value, as opposed to value which is conferred by an external source such as the commonwealth. This means that, in the case of Kant, persons enter the social contract with inherent moral value, which the contract then should consider⁴⁸. Secondly, this Kantian dignity (2017) also sets itself beyond all pricing so that it is not possible to quantify and therefore compare one person to another. Persons thus assume a sense of absoluteness in their dignity – they cannot be dispensed with or interchanged – for an individual person is an infinitely unique entity always bearing the possibility of individuation.

In terms of human dignity and how it features in the political arrangement, this is an important distinction – Hobbesian dignity and Kantian dignity. Personalists subscribe to the latter, Kantian notion of dignity, in the sense that it is inherent and inestimable.

Building on this, let us also make clear that it is not possible within this schema to trade-off a person, as we often do with objects. The significant difference with persons is that the worth of persons, as we have noted, is inherent and inestimable. It is not a function of their usefulness to another person. It is not a function of the market and tension between demand and supply. Personal value is inherent and inestimable: it cannot be quantified; it cannot be compared to another worldly object. While we may be able to trade one cow for two sheep; or trade a vintage Ferrari for a villa in Camps Bay, persons are not interchangeable and tradeable in this way⁴⁹.

This also means that the individual person can never be absorbed into the community entirely so that she loses her individuality. The individual person possesses a unique, unrepeatable position in her community, and this means that there is always a sense in which she stands apart from her community; a sense in which she can be isolated and distinguished from her community. She is not her community: she is *a member* of her community. We will return to this issue later when we look at the relationality

⁴⁸ This is not such a straightforward matter though, because as we see with Rawls, the individual in the original position, which is a kind of pre-political state of nature, does not have any moral value which he must take into account when determining the principles of justice. He is simply required to choose the principles of justice. He is not required to “choose the principles of justice, taking the inherent moral value of persons into account...”.

⁴⁹ The important point here is not that it is not practically possible to trade persons, as history tells during the slave trade that this was commonplace. Rather, whereas the value of the house is determined by whatever someone else is willing to pay for it, the value of a person is inestimable and therefore never the same as what another individual is willing to pay. To trade a person is to commit a kind of category mistake of value, i.e. confusing different kinds of value, e.g. moral and economic.

of the person in terms of personalism below, as well as when we look at Ubuntu in chapters Five and Six. In the meantime, the point must be made in terms of the human dignity of the individual persons, and as Williams & Bengtsson (2022) say: “the person can never be assimilated fully into the collectivity, because his interrelatedness with other persons is defined by his possession of a unique, irreplaceable value”.

Nor is this moral value meritocratic, as Hobbes was willing to admit. It is not rooted in something that the individual person does or is able to achieve. It is not guaranteed on account of being the descendant of royalty or nobility; nor is it the result of achieving some major feat in life. For personalists, human dignity “must rather be rooted in human nature itself, so that on the deepest level, despite the variations of moral conduct and the resultant differences in moral character, all members of the species share this dignity” (Williams & Bengtsson, 2022). But because it is rooted in human nature itself, it is not dependent on a feature or characteristic *possessed* by the human being – *rationality* for example, or *the capacity for rationality*. This is what distinguishes personalists from the philosophy of Kant, for whom the capacity for reason is what constituted human dignity. For personalists, just by being a human being, all human beings possess inherent human dignity.

We resolve this discussion on human dignity with reference to what we said about Rawls and *PL* in the previous chapter. Human dignity plays a crucially important role in the establishment of the political arrangement. When Rawls requires the individual to choose principles of justice, he doesn’t require that the individual have due regard to the demands of human dignity. For personalists, human dignity is inherent and inestimable. And what is more, it is a matter of species, so that all human beings, including non-rational human beings, just by being human, have human dignity.

What is more, personalist dignity is distinguished from Hobbesian and Kantian dignity. Like Kantian dignity, personalist dignity is inherent. Unlike Kantian dignity, personalist dignity is not dependent on some feature or capacity of the human being but is rooted in human nature itself. And this is crucially important for us and our search for a grounding of the pluralist political arrangement based on human rights. It means that in our list of fundamental rights, we must acknowledge the inherency of human dignity. Our list of fundamental human rights therefore must acknowledge the inherent human dignity of citizens and afford a right to have that dignity respected. And there is also a strong sense in which other rights – those on list of fundamental rights, but also rights enacted later through political processes – must serve human dignity, i.e. respect for the human person, specifically in terms of what it is understood to be in the personalist framework.

3.3.3) Interiority & Subjectivity

There is a superficial sense, as well as a deeper, more fundamental sense in which we can talk about *subjectivity*. For the former, we may consider the term ‘subject’ in the syntactic sense, where both persons and non-persons may act. It is therefore perfectly acceptable to say, “the cat ate the fish”, even if the cat – the subject in the sentence – is not a subject in the deeper, more fundamental sense that we are about to discuss. *Ate* is a verb, but since it is the ‘action’ of the cat who we agree is unable to act with intention and freedom, we must distinguish between the action of a person who is able to act with intention and freedom, and a non-person, which is not.

This kind of subjectification of non-persons is a common feature of our language. It can be understood as a form of (linguistic) personification. In fact, it may be said that our language gives us a clue into a fundamental truth about personalism, i.e. we reduce the world to person-terms. And so just as the last slice of pizza calls my name every time we have pizza for dinner in our home, so too the cat ate the fish⁵⁰. Conferring subjectivity on non-persons and, as we shall see in a moment, non-subjects, is a function of the way in which human language works. The reason why non-persons are subjectified at best only through literary vice is because the underlying cause of the action on the part of the non-person is ultimately extrinsic to the non-person. The eating of the fish on the part of the cat may be a function of the cat being hungry. Eating the fish to satisfy hunger is therefore an “act” under the slavery of a passion, i.e. hunger. Contrast this with the act of eating salad as opposed to pizza, as humans do, out of an expression of preference and which is done intentionally. It may well be retorted that preference is a passion, and if the human person eats salad over pizza because of preference, the human is little more than a slave to her preferences. But the significant difference in this case is that the human person can freely choose to forgo eating the salad even if salad is her preference. It may be that the human person is pregnant and wants to avoid raw fish because of the adverse threats it poses to an unborn baby. In such a case, the cause of the action of eating sushi is intrinsic to the subject, i.e. the person. The one arguing that *preferences are passions* does not adequately make provision for the concept *freedom* within his lexicon. In other words, no provision is made for *the decision* not to eat raw fish, even though the passion/preference is for sushi. The retort may be that the desire to protect the unborn is also a passion, and that may be true; but the fact that it is also a passion is neither here nor there. Under the loupe is the decision *to choose* one passion over the other, and that is a controlled, reasonable process resulting in positive action on the part of the subject. And *that* fits the very definition of freedom.

⁵⁰ Notice that, with due regard to the structure of our language, the difference between the ‘action’ of inanimate and animate non-persons, is different to the difference between the ‘action’ of non-persons and the action of persons.

This leads us into consideration of subjectivity in the deeper sense. Subjectivity connotes freedom, and it is out of this freedom that persons are able to exercise creativity. We understand this in the free use of thought and imagination, but we also understand the effects this creativity has on both the acting subject and the world. And creativity has an existentially interesting impact on persons – both on the creator and other persons who perceive what the creator has created. We think of the value that being expressive enjoys for the creative person, whether it be writing a song or painting a beautiful picture. And we need only look to the lasting effect that the likes of the great frescoes in the Sistine Chapel or the Mona Lisa have had on humanity through the ages. We can also point to the great African artforms of dance and music which gave rise to jazz, as well as the inspiring effects of freedom songs sung by oppressed peoples. Creativity does not exist for non-person creatures; nor does creativity affect them in quite the same way that it affects persons.

Now these expressions of creativity and the performance of actions more generally reveal the lived experiences of the human person, so that other persons observe the actions which the individual person performs, but also becomes aware of the existence of ‘inner happenings’ – an experience of the self *qua* the self. Other persons outside of a subject are not privy to the inner happenings or experiences of the subject, but this does not attenuate the realization of the existence of the inner happenings in any way. Williams & Bengtsson (2022) put it as follows:

...in the human person, a thoroughly unique dimension presents itself, a dimension not found in the rest of reality. Human persons experience themselves first of all not as objects but as subjects, not from the outside but from the inside and thus they present to themselves in a way that no other reality can be present to them.

What is significant for the mainstream philosophy of personhood, and particularly in the way in which psychological continuity theory (PCT) – which predominates the philosophy of personal identity – is set out, is the existence of a chain of psychological events. In other words, more than just being a chain of memory, as in the case of Locke’s (2017) theory of personal identity, it includes all psychological events, from memories to emotions to knowledge and so on. This ‘chain’ can be identified and treated in the literature, and in that sense, it can be objectified so that we speak of the existence of the person as a chain of psychological events. No thought is given to *the experience, from the specific perspective of the subject*, of that chain of psychological events though. This applies in equal measure to the Kantian conception of the person – the person being a purely rational creature, exemplified in less abstract terms by the individual in the Rawlsian *OP*. Based on this objective conception of the person, Rawls was able to develop his theory of justice. But the point is that all three of these cited conceptions of the person – PCT, Kantian and Rawlsian – are objectified conceptions of the person, with no thought being given to

the Subject and what it is like to be her. And so, we come to the heart of the personalist understanding of interiority and subjectivity, and the importance of this for its conception of the person:

The conscious self-presence is the interiority of the human person, and it is so central to the meaning of the concept of person that one can say that personality signifies interiority to self. Because of the person's subjectivity, he is not only acted upon and moved by external forces, but also acts from within, from the core of his own subjectivity. Since he is the author of his actions, he possesses an identity of his own making, which cannot be reduced to objective analysis and thus resists definition (Williams & Bengtson, 2022)⁵¹.

The objectifiability of quasi-mental and brain activity loses an important part of the person – the subjective. But we are already familiar with an objectification of the person and a resultant loss of the subject/subjective in Rawls's *OP*. Keep in mind that for Rawls the conception of the person in the *OP* is political, not metaphysical, as he argues; and this means that the individual in the *OP* is a kind of module into which all persons can put themselves. But in placing oneself into the *OP*, one immediately negates subjectivity, or what is particular about the individual. And what is more, the individual in the *OP* is also required to negate her own experience, as Subject, of what is particular about her. The individual is therefore preserved in Rawls's system, but she is a caricature of herself – she loses her subjectivity – she loses her *her-ness*. Yes, Rawls might frame the thought experiment by asking of all individuals to put themselves into the *OP*. But it is a trick: putting yourself into the *OP* means thinking in a certain kind of way; a way that you probably might not have thought to begin with, because you are, so to speak, on the other side of the veil of ignorance which serves to blind you from what (*and who*) you are.

It is also worth noting at this stage that another very prominent personalist, Karol Wojtyla, was most interested in the Modern turn to the subject, despite his pre-Modern commitments. Wojtyla saw subjectivity and the access that the person has to herself as subject as the personalist view, *contra* what he described as the objective, cosmological view⁵². Of his personalism, John Crosby (2016) provides

⁵¹ There is a question that might be asked here: to what extent does “conscious self-presence” fall within the category of “psychology”. This is one of those questions which could well have been explored in a thesis like this, but which nevertheless needs to be deferred to later work if it is to be given the treatment it demands. The potential intellectual benefit of answering this question in the affirmative is that the personalist conception of the person might be reduced to an empirical category through a certain conception of psychology. On the other hand, one might want to be careful to make such a move too quickly – lest it produces an unjustified reductionism. Tempting as it is then to pursue this issue in these lines, it must be deferred to later work. In the meantime, we shall maintain a non-reductionist approach to the notion of “conscious self-presence”, so that it does not fall within the typical psychology categories, i.e. it cannot be reduced to pure objective analysis.

⁵² By “objective, cosmological view” is meant the dimension of the person viewed from outside of the person, i.e. from a perspective other than when the Subject acts as subject. It is important to notice that one can consider the

an excellent commentary and analysis, *vis-à-vis* the personalism of John Henry Newman. Wojtyła realized that his appreciation of subjectivity needed to be cordoned off, lest his philosophy degenerate into subjectivism. To achieve this, Crosby says, Wojtyła was at pains to point out that the subjective, personalist conception of the person⁵³ does not aim to replace the objective, cosmological conception of the person, but rather to “complete it” (Crosby, 2016:27).

Is there a way in which to make all this less abstract as it pertains to Rawls? And since we are speaking of subjectivity, might we also say something about how this conception of subjectivity might work with the social constitution of persons? It seems to me that the human, personal phenomenon of *empathy* speaks to both questions:

In lived experience of self-possession and self-governance, one experiences that one is a person and a subject, and through sympathy and empathy one experiences the personhood of others (Williams & Bengtson, 2022).

Firstly, it seems clear to me that there is no place for empathy in Rawls’s rational theory of justice. And this is remarkable – that the system ordering relations between persons should omit so inter-personal a phenomenon. Yes, in critique of Rawls we cannot say that there is no appropriation for the less fortunate in the political arrangement. But tending to the needs of the less fortunate is not a matter of rational, self-serving duty – “because if I was in that position, I would want the better-off to care for me”. We care for the less fortunate in a society in a non-instrumentalist way; because it is right to care for the less fortunate *in itself*. Empathy should guide our conception of justice – and recognizing the subjectivity and the inherent, inviolable dignity of the next person, is a form of empathy.

But because it gives us an insight into the nature of persons, more importantly for the personalist, sympathy and empathy enable one to participate in the personhood of others. Remember that, for the personalist, it is not the negation of the psychological in its rejection of psychological continuity theory; rather, it is that exclusivity in psychological continuity that the personalist finds difficult to come to terms with. The interior experiences of the person are psychological, but there is more to the person and subjectivity than the psychological. Through sympathy and empathy, which are both physiological and

objective, cosmological dimension of one’s own self. “*I will be hungry later on*”, one might say of oneself, and thereby objectifying oneself, i.e. talking about oneself. That is very different to actually being hungry later on, and experiencing it in terms of or as *a first-person*.

⁵³ In contrast to the objective, cosmological dimension of the person, this dimension of the person refers to the experience of the self *as the self*. In keeping with the example in footnote 47, it is the actual experience of being hungry, in contrast to thinking of some other self as being hungry, or even thinking of oneself as being hungry later on.

psychological, precisely as a person, one person can participate in the experiences, and therefore the personhood, of another. Person A has a dreadful experience, and through empathy, Person B participates in the subsequent experience and therefore the personhood of Person A. This is not to negate the identity of Person A, for Person A's experiences are hers and hers alone. But empathy allows Person B to recognize and, in his own way, to feel⁵⁴ with Person A. Person B now participates in the personhood of Person A because, through empathy, Person A's subjective experiences and therefore her personhood is participated in by Person B. And through that participation, which is a subjective experience and therefore the personhood of Person A, Person B participates in the personhood of Person A. Empathy is therefore crucial to understanding what communion is when thinking about persons. And finally, we think of empathy as a virtue: the good person is empathetic. And it bears mention that we can have empathy both for an individual, but also for an entire community. I will revert to this point when I consider instances of manifest injustice to groups of people such as in the cases of apartheid South African and Nazi Germany.

We may therefore understand personal subjectivity as having two dimensions: interiorly and exteriorly⁵⁵. Person A exists as an individual subject with an interiority, but also exists as an individual with an exteriority and in communion with other persons. But notice also how empathy shines greater light on the conception of subjectivity employed here. The invocation of subjectivity doesn't tend the discussion towards individualism and subjectivism. Wojtyla was impressed with the turn to the subject and the insight it gave into the person; but he also guarded against the *cul-de-sac* of subjectivism. The invocation of the specifically personalist conception of subjectivity tends the discussion towards inter-subjectivity. And later on in this essay, we will see how the personalist conception of subjectivity properly understood leads past mere inter-subjectivity and all the way to the social constitution of persons⁵⁶.

Before moving on, let us take a short moment to once more flag that concern raised in this thesis against Rawls – what about non-rational human beings? A lot of what has been expounded about subjectivity and interiority hinges on rational capacity. Do severely cognitively disabled human beings possess this capacity of subjectivity? Does the “my” in “my thoughts” exist when it comes to the non-rational human being? To what extent are the severely cognitively disabled and/or infants included in the fold “person”?

⁵⁴ Let us appreciate that “feel” here has a metaphoric and therefore loaded meaning.

⁵⁵ It is worth noting here that by “two dimensions” we mean two distinct sides of one and the same personal subject. It is something similar to the four sides of one and the same table. To be clear, there is no substance dualism here.

⁵⁶ While substantiating a conception of the social constitution of persons is an aim of this thesis, the social constitution of persons is not a necessary feature of personalism as such, as we will see when considering the work of Burgos in the next chapter.

The short answer is that as human beings, non-rational human beings are persons, even if they are 'patients' and don't possess all the features of personhood such as interiority and subjectivity. This broad answer will take on different forms in different versions of personalism. The form it will take in Ubuntu personalism is that persons are constituted in relation, at least the relation between mother and child and therefore at the level of species membership. We will consider to a greater extent what this means further down below and in the subsequent chapters because it is an important issue.

Furthermore, since we are thinking about the personalist political arrangement specifically, we must ask how the tenet of personalism speaking to the subjectivity of the person finds expression in the political arrangement. Conscience is a crucially important derivative of subjectivity, and with that, the ability to form a conception of the good. The personalist outlook has within its understanding the importance of growing in ability to form a conception of the good. The rights to freedom of conscience and belief, freedom of choice, and freedom of association, are crucially important in the personalist outlook, based on the tenet of interiority and subjectivity.

3.3.4) Freedom & Self-determination

According to personalism, there is something else that is truly unique about persons: their intellectual capacity and rational nature. The rational nature of persons makes understanding possible in a way that is not proper to other species. There is certainly evidence of cognitive processing in non-human animals, so that the guard-dog charges the intruder and protects its owner and so on; and the chimpanzee may be able to remember and match a certain number of words and pictures. In contrast to the way in which the rest of nature or creation acts though, persons act with a specific internal impetus. But this inner impetus is not purely deterministic or mechanical; the inner impetus is born out of the possession of free will; the ability to assess and choose; the ability to self-direct. In the words of Williams & Bengtsson (2022), "Self-mastery and freedom characterize person beings; a free being is a person". Personalism sees the efficacy of the acting person as the source of personal responsibility for such actions. This interior impetus, born out of free will, informs the efficient cause of personal actions, which in turn gives rise to personal responsibility. This is the heart of self-mastery.

This self-mastery which is born of free will is much more than a certain capacity. It speaks to the nature of persons. It also speaks to the inalienable dignity which each person possesses because, at the level of concept, one free will can never be transferred or substituted with another. This then means that this self-mastery makes each person infinitely invaluable. It makes each person unique and unrepeatable –

each free will is exactly that: a unique, unrepeatable action-directing impetus that renders the possessor infinitely invaluable.

Additionally, when the person acts, “the person not only directs himself toward a value, he determines *himself* as well” (Williams & Bengtsson, 2022). This applies particularly to the creation of the moral self. Because the responsibility for personal action confers ownership of actions in acting persons, as far as moral actions are concerned, the person acts to develop himself into a morally good or bad person. Here the words of Williams and Bengtsson (2022) are worth quoting at length:

By choosing to carry out good or bad actions, man makes himself a morally good or bad human being. Action is organically linked to becoming. By free moral action the personal subject becomes good or bad as a human being. When a person acts, he acts intentionally toward an object, a value which attracts the will to itself. At the same time, self-determination points inward toward the subject himself. As a result of this, the human being is capable of existing and acting “for itself”, or is capable of a certain *autoteleology*. This means that the person determines not only his own ends but also becomes an end for himself. The person is not only responsible for his actions, he is also responsible for himself, for his moral character and identity. Freedom means that one is responsible for one’s choices but also for one’s self.

Personhood is therefore a matter of becoming. It is possible for personhood to develop, so that, in a very specific sense, one person is more of a person than another. And self-mastery includes mastery over the development of the self⁵⁷.

Before moving on to the final element of personalism, i.e. relationality and communion; it bears mention that self-determination and the freedom of the will also enables a person to decide freely in thought and imagination. This means that it is out of this self-mastery that creativity is born. This is the value of genuine creativity: it is not copied or repeated, but arises as something unique and original, from a unique and individual experience, which no other person has previously thought or produced. And then, it is in this original action that the person also determines his own identity. Freedom of conscience and thought is therefore crucially important to the person – and the citizen. What is also crucially important for freedom and subjectivity, is the right to own the products of your labour: the right to private property.

⁵⁷ To be clear, this point must be distinguished from what was said in the section on human exceptionalism. Whether a being is a person or not is a binary question – either the being is, or not – at one level. At another level, once it is established that we are dealing with a person, it is not possible to talk of various levels of personhood, so that one might be more of a person than another. And here in this section we are talking of the latter.

In conjunction with interiority and subjectivity, freedom and choice drive personal action, and where such personal action leads to fruits, the person is entitled to those fruits.

3.3.5) *Relationality & Communion*

An important way of thinking about human rights is that human rights serve to protect individuals against tyrannous majorities. Since we see the human rights society and culture as the goal, perhaps the most controversial aspect of personalism within the context of this thesis is the element speaking to relationality and communion. To be sure, human rights speak to the objective of protecting certain basic entitlements of the individual against the collective – the majority, the government, the state, and so on. In other words, in a culture where the rights of an individual, e.g. the right to life, is protected against the interests of the collective, the right to life of the individual outweighs the interests of the collective. The interests of the collective cannot be asserted to the extent that the individual can be killed⁵⁸. How then does personalism, which we have already said recognizes the radical individuality and subjectivity of the individual, also recognize the relationality and communion of individuals?

Personalists are clear: the person is a social being. A person doesn't exist in isolation, and only really finds her fulfilment in communion with others. Williams & Bengtsson (2022):

Relation is proper only to the person. Personalism has endeavoured to highlight this aspect of personhood and bring it to the fore. It is central to personalism's reaction against and endeavour to overcome the polarization of individualism on the one hand and collectivism on the other. Personalists consider human beings as a "being for others" or "being with others"⁵⁹. Relationship is not an optional accessory for the human person, but is essential to his personhood. He is a being-for-relation.

Firstly, the goal of personalism to break the dichotomy between individualism and collectivism is made clear. The strategy taken is to recognize that you have an individual subject possessing interiority and a radical subjectivity which is a *being-for*, i.e. an individual subject which has a nature that derives from others and points it towards others. In this sense, society and the polity does not obtain as being merely

⁵⁸ Of course, this is not an entirely uncontroversial point in that debates around the ethics of the death penalty explore the side of the argument looking at the right of society, to enforce the death penalty against individuals who commit egregious crimes. But the death penalty would be a unique limitation on the right to life, applied in exceptional circumstances. The point remains that the principle of protecting the life of the individual against the will of the collective stands.

⁵⁹ Note this formulation here from Williams & Bengtsson in reference to personalism, for it will be picked up again later when we look at Ubuntu and conclude that person is a "being-in/with-communion".

useful or convenient, but rather as a reality which speaks to and informs the very nature of the human being; as something that satisfies a thirst which originates in precisely what the human being is. Persons seek out communion with other persons, but not merely in an atomistic way in which one person seeks to use the political arrangement to benefit himself for his own sake and to his own end; but rather in a way that speaks to society being a product of what the individual human being *is*, and further, in a way that leads to the further (moral-personal) actualization of what the human being is. Per Williams and Bengtsson (2022),

Personalists stress the person's nature as a social being. According to personalists, the person never exists in isolation, and moreover persons find their human perfection only in communion with other persons. Interpersonal relations, consequently, are never superfluous or optional to the person, but are constitutive of his inherent make-up and vocation.

Relations are therefore fundamental to persons: to its constitution, but also to its vocation. When we articulate a conception of the citizen to ground the political arrangement, this conception of the person must feature strongly. In other words, we can take on board the fact that a personalist political arrangement improves on *PL* because it doesn't exclude the severely cognitively disabled from the fold. At the same time though, it also means that we must take on board the important role of relations in the constitution of the person.

Consider the concept 'son', *a priori*. To be sure, there are certain aspects which are fundamentally individual to the concept 'son'. *Son* is one individual and not a community; that *son* is male; that *son* is not his sister; and so on. But *son* is also a relational concept at a fundamental level, so that you can never have a son without a corresponding parent. Even if the parents died, there are still parents somewhere in history, of which the son can say, "s/he was my mother/father". This is because *son* is an *a priori* relation-concept. To speak of "an unrelated son" in the sense that the son is an unrelated concept or has no relations is the same as to speak of "a married bachelor". It is an *a priori* contradiction.

And so, in understanding the concept *person* and its relation to other persons, to say that 'man is a social animal' in terms of personalism is to understand 'person' as an *a priori* relation-concept, in the same way that *son* is an *a priori* relation-concept. To speak of one person is to imply another person, in the same way as speaking of a son implies a mother. There is a fundamental individual reality to the concept son, so that the son is individuated from his mother; the son is not his mother. But the very existence of the son implies the existence of the mother, *a priori*. Indeed, *son* is constituted by *mother*, just as *mother* is constituted by *son*. This is what it means for a being to be constituted in relation.

In making this move, I must highlight two distinct points about the relation and communion aspect of personalism. I would like to refer to these two distinct points as the soft claim and the strong claim, respectively. When I discuss the personalism of Burgos in the next chapter, I will argue that the claim by communitarians that liberals believe it is possible for persons to thrive outside of relations with other persons is a strawman. Liberals make no such claim. To be clear, individualist-liberals believe that persons need other persons to thrive. So, to refer to Williams & Bengtsson (2013), for personalists to say, “persons never exist in isolation” and/or “persons find their human perfection only in communion with other persons” is to say nothing intellectually interesting. Individualist-liberals and others will not disagree that persons never exist in isolation or that persons are perfected in relation with other human beings. This is therefore a soft claim – an intellectually uninteresting claim.

But there is also a different, strong relations-claim that can and must be distinguished from this soft claim. The strong claim is that persons are constituted in relation, *a priori*, in the same way that son is constituted in relation to father, *a priori*. This puts an entirely different spin on Williams & Bengtsson’s (2022) point that personalists say that “persons never exist in isolation”, for in terms of the strong relation-claim, there can be no person unless there is another person in which to be a person-from, a person-to, and a person-with; just as one is a son-to, a son-from, and a son-with, a mother.

We will take a closer look at his work in the next chapter, but it is worth mentioning now that as a personalist, John Macmurray expounds this strong relation-claim in erudite clarity. Macmurray makes the point in terms of the especial relation between mother and child. The mother tends to and communicates with the child, from day one, in a rational manner. The “existence and development” of the child therefore “depends from the beginning on rational activities, upon thought and action” (1961:50). In this way, the personhood of the child is constituted in the relation with its mother.

As mentioned, we will revert to a greater exploration of this strong relation-claim in the rest of the thesis. The purpose of raising it at this stage is to describe the existence of these two respective claims in the personalist outlook.⁶⁰

One short word to bring our discussion back to political philosophy: the relation and communion tenet of personalism must find expression in the freedom of citizens to associate with whomever they so choose, as far as possible. If the tenets of personalism are taken seriously, then we must understand that relation and communion is as important as human dignity. Within the context of the political

⁶⁰ The same applies to the idea that moral questions only arise in relations between more than one person. This is a soft claim, and very different to the strong claim that persons are *constituted* in relation.

arrangement, this means that freedom of association, but also the right to choose, are as important as the rights to life and having one's dignity respected. This is because these rights – life, having your dignity respected, freedom of association, the right to choose – give expression to the tenets of personalism. And because they give expression to the tenets of personalism, they give expression to what *the person* is, and therefore what *the citizen* is.

The five elements making up this understanding of the person,

- a) being different in kind and not just degree from non-persons,
- b) enjoying inherent, inalienable human dignity,
- c) enjoying interiority and subjectivity,
- d) enjoying a capacity for self-determination, and
- e) being a relation-concept,

capture the whole of the person. These five elements are interrelated and complementary of each other. Individualist and collectivist conceptions of the person all miss out on one or more of the points above because they focus on one or some at the expense of the others; and in doing so, negate important aspects of the person and the community. Also note that in the personalist outlook, when talking about what a person is – metaphysics – we immediately come into contact with ethical issues pertaining to human dignity, living in communion and so on. This is because within the context of personalism, metaphysics and ethics intersect in the person.

What is crucially important for this thesis at this stage is not only that all human beings, as a matter of species, are bearers of human dignity, as personalist theories prescribe, and which would be an improvement on *PL*; but also, that personalist theories recognize and greatly value the subjectivity and freedom of individual persons. A personalist political theory must therefore recognize the freedom and subjectivity of its citizens; it must protect and encourage its citizens to give expression to their freedom and subjectivity. And for this to happen, citizens must enjoy certain rights – the right to life and bodily integrity for instance, so that citizens are not killed or tortured for holding certain beliefs and opinions which are generated by their subjectivity. Citizens must have the freedom to exercise their freedom and subjectivity.

And then, especially regarding relationality and communion, citizens must have the freedom of association – the right to commune with other persons, in different settings and forms: groups, communities, religions, cultures, tribes, political associations, and so on. It is these relational networks which constitute the person, and in the political arrangement, under personalism, citizens should be

protected to pursue the relations and associations of their choosing, for these relations are central to who and what they are.

3.4) On the issue of scope in *PL*

As mentioned before, Rawls himself has identified the inability of *PL* to make provision for the entitlements of non-rational human beings. And as I have argued, this problem is in fact baked into the structure of his system. He opts to go the way of identifying a particular feature of human beings – rationality – as the source of normativity in his system. The obligations of justice in Rawls’s system therefore hinges on this feature. If he attenuates the role of rationality in his system, the demands of justice in *PL* themselves are attenuated to mere agreements or the status quo, which would be vulnerable to changes in the balance of power, and that means a lack of stability in the Rawlsian sense.

The obvious problem is that if you choose to go the route of identifying a particular feature of human beings such as reason, but also such as race, sex, class, age, religion, lineage and so on, you run the risk of excluding groups of human beings who lack the feature. And in the diverse, human rights-based society, this is quite simply unacceptable. As will be discussed further in the next section, it may well be that a political arrangement may require members of the diverse, human rights-based society to make compromises in terms of how they live out their worldviews and convictions; and it may even be the case that such compromises could well be justified. But to exclude groups of human beings as a matter of principle, based on their lack of possession of a particular feature, is unacceptable.

Well, if the problem is including/excluding human beings based on the possession of a particular feature – a metaphysical accident – then the obvious option which demands exploration at the least, is including human beings *qua* human beings.

At first glance, this seems to cohere with our deepest intuitions about the political arrangement. Yes, there is an extensive literature on why/how personhood only extends to rational human beings, with no less a titan than Kant as the representative. But despite all of that, if you visited my home and found my severely cognitively disabled brother sleeping in the kennel outside with the dogs, you’d be outraged. And if in response to your inquiry about the set-up, I responded “well, he is severely cognitively disabled so he is not a person”, you’d be even further outraged. And rightfully so!

How do we overcome this?

3.4.1) *The personalist argument*

As we have seen, philosophical personalism offers us a solution. Human dignity extends to the human being in principle – as a matter of species. Human beings are persons as a matter of principle. And this is a radical departure from the prevailing philosophy of personhood. Modern philosophy of personal identity, for instance, starts with John Locke who defines person as a forensic notion, i.e. an entity of which it is appropriate to attribute responsibility. And that distinguishes the animality of human beings from their personhood.⁶¹

Personalism, on the other hand, in contrast to Rawls and the prevailing philosophy of personhood, takes the position that human beings are persons *per se*.

How?

Human beings are indistinguishable from persons in terms of personalism. As mentioned above, personhood renders the human dignity categorically distinct from other animals so that the human being is not merely a heightened animal, but rather a completely different kind of entity altogether. To put it in other words, *person* is not an additional characteristic which a certain kind of (human) animal possesses – persons are a category unto themselves; personhood puts human persons in their own category of being.

Spaemann (2012:237) explains this as follows:

What properties must someone possess to have the right to recognition as a person? But that is the wrong way to pose the question, because it uses the word ‘someone’. Anything that is ‘someone’ is a person. We would do better to ask, When is some-*thing* some-*one*? But that is still wrong. Some-*thing* is never some-*one*. To be ‘some-*one*’ is not a property of a thing, whether animate or inanimate; it is not a predicate of some previously identified subject. Whatever we identify, is identified either as someone or as something from the word *go*.

Now here we get assistance from the very mainstream philosophy of personhood which assumes typical cognitive ability of human beings and therefore assumes the personhood of human beings, until the opposite is demonstrated, i.e. that this particular human being has atypical cognitive ability. So, when confronted by a human being we identify some-one from the word *go*, even on the mainstream view of

⁶¹ Locke discusses this in Chapter 27 of *An Essay Concerning Human Understanding* (2017). There is rather obviously a whole literature on this, at least from Locke’s time onwards. For a commentary on this and the important personal identity issues involved, please see Gordon-Roth (2019).

personhood. And in that way, it is being a human that makes us identify a creature as some-one. And if a human being were not identified as some-one, then the identifier would be wrong. But what about human beings with severe atypical cognitive disabilities? In ancient Rome, children born with severe deformities could be put to death with permission from the magistrate. What about such children? Are they persons too? It seems clear that for the mainstream view, they are not persons. The same goes for Rawls. We have already said that personalism sees all humans as persons, including such children. Let me therefore now demonstrate the logic.

Spaemann (2012:243) sets it out persuasively as follows:

Are we dealing with a thing? Or with an animal of a different kind? Of course not. We are dealing with a patient. If the severely disabled patient were not 'someone', but something else, he or she would have to possess a special kind of normality, a non-personal existence that assured an ecological niche in the world. But a disabled individual with whom we can never have personal communication is inevitably treated not as a normal being but as a sick one. A broken chair does not strike us as other than a chair; it is simply broken. And so it is with a human being incapable of personal expression, i.e. of the expression of intentionality: we see him or her in need of help.

and

The severely disabled are not, as animals are, at one with their nature, their mode of existence. They 'have' a nature; but because their nature is defective, so is their way of having it.

We see then two steps under the personalist framework. First, as discussed by now at length, there is a distinction of category to be drawn between persons and non-persons. Persons are not merely evolutionarily advanced or heightened organisms in the same category as other animals, whatever they may be. Persons are a distinct ontological category unto themselves. As a way of speaking, this means that personhood draws the material animal, i.e. human being, out of the category of animals – or animate beings – and puts the animal in a category of its own. It is not a typical animal – like other animals – with an additional property or feature, i.e. personhood; the whole entity is categorized separately. And as such, the human being is seen as one and the same entity with the person. There is no dualism, a person-entity and an animal-/human-entity. It is one ontological entity – the person. Or, as we may say with equal meaning, the human being. This is why personalists use *human being* and *person* interchangeably.

Once this is established, then the next step is relatively simple. A disabled human being is a human being. The fact that a particular human being is born with certain incapacities is neither here nor there. Nobody thinks that because a particular human being lacks cognitive capacity, she is no longer a human being. This is what Spaemann is arguing above when he says that a severely cognitively disabled human being would not be anything other than a human being and person if she were typical. She is merely a human being with cognitive incapacities – a patient. And in that sense, she is merely a person with certain incapacities. A broken chair is still a chair. We do not think a broken chair would be anything other than a chair once it is fixed.

And so in response to the charge that we have levelled against Rawls; that he is unable to afford entitlements to certain categories of persons, we see that personalism differs; personalism is able to accommodate not only human beings with severe cognitive disabilities, but that a political philosophy based on philosophical personalism would accommodate *all* human beings, as a matter of principle. Nor can Rawls employ Spaemann’s logic from rational, choosing agent in the *OP* to severely cognitively disabled, because for Rawls, inclusion in the political arrangement as such is determined on the basis of the capacity to choose, not on being a human being. If you abandon the capacity to choose, the entire *OP* thought experiment comes apart.

3.5) On the issue of theoretical coherence in *PL* and justifying foundationalism

We now turn to the second issue which we have charged Rawls with. To recap: in articulating the most elegant neutralist system, Rawls finds himself in a dilemma. Either Rawls admits not content to the individual in *OP*, in which case the overlapping consensus and his system evaporate; or he admits content to the individual in the *OP* and his system is no longer neutral.

My intention is not to offer a neutralist system. Neutralism is fool’s gold. What I do attempt to do here is offer personalism as a *maximin* comprehensive doctrine, i.e. the least “bad” – in terms of political philosophy – system out of many “bad” systems⁶².

Jacques Maritain (1951:54) formulates “the final aim and most essential task of the body politic or political society” as follows:

It is...to better the conditions of human life itself, or to procure the common good of the multitude, in such a manner that each concrete person, not only in a privileged class but

⁶² Here, a bad system is one that excludes worldviews in trying to arrange the diverse political arrangement.

throughout the whole mass, may truly reach that measure of independence which is proper to civilized life and which is ensured alike by the economic guarantees of work and property, political rights, civil virtues, and the cultivation of the mind.

In a certain sense, having a single comprehensive doctrine organize the political arrangement of the homogenous society is the ideal – specifically in terms of political philosophy and insofar as it is concerned with organizing the political arrangement; and, providing that all members of the political community freely adhere to the one comprehensive doctrine. In the homogenous community, everyone is Muslim for instance, so an appeal to Sharia to inform the organization of the political arrangement is a non-issue. What Maritain describes is attainable within the confines of a homogenous society based on a single comprehensive doctrine – again, assuming that all members of the community adhere to that particular comprehensive doctrine.

But that ideal is elusive in a diverse community based on human rights, and in the absence of achieving a system which is neutral amongst these competing systems the second prize is to achieve a system which is as inclusive of all well-meaning comprehensive doctrines as possible. And the system that is most inclusive of all well-meaning comprehensive doctrines must be judged the least bad out of several bad systems. That means that we are not aiming for the perfect system, which would be the system that is able to accommodate all well-meaning worldviews. We characterize that system and its resultant society as Utopian. We are therefore aiming for the best system out of several poor options.

Furthermore, “inclusive of well-meaning comprehensive doctrines” has both theoretical and practical import. Our starting intuition is that we want to arrange the diverse political community based on human rights. This implies that there are several different comprehensive doctrines held by citizens, and any society that respects the dignity of its citizens must also respect that which they hold sacred. This obviously doesn’t mean that the society or its members must hold the beliefs of its members, but it must give due respect to the beliefs of its members *qua* beliefs of its members, as far as possible. And there are various ways in which this respect can be shown, theoretically and practically, in a way in which mutual respect for two diametrically opposed comprehensive doctrines are both respected – not absolutely, but as far as possible.

A Catholic’s peace might be disturbed by the Adhan. A Muslim might find that a particular supermarket doesn’t sell halaal meat and he therefore must drive further from his home to find supplies. A vegan might attend a traditional African wedding where a sheep is slaughtered. A traditionalist African academic might attend a work function where a vegan diet is served. A Marxist might have to sell his labour and contend with a wage commensurate with the demand for it. A capitalist might have to pay

high taxes to fund a social welfare programme for the poor. An atheist might have to sing “God save our gracious King” in the national anthem of his fatherland. A racist nationalist might have to concede that the constitution of his country prescribes that all citizens are equal before the law. All these people, and everyone else in the diverse political community, will be required to make sacrifices and compromise the way in which they exercise their comprehensive doctrine in one way or another.

But that is the price of living in a human rights-based political community. It is justified because it doesn’t demand that citizens accept the truth of other comprehensive doctrines – as perfectionist liberalism demands. What it does demand is, at a minimum, that citizens respect persons. And this demand is foundationalist precisely to the extent that it demands citizens to respect persons in terms of a substantive conception of the person. While in the philosophy department seminar it is not possible for two divergent worldviews to both be correct at the same time, in terms of a political philosophy according to which persons have the right to freedom of belief and opinion, *respect for persons* means there isn’t one single comprehensive doctrine that everyone is forced to believe or hold to be true. *I might not agree with what you say, but I will defend your right to say it* the adage goes. Similarly, *I might not worship your gods, but I will defend your right to worship them, because you are a person.*

This general point about respecting persons is a fundamental starting point of any reflection on a pursuit of justice conceived based on the diverse political arrangement based on human rights. A very specific kind of pluralism is now taking shape – not in the perfectionist sense of conceding the truth of all views in the diverse political arrangement; but also, not in the sense of privatizing comprehensive doctrines from influence in the formulation principles of justice.

The pluralism taking shape is around the conception of the person specific to philosophical personalism. In the person we find a being, set apart from all other beings and possessing inherent human dignity – moral worth – which the political community neither gives to her nor can take from her without infringing justice. We find a being with freedom, subjectivity, and interiority as fundamental to her nature and constitution; but we also find communion and relationality equally as fundamental to her nature and constitution. The ideal political arrangement must create the environment for the person to live according to her nature. But because the political arrangement is necessarily between multiple persons, the political arrangement is necessarily plural based on the views held by its members. The fundamental truth of the political arrangement is therefore not pluralist, i.e. there are not multiple truths in the personalist political arrangement – the reality of the person is the truth on which the political arrangement rests. But the reality of multiple persons means there are a number of substantive truths in competition with each other. And the purpose of the political arrangement is not to adjudicate the truth of these competing truths. The purpose of the political arrangement is to create the environment which

ensures that persons can live out their convictions, even in tension with each other as far as possible – to better the conditions of human life itself, and all that entails, as Maritain says.

A significant move may be summed up as follows. I live out my own personhood when I contribute to the flourishing of the diverse political community; when I ensure that others who hold different views from my own, can hold and celebrate them precisely as persons, even if I don't believe in them.

Once more, I may not agree with what you are saying, but I will defend your right to say it. This is a profoundly personalist principle. The Catholic's peace is disturbed by the Adhan, but his personhood grows when he accepts it patiently because he knows that it is central to the faith of Muslim persons. The vegan is scandalized by the suffering of animals in factory farms, but her personhood grows when she carries her cross with dignity while attending the traditional African wedding where a sheep is slaughtered, because she realizes that the practice of well-meaning cultures is central to the exercise and growth of persons. And in that sense, the idea of forcing comprehensive doctrines on a person is as intuitively bad in terms of political philosophy, as it is anti-personalist.

The diverse political arrangement is an arrangement of compromises based on personhood, and the answer is a system that accommodates and manages those compromises as well as possible. That the system will proffer a comprehensive doctrine – at least, the diverse, human rights-based society and/or the personalist conception of the person – is unavoidable. But we need not fear competing comprehensive doctrines. If we measure comprehensive doctrines against the objective of political philosophy, which is accommodating as many worldviews as possible on the broad basis of human rights, it is reasonable to suggest that pursuing an appropriate comprehensive doctrines is a worthwhile enterprise.

Nor does such a system of compromises have to be a mere *modus vivendi* – a kind of political stability that is relative to equality amongst equal forces, and in which stability is susceptible to any subsequent imbalance in the power and influence of any one of the comprehensive doctrines amongst many. Such a system of compromises can be principled, i.e. based on a principle such as the Rawlsian overlapping consensus, but one more coherent, one less superficial. The personalist outlook will point any political philosophy to the person itself as the principle that should ground the pluralist political arrangement based on human rights. But this cannot be an unprincipled relativism that solves nothing – “justice is whatever any and every person says that it is”. It must be based on an acceptable conception of the person – a conception of the person that might be susceptible to criticism; a conception of the person that would have to be defended.

I will spend the rest of this thesis saying how that might work. For now, and to resolve this section, I merely make the point that we are avoiding the theoretical incoherence that we have charged Rawls with. He claims his system should be preferred above all other systems because they are based on comprehensive doctrines, whereas his system is based on a conception of the right, making his system neutral amongst competing comprehensive doctrines. His system is however based on a comprehensive doctrine, and his reasons why we should prefer his system fall flat.

But before we resolve this chapter, let me lay the groundwork for the next step in our journey. We have now identified personalism as a viable candidate to do better at grounding the pluralist political arrangement based on human rights than *PL* does. A further virtue of personalism is that it seeks to break the dichotomy between individualism and collectivism, as we have said above. But not all personalisms are equal. Some forms of personalism do indeed tend too far into individualism, others, into collectivism. What we need then is not just any theory of personalism, but a theory of personalism based on an appropriate conception of the person, that will be true to the promise of personalism – to break the dichotomy of individualism and collectivism. Such a conception of the person will ultimately have to make us rethink the relationship between the individual citizen and the political community she is a member of. In the fifth and sixth chapters, we will articulate the Ubuntu personalism conception of the person to meet this bar.

3.6) Conclusion

I live out my personhood when I act towards accentuating the personhood of others! Let us treat this as the nugget of insight which we will draw from this chapter. We shall do so for two reasons.

Firstly, we have used the personalist conception of the person to answer two critical charges which we have levelled against Rawls. We have shown how the five tenets of personalism deal with the issues of scope and theoretical coherence. In terms of scope, we have said that for personalists human beings are persons as a matter of principle – and in this way, no human being is excluded from the political arrangement, as a matter of principle. And this should strike us as intuitively correct. But we have also then reflected on the second charge against Rawls – theoretical coherence – to say that finding a system that is 100% neutral amongst comprehensive doctrines is a fool's errand; and that instead, a system based on an appropriate conception of the person, which is what the personalist conception is, is a much better route to follow because it will result in accepting as many comprehensive doctrines as possible. Another way of saying it is to identify a *super*-conception of the good, which serves to guide all other conceptions of the good. And personalism does this because it is based on the person. And persons have

the unique capacity of moral responsibility within the political arrangement – something everyone will agree on.

On the other hand, and the second reason why we shall let the insight above be the take-away from the chapter is that within the personalist tradition, less is made of the fifth tenet of personhood – relationality and communion. One way of formulating this observation would be to say that of the five tenets of personhood, the first four are dedicated to the individual person, while the fifth one to the issue of relationality and communion; and that one might be justified in interpreting all of the tenets of the person discussed above specifically as an individual *not* constituted by her relationality and communion; where the final tenet of personalism says something soft like ‘persons are fulfilled in relation’. This would be an entirely acceptable way to proceed within the fold of personalism, but it would make the tenet of relationality and communion intellectually uninteresting, for as seen, and as we will see further, in Metz’s commentary on liberalism and individualism, individualist philosophies do not hold that persons *can* exist outside of relations and communion. To make this argument against the big guns of Western individualism would be to take aim at a strawman. I will spend some time spelling this out in the next chapter too.

It must be noted though that where we just accept the relation and communion tenet in its soft form, we do very little to break the dichotomy between individualism and collectivism. And this is both a real problem for political philosophy and one that personalism promised to resolve. If, in the end, personalism offers a theory that is individualist, we are back to square one. Personalism will lose some of its magic when it conceives its tenets in individualist terms. This is a point I will make in reference to the personalism of Burgos in the next chapter.

What we ought to do is interpret all five tenets in terms of each other. Yes, there will be tension between for instance subjectivity and a strong understanding of relationality and communion, but it will be my argument that the tension sheds light on understanding the different tenets of personalism. The tenet of relationality and communion is only subordinated when we take an individualist approach to political philosophy. Similarly, subjectivity is only subordinated to the tenet of relationality and communion when we take a strong communitarian approach to political philosophy. When we rethink subjectivity in terms of relationality and communion; when we rethink relationality and communion in terms of subjectivity; and similarly, with the other tenets of personalism, without subordinating one to the other or others, then we shed a new light and understanding on political philosophy: we approach a personalist political philosophy. But this brings us back to an important objective of personalism: to break the logjam between individualism and communitarianism with a new, third way. This is the true promise of personalism in political philosophy.

The remainder of this thesis will look at this.

Individualism, collectivism, & the fragile promise of a third way: The kind of personalism we need

4.1) Introduction

4.1.1) *The story so far*

We started this journey by identifying *PL* as the most attractive system in grounding the human rights-based pluralist political arrangement but pointed out major faults; faults sufficient for us to reconsider reliance on *PL* to ground the pluralist political order. In the previous chapter, we identified personalism as a philosophical movement that can inspire a grounding for the pluralist political order. Personalism deals well with the challenges we identified in *PL*. It offers a theoretical basis to include all human beings, including the severely cognitively disabled, in the political arrangements, securing their entitlements. And it offers theoretical coherence in aiming for more modest ends than a neutralist system. It is grounded in respect for the person and her freedom, but it places certain limitations on that freedom in the form of a recognition of relationality and communion in the make-up of the person, i.e. that persons don't live in isolation, they live with other persons, and therefore rights are never absolute because they come into contact and conflict with other persons' rights. We've established that much by looking at personalism in general. We've also noted that many other political philosophies recognise that individual human beings must have freedom but that this freedom is not absolute. And we have seen, with reference to Metz, that even liberalism in various forms has recognised that persons only thrive in community, so the soft claim that persons need relations with other persons doesn't really mean much.

If we are going to rely on personalism; if we are going to articulate a personalist political philosophy, then we must be more specific. To do that, we must consider some specific theories of personalism.

4.1.2) *The political arrangement based on human rights*

One of the main features of the society we seek to ground in this intellectual quest is that of a society based on human rights. In other words, there is a sense in which we treat human rights as a necessary feature of the political arrangement while at the same time there is also a need to justify such a scheme of rights. Human rights are typically characterised as the rights of the individual, which serve to protect the individual against a collective, where the collective stands in some kind of unjust opposition to the individual – the tyranny of the majority, for example. In this sense, we can think of communism as the kind of system we have in mind when we talk of *collectivism*. Human rights are therefore understood as a response to the tension between individual and collective. The literature has moved on from collectivist systems which prioritise the collective over the individual. And rightfully so. Intuitively, human rights are just.

But as pejoratively as we may treat them, collectivist systems capture something that is as intuitively just as human rights are. There is something unjust in a political order which allows one citizen to own vast wealth which she would never be able to spend in her lifetime, while another citizen in that same political order lacks the very basics – food and shelter⁶³ for instance. And if we agree that that practical scenario is unjust, then it immediately places limitations on the kinds of theoretical comprehensive doctrines that can substantiate the political order.

It is worth spending a moment reflecting on the implications of this point. The freedom of the individual is actualised within the political context. The individual herself is actualised in the political context. The absolute freedom of the individual is only possible if the individual is the only member of the political order. But that is an a priori absurdity: *political* implies *more than one*. And that, in turn, negates absolute freedom and necessitates limitation on freedom. The reason for this is that absolute freedoms would conflict, cancelling each other out. The freedom of the individual is therefore dependent on the limitations of freedom in the political order. The

⁶³ This characterization makes the general point. There are, of course, cases where this scenario would not be unjust – say in a situation in which a citizen *chooses* to lack food and shelter. But in most cases, even prisoners guilty of the most heinous crimes are entitled to certain basic provisions, which the political order must provide. And this *just seems* just.

rules of the road, which limit the absolutely-free use of the motorcar by everyone, make it possible for the individual to enjoy the freedom of the motorcar – albeit in a limited manner. In the absence of the rules of the road, the political context is absent. There is absolute freedom, but the absolute freedom of all produces chaos. And the chaos negates the freedom – what we call *anarchy*. It is therefore only within the political context that freedom is possible, for the political context serves to regulate the conflicting freedoms of many individuals. But notice also that freedom is necessarily conceived in the political arrangement. This is like the logic of the Hobbesian Leviathan – from the state of nature to the social contract, where the absolute freedom of the state of nature is sacrificed in favour of a political arrangement where freedom is limited to become possible at all. In other words, the limited freedom in the political arrangement is the antidote to the absolute freedom of the state of nature. And to the extent that freedom must be limited to actuate, absolute freedom is actually unfreedom.

The political context therefore necessarily plays a crucial role in the substantiation of the freedom of the individual in terms of her rights – in many cases, to the extent that coercion is often justified. And the political context is substantiated by the collective – all the individuals in the political arrangement taken together as a single whole⁶⁴.

All that this means is that it is a mistake to consider the issue of human rights without regard to the collective. This is actually an elegance captured in Rawls's original position. The political conception of the person is a unit of representation representative of each citizen in the political order – so the human rights are secured. But the political conception of the person stands behind a veil of ignorance, so the limitations on freedoms in the political order are actualised and the system is fair as the limitations and fairness are regulated and enforced – absolute freedom is avoided. And this picture becomes clearest when Rawls (1993) tells us that *PL* grounds constitutional democracy, which is the political culture and tradition of the collective, i.e. all the individuals taken together as a whole to form the society which they make up.

⁶⁴ This idea *collective* and/or *collectivist* is one which must be treated with caution. It doesn't necessarily mean communism, or the tyranny of the majority; at face value, it simply means all the individuals together – as it is used above in the source of this footnote. But sometimes in the literature – certainly in the text from Burgos which we will consider shortly – it is treated as conceptually uncontroversial and unambiguous. In charity, I will note that I am relying on an English translation of Burgos's original which was in Spanish – and I am therefore blind to any linguistic nuance in the original which is lost in translation. I will do my best therefore to be clear about what exactly I mean when I invoke this term.

So, there is the individual and there is the collective. And there is this tension between the individual and the collective. But the tension is a tension of a special kind. The tension arises out of the limitation from the collective placed on the freedom of the individual, a freedom only possible within the context of the collective in the political arrangement. And there is a limitation placed on the collective by the human dignity and human rights of the individual – we know that arrangements that respond in a fast and loose way to the dignity and rights of the individual are not the kind of political arrangement aspired to.

The pluralist political order is a persuasive response to the tension between individual human rights and the limitations on absolute freedoms which make freedom possible at all – let us call these limitations “the demands of the collective”. The idea is that, *in order to enjoy the freedom which this society offers, we the collective place these demands on individuals*. Pluralism – which is not without its own challenges – is an attempt to acknowledge and preserve the integrity of the individual by recognising the difference of individuals. But it is the pluralist *political* order – and in this sense, we immediately recognise the collective. The pluralist political order must therefore balance the interests of both – different individuals, their interests and their conceptions of the good (pluralism) living together in cooperation (political order). This is what we mean by *pluralist political order*. Living together in cooperation places limitations on the absolute freedoms, as well as positive demands, on individuals and their interests.

That is the broad, abstracted situation of this inquiry so far. To be more specific, let us note that the tension between individual human rights (pluralism) and collective demands (political order) is only a tension because of a specific conception of the person – the Individual. This conception of the person is Modern and emerges almost abruptly in Western intellectual history. But, as we will see in a moment, there is good reason for us to reconsider the pre-Modern understanding of the person to sooth the tension between individual and collective – especially within the context of political philosophy.

To return to the issue we are taking up with personalism in this chapter, and to say it explicitly: personalism favours the Modern, individuated conception of the person. With reference to what we have just said about absolute freedom, it seems clear to me that we cannot think of the person in absolutely individuated terms. The tendency to think of the person in absolutely-

individuated terms is a Modern move – and I will argue that this is a mistake. I believe this Modern conception of the person is where much of the problems in political philosophy lay. In other words, the problem of political philosophy – grounding the pluralist political order – is at heart a problem of philosophical anthropology. And I will use this chapter to say why.

Finally, before I give a chapter outline, there is a metaphilosophical issue that must be flagged. In philosophy, political philosophy and the norms which ought to ground the political arrangement fall within the broad category of moral philosophy; while philosophical anthropology, which deals with *inter alia* conceptions of the person, falls within metaphysics and ontology – *descriptive* philosophy, in other words. And the literature is hyper-vigilant of the gulf that exists between metaphysics – *is* – and moral philosophy – *ought*. Here I flag this point to reassure the reader that I shall tread cautiously.

4.1.3) Chapter outline

We begin with a reflection on human dignity and its implications for the gulf in the literature between metaphysical/ontological questions around ‘*what is?*’ on the one hand; and normative/ethical questions around ‘*what ought to be?*’ on the other (§4.2). Here my main point is that persons sit at the intersection of *is* and *ought*. Having made that argument, I then proceed to define the central question in this chapter – the relationship between individualism and collectivism, especially considering what I established in the previous section, and I highlight the value of personalism (§4.3). Next, I consider the anthropology at work in the integral personalism of Don Juan Manuel Burgos⁶⁵, and I argue that his anthropology is individualist (§4.4). As his personalism is based on the personalism of Karol Wojtyła, I then return to this work to make the case that Wojtyła points us into the direction of a stronger role for relation and communion in the constitution of persons (§4.5), and then examine more closely what a relationally constituted conception of the person might look like (§4.6). Having made the case for a relationally constituted conception of the person, I then proceed to look at one – that of John Macmurray (4.7). I do so specifically to point out that not all social constitution theories are equal – that those theories that lead to the kind of collectivism that drowns out individuals

⁶⁵ Burgos (2019) sets out integral personalism and its link to Wojtyła’s personalism as a future intellectual project in clear terms.

to the extent that we lose notions such as freedom, subjectivity and agency as we know it: these are not what we desire either.

4.2) Human dignity and is/ought

The first issue that we must consider is the metaphilosophical issue which I flagged in the introduction above. This is the issue about whether we are in search of a philosophical anthropology – what *is* the person? – or the normative grounding of the political arrangement – what moral *ought/s* must form the foundation of the political arrangement – with the implication as to whether the person can perform that task? And recall also, there is a gulf which exists between the two questions – metaphysics and ethics, or *is* and *ought*, as it is more commonly understood.

Our work is made somewhat easier because we can identify the importance of human rights in our quest for *the human rights society* from an inherent human dignity which all humans enjoy by virtue of being human⁶⁶. Let us therefore begin with a meditation on human dignity.

Human dignity, admittedly, is not an uncontroversial issue. I am going to sidestep the controversy created by the details of human dignity though by appealing to what most of us can agree to. When we look at political events such as Nazi Germany and the subjugation and eventual killing of six million Jews and others, just because of who they are, there is something specifically *morally* wrong there. And that moral wrongness is capable of self-communication. At a certain point in the Roman Polanski film *The Pianist* (2002), there is a scene depicting a crossing section on a road which Jews must walk, in and out of a ghetto, where the road at the crossing is closed off periodically to allow trams and cars to pass across. During one such extended period of waiting while trams and cars pass, noticing drab music emanating from a string-trio nearby, the Nazi soldiers at the crossing start ordering elderly Jews waiting there to start dancing, against their will. First two elderly men are paired and ordered to dance together as man and woman. Next, a very short man and a very tall woman are paired. And then a third couple are paired – a very tall man and a very short woman. The soldiers laugh loudly at the degrading scene: elderly citizens out in public made to perform as clowns in a circus. The

⁶⁶ Always keep in mind that we also do need to justify human rights.

sombre crowd of onlooker Jews watch, personifying the aura of war. It is a deplorable sight, and confronted by that sight, and then by people who approve – the soldiers who are laughing and enjoying it for instance – we do not reconsider our own views and assessment on the circus scene: “perhaps this sight actually *is* funny”; we conclude that those persons who enjoy such things are reprobate degenerates.

Another example are the scenes from Auschwitz in *Schindler's List* (1993) where adult and elderly Jews are made to run around on a field, naked, during a medical examination; or where Jews are gassed and incinerated *en masse*. In one sense, the scenes from the ghetto described above are not as bad as this depiction of Auschwitz. In another sense, they *are* as bad because it shows persons being treated in certain ways that we find reprehensible. And these ways are not only limited to being gassed – abhorrent as that is. Something else is being infringed when elderly people are made to run around naked in public or when they are made to perform silly dances in public against their will. And the reprehensibility of these actions is capable of self-communication. We know it when we see it.

Justice functions in such a way that we consider this political event and its political structure, including the fact that it is a duly constituted political order based on the theory and principle captured in *Mein Kampf*, so that we can rule out arbitrariness. Nazism is a theoretically complete system. But we nevertheless judge Nazi Germany to be an unjust political arrangement – the kind we are trying to avoid. The same can be said of apartheid in South Africa: despite the theoretical underpinnings and its due constitution, we nevertheless deem it to be unjust. It is important to note that in both Nazi Germany and apartheid South Africa, as well as the injustice of the Soviet Union and many other political arrangements; we don't judge the injustice on the basis of the way in which the political arrangement is established – that it is autocratic and not democratic for instance, so that democracy might justify what we think unjust; nor do we judge it unjust because of the theoretical coherence of the philosophies which underpin them. We judge these political arrangements unjust simply by the way in which it treated certain groups of citizens. Nazi Germany is considered egregious because of its treatment of Jews – and people tend to judge *Mein Kampf*, not based on its theoretical coherence, but on the basis that it justifies Nazism. Similarly, nobody knows anything about Hendrik Verwoerd the man – he could have been an upright member of his church community, mild-mannered and polite, a strong husband and father. According to Henry Kenny (2016:5-7),

he was a gifted scholar in the fields of both theology and psychology. History is generally deaf to all of that because of his role in establishing apartheid, and because of the way Black people were treated during apartheid.

The result of this is that one is justified, when doing political philosophy, in putting to one side political arrangements which disregard the inherent human dignity of citizens. Much of my critique of Rawlsian *PL* in the earlier sections of this thesis relies on the principle that all human beings, just by being human, bear inherent human dignity. Human dignity is not something that is bestowed upon citizens through a country's constitution or through a social contract. If we spelt out in contractarian terms the way in which human dignity is understood today considering events such as Nazi Germany, we would say that human beings enter the social contract as bearers of dignity, so that the social contract itself is tested against the way in which its participants, i.e. its citizens, are treated. To the extent that the contract negates the citizenship of non-rational human beings such as the severely cognitively disabled, we reject the social contract.

To explore this idea a little more, human dignity, which precedes the political arrangement, gives rise to certain pre-political fundamentals. These are natural rights. No political arrangement can justify the negation of these rights. In other words, the human being brings natural rights into the political arrangement, and the political arrangement is subject to these rights. But in the same way that legal rights are curtailed in the political arrangement by virtue of the responsibilities which they immediately give rise to, so too natural rights are also to be curtailed. The curtailment of natural rights happens at the point of activation of the right itself, and this means that the curtailment of the natural right is brought into the political arrangement. The right to life, for instance, is a natural right for John Locke⁶⁷. That natural right is brought into the political arrangement. That natural right – the right to life – which is a moral right, may be limited in a perfectly moral manner though, as in the example of killing a would-be killer in private or self-defence. This limitation of the natural right is moral and obtains even at the pre-political stage. But notice also that this natural right, which flows from human dignity, is a part of what the human being is. In other words, if human dignity is part of what the human being is, then human dignity – not what it entails, just human dignity *per se* – is part of the

⁶⁷ Liberty and property are other natural rights, according to Locke (1823).

metaphysical question, what *is* a person? Properly formulated then, we say that the moral value of human dignity, which obtains by mere virtue of the coming into existence of the moral entity i.e. the human being, gives rise to certain natural rights which exist prior to the political arrangement. And it is here that we see the interaction and intersection of metaphysics and moral philosophy: in the person.

We are therefore at a point where we may set out some clear points in unambiguous terms.

First, what the person is is fundamentally a metaphysical question. This is an uncontroversial point. However, in answering this question, we are led to realise that the person possesses dignity *as a person*. That dignity activates moral value and moral responsibility, and that means that the discussion on what the person is is at once a metaphysical and an ethical discussion. The nature of the ethical dimension of the person is therefore also ultimately part of the metaphysical discussion because the ethical dimension is part of the nature of the person. This, in turn, and in giving rise to ethical questions because moral questions are practical and revolve around responsibility, requires of us to approach questions of rights as being limited as a matter of nature. Individual rights are, by their nature, limited. Because those individual rights are natural rights, and because those natural rights are limited, there are limitations in the form of responsibilities on the moral self. And here we are perhaps taken back to Locke's metaphysical definition of the person: person is a *forensic* term. But as much as *person* is a forensic term – and we may say this when we are doing metaphysics – *person* is also clearly a (moral) value-term because of the existence of dignity. And because persons don't just spontaneously pop into existence from nothing, even at a very primal, material level, human beings are contingent on other human beings. And because the existence of these multiple creatures with inherent dignity, there is immediately entitlements and duties from the beginning.

We therefore see, in the person/human being, the intersection of metaphysics and moral or political philosophy.

Perhaps this is worth spelling out more. It is political philosophy that draws us into discussion about how rights and moral entitlements are to be practically limited because we know that, in practice, persons live in community. But even theoretically, we know that persons don't spontaneously come into existence. Persons come into existence in community – at least with

two other persons there. The individual person is never an isolated ontological reality – and I’m making a metaphysical point here. The individual person is always in relation with other individual persons: from other persons, with other persons. This relationship places a limitation on the individual person, and while this point is often considered in political philosophy which identifies the limitation at the practical level, we must also be able to recognize that the same limitation exists at the metaphysical level. At the level of political philosophy, the limitation is expressed in terms of practical limitations on rights which by now are, in principle, uncontroversial. There is a responsibility on the person to respect the dignity of other persons, which we have now recognized as a metaphysical reality of persons, but which we also claim places a metaphysical limitation on individual persons.

It helps to keep in mind that merely identifying the characteristic – responsibility – as part of the nature of the person puts responsibility in the metaphysical category. If we descend into discussion about what that responsibility entails, then we descend into moral philosophy. But to be clear, responsibility as such is a metaphysical characteristic of the person.

If the dignity of the person is fundamental to its nature, as we establish in political philosophy, then what implications does that have for the mainstream views in the metaphysics of personhood? Rawls’s system puts the individual in the original position and builds his system from there. In this way, he sets up his enterprise as assuming that the interests of the community should be subordinated to the interests of the individual – what is most important for the philosophical moment is the inviolable moral worth of the individual. But this is not an uncontroversial position that should be dealt with as an assumption in political philosophy. And considering that he styles his political philosophy as a form of liberalism – i.e. where the freedom/liberty of the individual is central – it certainly then raises the question as to whether there is a subterranean version of his conclusion – *individual* liberty – in the starting premise, i.e. the individual in the *OP*.

If there is more than one person in the political arrangement, which is the case, then we are bearers of responsibility as much as we are bearers of rights. Those rights and responsibility are rooted in the fact that we are persons. But responsibility to whom? It is responsibility to others; responsibility to the collective – the whole community of individual persons as an entity; because of what the individual is. Responsibility towards others is therefore a metaphysical

feature of the individual person, as much as inherent dignity and any rights which might flow from such dignity are. And in this way, we see that the person sits at the intersection of metaphysics and normativity. Because of human dignity, the person sits at the intersection of *is* and *ought*. Human dignity, as something that is baked into the view of what the human is, is as much a metaphysical point or question as it is an ethical one.

4.3) Developing the question and situating personalism

So, the human being sits at the intersection of *is* and *ought*. What the human being is necessarily includes the element of inherent moral value, and that makes inherent moral value part of the metaphysical composition of the person. Since this is a work in political philosophy, how this actuates within the political context is the next question.

One way of thinking about it is to note that in individualist societies, the moral value of the individual ensures that the good of the collective is subordinated to the good of the individual. In collectivist societies, the moral value of the individual is subordinated to the moral value of the collective⁶⁸. Both individualism and collectivism have strengths and weaknesses. Human rights theory is generally thought of as being rooted in individualism, whereas, as we have just described, the limited nature of rights means that the individual is necessarily constricted by the collective. That personalism therefore offers a third, middle way is a crucially important contribution to theory. It must not be lost.

4.3.1) *Individualism & collectivism: a closer look*

Burgos tells us that the “20th century was the stage for a battle between two powerful ideologies: collectivism and individualism” (2022:22). In the former, the human being is understood “as a part of the social whole, a whole for which he should sacrifice himself if necessary” (2022:22); whereas in the latter we find “the opposing perspective: the exaltation of the individual lacking in solidarity who sought his own good...” (2022:22). It is an established virtue of personalism that it seeks to respond to these two ideologies – to reject the

⁶⁸ Not all collectivist societies of course think that individuals have inherent moral value. In any case, we are concerned with the best versions of collectivist societies, i.e. those societies that do not view the killing of individuals for the sake of the collective as morally justifiable.

excesses of both; to conciliate the insights of both⁶⁹. Because of the political philosophy situation of this essay, we note that there are non-political conceptions of “the collective” such as the family and restrict ourselves to the political conceptions of “collective”. Let us explicate each of the ideologies – individualism and collectivism – and how we intend to use the terms.

Ellen Meiksins Wood (1972:6) describes *individualism* as emphasising the intrinsic worth of the individual in moral or political philosophy, social outlook, or ideology. Charles Taylor (1985:187) categorised these kinds of theories as *atomist*. Society, Taylor says, is “...constituted by individuals for the fulfilment of ends which [are] primarily individual” and as such, society is “purely instrumental” to the ends of the individual. Taylor also makes the point that atomist societies constitute a broad and diverse category. Within this diverse category, Nozick’s libertarianism (1974) stands in opposition to Rawls and Nussbaum (2006) who, in working out systems of distributive justice, recognise some basic entitlements in society on the part of the less fortunate, which the better-off in society are obligated to ensure is available. Nussbaum (2009), for her part, sees herself in opposition to the social contract tradition and responds to Rawls’s invitation to deal with four questions in which his system struggles⁷⁰. Understood as such, *individualism* is not a homogenous term: we might have a radical individualism such as Nozick’s, or a more subtle form of individualism which recognises obligations on the individual towards the whole – obligations which we may formulate in terms of solidarity: a more egalitarian liberalism such as *PL* for instance. But, as a kind of common denominator of all these systems, the individual is treated as having intrinsic worth, and society is seen as purely instrumental for the purposes of the fulfilment of individual ends. In light of this, human rights are conceived of and formulated on an individualist basis – that is to say, where the autonomy of the individual is central and actuated as far as possible, with as little impediments as possible.

Contrast these individualist theories with collectivist theories – the opponent of individualism in the great battle of the two ideologies. Burgos offers the cases of communism, Nazism, and fascism as examples of collectivist theories, and in these, the will and good of the collective is

⁶⁹ A more thorough consideration of the situation of personalism between these two ideologies is found in *An Introduction to Personalism* (Burgos, 2012:7-50).

⁷⁰ The four areas are justice across generations, transnational justice – which he dealt with in *The Law of Peoples* (1999a), justice for people with disabilities, and justice for animals.

prioritised over the will and good of the individual. In some cases, inverting Taylor's definition of atomism, it is useful to think that in collectivist systems, the individual is instrumental to the ends of the collective. As Burgos says, the "collectivisms...promoted the general values of society, but deprecated individuals" (2022:22). But this is not always the case. In certain communitarian systems, individuals are seen as rooted in collectives. In *After Virtue* (1981), Alasdair Macintyre argues that Enlightenment moral philosophy is stripped of its content because it negates the idea of ethics rooted in a *telos*; a *telos*, in turn, rooted in the community in which the individual is to be found. The individual is therefore not seen as purely instrumental to the ends of the collective, as in the case of communist Soviet Russia, but rather, the individual *is* necessarily rooted in the collective, negating a kind of *OP* abstraction of the individual person, where the individual is conceived of in absolutely individuated terms. Collectivisms can therefore include systems which have a gross majority-rule approach, or systems which give an executive or the state excessive power to act against the self-defined goods and interests of the individual. For this discussion, we'll tend towards Burgos's examples of communism, Nazism and fascism as representative of what we mean by collectivist systems, keeping in mind that there might be softer forms of communitarianism such as Macintyre's⁷¹.

It bears mention that, by now, collectivist systems are treated pejoratively and with suspicion – and rightfully so. This is true, even if to a lesser extent, of radical-individualist theories too. But given the rise and pervasion of human rights, it is safe to say that individualism, while suffering some damage, eventually won the battle described by Burgos. Aiming for the human rights culture, as far as political philosophy goes, is a settled matter. And collectivist systems which instrumentalise individuals can sensibly be put to one side.

All of this though is to caution Burgos not to make the mistake of holding his personalism up against a radical form of individualism such as Nozick's libertarianism, and to then think that his system is not individualist. And in that sense, I should like to pose the question as to whether integral personalism nevertheless proffers an individualist, atomist vision of the person and society, if the anthropology is applied to the question of organising the political arrangement.

⁷¹ Note that Macintyre doesn't describe or consider himself a communitarian.

But the question can be extrapolated to individualist and collectivist personalists alike. The personalist promise of a third way is between individualism and collectivism as described hereinabove. It is for personalists to ensure their systems walk the line. In the next sections, I want to consider two forms of personalism who, I think, do not walk that line successfully. And I do this to explicate the kind of personalism that this thesis is in search of.

4.4) Relationality and Communion in the philosophy of Burgos

In this section, I engage with the philosophical anthropology found in Burgos's book *Personalist Anthropology: A Philosophical Guide to Life* (2022), specifically from the point of view of the tenet of relationality and communion. I think Burgos's conception of the person is individualist, and where it will serve to ground a political arrangement, I am of the view that such a political arrangement will be individualist. I want to look at the configuration which relationality and communion – that is, the nature of the person as a social being – receives, the extent to which it informs the other tenets of personalism in his conception of the person, and the extent to which we can think of Burgos's personalism as individualist.

In sum, there is no specific element of relationality and communion in *the constitution of the person* as such. It appears the person is *fulfilled* by relations which are contingent to the constitution of the person. There is emphasis on the social dimension of the person, but it must be admitted that this social dimension, in the need for solidarity for instance, does not feature in the constitution of the person. In other words, persons are not constituted by relations. They are constituted as individuals who are subsequently fulfilled by relations. Let me say how.

In the section Burgos entitled “the Main Features of the Person” (2022:29-33), there is no specific sub-section dedicated directly to the element of relationality and communion. This stands in contrast to Williams and Bengtsson's (2022) entry in the Stanford Encyclopaedia of Philosophy on personalism which identifies relationality and communion as one of five “distinctive characteristics...that generally hold for personalism as such”⁷². Point b.4) of

⁷² Williams & Bengtsson don't offer the five “distinctive characteristics” of personalism as part of a philosophical anthropology, and so there is a slight incongruity between Burgos's “the Main Features of the Person” and Williams & Bengtsson's five distinctive characteristics. But Williams & Bengtsson don't offer their own theory – they offer an encyclopedic entry of personalism. In this sense, my reference to their entry is more to show that, at least in a sense, relationality and communion is presented as on a par with the other distinctive characteristics

Burgos (2022:30-31) is dedicated to “Openness and Definition”, and the point that the person “is not a being closed within himself, but rather open, a being who needs to transcend himself and go out of himself to develop himself fully” is made. An instrumentalist interpretation of this principle can still be taken though; that is, that the individual ontological entity goes out of himself, specifically *to develop himself fully*. The Other is therefore clearly still the instrument by which the individual realises its end.

On page 45, Burgos (2022) presents the diagram explaining “the structure of the person”, and it very clearly doesn’t indicate any element of relationality and/or communion. In explaining the corporality of the person, Burgos (2022:47) tells us that “John is everything, the entire person, in all his dimensions, but what first appears before me, which makes the person manifest and present to me is his body”. The person, in other words, is this individual before me, and only that. “[The] body is not an instrument of the person” he says (2022:219) “but rather the person himself in his corporeal dimension.” Elsewhere, Burgos explains that the Self consists in two properties, self-consciousness and self-belonging, and that “we have this possible description of the self as self-conscious self-possession” (2022:150). Not only is the element of relationality and communion omitted from “self-conscious self-possession”, but an individuated ontological entity is a positive project.

It is true that relationality and communion is only one distinctive characteristic in a list of five which Williams & Bengtsson (2022) give us. But the importance of the five elements is that they must each be interpreted considering the others. The alternative would be for the list to be contradictory. In other words, interiority and subjectivity must be interpreted considering relationality and communion, and vice versa. This is how all characteristics of the person should be interpreted, regardless of the theory, unless one of the five characteristics are subordinated to the others.

Freedom and self-determination is an element of the person. Burgos tells us that “[freedom] is a topic of undisputable relevance in our time, and thus it requires special attention” (2022:44). “If I am in jail, my essential freedom does not change, but I am less free: I need space, air, light, sun and thus I long for freedom” (2022:129). He distinguishes between two levels of

of personalism, such as subjectivity and dignity, whereas Burgos presents relationality and communion as contingent to a pre-existing Subject – giving it less importance than dignity and subjectivity.

freedom, essential freedom – which is freedom “in its anthropological structure” (2022:128) – which all persons enjoy, as well as freedom in its concrete framework, the physical reality of the individual, which is infringed upon when the person is, for instance, imprisoned. There is no reference to an instance where another is imprisoned (unjustly) and what effect such (unjust) imprisonment might have on my freedom⁷³. An interpretation of freedom with an element of relationality and communion does not feature. *Freedom* is interpreted as *individual freedom*.

Burgos does attempt to distinguish himself from individualism. For Burgos (2022:236), “individualism falls short...in its tendency towards lack of solidarity toward egoism”, and “considers the human being as self-sufficient and having no need for the rest of humanity” (Yepes, 1996:261, in Burgos, 2022:237). But is this really an adequate description of individualism?

In the debate between Thaddeus Metz and Anthony Oyowe mentioned earlier, it is the conflict between communitarianism and individual liberty – a variation of the great battle between individualism and collectivism as cited in Burgos above – that is rehearsed. Metz argues for a certain (individualist) reading of the African philosophy of Ubuntu⁷⁴, and one of the charges which Oyowe levels against Metz is that his “theory cannot account for the metaphysical thesis that individuals necessarily depend on a community for their existence” (Metz, 2014a:314). Metz offers a response worth quoting at length:

[Oyowe’s charges] cannot be sensibly construed as defining elements of communitarianism since they are sociological banalities that no one would reasonably reject. Much too often in the literature, communitarians believe they are targeting liberalism and other ‘individualist’ philosophies by noting that individuals cannot exist or flourish on their own. However, I am simply not aware of any influential Western, liberal or individualist thinker who has claimed that it is possible for, say, a baby to grow up into a normal adult without socialisation, or an adult to make substantial achievements as a Robinson Crusoe on a deserted island without cultural tradition, emotional support, substantial resources, peer recognition and so on. (Metz, 2014a:315)

⁷³ In §5.3 below I contrast this conception of freedom with a social constitution of the person conception of freedom.

⁷⁴ This reading is that human dignity is grounded in the individual person’s capacity to commune.

Metz goes on to say that “the big guns of the Western tradition, such as Hobbes, Locke and Rawls” do not think that the state of nature excludes “non-governmental relationships such as family”, and that the state of nature “is not supposed to represent what the world was like or even could be like”, but is rather “supposed to bring out what is of normative importance for evaluating some facet of government” (Metz, 2014a:315).

Individualism is therefore focused on a very specific consideration of the individual as the source of moral and political value for a very specific exercise in political philosophy – and when discussing this, personalists need to pay special attention to this to avoid taking aim at a strawman. Liberalism doesn’t see the individual human being “as self-sufficient and having no need for the rest of humanity”, as Burgos puts it. Individualist philosophies, for the most part, focus on what is “of normative importance” when doing philosophy, and that is that the individual is an ontological entity that has intrinsic worth, which must be prioritised. In my view, Metz is correct in his push-back against this specific charge from Oyowe.

So, we have identified the great war between individualism and collectivism in personalist literature, and we have seen how the integral personalism of Burgos does not actually rise above this war; it fits rather snugly within the individualism category; an individualist like Metz would not disagree with Burgos that persons need other persons to flourish. Metz would probably disagree with Burgos’s characterization of individualism, so that Burgos himself might be thought of as individualist. And we have called this individualism of Burgos into question because if relationality and communion is to be important on the personalist account, then it must be important in an interesting way – in a way that sets it apart from other systems. Eating a nutritious diet is also important for the human person, but it does not form part of the personalist canon because it is an uncontroversial truism – a sociological banality, as Metz says. In Burgos we seem to be left with an individual ontological entity in the person who is valued as a subject and for whom freedom is important; and further, one who is fulfilled in relations with other persons. And Metz demonstrates that this is almost entirely compatible with the individualist liberalism of the likes of Hobbes and Rawls. This cannot be it.

When we articulate our conception of the citizen in terms of personalism and redeem the voucher of a middle way between individualism and collectivism, we must be sure to articulate

an element of relationality and communion that is interesting and controversial; one that pervades the other four tenets of personalism. It is clear to me that the best way to achieve that is to articulate a socially constituted conception of the person.

4.5) The personalism of Wojtyła, the cosmological dimension of personhood, and *the social constitution of individual persons*

We have now established that it is not enough for a political philosophy to (merely) recognise that human beings thrive in community to set it apart from individualism. Is the anthropology in the integral personalism of Burgos sufficiently distinguished from individualism to redeem the voucher of a middle way? Or is integral personalism a form of egalitarian liberalism?

To further substantiate my question, which I must leave open to Burgos, I should like to propose an alternative by reflecting on the idea of the social constitution of the person. In proposing this alternative, I am now also starting to sketch the way forward in the positive aspect of this thesis.

There is an important anthropological nuance in the claim that persons are *constituted* by other persons that is not captured by *collectivism* as used in Burgos (2022). In the anthropological sense, collectivism in political philosophy also relies on an individualist conception of the person – where the good of the collective, i.e. the many individuals put together, simply outweighs the good of the individual. The collective, in other words, is a collective of individuals. We might be tempted to think that the collective instrumentalises the individual, but it is important to recall that for Marx & Engels, in the future communist society each (individual) person will be able “to do one thing today and another tomorrow; to hunt in the morning, fish in the afternoon, breed cattle in the evening and criticise after dinner, just as [she pleases]...” (Marx, 1845). The difference in the Marxist vision is *equality and freedom*, as opposed to simply freedom, as on the individualist view. The difference is not in anthropology. In the Marxist vision, there remains a competition between individual and collective, just as there is competition between individual and collective in individualist philosophies. That is, anthropologically speaking.

On the other hand, to make the anthropological claim that the individual is *constituted by relation* is to say something quite different. It calls into question competition between individual and collective to begin with. Put differently, to say that the individual is constituted by the collective is to say that the individual is grounded *in* the collective, but not in a cause-and-effect way, where cause and effect are still ontologically distinct; but rather in a way that makes the individual identical to the collective, in a very specific sense.

To make the controversial point of this chapter in a direct way: personalism is offering nothing philosophically interesting if the claim is simply that individual human beings are fulfilled by relations and community with other human beings. Individualist doctrines tick that box, as Metz (2014a) argues. What is philosophically interesting and worth pursuing is the claim that persons, and therefore citizens, are *constituted* by relations and community. And when we think of human dignity and the fundamental rights it gives rise to, we must think of these in terms of the framework that persons are constituted by relations. In other words, human dignity and human rights cannot be thought of as accentuating autonomy in the Kantian sense. We must instead ask, *what do human dignity and human rights mean where persons are constituted by relations?*

Wojtyla was impressed by the idea “that the *I* is in a sense constituted by the *thou*”, and called for this “superb intellectual synopsis...to be unravelled and developed” (1993:241). He says that,

when the relation directed from my *I* to a *thou* returns to the *I* from which it proceeded, the reflexivity of this relation (which need not yet be a mutual relation involving the counter-relation I-thou) contains the element of specifically constituting my *I* through its relation to the *thou* (1993:242).

In this light he leverages further his reflections on participation to make the case that *person* is a relation term. Here we can draw on what we have said above about human dignity and make a connection.

Human dignity sits at the intersection of *is* and *ought* – and the way that is phrased is intentional, for the literature insists on a gulf between the two. In the person, human dignity is

both a moral value and an ontological reality, insofar as it is a feature of the person. The is/ought distinction in philosophical literature accounts for two separate fields of inquiry, and this separation in the fields of philosophical inquiry implies two separate dimensions of the person. These dimensions are made clear to us in John Crosby's commentary on the personalist philosophy of Wojtyla – they are the “cosmological, objective” dimension of the person on the one hand, and the “personalist, subjective” (Crosby, 2016) dimension of the person on the other. It is worth noting that there seems to be a distinction, for Crosby, between *man* and *person*, so that *man* seems not to be synonymous with *person*, as it is for someone like Spaemann. We will revisit this in a moment. In the meantime, let us take a closer look at the two dimensions of the person – objective and subjective.

We start with what Crosby calls the subjective, personalist dimension of the person. “The first and simplest thing to say [about Wojtyla's personalism] is this: through my subjectivity I exist as a subject and not just as an object” (Crosby, 2016:25). Crosby continues: “As subject I live my being from within, and do not just encounter it from without as an object”. There is some similarity between subjectivity and what we know as consciousness, or perhaps what Descartes calls the *cogito*. It is that which doubts by considering the possibility that it is being tricked by an evil demon. That is what Wojtyla calls *the subject*. When Descartes says, “I think”, he is saying it from within, referring to himself as himself and as nobody else can refer to him. To refer to Crosby's commentary once more, “there is an experience of myself from within that only I can have” he says, and “we can call it ‘presence to myself’” (2016:25).

“Of course,” Crosby (2016:25) also says, “I can cognise my being from without; this happens when I see myself as others see me”. Here we approach the other dimension of the person – the cosmological, objective dimension of the person. When the subject sees herself as others see her, and when others see the subject in question as the object of their gaze, then this subject is what Crosby calls “a public object” (2016:25). Crosby makes the example of death. “I can consider [my own death] cosmologically, as when I think that all living beings die” (2016:25) and that, as a living being, I too will die one day. But this objective consideration – in which I make myself and my death the object of my consideration – is very different to actually experiencing my own death. “In the cosmological perspective” Crosby (2016:27) says, “I fit snugly in the world of nature and of the larger cosmos...”.

These then are the two dimensions of the person according to Crosby – objective, cosmological, and subjective, personalist. It is worth noting now that there is a terminological position that I do not endorse. While Crosby sees the latter dimension of personhood as subjective and *personalist*, I am not pre-judging the matter here as I will go on to argue that the personalist conception of the person is both cosmological and subjective, as opposed to being just subjective. For now, I will however continue to use Crosby’s terminology.

Let us take another step. According to Crosby, “Wojtyla clearly realises” (2016:27) that the focus on subjectivity can lead to subjectivism. And this potential is seen by Wojtyla as a vulnerability of subjectivity. To overcome this vulnerability, Crosby (2016:27) says Wojtyla insists “that the personalist image of man was never meant to replace the cosmological, but only to complete it”:

The cosmological image has its truth; we really are beings that can be apprehended from without; we really are also objects, even if not exclusively objects; we really are individual substances of a rational nature (2016:27).

All of this is true, according to Crosby’s commentary on Wojtyla. What the subjective, personalist account therefore offers is not an alternative to the cosmological account; rather, it serves to complete it.

Things become muddled though in this paragraph offered by Crosby (2016:26):

Let us now consider the contrast that Wojtyla draws...between the ‘cosmological’ image of man and the ‘personalist’ image of man. It is simply the contrast between man considered from without and apart from any particular attention to his subjectivity, and man considered from within and with special attention to his subjectivity. The cosmological image does not present man as person, whereas the personalist image does.

It is especially the last sentence – the idea that the “cosmological image does not present man as person”, that is confusing. It would seem here that personhood is only realised in the

subjective, personalist⁷⁵ dimension of the human being/person. Crosby says that the “concept of lived experience is fundamental to subjectivity and to being a person” (2016:26), but if this is read in light of the paragraph just quoted, then it would have to be the lived experience as a subject that is fundamental to being a person – lived experience that can never be apprehended as an object of consideration; lived experience that is not cosmological. It is always lived experience *as subject*, that is, *my* lived experience. And this would clearly be a mistake, for one person is able to apprehend the lived experience as subject and therefore as person of another person, i.e. objectively and cosmologically. The cosmological image therefore can present man as person. We look at the Jews being made to do funny dances as in the movie and we see *persons*.

What is more, if personhood subsists only in the subjective, personalist dimension of man, then it is not clear how Wojtyla escapes the subjectivism he wants to avoid. It is clear that if it is only the subjective dimension of man in which the person is present, then the person is *only* a subject and thus entirely susceptible to subjectivism. In fact, if the subjective, personalist view of man alone is where the person is present, then it is not clear how one person is able to recognise another person. Recall that the objective, cosmological dimension of man is man objectified, gazed upon and experienced from without – as opposed to the subject experiencing herself from within. If the person only presents in the subjective, personalist dimension of man, then it means that it is not possible to view another person as a person. It is only possible to experience the objective, cosmological dimension of man from without. But, according to Crosby, that is not the person. The person is the subjective – when I act as subject, from within. It is not even possible to consider myself as a person on this view. There is a kind of solipsism at work. More than just the mere mental attitude of subjectivism, Crosby’s interpretation seems to take Wojtyla’s philosophy all the way to subjective idealism.

But this is clearly not what Wojtyla meant.

What if we followed Spaemann’s lead and saw man as person, i.e. seeing personhood both in terms of objective and subjective dimensions? In other words, we would have to see both the subjective, personalist dimension of man as person, as well as the cosmological image of man

⁷⁵ Keep in mind here that Crosby sees the subjective dimension of the person as the personalist conception of the person, while I reserve my judgement.

as person. The cosmological image would have to, necessarily, present and constitute man as person. This is what Macmurray argues for when he describes the relation between mother and child (1961:44-59). But not only does Macmurray make the argument in terms of the narrow relationship between mother and child, but he also tells us that the child comes into a rational environment from the beginning. And this idea of the rational environment is concurrent to the rituals and community life which Spaemann (2012:236) describes; what Marya Schechtman calls *the person life* (2014:112). The subjective, personalist dimension of man gives us one important dimension of the person. The objective, cosmological dimension of man captures the relations, rituals and rational life that constitutes the person.

To add to this, the cosmological dimension of the person also ushers moral value into the world. As Macmurray and Spaemann say, persons exist in person lives. But it is also in treating persons in certain ways that we recognise morally wrong action. It is in making Jews perform funny dances or in gassing and incinerating them that the cosmological dimension of the person presents. It is in treating persons as sub-citizens because they are Black that the cosmological dimension of the person presents. Here Schechtman's (2014) discussion of slavery is persuasive. Slavery undermines personhood, but it is only able to undermine the personhood of persons. Treating a beast as you would a slave by, say, causing it to plough a field without any pay, is not seen as slavery. Treat a person in the same way: cause her to plough a field without any pay and that would make you guilty of slavery. It is precisely because slavery undermines personhood that it recognises the personhood of slaves. In fact, cause a non-rational human being who is severely cognitively disabled to plough a field and you would be guilty of slavery. This clearly goes to show that within the objective, cosmological dimension of the human being, i.e. just be being a human being, a dimension of personhood is already present.

Crosby then, is mistaken. And if his commentary on Wojtyła is correct, then Wojtyła is mistaken. The cosmological dimension of the human being is constitutive of the cosmological dimension of personhood, just as the subjective dimension of the human being is constitutive of the subjective dimension of personhood. But while we are all too aware of what the subjective dimension of the person is, or, at least, of what debates around the subjective dimension of the person entail, what more exactly does the cosmological dimension entail? And since it is here, as we have said, that the social constitution of the person takes place, what

precisely is the relationship between the cosmological dimension of the person on the one hand, and the social constitution of the person on the other?

We now turn to these questions, keeping in mind what we have called the individualist personalism of Burgos in §4.4 above.

4.6) The cosmological dimension: *person* as a relation term

We have by now in this chapter established that the person sits at the intersection of *is* and *ought* – of ontology and normativity. Because of human dignity which is part of the (ontological) makeup of the person, the person itself gives us the starting point for how to act (normativity). Treating persons in certain ways is deplorable in self-communicating ways. We know that treating these entities that we call persons in certain ways is wrong because when we see them being treated in certain ways, we can see that it is wrong. And the only way that we know how to make sense of this is through human dignity. Human dignity presents itself in intersubjective relations between persons as subjects. And it is in these intersubjective relations that persons are constituted because of their cosmological dimension. As Macmurray (1961) describes in terms of the relation between mother and child and the rational environment which the child is brought into from the beginning, and as described in terms of the rituals and community that persons exist in by Spaemann, we would be correct to say that the cosmological dimension of the person is constituted prior to the subjective, interior dimension of the person. In this way, the latter truly completes the former, as Wojtyla envisioned.

Let us therefore turn to this cosmological dimension of the person by firstly considering *person* as a relation term.

4.6.1) Person: a short conceptual history

We start with a short conceptual history – and we thank Burgos (2022) for easing the burden. We see in the etymological discussion from Burgos the Greek and Latin socio-linguistic evolution of the word *personare* in relation to the *prosopon* – the mask – which actors used. It starts out with the meaning “to sound through” but then is applied to the mask itself to create a meaning similar in sense to the English word *persona* – a persona that one might adopt. “Over

time,” Burgos (2022:16) says, “this meaning was extended to the role the actor represented (king, soldier, slave), and finally, it ended as a denomination for the actor as such, the human being”. A similar examination of the etymology of *person* is found in Ratzinger (1969:117-118) in a broader reflection on the Christian theory of the Trinity – and we will return to the theological roots of *person* in a moment.

In terms of Roman Law, *per se sonans* refers to “one who speaks for himself and has his own voice” – something along the lines of *by itself sounding*, as according to Google Translate – keeping the *prosopon*, ‘to sound through’ in mind – if we were granted some liberty in rough translation. With *per se sonans*, *person* takes on a meaning of “he who has rights, status and social recognition” – a social status relative to others, in other words. This status didn’t apply to slaves (Burgos, 2022:16). Even though we start to see signs of the concept *person* as we know it today in between the reeds of its etymology, its especial substantiation would only come later.

In sum on his discussion of the etymological consideration of *person*, Burgos tells us that the person is seen as “interweaving of the human being and dignity” (2022:16). It seems even clearer that *person* implies *relation* from the beginning – whether it be a relation to a character he plays; a relation to himself and the voice he has; or a relation to others in society.

Now, moving from the etymology, it is quite impossible to undertake even a cursory conceptual history of *person* without looking to the Christian influence. Just as Burgos (2022:18) tells, Ratzinger also explains that “the concept and idea ‘person’ dawned on the human mind in no other way than in the struggle over the Christian image of God and the interpretation of the figure of Jesus of Nazareth” (1969:130). And this Christian intellectual influence on the Western thinking, including Modernity, cannot be doubted.

The intellectual problem with the Christian doctrine of the Trinity is well known and could be situated in the philosophy of personal identity. How is it possible to have One God, and yet have the Father, the Son and the Holy Spirit? Which of the three are actually God? What is the relationship between the Three? What was Jesus’ nature: divine or human? Was Jesus just a mediator of God: one who points to God but who is not *really* God? Is the Holy Spirit God? Is there one God or are there three? Burgos:

Christ is just one person because he has just one identity, while in God it is possible to distinguish three persons because each one of them possesses features and personality proper to each one: the Father is not the son, and the Son is not the Holy Spirit, although the three are God (2022:18).

As a point of intellectual history, *person* enters the history of ideas in the formulation that there is One God made up of three persons – Father, Son and Spirit. But again, there is a complexity that is missed in Burgos (2022). “Christ is just one person” yes, but He isn’t God any less than He is a person; and He isn’t a person any less than He is God. And while Christ is True God and True Man, each of the Members of the Godhead is True God and True Person. Burgos is quite correct: “...the Father is not the Son, and the Son is not the Holy Spirit, although the three are God”; but any one of the Three are (one) God as much as they are “just one person”. Augustine comments: “He is not called Father with reference to himself but only in relation to the Son; seen by himself he is simply God”. And on this, Ratzinger says that “Only in being-for the other is he Father; in his own being-in-himself he is simply God. Person is the pure relation of being related, nothing else” (1969:131)⁷⁶.

It is worth lingering at this juncture a little. In concluding his reflection on the Trinity, Ratzinger offers three theses from his analysis. The second of these theses is as follows (1969:128):

The paradox ‘*una essentia tres personae*’ is a function of the person and is to be understood as an intrinsic implication of the concept person.

On this thesis, Ratzinger is quite clear on the historical conception of *person*. “The unrelated, unrelatable, absolutely one could not be person...” he says, and that there “is no such thing as person in the categorical singular” (1969:128). To support this position, he draws on the etymology of the word again – *prosopon*, “which literally means ‘(a) look towards’; with the prefix ‘pros’ (towards) it includes the notion of relatedness as an integral part of itself”

⁷⁶ It is important to note here that Ratzinger (1969:131) adds that “Relationship is not something extra added to the person, as it is with us...”. Ratzinger draws a distinction between human and divine personhood. But let us keep in mind that when he writes these words, Ratzinger, the theologian, is doing theology, not philosophical anthropology.

(1969:128). And, he says that it “is the same with the Latin ‘*persona*’”, which means “sounding through”, where *per* means “through...to” and “expresses relatedness...in the form of communication” (1969:129)⁷⁷. And if we think in terms of our present-day conception of the word *persona* - it is an (alternative) identity that a particular person adopts, and one that is separate from the person *per se*.

The complexity therefore arises in the identity of one of the Persons: individual, yes, but also God, and therefore not purely individual in a “*cogito, ergo sum*” way; in a purely individual way. Add to this the metaphysical necessity of Divine Simplicity, and we are confronted with a puzzle that intellectual Christian history resolved by introducing the concept *person*. And before we pursue an attempt at what this means, let us make clear the point that a personalist anthropology that conceives of the person as an individual for whom relations are (merely) important but nevertheless contingent, misses this rich conceptual complexity which the philosophy of personal identity receives from Christian theology. And as important as the Modern turn to the Subject is, the risk of going too far into individualism always remains. We must guard against this.

4.6.2) *Drawing from the well of intellectual history*

What does any of this have to do with *human* personhood?

Man is created in the image and likeness of God, the Judeo-Christian *Imago Dei* says. But God, in the Christian view, is a community of persons – Father, Son and Holy Spirit, each as much an individual (person) as collective (God), where *person* is a relation term, and the Oneness of God contextualises and substantiates the (ontological) strength and meaning of *relation*. When *person* is introduced into Western intellectual history, it is done so to solve a very specific problem between individuality and collectivity in the Godhead. *Person* is understood from the beginning as denoting a very specific kind of relation. Jesus Himself introduces the language of “father” and “son” to describe this relationship between two members of the Godhead during his time on earth, and this language is carried on through to the present day. But the concepts *father* and *son* are relationally constituted. There can be no father without a son or daughter,

⁷⁷ Ratzinger was trained in Koine Greek and Latin.

and vice versa. The ideas of father and son are constituted together and simultaneously – they are constituted relationally. And it is within this context that the questions around the Trinity creeps in – is Jesus God? The crowds complained that He should be crucified because He referred to Himself as God. Jesus doesn't offer a clarification that He is some kind of prophet or something along those lines. He goes so far as to accept a most brutal death because of this relation that He believes and says he enjoys with God and/or the Father; that He is God.

Later, when they try to capture this same relational ontology, Western intellectual history introduces and puts to work the notion *person*. Modernity is kicked off by an abandonment of this relational ontology of the person, but perhaps it is time to revisit this relational ontology of personhood. We have drawn nourishing and sustaining waters from the wells of Modernity. For our purposes, we need only think of the importance of the subject and the impetus which this has given to human rights discourse and justice. But there have been a few maggots as well. Looking at the solutions offered to the problems of the relationship between individual and collective (of individuals), we see a graveyard of secular heresies – and with Rawls's passing in these lines, it is time to ready his plot. This is not because individualist philosophies are correct and collectivist philosophies wrong, or vice versa. It is because the insight of the importance of subjectivity has led us to believe, incorrectly, that the subject is all that is important for philosophical moments such as ours. And when this happens, we end up with insurmountable challenges – the most recent being the challenge we identified in Rawls in the first chapter. The capacity to form a conception of the good is not the most important item for philosophical moments such as ours because we are not individuated ontological substances. We are persons, and persons are necessarily relational.

Armed with the insight of Modernity, we must therefore revert to the philosophical anthropology from pre-Modernity. Such an anthropology should feature prominently and pervasively within the broader personalism movement because of its compatibility with all five of the tenets of personalism simultaneously. But most of all, such an anthropology will not fall subject to individualism or collectivism because it differs to the anthropology in these two movements. The anthropology in individualism and collectivism is the individuated ontological entity. To overcome that anthropology is therefore also to overcome the dichotomy.

4.7) The personalism of John Macmurray

The relational constitution of personhood is not entirely foreign to personalism, and we now turn to consider an example. But before we do that, it is important to say that the challenges associated with the individual constitution of persons is not resolved by the relational constitution of personhood *per se*. It must be a very specific conception of the relational constitution of personhood. The conception of personhood cannot solve one problem and create others – in this context, other problems for the political arrangement. As we said at the beginning of this chapter, we are in search of the right kind of personalism. And it is in this spirit that we now turn to the personalism of John Macmurray.

4.7.1) *Social constitution in the philosophy of Macmurray*

Macmurray is one of the most prominent personalists who argued for a relationally constituted conception of the person. In his Gifford lectures (1953-1954), he sets out “to show how the personal relation of person is constitutive of personal existence; that there can be no man until there are at least two men in communication” (1961:12):

The idea of an isolated agent is self-contradictory. Any agent is necessarily in relation to the Other. Apart from this essential relation he does not exist. But, further, the Other in this constitutive relationship must itself be personal. Persons, therefore, are constituted by their mutual relation to one another (1961:24).

Now after roughly 350 years of Cartesian influence, this idea might seem properly alien to the reader, so we must have a look at exactly what Macmurray’s reasoning is, and then we’ll assess his views for our own purposes.

Macmurray looks at the relationship between mother and child. Macmurray defines instincts as “a specific adaptation to environment which does not require to be learnt” (1961:48) and notes that the human child lacks as full a repertoire of instinctive behaviour as the young of other species. This helpless child is brought into an environment: a *personal* environment from the beginning. As Shutte notes in commentary on Macmurray, the “environment of the child is a personal and artificial and not a natural one; it consists of the mother and the home”

(1982:59). And here we can lean again on what Spaemann calls “the life of human beings...embedded in rituals, [providing] focus of many forms of community life, [standing] at the centre of many cults” (Spaemann, 2012:236). In her neo-Lockean account of personal identity, Marya Schechtman (2014) referred to this environment as *person space*. And to return to Macmurray, we see that the child’s “existence and development depends from the beginning on rational activities, upon thought and action” (Macmurray, 1961:50) – the kind that will be encountered precisely in this person space.

Macmurray points out that the child communicates with the mother in its responses to her. He compares human children and animal young, and makes the point that while both human and non-human young emit cries in times of distress, it is only human young who emit (joyful) cries in times of satisfaction. In terms of cries in times of distress, these cries have a pragmatic value. There is, however, no such pragmatic value in cries of satisfaction. Macmurray explains that this shows that the child “has a need which is not simply biological but personal” (1961:49). Macmurray also says that, in the absence of any practical value, these cries demonstrate “[the child’s] essential natural endowment is the impulse to communicate with another human being” (1961:51). Shutte in commentary on this notes that “the relationship is enjoyed for its own sake and not simply as the means to the satisfaction of other needs” (1982:60). In this way, the mother-child relationship shows both the helplessness of the child and its complete dependence on the mother, as well as the natural impulse to communicate on the part of the child, with its mother at first, but ultimately with its environment.

In addition to his focus on relations, Macmurray also focuses on *agency*. Agency, as *we* know the term, is something that is rooted in a capacity for reason, and so this issue has an especially important bearing on the reflection in this thesis. Agents are forensic terms, in the Lockean sense. We can hold agents responsible for actions, and the notion of agency is one of the things that has profited from developments to the Modern, individualist conception of the person.

For Macmurray, agency is realised in ongoing social interaction, such that agency is something that must be and is developed. How is agency developed? As we already said, Macmurray asserts that the child’s “existence and development depends from the beginning on rational activities, upon thought and action” (1961:50) – something, as far as we can tell, that is absent in the case of non-human animals. But even though the child at this stage is incapable of

rational thought and action, it still nevertheless depends on the rational thought and action of the mother – and so for its existence and development. In the words of Shutte (1982:59): “It is the intention of the Other (here the mother) that supports the existence of Self (the child)”. This thought and action of the mother creates the personal infrastructure in which the child grows and develops. As Shutte explains (1982:59), the child’s

mother feeds it regularly and at times withholds its food although it desires it. It is in such an environment ordered by a pattern of restrictions and rewards that the child is able to develop intentions of its own and the germ of a sense of right and wrong, good and bad.

Of course, this kind of environment and the subsequent development that it incubates is absent in the non-human animal kingdom. And, as the child develops and grows, it naturally starts to enter other relations with other persons – father and siblings, then extended family, friends, and so on. All of these contribute to the development of the child – into an agent, into a person.

But there is more than just the environment. What if, for instance, a puppy born of a dog is raised immediately by a human being, as often happens? Surely the interaction between human and canine will be informed by the rational thought and action of the human owner, too. Does this mean that a person is constituted in the puppy? Can non-human animals be persons, when, for instance, they are in relation with humans?

According to Macmurray (1961), there is an important difference when it comes to the ability to express feeling discomfort. The child would cry. And so would the puppy. These cries have the pragmatic import of showing distress. If the child feels discomfort because she needs to be changed, she learns that crying will lead to the nappy change and the comfort it brings which she so desires. And so too with the puppy. The puppy reacts and gives expressions of discomfort, and behaviour is reinforced when those around the puppy soothe the discomfort.

With *comfort*, Macmurray (1961) argues that human children are different in that they express their satisfaction too. He argues that non-human animals express no such feelings of satisfaction. What is more, unlike with the expression of dissatisfaction which has practical importance, there seems to be no such practical importance when it comes to expression of satisfaction. Macmurray says that this expression of satisfaction is evidence of an “impulse to

communicate... – a need which is not simply biological but personal, a need to be in touch with the mother, and in constant perceptual relation with her” (1961:49). Later, Macmurray says that the child’s “essential natural endowment is the impulse to communicate with another human being (1961:51). Shutte comments that these observations by Macmurray are furthermore confirmed by games which children and animals play. Both animal and child play games for the “sheer enjoyment of skills” (Shutte, 1984:60), but whereas the animal learns the games for the sake of doing things for itself, “a child’s [skills] are learnt to enable it to communicate with others” (Shutte, 1984:60).

So, we have the relation between human mother and infant, and we see how the intention of the mother serves to constitute agency in the relationship between mother and child. What is more, this relationship between mother and child is different to a relationship between human and dog because humans enjoy an “impulse to communicate” as an “essential natural endowment”. Communicating with other humans is therefore something very different for humans, compared to what it is for animals.

4.7.2) Macmurray, agency and lessons for collectivism

Let us situate what we have said about Macmurray in this chapter. Our intuitions about the moral value of human dignity are such that all humans, just by being human beings, are bearers of inherent dignity. We’ve discussed this above, and we looked to a conception of the person that is individualist in the philosophy of Burgos. Now, as with Burgos, we are effectively turning to Macmurray for a conception of the person on which to ground the political arrangement, which conception of the person must also account for our intuition that all human beings are bearers of inherent dignity. And the notion of *personhood*, as we understand, captures the status of inherent dignity. Persons have inherent moral value – human dignity. So, we need a theory that can account for why all human beings are persons.

Macmurray offers us a system which is anti-individualist – so that it can account for our reflections above on the inherently limited nature of rights within the context of political philosophy. But it is not clear how Macmurray’s theory of personhood is going to account for the fact that all, just by being humans, are persons. There are two issues.

First, Macmurray's observations about the infant child's tendency to communicate *vis-à-vis* the non-human animal's lack thereof is empirical and not conceptual, and this means that it might be susceptible to some refutation when empirical capabilities improve. What we have then is a theory of personhood constituted in relation, but one which accords to the problematic logic of god-of-the-gaps arguments. While explaining a particular concept – personhood – we observe a particular empirical phenomenon which constitutes a gap in our explanations, i.e. human beings have an impulse to communicate while non-humans do not. Then, we plug the gap created by this empirical phenomenon with the concept we're trying to explain. The concept becomes a convenient tool, and the goalposts might demand shifting once alternative empirical observations are made. There must be a more solid substantiation for the idea that persons are constituted in relation if they so are.

The second issue pertains to Macmurray's conception of agency. Action is performed by an agent, and in the literature agency and personhood go together. Macmurray says of the solitary agent in the purely material environment, i.e. with no other person/agent present, that only "movement", and not "action", is possible. For Macmurray, action as such requires resistance or support from an Other, as a necessary condition. In the same way that the child relies on the mother for agency in their relationship, so too the mother relies on the child for agency in that relationship: the child who in that instance is an Other. In the words of Macmurray (1961:110), "the resistance of the Other is not merely negation of the act of the Self, it is necessary to the possibility of the act, and so constitutive of it".

On this point, I am with Shutte (1984:66-70) who squints at the notion of agency at work. If the action is constituted by both actor and receiver, e.g. mother and child, then who exactly *owns* the action? Who is responsible for the action? If the action in question is not that of a mother feeding her infant, but rather of a mother stealing her friend's bracelet: who is responsible for stealing the bracelet? Surely a theory of action that says the mother and the friend both own the action of stealing the bracelet is wrong, for then the victim would be responsible for the theft of her bracelet.

This critique is clarified when we consider the issue of intention within Macmurray's framework. For Macmurray, mere rational intention from one actor is not sufficient to constitute action. For action, movement must be intended, consciously, but both the initiator

and the receiver of the movement must have rational intention in order for the movement to be characterised as action. Macmurray (1961:145) says:

The possibility of action depends upon the Other being also agent, and so upon a plurality of agents in one field of action. The resistance to the Self through which the Self can exist as agent must be the resistance of another Self.

To express this formula in terms of a vulgar example: when a man rationally intends and proceeds to have sex with a pig, this is not action, but only movement, for the pig is unable to rationally intend movement and is therefore not an agent. What is more, such a man is not responsible for this movement of having sex with a pig, for agency and responsibility is constituted only in relation between two agents.

As intriguing as Macmurray's system is, if it were my system and it led to this sort of conclusion, then I'm afraid I would have to say that I'd start again.

In the meantime, for the purposes of this thesis, we must note that while Macmurray's system is anti-individualist, the kind of result which his conception of the person has given rise to is not suitable for grounding our political arrangement either. Citizens in our political arrangement are not individuals in the individualist sense, but they must be held responsible for their actions.

And the important lesson from all of this for collectivism is that there must be some significant measure of regard and respect for the individual. The individual is not the most important thing for this philosophical moment, yes. But this does not mean that the individual is drowned by the collective in a strong collectivist way, either. Precisely as personalism promises, there must be a balance between individualism and collectivism.

4.8) Conclusion

We started this chapter (§4.2) by first laying some groundwork in respect of human dignity, what we mean by it and what it means for the old debate of *is* and *ought* in the literature. And there we said that human dignity indeed does bridge the gulf between *is* and *ought*, for just as

human dignity is a moral value, it is also part of what the person is. What we ought to do is therefore rooted firmly in what is – persons. Armed with this point, we then developed a central theme of this thesis, which is that if the human person does indeed sit at the intersection of *is* and *ought*, then we must pose the question as to what this means for the political arrangement. If moral value is derived from the human person, and she ought to be treated in certain ways, then what the human person is must guide our reflection on the foundations for the political arrangement. We did this specifically in terms of the longstanding debate between individualism and collectivism, and we proceeded to define the two terms, also noting once more that personalism offers a third way; a middle way, to break through the dichotomy.

We then proceeded to examine the anthropology of Don Burgos – the integral personalism based on the philosophy of Karol Wojtyla. We noted that while there is some consideration to the importance of relation and communion, the anthropology is nevertheless still individualist in the sense that persons are constituted as individuated ontological entities. We said that this will not do as a response to liberalism because liberalism itself recognises that persons thrive in relation and communion. The intellectually significant move would therefore have to be that persons do not merely thrive in relation, but that they are in fact constituted in relation. Anything short of that would be a banality. We then looked more closely at the philosophy of Wojtyla and noted that he himself, in fact, points us into the direction of the relationally constituted conception of the person.

That said, we considered one example of the relationally constituted conception of the person – that of John Macmurray. We examined his system but noted that his conception of the person led to an untenable conception of agency.

Where does all of this leave us?

Personalism recognises the inherent dignity of all human beings because of a limited human exceptionalism. Part of the exceptionalism of human beings is their subjectivity and capacity for freedom. Non-human animals are not subjects, and they are not free, as we humans are free. All of this brings us to Modernity – the individuated subject who has human dignity and freedom. As we have seen in our examination of Burgos, it is only the strong relation tenet of personalism that can distinguish it from individualism. And we have also said that as we are

always and necessarily born into a world where there are other human persons, so that rights by their nature are necessarily limited. This must therefore be considered when we reflect on rights.

On the other hand, as we have seen with Macmurray, the extent to which we are constituted in relation cannot give rise to a collectivism that drowns out the tenets of individual subjectivity, freedom, and responsibility – where these form the basis of individual agency. As we saw in Macmurray, we are left uncertain about agency and responsibility.

What we need then, as the parting word from this chapter, is a conception of the person that can ground the pluralist political arrangement that recognises that persons are not absolute individuals, where human dignity and human rights are interpreted in the way of maximising autonomy. The person with maximised or absolute autonomy is not the perfected person. Rather, the person is perfected in relation, with herself, other persons and other beings – where the limitations on her rights in the form responsibilities are properly ordered.

We must remain true to the promise of personalism: finding a third way, halfway between individualism and collectivism. That is the kind of personalism we need.

And it is with this agenda that we now turn to the positive part of this thesis.

Ubuntu Personalism: The groundwork to a conception of the citizen

5.1.) Introduction

5.1.1) *The story so far – five pieces of intellectual silver*

We've come some distance, so we start by describing five important points which we've picked up along the way.

In Chapter Two we identified *PL* as a most elegant philosophy providing a grounding for the pluralist political arrangement today, but we also argued that *PL* is problematic for two important reasons – its scope and its theoretical integrity. These two important issues are enough to allow us to conclude that *PL* fails. And we were moved to set out in discovery of an alternative system to ground the pluralist political arrangement based on human rights; an alternative system that is *not* neutralist because, as we have argued, neutralism fails.

In Chapter Three, we looked to *philosophical personalism*, or *personalism* for short, to offer a grounding that does better than *PL*. We saw that in the major tenets of personalism there are five tenets that *must* feature – i) human exceptionalism, ii) human dignity, iii) interiority and subjectivity, iv) freedom, and v) relationality and communion. From these five, we note that human exceptionalism and human dignity cohere with our intuitions about the rights and entitlements of *all* human beings. This resolves the major shortcoming of *PL* in respect of scope. No category of human being is excluded from the fold⁷⁸. This then, is the first of five pieces of

⁷⁸ There would be different metaphysical groundings for all the five tenets in the various strands of personalism. For instance, in terms of Christian personalism, human dignity is grounded in the *Imago Dei*, while other strands of personalism might ground human dignity differently. At this point in the reflection, we merely make the point at face-value, without delving at length into the metaphysics of the tenet.

intellectual silver which we have gathered on our journey. *All human beings are to be included in the system.*

A personalist political arrangement makes no attempt at articulating a neutral theory of justice as *PL* does and therefore sidesteps the theoretical challenge in *PL* which we identified altogether. This means that if we are not going to articulate a neutralist political philosophy, we must articulate a foundationalist political philosophy. That is the second piece of intellectual silver – *our political theory will be foundationalist.*

Not all personalisms are equal though. We identified a shortcoming in the integral personalism of Juan Manuel Burgos. In the previous chapter, we engaged with the anthropology in the work of Burgos as an example of the ‘state of the art’ of personalism and took issue with an individualist approach to personalism. In looking at the individualist nature of integral personalism, we took the extra step of arguing against individualism based on its incoherence with our intuitions about the human person. We noted the specific way in which individualism functions in the literature, relying on the reference to Metz and Nussbaum – to paraphrase, not that individualists claim that individuals can live outside of relations with other persons – that is a strawman; but rather, that what is important for the philosophical moment⁷⁹ is that all persons are of primary moral worth⁸⁰. But this strong view was undermined by what we said about the severely cognitively disabled, who possess the moral worth even though they are unable to form a conception of the good life. And then we also said that the mere existence of another person places limitations on the freedom of one individual and gives rise to responsibilities, i.e. the mere existence of another person affects the personhood of the individual person in a fundamental way, so that personhood must be conceived of in relation; that consideration of the person as absolute individual really has very little intellectual value. This is the third piece of intellectual silver: *our political arrangement cannot be individualist,*

⁷⁹ To be clear, this reference to “the philosophical moment” is taken from Metz (2014a:316) in his description of what individualist philosophers take as important when doing a specific philosophical exercise, as quoted earlier.

⁸⁰ In general, individualism *per se* can be extended beyond moral and political philosophy, and even within moral and political philosophy, there are many justifications for individualism. We are not as interested in these debates, i.e. disputes around what constitutes the justifications of individualism, as we are in what might be styled as the strongest justification – that individual persons bear a basic moral worth because of their capacity to form a conception of the good. In any event, the direction that we are going in will see personhood constituted in relation as a metaphysical point, so that even if we do speak of individual persons, we do not mean it in a way that would be subject to the objection that we are arguing against merely a single justification for individualism, as opposed to individualism itself.

for the moral importance of the individual, however conceived of, is not the only or even the most important consideration for this political philosophical moment.

On the other hand, we also looked to the personalism of John Macmurray – a major figure in the literature propagating the social-constitution of persons. And, following the persuasive arguments of Augustine Shutte, we noted the problems that Macmurray’s system gives rise to in terms of agency – something so very important for the human rights-based political arrangement. Importantly, we noted the specificity of the social constitution of persons, i.e. it is anthropological, so that unlike collectivist theories which refer to a collection of individually constituted persons, social constitution theories describe persons being formed in an anti-individualist way, i.e. in relation to each other. There is this conceptual nuance between collectivism and social constitution theories which is to be found in the payment of close attention to the distinctive anthropologies at work. The kinds of collectivist theories which negate or downplay human rights are based on anthropologies from which such negation or attenuation is inferred because they refer to individually constituted ontological entities. We need to therefore make provision for a socially constituted conception of the person without negating or attenuating the freedom and responsibility of the person. To the extent that it attenuates agency and human rights, if we are to conceive of Macmurray’s personalism as a form of collectivism which attenuates agency, then that is our fourth piece of silver: *our political theory cannot be collectivist either.*

Through all of this, our lodestar has been the target of a pluralist political order based on human rights. We noted that, as articulated by the South African Constitution and in line with personalism, human dignity is inherent and prior to the political arrangement. And we also noted that human dignity, while giving rise to other more flexible rights such as workers’ rights later on, first and foremost gives rise to a category of natural and/or fundamental rights which are crucially important for the political arrangement. These include rights such as the right to life and bodily integrity, but also political rights such as freedom of association and belief, freedom of expression, and freedom of choice. This then is the fifth piece of intellectual silver: *our political theory must recognize the pre-existing moral value of human dignity* which citizens bring into the political arrangement, as well as the fundamental rights of every citizen, i.e. certain substantive non-negotiables that every political arrangement must guarantee.

With these five pieces of intellectual silver, our journey from *PL* to personalism and beyond has brought us to the point where we now need to articulate a *foundationalist* political theory which is *neither individualist nor collectivist* as these terms typically appear in the literature, based on the *inherent dignity of all human beings as a matter of species*, and which dignity gives rise to *certain fundamental human rights*.

5.1.2) *The road ahead*

The articulation we just described will be grounded by a conception of the citizen, understood in this thesis as *a political conception of the person*; and going forward we shall refer to this articulation as the Ubuntu Personalism (or “*UP*”) conception of the citizen. We must say i) what *UP* is, and ii) what the *UP* conception of the citizen as a grounding for the pluralist political order based on human rights is in less abstract terms – what does the political arrangement based on *UP* actually look like?.

Point i) is the focus of the present chapter. Point ii) will be the focus of Chapter Six.

We turn to the present chapter: an examination of Ubuntu, for it is *Ubuntu read as African personalism*, i.e. *UP*, which will offer the tapestry for the articulation we are in search of, and it is *UP* which this thesis constructs and offers as a development of both extant personalist and Ubuntu literature, respectively.

But, not so fast. How do we move from discussing personalism the one minute to now embarking on a discussion of Ubuntu?

In looking at personalism, we came across the work of Karol Wojtyla. Wojtyla describes an objective, cosmological dimension of the person, as well as a subjective, interior dimension of the person, where these two dimensions are not in competition with each other. Instead, and importantly, the subjective, interior dimension of the person completes and perfects the cosmological dimension of the person. Such a formulation conceives of persons as both objective and subjective entities. Simultaneously, Ubuntu is defined as *a person is a person through other persons* and, “I am because we are, and since we are, therefore I am” (Mbiti, 1990:108-109). In both formulations, as will be argued below, there is a constitutive relation

between individual and collective where *person* is understood as both a subject and an object. Seeing the individual person as constituted in relation to the collective, so that the collective constitutes the the person, is a novel move in the reading of both Wojtyla and Ubuntu. As pointed out in the chapter on personalism, the philosophy of Wojtyla is read as individualist, i.e. not in terms of social-constitution theory; as seen in the work of Burgos and Crosby. This *UP* reading is therefore a new reading of Wojtyla's personalism, as well as a new reading of personalism as such: an Ubuntu reading of personalism. Wojtyla's two-dimensional description of the person finds a certain complementarity with Ubuntu and will serve as a lens for our articulation of the *UP* conception of the citizen. But Ubuntu is also a novel development of certain strands of personalist thought – an important, valuable contribution to the understanding of the human person as such. And that is how we go from personalism to Ubuntu.

Now, while we have said a great deal in the previous two chapters about what personalism is, the reader might be wondering what exactly we will say about Ubuntu. No doubt, the literature has been enriched with in-depth discussions and explorations as to what Ubuntu is and what it might be developed into. The focus here will not be a survey of the literature as such. It will pay some attention to saying what the concept is, but again, without aiming at being a kind of encyclopaedic description of extant literature on Ubuntu *per se*. Rather, the purpose of this chapter is to say why and how a personalist reading of Ubuntu offers the best way forward for its development as an intellectual project. Here, we do this towards formulating a conception of the citizen – a political conception of the person – specifically in terms of this personalist reading of Ubuntu. The big move towards achieving this is to view the person as the intersection of metaphysics and normativity – *is* and *ought* – and to say what this means for metaphysics and normativity. And then we address the most controversial aspect of Ubuntu, which also happens to be the most controversial aspect of the political arrangement - that being the nature of the relationship between the individual and the (political) collective. And we address this controversial aspect of Ubuntu by appealing to the anthropology we have developed in the personalist reading of Ubuntu.

5.1.3) Chapter outline

In outline of this chapter then, I will argue that while Ubuntu as an African philosophy has typically been read to prioritise the rights of the collective over the rights of the individual, in

fact, Ubuntu prioritises neither the individual over the collective, nor the collective over the individual. I will argue that Ubuntu approaches what has been treated as a dichotomy in the literature as a balance which finds its equilibrium in the person, which is inspired by the insight that ‘*person*’ is a relational concept – *a person is a person through persons*. The individual and the collective therefore do not stand in opposition to each other, which is the way the literature is generally structured; rather, the individual person feeds into the collective and flows from it, in the same way that the collective feeds into the individual person and flows from her.

I begin with a metaphysics of *UP*, relying on the language-based account provided by Symphorien Ntibagirirwa (2017) to start and then building from there (§5.2). Part of this metaphysical account relies on aspects of David Hull’s argument that species is a matter of individual beings with shared ancestry, as well as David Lewis’s counterpart theory to bring out what is unique about the human relations that constitute personhood, and how this works to constitute the personhood of the severely cognitively disabled. To be clear, I will argue that species is a matter of the web of relations holding between a group of organisms over generations, as opposed to a common essence internal and inherent to those organisms. I then take the step from a metaphysics of *UP* to a normative understanding of *UP*, looking at Ubuntu as an ethos (§5.3). The significant move here is to think about how a metaphysics of *UP* might fit with an *UP* ethos. Having established the two accounts of *UP* – metaphysics and normative – I then say firstly how the dichotomy between individualism and collectivism is overcome in terms of *UP* (§5.4), and how metaphysics and normativity come together in the person because the dichotomy is overcome (§5.5). Then, having set out this theoretical understanding of *UP* as *personhood at the intersection of metaphysics and normativity*, I use that as a steppingstone to resolve this chapter with a clear statement on *UP* with reference to the list of the tenets of personalism which I set out in §3.3 above (§5.6).

5.2) Ubuntu Personalism – A metaphysical account of personhood as the good

5.2.1) From language to metaphysics

As only just stated, in this section my intention is to describe an *UP* metaphysics, showing the centrality of *personhood* to the *UP* metaphysics, but also the Ubuntu worldview more generally.

This is what I will argue. In terms of *UP*, metaphysics and ethics; *is* and *ought*, come together in the person – in the same way that subject and object come together in the person. To be a person, on the *UP* worldview, is to be a moral being. Metaphysically, to be a person, as a moral being, means to be the highest form of being, and the highest form of being is a moral being. And as a moral being, it is *necessarily* a relational being in the strong sense, i.e. constituted in relation.

We start with a comment on method and for this we look to Aristotle⁸¹. According to Gerard Verbeke, “[Aristotle] frequently appeals to popular opinions and beliefs as a starting point of his investigations” (1987:35). The idea is not to merely reproduce what commonfolk hold. Rather, as Verbeke puts it, “prephilosophical doctrines are carefully studied and submitted to critical examination” (1987:35). Verbeke notes three conditions which prephilosophical doctrines must hold for “their truth value [to be] very high” (1987:35):

- i) ...when they are ancient and date back to immemorial times in the past,
- ii) When they never have been abandoned or repudiated, but are consistently adhered to,
and
- iii) When they are universally accepted up to the present period. (1987:35)

For Aristotle, Verbeke notes further, language feeds into such prephilosophical considerations in a powerful way.

Language has not been shaped by philosophers: it springs from ordinary people who, wanting to communicate with each other, invented articulate sounds and composed sentences. ...Language is very old, it dates back to a distant past, it is consistently used by various people and is transmitted from one generation to another. So Aristotle was entitled to rely on language and to start his inquiry from linguistic data. (1987:36).

⁸¹ The relevant text here from Aristotle is *On Interpretation* (Date Unknown). I on Verbeke’s commentary and analysis of Aristotle in this section.

In our exploration of an *UP* metaphysics, we will proceed similarly⁸². According to Symphorien Ntibagirirwa⁸³, “Ubuntu is part of the Bantu people and languages, a kind of ‘pan-African concept’ as suggests” (2017:114). In other words, the concept *ubuntu* has been a part of the language of Bantu⁸⁴ people since time immemorial, “...transmitted from one generation to another” (Verbeke, 1987:36). As noted by Ntibagirirwa, “...the Bantu region is part of the six major socio linguistic regions” (Niger Congo B), and that “[the] Bantu languages seem to be variations of one common ancestral language, proto-bantu or ur-bantu” (2017:115). Ntibagirirwa point out that the words “*muntu*” (singular) and “*bantu*” (plural) refer to ‘human being’ in all Bantu languages, even if there are phonological variations. “The root ‘*ntu*’ which does not change both in singular and plural refers to *being* or *thing*” (2017:115).

Let us examine the linguistic root *-ntu* in *u-bu-ntu*.

Placide Tempels (1945)⁸⁵ concluded that there is a common philosophy to all Bantu-speaking peoples. He was later criticized for suggesting that there is such a thing as a *single* African philosophy. But Alexis Kagame arrived at the same conclusion as Tempels. Whereas Tempels relied on what Ntibagirirwa calls “mere external observation” (2017:116), Kagame looked to the structure of Bantu language to suggest “that one can talk of a common philosophy to all the Bantu” (Ntibagirirwa, 2017:116)⁸⁶. Comparable to the Aristotelian categories, Kagame points out that there are four categories in Bantu-speaking people’s philosophy. The categories are as follows (Ntibagirirwa, 2017:116):

⁸² The idea is not to argue that there are claims that one can make about the essences of different groups, but rather to note insights that emerged in certain cultures and to subject those insights to scrutiny.

⁸³ This article by Ntibagirirwa is relied on here for the linguistic analysis and metaphysics, but the article also includes insightful sections locating and analysing Ubuntu/ubuntu in terms of geography.

⁸⁴ The term *Bantu* is deemed offensive in certain settings. I use it here in no such offensive way. The term is used here to refer to a linguistic group, unless the context specifies otherwise. As will also be seen in the discussion below, the term also has philosophical importance as a metaphysical category i.e. the plural of entities in the category *muntu*.

⁸⁵ This book was originally written in Dutch, and an English translation was published in 1959 by *Présence Africaine*.

⁸⁶ For the sake of the argument in this thesis, I am happy to say that it is rather implausible that any idea is universally shared by members of any ethnic or language classification. On the back of the Aristotelian methodological point made above however, the fact that the beliefs are generally prevalent and long-standing among many members of a regional group, and rooted in their language, is all that I want to take forward with me for the present purposes.

- *Muntu* (*bantu* in plural) is a being which acts by intelligence,
- *Kintu* (*bintu* in plural) interacts without the use of intelligence (it is characterized by vitality as is the case with animals or plants, or by inertia as is the case with rocks),
- *Hantu* (same in plural) is the localizing being (it is the being in time and space),
- *Kuntu* (same in plural) is the modal being: it indicates the way things are or should be.

As noted above, *-ntu* means *thing* or *being*, and the categories are built on this root. This means that any being/*-ntu* is either *mu-/ba-*, *ki-/bi-*, *ha-* or *ku-*. *Mu-/ba-* and *ki-/bi* are comparable to the Aristotelian category of substance. *Ha-* is comparable to the Aristotelian categories of time and space. And *Ku-*, which is the African category of modal being, is comparable to the Aristotelian categories of quantity, quality, relation, position, possession, action, and passion.⁸⁷

Tempels argued that *-ntu* is “force”, and further, that the notion of being in Bantu philosophy is “force”. He attempted to make the distinction from the Hellenist conception of being, which he argued was static, whereas “the Bantu notion of being is dynamic” (Ntibagirirwa, 2017:119) – hence, “force”. So, for Tempels, *-ntu* is being.

In Ntibagirirwa’s analysis (2017:119), Kagame does not equate being with force, because it lacks the ontological status that being/*-ntu* possesses. As Ntibagirirwa comments (2017:119), “[force] could [therefore] be a characteristic of ‘*-ntu*’, but not ‘*-ntu*’ itself”. *-ntu* must be understood as *being*. In the words of Jahaneinz Jahn: “Ntu is being, that force in which Being and beings coalesce...Ntu is what Muntu, Kintu, Hantu, Kuntu all equally are.” (1990:101). Note that the sense in which Jahn uses the word “force” subordinates it to being. To rely on Ntibagirirwa’s commentary on this:

Jahn is right to observe that ‘*ntu*’ is the universal being which manifests itself in *muntu*, *kintu*, *hantu* and *kuntu*. ‘*ntu*’ means ‘being’ or the ‘thing’ common to everything in the universe in the metaphysical sense of *being*.

⁸⁷ There is some controversy around the extent to which we can compare the Aristotelian and Bantu philosophy categories. Liboire Kagabo (2006) makes the point that Aristotelian categories are classes of predicates, whereas Kagame’s categories are classes of things/beings. See Ntibagirirwa (2017:118) for a response to this view. Towards maintaining the focus of setting out in foundational terms the metaphysics of Bantu philosophy, I side-step this debate in this thesis.

Let us conclude this section then and note that *-ntu* is being. “[The] root ‘*ntu*’ which does not change both in singular and plural refers to *being* or *thing*” (Ntibagirirwa, 2017:115).

We have therefore the four categories, all sharing the root *-ntu*. We have also noted that the root *-ntu* means *being*. The *bu* in *u-bu-ntu* does not fit into any of the four categories. Ramose (2002:141) would attend to this question and point out that *bu* arouses the idea of the generalized being in which each being is located in its species. Ntibagirirwa comments: “...‘*bu*’ as abstract being appears whenever we express any particular being as a category of the mind” (2017:120). So, we have abstracted (*-bu-*) being (*-ntu*).

Let us take this reflection on abstraction a step further. We must distinguish between two kinds of abstraction: accidentality and substantiality. Abstracts of accidentality refer to entities which are accidental and exist dependently on other beings; abstracts of substantiality refer to entities which are substances and which exist independently.

In the case of abstracts of accidentality, Ntibagirirwa provides the two examples of ‘*ubugabo*’ and ‘*ubushangantahe*’ each. *Ubugabo* is a word in the language Kinyarwanda. It derives from the Kinyarwanda word *umugabo*. According to Google translate, the English translation of *umugabo* is ‘a man’. The English translation of *ubugabo* is ‘masculinity’. Ntibagirirwa (2017:121) gives further nuance by saying that *ubugabo* means “courage, force, virility”, and so we can understand the connotation of masculinity in the Kinyarwanda word *ubugabo*. Importantly, notice firstly how *ubugabo* abstracts from *umugabo*. Whereas *umugabo* refers to a single man, *ubugabo* abstracts the concept *man* into *masculinity*. Notice also the normative nature of the abstraction, considering the nuance that Ntibagirirwa provides. And then secondly, notice also that the *ubugabo* is dependent on *umugabo*. We think of courage in terms of a courageous person. While the first point then is to bring out the abstract nature of the distinction between *ubugabo* in comparison to *umugabo*, the second point is to note the accidental nature of the abstraction.

The other example is *Ubushingantahe*. The word translates⁸⁸ into the English ‘responsibility’, and Ntibagirirwa says it means ‘integrity’ and ‘equity’ (2017:121). The word is an abstraction

⁸⁸ For my own translations, I made use of Google translate.

of *umushingantahe*, which according to Ntibagirirwa means ‘traditional judge’, and can also translate to the title ‘Mr.’ and ‘sir’ in English. If you digest the interaction between the reality from Ntibagirirwa and Google’s clever algorithm, the English-speaker is able to understand what the speakers of Kinyarwanda are, loosely, trying to convey. *U-mu-shingantahe* refers to a man in society with a certain status – as Ntibagirirwa says, a traditional judge. When we want to abstract the concept and think of the entities applicable to the traditional judge, then we use the word *u-bu-shingantahe*. Those entities are dependent on some other entity in nature.

That *bu* is an abstract of accidentality. It is also possible for *bu* to be used as an abstract of substantiality. This is when the *bu* expresses an entity that exists in nature as that entity, independent of any other entity in nature. The first example Ntibagirirwa gives us is *u-bu-bwa*, which he says means “the dog-ness of a dog”; “*ubukhosi*...which means the kingship of a king [, and]; *ubushuhe* which means the heatness of heat” (2017:121). This abstract of substantiality refers to that which makes the target of our attention what it is. In the words of Ntibagirirwa (2017:121), “...it is the substantiality of a given being that is expressed”.

In the conclusion of this insightful essay from Ntibagirirwa from which the discussion at hand has profited so greatly, the author is unequivocal:

Ubuntu is an abstract of substantiality of *umuntu* or the human being rather than an abstract of accidentality (2017:131).

When you abstract *-ntu* by joining it to *bu*, you get *ubuntu*. It is an abstraction of *umuntu*, but it is specifically the abstract of substantiality, so that it is the humanness of the human, or the personhood of the person. “It is the substantiality of [the human being] that is expressed”, to paraphrase Ntibagirirwa (2017:121). And as we have seen, it expresses a normative abstraction of substantiality, how a person *ought to be*.

I want to take a quick side-glance here at Tutu’s explanation that “if you want to give somebody high praise, you say ‘*Yu u nobuntu!*’ which means ‘hey, he or she has *ubuntu!*’” (2000:34). Here Tutu clearly describes *ubuntu* as an abstract of accidentality. Tutu explains that it is possible to describe a person in the same way that one might describe the *umugabo* as having courage/*ubugabo*. To explain this, Ntibagirirwa argues that we must distinguish between the

philosophical sense of the word *Ubuntu* from the ordinary sense in which Bantu-speaking people use the word *ubuntu*, which is the moral dimension of *Ubuntu*. He says that “Bantu expect people to validate their humanness in terms of life according to certain values cherished by the community” (Ntibagirirwa, 2017:121). Those values are rooted in the abstract of substantiality of the human being – *humanity*. And that means that the values, importantly, are directed outward away from the subject, towards the Other, or what we have been calling *the objective* dimension of the person, which is socially constituted.

Let me make the following move. *Humanity* here, in which the values of the Bantu are rooted, has a very specific meaning, as we will say again and again in the following lines. *Humanity* here means personhood, in terms of the way in which *ubuntu* is sometimes translated literally. But that literal translation also immediately means *humanity* in the ethical sense. English speakers are not entirely unfamiliar with this use of the word *humanity* in the turn of phrase, *where is your humanity?* *Humanity* here has a very specific ethical connotation. It is etymologically related to the word *humanitarian*, which has connotations of working towards ending the suffering of others. Keep this nuance in mind when we encounter the use of the word *humanity* as we proceed.

We therefore have the metaphysics of [philosophical] *Ubuntu*, from the centrality of the linguistic stem *-ntu* in the four categories, so that Ntibagirirwa would say that “as a member of the Bantu people, I prefer to talk of o(*ntu*)logy” (2017:114, n.3.); to the linguistic abstraction of *umuntu* to *ubuntu*. *Umuntu* is a human being, and when we use *ubuntu* to refer to ‘humanness’, the *bu* in *ubuntu* is an abstraction of substantiality: *ubuntu* is the humanness of the human. Let us note with a look to the side that Western individualist philosophy sees the *umuntu* as what is important for the philosophical moment. It should be clear that *Ubuntu* is coherent with personalism, which places the person at the centre of philosophical inquiry.

Ubuntu can therefore be understood as an abstraction of substantiality in referring to the humanness of the human being, or the personhood of the person, as Ntibagirirwa has said. Ntibagirirwa does not say so explicitly, but it seems to me that *ubuntu* is also the abstraction of substantiality of being: the being-ness of being. And, in terms of a coherent *Ubuntu* philosophy, *humanness* and *personhood* can therefore be seen as the abstraction of substantiality of being. But precisely in what it means to be human, i.e. what *humanness* means, we also see with

reference to Tutu again, that we can say “*Yu, u no buntu*” – you have *ubuntu*; you have *humanity*, with *humanity* having here the very specific meaning which we described above. Tutu says this in reference to a human being, but it is no tautology: it is a reference to the ethical dimension of the term *humanity*. This is said when we want to give high praise to someone for displaying the virtues valued by the community based on ubuntu – friendliness, hospitality, generosity, sharing etc.

5.2.2) *Personhood, humanity, species*

We see then the interaction and intersection of the individual and collective; of particular – *person* – and abstract – *personhood*. We see that when a particular person exhibits behaviour worthy of high praise, such a person ‘possesses’ the abstraction of being – personhood/humanity. We might introduce further concepts at this point: we see the intersection of subjective being and objective being; individual and Other; but also *is* and *ought*; metaphysics and ethics, in a way that ethics is expressed and formulated in terms of abstracted or generalized being. We are talking about persons, which exist – metaphysics – but we are at one and the same time talking about personhood as an abstract of substantiality, and how persons *ought to be*. In this metaphysical account of Ubuntu based on language, we see that an intersection with normativity is unavoidable, i.e. it is not possible to give a description of the metaphysics of Ubuntu without involving the ethics of Ubuntu.

Let us attempt a formulation of what is going on here by bringing the personalism and concepts of Wojtyla, Macmurray and others into the discussion. In terms of Ntibagirirwa’s Ubuntu metaphysics, we have the individual person who is a human being – not a creature who possesses a particular feature or characteristic such as reason, but a member of a species⁸⁹ – *umuntu*. Here, in personalist terms, we find the cosmological dimension of the person – being an individual member of a species, community, and so on; and so being in a distinctive network of relations, necessarily. Being a member of this species means being in special relation, and it is here in this special relation that the fundamental constitution of the person is established – *I am because we are*. Let us examine this idea of *species membership* and the special relation it gives rise to so that we are clear on what is meant.

⁸⁹ Ramose (1999:36) makes the point that “it is enfolded being before it manifests itself in the concrete form of mode of ex-istence of a particular entity”.

Generally speaking, there is a reverence for human beings within the African view – those presently alive, those who have died, and those who are yet to be born.

[The] African concept of family also includes the unborn members who are still in the loins of the living. They are the buds of hope and expectation, and each family makes sure that its own existence is not extinguished (Mbiti, 1990:105).

Considerable value and attention are placed on offspring and their importance, and much of life is devoted to these offspring. There is a way to formulate this in the personalist terms which we have already familiarised ourselves with: for Africans, persons are *beings-for* those who are yet to be born. Then, according to Mbiti (1990:81), “[human] relationships with the spirits vary from society to society. It is, however, a real, active and powerful relationship with the spirits of those who have recently died – whom we have called the living dead.” Africans distinguish between Sasa and Zamani⁹⁰. The departed in Sasa are those who are still remembered by those who are still alive; those whose influence is still strong in the lives of those who are still alive. These are also referred to as the living-dead, and “their process of dying is not yet complete” (Mbiti, 1990:82). Africans are awed by the departed in the Sasa, for their existence inspires both reverence and fear. “When the living-dead return and appear to their relatives, this experience is not treated with great enthusiasm by men; and if it becomes too frequent, people resent it” (Mbiti, 1990:82). When libations of food and drink are offered to the living-dead, this is done paradoxically to welcome them and encourage them to leave. The living-dead are seen as a link between living people and God, and they are involved in the family affairs and for minor needs. After a few generations, when there is no longer anyone who remembers the departed, the departed have then “sunk beyond the visible horizon of the Zamani” (Mbiti, 1990:83), where they become a part of the collective consciousness of the community’s spirituality and history. And those in the Zamani remain there eternally, forever serving as an anchor for who and what the community is. Again, we can formulate this aspect of African ontology in personalist terms: persons are *beings-from* those who have departed: those in the Sasa and those in Zamani.

⁹⁰ For a detailed explanation of the Sasa and Zamani, see Mbiti (2008:18-22). For our purposes here, ancestors in the Sasa are those who can still be remembered by people who are presently alive. In contrast, ancestors in the Zamani are those who are in the remote past, and who are not remembered by anyone alive.

Finally, as is well known, there is also a great sense of the social and relational nature of African peoples, so that we can formulate this too in the personalist terms which we have acquainted ourselves with: for Africans, persons are *beings-with* those who are presently alive. Or, as Ntibagrirwa has said, persons are *beings-in/with-community*. *Beings-in/with-community* is another way of referring to what we have identified as the cosmological dimension of personhood. The community is really all human beings – those who have departed, those who are alive now, and those who are yet to come. All these beings who share this common ancestry form a network of relations which constitutes the human species, and it is within this network of relations that persons are constituted. To be a person is to be a being in this distinctive network of relations which constitutes the human species. Being a being in this distinctive network is what we call the objective, cosmological dimension of personhood.

But this objective, cosmological dimension of personhood is an incomplete personhood; a personhood that needs to be developed. In living in this distinctive network of relations, the person develops agency and the ability to make moral choices – the person grows. The person is nurtured in and by the personal environment, which includes other persons, and grows to possess within herself the ability to be friendly, hospitable, generous, and so on – the things which Macmurray for instance points out are the objects of the games and other interaction between infant and her mother, other persons and her broader community and/or environment. That agency is a function of her subjective, interior dimension as a person – the dimension which Wojtyla says completes the cosmological, objective dimension established and further and continuously developed in relation with others. The subjective, interior dimension of the person is oriented towards the cosmological dimension. To be a humanitarian is to direct the subjective, interior dimension of personhood towards the benefit of the objective, cosmological dimension of personhood. And in this sense, “*where is your humanity?*” is just the opposite of “*yu, u no buntu!*”.

Those are the fundamental building blocks and the first glimmers of *UP* – which understands Ubuntu and personalism in terms of each other. Now look at the light that *UP* shines on understanding philosophical anthropology (metaphysics) and moral philosophy (normativity). When we want to give someone high praise for acting in a moral way towards others, Tutu (1999) says, we say ‘hey, you have *ubuntu!*’. *Ubuntu*, Ntibagrirwa (2017) says, is the abstraction of substantiality of being – it is the highest form of being; the being-ness of being.

This highest form of being is *personhood*, something at once possessed and constantly worked towards and achieved by acting in moral ways towards others. This highest form of being – personhood/humanity – is and guides the *ought* of African life⁹¹. When an individual person acts in a moral way towards others, she achieves a higher level of personhood, i.e. a higher level of what she is⁹². This is what it means for relations to be strengthened between persons on the *UP* view. This is how personhood is affirmed, strengthened and achieved on the *UP* view. When a person acts in an immoral manner, that highest form of being is shunned for a more base, animalistic mode of being. And it is in this sense that we ask, “*where is your humanity?*”. Clearly, the immoral individual is still literally and biologically a human being, but the immoral behaviour is framed in terms of a lack of humanity; a lack or even negation of what she is.

Now given the work that the concept *species* is doing here, it is important to say something about the metaphysics of species. There is a lot of controversy in the philosophy of biology around essences and how they feature in species. And this is especially so since Darwin and the pervasion of evolutionary theory. I’m reluctant to get into *that* debate here. What I will however do is lean on the *species as individuals* theory as argued for by David Hull (1978).

In order to think about the theory, we need to first distinguish between classes and individuals. A class is a category of members which can exist anywhere in the universe, at any time, and still be part of the same class; they all share the specific characteristics that define the class. *All pieces of copper* is the given example, and the law that *all copper conduct electricity* applies to all copper, no matter where or when you find copper. This is to be contrasted with an individual, which is instead something that exists in a specific time and space with parts connected – think

⁹¹ To avoid the risk of vicious circularity here, it is important to remember that we use the words *morality* and/or *moral* to point out the category and to show how the categories *morality* and *personhood* intersect in the bigger picture. Substantiating the category *morality* remains a further question – one which will be answered with reference to what we are saying here about what it means to be a person. Important now for the discussion on personhood: acting morally as a particular *person* leads to the generalized being of *personhood*, but it is possible for persons to act immorally, so that they might be lesser persons and not achieve the higher level of personhood or generalized being. It is possible for individual persons to act as absolutely individual, isolated ontological entities, and when they do, they tend away from higher levels of personhood and act immorally. Again, because metaphysics and ethics intersect, in discussing the one, we are at risk of stumbling over the other. “*What is the right thing to do?*” remains a further question.

⁹² In the words of Metz (2016:205) whose work focuses on Ubuntu as an ethic, “A true or complete person is someone who lives a genuinely human way of life, who displays ethical traits that human beings are in a position to exhibit in a way that nothing else in the animal, vegetable or mineral kingdoms can.”

of the organs of a living animal for instance. It is not possible to separate the parts of a living animal across time and space and still have the same living animal, i.e. the same individual.

According to Hull, species are not just classes of similar organisms sharing the same properties, where the members look the same for instance. Rather, species are individuals because they are a part of a connected lineage over extended time. This means that rather than share properties or characteristics; rather than share an essence, organisms must be part of an evolutionary lineage to belong to a species. Ancestral connection and lineage are therefore more important than sharing traits. What includes humans in the species *Homo sapiens* is not having this or that capacity or feature; what includes humans in the species *Homo sapiens* is that they share a common ancestry⁹³. Anything participating in that ancestry and lineage is to be regarded as human beings.

Now we need to take the step from human being to personhood. By invoking Hull's arguments on species membership – that what makes one a member of a species is not having this or that essence, but rather being of the same lineage – we have stated the boundaries of human beings in clear terms. And this is an important step because we are intent on showing that all humans, just by being human, are persons. So, we've identified the human beings – these are individual beings that are situated in the ancestral lineage of *Homo sapiens*. What we also need to do though is to say what makes humans different to mosquitoes and mango trees, for they too are situated in ancestral lineages. What makes humans so special that they are to be regarded persons?

To answer this question, we must close the circle of this section. What makes mosquitoes and mango trees different to human beings is that the latter are, as we have said, beings-in/with-community. As Mbiti tells us, human beings relate to other human beings: those alive, to the dead (ancestors) and to those yet to be born (offspring), in unique ways. These relations involve ritual and cultural practice which serve to honour and revere other human beings – we have already noted Macmurray and Spaemann's (§4.5) discussion of this. And the ritual and cultural practice in these relations serve to recognise the personhood of others – the dead, those alive,

⁹³ This debate in the philosophy of biology falls outside of the scope of this thesis and must be limited to these broad strokes. For a useful discussion on this, see Marc Ereshefsky's (2022) entry in the Stanford Encyclopedia of Philosophy.

and those who are yet to be. Through ritual, cultural practice, and other ways of being, individual human beings act in ways with and towards other human beings that accentuate or attenuate their being. These ways of acting with and towards each other could very appropriately be called *communing* – caring, respecting, honouring, sacrificing for, serving, forgiving, and so on: all the complex and transcendent⁹⁴ ways in which humans relate to each other, which distinguish human beings from other beings. And what is significant here is not any essence or capacity internal to the human being that makes this kind of communing possible – what is significant is the actual communing itself: the nature and texture of the relations between organisms. This is therefore not a departure from Hull’s view on species. Human beings, which share common ancestry, are affected ontologically by the communing and relations with and between other human beings, and we account for the affectivity with the notion of *personhood*.

It is here in these complex and transcendent ways of communing that persons are constituted in relation. Against this backdrop we now read, *Ubuntu is the abstract of substantiality of umuntu or the human being*, as Ntibatirirwa says; *I am because we are, and since we are, therefore I am*, as Mbiti says; and *a person is a person through other persons*. To paraphrase Tutu, when you want to give someone high praise for displaying relational virtues that strengthen communing, you say “*hey! You have the abstract of substantiality of the human being*”; “*u no buntu!*”.

5.2.3) *The severely cognitively disabled and their counterparts*

Ubuntu and personalism therefore form a metaphysical and normative conceptual symbiosis between *individual* and *Other* – persons are constituted in the distinctive network of relations between individual and Others, and personhood is affirmed, strengthened and achieved in that relation between individual and Others. It is a rich understanding of personhood and the relations between individual and collective. Readings of Ubuntu that describe it in terms of *human dignity being the capacity to commune*, or Ubuntu prioritizing the collective over the

⁹⁴ This notion, *transcendence*, is defined in the Glossary and will receive special attention below in the discussion on Shutte.

individual – such readings don't even scratch the surface of the potential of Ubuntu for philosophy.

A central critique in this thesis against the philosophy of Rawls has been the treatment of the severely cognitively disabled in *PL*. At this point it would therefore be useful to say something about these human beings and how their personhood might be secured in terms of *UP*. As we have said, what makes human beings different to mosquitoes and mango trees is the uniquely complex network of relations and communing. Severely cognitively disabled human beings are of the species *Homo sapiens*, sharing in the common ancestry and therefore being a part of the distinct network of relations in which personhood is constituted. But it is also true that severely cognitively disabled human beings are unable to participate in the network of relations to the full extent; it is also true that they are unable to commune in ways that are typical of human beings on aggregate. We need to account for this.

For assistance in this regard, we look to David Lewis's metaphysics which might have something to offer the present reflection in the way of securing the personhood of the severely cognitively disabled.

Modal concepts such as possibility, necessity and counterfactuals are important in understanding how things could have been different, or why things must be the way they are. The idea of possible worlds is used by philosophers, in different ways, as a framework to think about modality – about what is possible, what is necessary, what could have happened but didn't (counterfactuals), and so on. It would be useful to therefore think of severely cognitively disabled human beings in terms of modality – what is possible, necessary, and could have been but isn't.

In *On the Plurality of Worlds* (1986), Lewis offers his defence of modal realism – “the thesis that the world we are part of is but one of a plurality of worlds, and that we who inhabit this world are only a few out of all inhabitants of all the worlds” (Lewis, 1986: vii). He explains the applications of modal realism:

What actually is the case, as we say, is what goes on here. That is one possible way for a world to be. Other worlds are other, that is *unactualized*, possibilities. If there are many

worlds, and every way that a world could possibly be is a way that some world is, then whenever such-and-such might be the case, there is some world where such-and-such is the case. Conversely, since it is safe to say that no world is any way that a world could not possibly be, whenever there is some world at which such-and-such is the case, then it might be that such-and-such is the case. (Lewis, 1986:5)

Now within the network of human relations in which persons are constituted, there exist relations not only with what actually is, but also with what was, what could have been, or what is yet to be. And it should be clear that this is important for what we want to say about severely cognitively disabled human beings. Relations between the severely cognitively disabled and others are constituted by what is, but also in what could have been. If we understand the birth of the human being with severe cognitive disability as a counterfactual, i.e. that the human being who was born could have been born cognitively typical, then we are able to make sense of why we see human beings with severe cognitive disability differently to non-human animals; and why *PL* is problematic. In other words, the personhood of the severely cognitively disabled human being is constituted by our relationship with her considering her cognitively typical counterpart in another possible world.

When human beings relate, they relate to what is in the actual world, which is this world which we inhabit; but they also relate to counterparts of what is in this world – that is to say, other versions of what is in this world, which are in other possible worlds. Another way of saying it is to say human beings relate to other possible versions of the Other. As an example, the reader of this thesis relates to me as the writer of *this* thesis – which is the case in this actual world which we inhabit – but also relates to a possible version of me which started but didn't complete this thesis. The version of me that didn't complete the thesis is my counterpart, and there are an infinite number of counterparts in other possible worlds which the reader of this thesis relates to just as the reader relates to the actual version of me who has written this thesis.

Now this might seem a little farfetched at first glance – that there exist an infinite amount of counterparts of what is in this actual world in other possible worlds. It isn't really that farfetched though. Consider the way in which we plan our lives. There is a need for us to identify some possible version of the world in the future – a future world. The relevant facts of the future world do not inhabit this actual world that we are in here and now; they inhabit some possible

world in the future – a world that may or may not come to pass. But we need to relate to that future world and its inhabitants to make sense of the plans we have for ourselves. Whether I continue working on this thesis implies the existence of some future version of me – call him Dr Wade. If no such version of me – Dr Wade – exists, then there is no reason for my supervisor to continue wading through this thesis – a pun that will kindly need to be excused, please. It would actually be rather irrational for my supervisor to continue reading bits and pieces of this thesis if no possible (future) version of Dr Wade exists – why else would show such dedication to such a lengthy thesis?

So, there is Actual Wade in this world here who is writing this thesis, and it would only make any sense for my supervisor in this world to read and critique this thesis if Dr Wade exists in some other possible world. What is more, there must be a relation between my supervisor now in this world and Dr Wade in the other possible world. If there is no relation and no connection, then it would be as irrational for my supervisor to be reading and critiquing this thesis in the scenario where it is impossible for me to obtain a PhD. Not only does the possibility of me obtaining a PhD require the existence – in a certain sense – of a version of me with a PhD then – Dr Wade – there must also be a relation between my supervisor in this actual world and Dr Wade in some other possible world.

In sum, I am describing a very important aspect of the nature of human relations in terms of one person and a *other* possible versions (counterparts) of himself. And what I have said really applies to all human relations; between actual *relata* and possible versions of the *relata*. When we consider the philosophy of Augustine Shutte, and specifically his concept of *transcendence*, we will revisit this aspect of human relations and what makes humans so special; and we will use Shutte's conception of *transcendence* to fortify what I am saying here.

For now, we take the next step of applying this same philosophy of human relations to the severely cognitively disabled. It is these special relations between human beings which set them apart from mosquitoes and mango trees. So yes, there is the lineage and shared ancestry which is common to all species – humans, mosquitoes, and mango trees alike. But in line with what we have said about human beings and what we have called human exceptionalism – human beings relate to each other and other beings in a unique and special way, which is partially explained by the philosophy of Lewis as above.

So, not only do human beings relate to actual versions of each other, they also relate to versions of each other that exist in other possible worlds. It would be madness for my supervisor to labour through these lines, mostly with all the patience he can muster no doubt, without him having some relation to Dr Wade. In the same way, when a mother relates to her severely cognitively disabled child, she relates to counterparts of her child in other possible worlds, too – versions of her child in which the child is cognitively typical. And this is intuitive, for the mother approaches the child, attentive for signs of that typicality. And when she is met with some such sign, she delights. Perhaps the child makes eye contact, or smiles, or reacts to some music. The mother cares for her actual child as her actual child, probably extending even more care than she does to her other cognitively typical children. And the mother’s reaction to signs of typicality in no way attenuates her relationship with her actual child. What is important for our purposes therefore is that these distinctively human relations hold not only between actual human organisms, but also between actual human organisms and possible human organisms – the counterparts of actual human organisms in close possible worlds.

There are no surprises then. That is the direction in which we are headed. As mentioned in reference to Shutte, I will use the discussion of the literature that follows to fortify this picture.

But before moving on to summarise the metaphysics of Ubuntu which I have described here, let me just address a concern that some readers might have in respect of my appeal to Lewis’s metaphysics. There is some controversy around Lewis’s metaphysics. In a sense, it doesn’t pass the “Weird Test”: if you explain this theory to a group of people to the extent that they understood it, their intuitive impulse is to rule the theory as weird. My intention is not to resolve the controversy, or even to descend into it. Rather, I’d like to use Lewis’s metaphysics specifically as a way of thinking about how humans relate to other actual *relata*, and counterparts of that *relata* in other possible worlds. I don’t think using Lewis’s metaphysics to leverage the intuitive existence of possible selves would fail the Weird Test.

What is more, it is possible to make the same case for human relations between actual *relata* and possible *relata* by not appealing to Lewis’s metaphysics, but by appealing to the Mind of God instead, where we might say for instance that while Actual Wade inhabits this world, Dr Wade inhabits the Mind of God – and that my supervisor’s relation is not with Dr Wade who inhabits some other possible world; but rather with Dr Wade who inhabits the Mind of God.

I want to therefore make clear that I am not married to David Lewis's metaphysics, so to speak, even though his thought does offer us a way to set out the way in which humans relate. Nor is Lewis's thought the only way in which to explain how humans relate.

5.2.4) *A metaphysics of Ubuntu in sum*

In concluding this section on a metaphysics of Ubuntu, let me make a comment on an excellent contribution to the literature by Motsamai Molefe (2019). Of the relationship between personhood and ubuntu, Molefe says in note 8 of the first, introductory chapter (2019:12):

In this book, I will take the talk of *ubuntu* to be the same as talk of personhood. I say so because at the heart of the idea of ubuntu is the idea of personhood. The idea of ubuntu is captured in terms of the maxim – a person is a *person* through other persons. The italicized word – person – refers to the normative idea of person salient in African philosophy. At the heart of ubuntu is the idea of a human being achieving personhood (see Metz 2007a, 2010, 2013b; Molefe 2017b; Oyowe 2018). As such, the reader should not be shocked at instances where I use these words interchangeably. To say one has ubuntu is the same as to say they have achieved personhood, and vice versa.

Now we might be tempted to take this editorial note to be limited to a linguistic point. Molefe however distinguishes (his emphasis) “four *concepts* of personhood in African philosophy...[two]...metaphysical and...two normative” (2019:2):

- “[the first metaphysical and] ontological notion of personhood... [is] concerned with specifying the descriptive features that constitute human nature” (2019:3),
- “[the] second metaphysical notion of personhood involves issues pertaining to the nature of personal identity...[drawing] their influence from debates between liberals and communitarians...[where] liberals tend to conceive of personhood in terms that de-emphasise the role of social relations; while communitarians...tend to accentuate the role of social relationships in accounting for personal identity” (2019:3),

- “[the first normative concept claims] that one can assign moral value to some entity in virtue of possessing certain ontological properties that render it morally significant” (2019:4), and
- “[the second normative concept] treats talk of personhood as appropriate when praising the agent for being a moral exemplar” (2019:5).

And then, Molefe’s book is entitled “*An African Philosophy of Personhood, Morality, and Politics*”. This means that when Molefe says he uses *personhood* and *ubuntu* interchangeably, it is noteworthy that he interchanges *ubuntu* with these rich conceptions of personhood, and that his project sets out to offer “An African Philosophy of...” personhood/*ubuntu*, morality and politics. Even though Molefe⁹⁵ does not set out a metaphysics of *ubuntu*, we can nevertheless see that in African philosophy there is a curious and unavoidable connection between the metaphysical and the normative. To the extent that Ntibagirirwa attempts to address this in terms of a metaphysics – and to my mind, he does a fine job at it – his essay as referenced in this section is invaluable⁹⁶.

We therefore have a metaphysics of Ubuntu which substantiates a conception of *humanity* that constitutes the objective, cosmological dimension of personhood. This cosmological dimension of personhood is to be found in the distinctive network of relations between human beings, and which network of distinctive relations constitutes beings-in/with-community: persons. Within this network of relations, the individual person grows and develops the subjective, interior dimension of her personhood, and when that subjective, interior dimension is oriented towards the objective, cosmological dimension, and when the person acts accordingly, we say “*yu, u no buntu!*”. That is our *UP* metaphysics in broad strokes.

Let us leave the metaphysical discussion there for now. To get from *UP* to the subsequent political arrangement, we must look to what humanness or personhood is, keeping in mind that

⁹⁵ Molefe expressly limits himself to the fourth/second normative conception of personhood, which he also calls “the agent-centered notion of personhood” (2019:5). In the next sentence he then says, “It is this notion that is salient in the tradition of African philosophy” (2019:5), which to my mind is an unwarranted *obiter dictum*. The literature is riddled with discussions and debates on the African metaphysical conception of the person. Molefe himself refers to the debate between Kwasi Wiredu and Kwame Gyekye in 1995 (Molefe, 2019:3). It is therefore not clear how the agent-centered notion of person can be *the* salient notion of personhood.

⁹⁶ Molefe’s book makes no reference to Ntibagirirwa’s article, even though the article was published two years prior to the book. Molefe might respond that the article was beyond the scope of his book, but it is not clear to me, given the intersection of metaphysics and normativity, that this is the case.

it is in this personhood that we find both metaphysics and ethics coming together, as we have repeatedly said in this thesis. To further understand this personhood that will ground our political arrangement, we turn now to a more popular understanding of Ubuntu/ubuntu. We will read of Ubuntu/ubuntu in the ethical sense, as an ethos, but we must remember that we do so to understand what personhood *is*.

5.3) Ubuntu Personalism – the groundwork to an ethos

Ubuntu as an ethos or way of life is more commonly known and understood amongst African peoples who practice ubuntu than Ubuntu metaphysics. It seems to me that many authors have therefore opted to study Ubuntu as an ethos rather than as a metaphysics⁹⁷. To me, this is a mistake because I am convinced that because Ubuntu sits at the intersection of metaphysics and normativity, it is not possible to study either its normativity or its metaphysics without reference to the other. Even non-academic philosophers who understand ubuntu as an ethos or way of life imbue this understanding with making sense of metaphysical issues and questions, central of which is the question, *what is a person?*. Ramose (2014:121) tells that “Ubuntu is a lived and living philosophy of the Bantu-speaking peoples of Africa.” In furthering our attempt to understand Ubuntu therefore, we now turn to Ubuntu as *an ethos*. Even though we will try to understand Ubuntu as an ethos, because metaphysics and ethics intersect in Ubuntu, it is perhaps inevitable that we should encounter certain metaphysical concepts and issues along this stretch of the journey.

Even in discussions of Ubuntu as an ethos, it often starts with the recognition that *ubuntu* is a Nguni word which literally and very roughly means *humanity*⁹⁸. Speakers distinguish between

⁹⁷ At the outset of his insightful essay, Nttagirirwa (2017) makes the point that isolating a metaphysics of Ubuntu is problematic because “for the Bantu, there is no philosophy apart from ethics!” – a point I must echo in reference to the almost constant risk of vicious circularity. But, one of his objectives is “to save [Ubuntu] from being defined the way it is used instead of being used the way it is defined”. He laments the existence of “a tendency to present this ‘ethics’ without its philosophical backing amongst certain scholars”, and in this regard he names Augustine Shutte and Thaddeus Metz, while at the same time acknowledging the attempts by Ramose and Coetzee & Roux in trying to present the philosophy of Ubuntu as well as its ethic (2017:113).

⁹⁸ It must be noted that while ubuntu is an Nguni word, there are other Bantu languages which contain different words for the same idea: the Sotho peoples speak of ‘*botho*’ and the Shona speak of *hunhu*, as two examples. Here it could also be noted again that in the attempt to articulate their normative framework, the Bantu peoples select the word *humanity* – an abstract, descriptive word. This again should point to the intersection of metaphysics and normativity. On the other hand, even in English the word *humanity* also possesses both descriptive – “to save humanity from extinction” – and normative value – “he showed his humanity”.

the literal meaning, which is an abstract form of the English equivalent for human being; and the more loaded, normative meaning, where Ubuntu refers to an African traditional morality.

We have already noted Desmond Tutu's contribution to philosophical reflection on *ubuntu*. Let us delve a little deeper into his contribution. Tutu (1999:34) notes that "Ubuntu is very difficult to render into a Western language". This is not an unimportant *obiter dictum* from Tutu. In my reading, I can discern a tendency to try to conform Ubuntu to our accepted categories in mainstream political philosophy, perhaps most pervasive of which is the individualism/communitarianism dichotomy⁹⁹. Here we see again complementarity between Tutu's conception of Ubuntu, and the main aims of philosophic personalism which sought to overcome the individualism/collectivism dichotomy. It is worth mentioning here that the integral personalism of Burgos loses sight of the individualism/collectivism dichotomy and tends towards individualism. Importantly, the eclectic nature of personalism allows one to put it in conversation with a philosophy such as Ubuntu without losing what is essential to Ubuntu, making it different to other labels from the Western canon.

Tutu positions a short but influential discussion of ubuntu in a memoir on his work as Chairperson of the Truth and Reconciliation Commission ("TRC"), *No Future Without Forgiveness* (1999). More specifically, he enters his reflection on the concept while wrestling with some of the questions raised by the TRC:

Is it ever enough for perpetrators merely to apologise and be humiliated through public exposure? What about justice? And since amnesty expunged the civil and criminal liability of the successful applicant, was it fair to deny victims their constitutional rights to claim civil damages from the perpetrator and the state? (1999:34)

It appears the route South Africa was taking after bringing apartheid to an end would deny victims of gross human rights violations justice. And this would be one of the first major acts of the New Order which was supposed to bring the injustice of the past to an end. For Tutu, the

⁹⁹ An almost typical example from history of what I have in mind was the tendency to justify socialism in post-colonial African states by appealing to the anti-individualist nature of African philosophy, when African philosophy, as Tutu (1999) reminds us, is difficult to formulate in (Western) communitarian/socialist terms. Nyerere's (1968) views on African socialism differ significantly from European socialism, and he too, like other thinkers, was reluctant to simply import concepts into the African worldview.

conditional amnesty offered by the TRC “was consistent with a central feature of the African *Weltanschauung* (or world-view)” (1999:34). Ubuntu, says Tutu, “constrained so many to choose to forgive rather than to demand retribution, to be so magnanimous rather than wreaking vengeance” (1999:34)¹⁰⁰.

To shift focus from Tutu and the TRC, let us recall Mandela’s (1995:617) reflection on freedom, gestured at earlier in our discussion of Burgos’s conception of freedom (§3.4):

It was during those long and lonely years that my hunger for the freedom of my own people became a hunger for the freedom of all people, white and black. I knew as well as I knew anything that the oppressor must be liberated just as surely as the oppressed. A man who takes away another man's freedom is a prisoner of hatred, he is locked behind the bars of prejudice and narrow-mindedness. I am not truly free if I am taking away someone else's freedom, just as surely as I am not free when my freedom is taken from me. The oppressed and the oppressor alike are robbed of their humanity. When I walked out of prison, that was my mission, to liberate the oppressed and the oppressor both. Some say that has now been achieved. But I know that that is not the case... For to be free is not merely to cast off one's chains, but to live in a way that respects and enhances the freedom of others.

There is an interesting idea at play here. The idea is that because Person X and Person Y are both human beings, whatever happens (event *E*) to Person X that affects her humanity also affects Y’s humanity, even though *E* does not happen to Y. As Tutu says, Person X’s “humanity is caught up, is inextricably bound up” (1999:34-35) in Person Y’s. When Person X’s humanity is degraded by Person Y, then Person Y’s humanity is necessarily degraded too. This is why Mandela realised that the oppressor needed to be liberated just as much as the oppressed had to be. Because this, like that which the linguistic analysis of Ntibagirirwa is based on, is data from

¹⁰⁰ Ubuntu didn’t constrain everybody. In the Constitutional Court case of *Azapo & Others v the President of the Republic of South Africa & Others* (CCT 17/96) [1996] ZACC 16; 1996 (8) BCLR 1015; 1996 (4) SA 672 (25 July 1996) the infringements of the rights of individuals were considered, and to this day it would hardly be difficult to find (Black) people who feel that they are entitled to retribution in a way contrary to what Tutu describes. The existence of these people and these claims, however, are separate to Tutu’s reflection on ubuntu and ubuntu itself.

non-academic philosophers conveying an understanding of ubuntu that has survived generations, this is crucially important to factor in.

Notice also Mandela's view that "to be free is not merely to cast off one's chains, but to live in a way that respects and enhances the freedom of others". Our understanding of freedom today is based very much on a Kantian anthropology: human beings are individually autonomous creatures, and therefore to increase freedom means increasing individual autonomy, i.e. the individual's ability to act in a manner that maximizes expression of that autonomy¹⁰¹. Kant, of course, never meant by this an unrestrained caprice; but in any event, he saw things that could be unreasonable as the chains that Mandela speaks of. For Kant, "[casting] off one's chains" means overcoming external coercion and the (internal) unreasonable – which he saw as internal coercion – so that one can act in a reasonable and therefore free manner. For Mandela, being free means living "in a way that respects and enhances the freedom of others": it is oriented outwardly and selflessly. Mandela doesn't understand freedom in terms of freedom, i.e. he is not guilty of a vicious circular argument. Rather, he is making a point about the relationship between freedom and ontology; how he understands his own ontology as necessarily in relation to that of his oppressor, so that it doesn't make sense for him to speak of his own freedom without speaking of the un/freedom of his oppressor. It doesn't make sense for Mandela to consider the effects of the actions of his oppressor on Mandela, without necessarily considering the effects of his oppressor on his oppressor's self. The two conceptions of freedom, between Kant and Mandela, are different¹⁰².

To further expound this, we appeal once more to the tools of personalism. All human beings belong to a species, and that puts them into a certain proximity and relation to each other and the rest of creation. This is where the cosmological dimension of the person actuates. Through habituation, growth, development and so on, persons then develop agency and, indeed, their personhood, because they develop the subjective, interior dimension of their personhood. As Wojtyla tells us, this second dimension completes and perfects the first dimension. But the

¹⁰¹ In this regard, recall the complaint we raised against Burgos's individualist conception of freedom at §3.4. but also keep in mind what we said about autonomy in respect of perfectionist liberalism.

¹⁰² It is possible to describe Mandela's reflection on freedom in Kantian terms, where an internal passion like hatred could enslave one just as much as an external slave master can. But read in context, it should be clear that Mandela is expounding a relational conception of freedom based on the Ubuntu described hereinabove, and not a Kantian individualist conception of freedom based on rational autonomy.

completion and perfection does not happen in a vacuum. As we have seen, the completion and perfection are oriented towards participation for Wojtyła. In UP, the completion and perfection are oriented towards personhood, which is the richer understanding of *humanity*¹⁰³ within the Ubuntu framework – the cosmological dimension of the person, including the human communion responsible for the social constitution of persons.

So, let us unpack what Mandela says about freedom within this framework. We all share humanity through the cosmological dimension of personhood. Through the subjective, interior dimension which we have also said gives rise to freedom and self-direction, we are able to direct our cosmological selves towards immoral actions. When we act immorally, say for example, by enslaving another person, we not only enslave that person who participates in the cosmological dimension of personhood with us, but we also enslave ourselves. By enslaving others; by acting immorally towards others, we attenuate our own personhood – not in the same way as we attenuate the personhood of the Other, but in an equally negative way. The pendulum of what Tutu says when we want to give high praise to someone – “*yu! U no buntu*” – swings both ways, for just as acting morally is met with a recognition of your humanity, so too acting immorally is met with a recognition of your lack of humanity. Through immoral action such as enslavement, prejudice and so on, we attenuate and undermine the dignity and humanity of some other human person – but because we participate in that very same humanity, we attenuate and undermine the dignity of the humanity of ourselves.

In this way, UP cannot prioritise the ends of the collective above those of the ends of the individual either, as in the cases of Western collectivism and certain forms of utilitarianism. The humanity of the community as a collection of persons, in terms of Ubuntu, is also “caught up...inextricably bound up” in the humanity of the individual person. Shutte says, Ubuntu contains “an anti-individualist understanding of persons which nevertheless does not fit into any of the forms of European collectivism” (1993:59). And it is here that we must see the caricature that Western socialism as such is of the African worldview – or at least, certain worldviews which arguably remain more prevalent in Africa than in for example Europe. It can never be that the humanity of a single individual is undermined for the sake of the ends of the community, for when the community undermines the humanity of but a single individual, it

¹⁰³ Again, this *humanity* is the abstract of substantiality of being; the highest form of being. It is not the literal, biological concept of humanity.

undermines its own humanity because the community derives its humanity and participates in the humanity of that single individual person through the cosmological dimension of personhood. Importantly, *humanity* here is synonymous with the good, and this means the good of the community can never be prioritized over the good of the individual, because the good of the community is inextricably caught up in the good of the individual. All of this is to say, in respect of this living philosophy, this ethos: it is social and communal in nature, but unlike Western social and communal philosophies, it sees the good of the individual as inextricably bound up in the good of the common.

From a broad overview of the different sources we have sampled so far, we see two main thematic patterns in the Ubuntu worldview. It acknowledges the existence of the individual in the community. *I am because we are*. The person is quite clearly constituted by the community in a way that recognizes that existence outside of or without the community as impossible. This view is not unfamiliar in political debates – it typically falls into the communitarianism category, even if communitarianism doesn't necessarily entail the social constitution of persons. The problem with recognizing the importance of the community and that the individual citizen depends on it for its constitution, is that it could lead to the justification of an infringement on individual human rights – something which must be avoided when in search of a political philosophy for the future. But that is the nuance of the UP worldview, because the second part of the twofold contribution is that the good of the community cannot infringe the good of the individual citizen: *we are because I am*. On the UP picture, justice doesn't allow for the community to infringe the rights of the individual as we see in e.g. Stalinist communism. Recalling the words of Tutu, the humanity of the community is also inextricably bound-up in the humanity of the individual. An infringement on the dignity of the individual is an infringement on the dignity of the collective. To infringe the dignity of the individual can never be in the interest of the collective: it also always necessarily infringes on the dignity of the collective too. The saying “this is the kind of people we are” would therefore be especially appropriate in this case. Indeed, understanding that it is a blight on the integrity of the collective if it allows for, e.g. torture of the individual, is central to understanding UP. We are therefore able to say that this view is not subject to the typical challenges faced by mainstream communitarian views, because conflicts between individual and collective must be resolved in a way that fosters the humanity inextricably caught up in both the individual and the collective. And in this way, we come to the heart of the situation of this philosophical journey in terms of

the literature. We see that it is not a matter of prioritizing the individual over the collective, or the collective over the individual. On the UP worldview, because the humanity of the individual is inextricably caught up in the humanity of the collective, and *vice versa*, the question is really about what *humanity* is; what *personhood* is.

From this more popular view of UP as an ethos, we must also see a variation of the same symbiosis between metaphysics and normativity in the idea that when the freedom of one is infringed, the freedom of all is infringed. The line of argument is quite subtle, because in terms of UP, as we have said repeatedly, metaphysics and normativity intersect in the person. In terms of UP, it is not possible to talk of metaphysics without talking of ethics. Personhood, as we saw, is constituted, affirmed and achieved *in relation*. In the same way, personhood is also attacked, undermined and attenuated *in relation*. This is what is meant by the anti-apartheid rally-cry, *an injury to one is an injury to all*. This means, in a very abstract way, that acting morally is acting to strengthen personhood, which is constituted in relation. To talk of ethics at all is to invoke metaphysics, necessarily. To talk of metaphysics at all is to invoke ethics, necessarily. When Mandela speaks of having to liberate his oppressor in order to be liberated himself, he is talking about the constitution, affirmation and achievement of personhood – metaphysics. He is not making a moral point as such; he is really making a metaphysical point. This is because the social constitution of persons is assumed, i.e. when ethics is understood as the strengthening of personhood, and personhood is constituted in relation. Freedom of *the person* is freedom of a *being-in-relation*.

Let us draw some preliminary conclusions. Having set out a metaphysics of Ubuntu, we shifted our focus to Ubuntu as an ethos, even if in a very abstract way. We noted the point that we walk a tight rope when we talk either of Ubuntu metaphysics cut-off from normativity, or Ubuntu normativity cut-off from metaphysics. And this is because Ubuntu metaphysics can only be accessed against a tapestry of normativity, and Ubuntu normativity can only be accessed against a tapestry of metaphysics. It achieves this because the person stands at the centre of its outlook, and in this sense, it is personalist through and through.

UP metaphysics tells us that the highest form of being is that of *the human being as an abstract of substantiality – personhood*. Tutu tells us, in plain language, that when we display relational virtues, we attain this highest form of being. To place the emphasis on the relation that the

relational virtues foster is risky because we easily understand this within a Western, individualist anthropology. The richness of what Tutu is talking about is only approached and apprehended when it is understood considering the UP metaphysics which we have described. When we exhibit relational virtue, we approach the highest form of being – we approach humanity, understood as an abstraction of substantiality of the human being. But we are already human beings, participating in humanity; we are already beings enfolded in species and therefore relation, before we are actuated as an individual concrete being. Understood in terms of this metaphysics then, as persons we are inherently morally valuable, and our exhibition and performance of the relational virtues serve to reinforce not only the being of the target of our efforts, but also the being of ourselves; understood not as individuals, but as mutually and socially constituted in relation. More than therefore just acknowledging that you have done something well, Tutu’s high praise goes to the very core of his target’s being, which he then describes as hospitable, friendly, harmonious, and so on. And it is in this sense that Tutu says that “Ubuntu means that in a real sense even the supporters of apartheid were victims of the vicious system which they implemented and which they supported so enthusiastically” (2000:35).

We have now set out an Ubuntu metaphysics, and we have described what is interesting about Ubuntu as an ethos, showing that they – metaphysics and normativity – intersect, that one necessarily implies the other. This is rooted in the conception of the person at work – a conception in which metaphysics and normativity come into contact. The other important point arising out of this, is that the good of the individual is inextricably bound up in the good of the collective. This throws a spanner in the works of traditional dichotomy in Western philosophy, that of individualism vs collectivism.

Next we therefore wrench open this dichotomy, showing how UP offers a way through in its conception of the person.

5.4) The annulment of a dichotomy between individualism and collectivism

In terms of Canon Law¹⁰⁴, the annulment of a marriage differs from a divorce in that while in the case of the latter, a marriage is ended; in the case of the former, a marriage was never activated or brought into existence in the first place, say because of some legal impediment, e.g. one of the parties was coerced into marrying. Let us imagine for a moment that a dichotomy is a marriage made in hell; one between two opposites in every way, who can't stand each other and who just can't get along. Individualism and collectivism are in such a marriage – and everyone recognises that they both need to get out. Many thinkers have attempted to resolve the situation by siding with one party and shooting to kill the other. In this section, I will argue that in terms of UP, a divorce does not need to feature between the two parties as there was never a marriage to begin with – hence the case for an annulment. I want to argue that the dichotomy is a non-issue because it is not even brought into existence in the first place.

5.4.1) Metz and the Oyowe debate

We start with individualism. If there is anyone who has worked on Ubuntu in professional academia over the past twenty-five years or so, then it is Thaddeus Metz. His *corpus* on the subject is immense. He deserves the respect of a dedicated section in this essay, but that is not merely because of the sheer quantity of his publications on the topic; it is because he has done enough to produce a systematic account of individualist Ubuntu to be regarded as the representative of this category¹⁰⁵.

As just stated, Metz's *corpus* is impressive¹⁰⁶. There is no pretence in these lines of an encyclopaedic account of his work. My aim is to zoom in on the heart of his system as quickly as possible. It is in the debate with Anthony Oyowe that we have already referenced, that a very useful discussion on Metz's Ubuntu, but also Ubuntu and the challenges of communitarianism,

¹⁰⁴ Canon Law is the codified law of the Roman Catholic Church.

¹⁰⁵ Tom P. S. Angier notes that “[to] some extent, Metz has moved away from direct engagement with ubuntu, preferring to concentrate on the related notion of ‘harmony’...” (2019:207, n1).

¹⁰⁶ His *corpus* spans work in which he lays the groundwork for Ubuntu as a comprehensive moral theory (2007); to work in which he examines how Ubuntu aligns with and challenges human rights discourse (2011); to work in which he positions Ubuntu in relation to Western political philosophy (2015a); to more applied themes such as public governance (2014c) and journalism (2015b). And it continues to grow.

is exhibited; in which we see exactly how Metz's system is individualist. We will spend some time spelling out the debate here.

It starts with Metz making the case for grounding human rights with ubuntu in a paper entitled *Ubuntu as a moral theory and human rights in South Africa* (2011). Oyowe (2013) writes an essay in which he critiques Metz's version of Ubuntu, which purports to ground a human rights culture on Ubuntu - or at least, Metz's version of Ubuntu. Metz states that "an action is right just insofar as it produces harmony and reduces discord; an act is wrong to the extent that it fails to develop community" (2011: 334). It seems useful to me to term this phrase *the Metzian imperative*. Oyowe (2013:106) says that

along the way to arriving at this favoured principle, Metz explicitly claims that the aim of morality is not individual well-being or self-realisation. On his account, the fundamental moral value that a moral agent ought to promote inheres in certain kinds of relationships rather than in anything internal to the individual.

Yet it should be expected that this may give rise to situations where individual liberties are sacrificed for the promotion of harmonious relationships. We are talking about instances where the harmony of the community comes into conflict with the rights of the individual. Metz, according to Oyowe, anticipates this criticism of his (Metz's) system, and introduces a deontological constraint to his theory, suggesting "an alternative way of responding to value that requires moral agents to 'prize' and 'honour' harmonious relationships as opposed to promoting these values as much as they can" (Oyowe, 2013:106). Oyowe is unimpressed though, and notes that "while integrating a deontological constraint may be an attractive feature of the theory, it is worth noting how an original intuition has been modified" (2013:106).

According to Oyowe, Metz faces a dilemma. Ubuntu, Oyowe says, as with many other African worldviews and philosophies, is communitarian in nature. In short, communitarian worldviews prioritise the good of the community over that of the individual member of the political community¹⁰⁷. In contrast, human rights are afforded to or recognised in individual members of the political community, prioritising them and certain such values over that of the

¹⁰⁷ It is worth noting/flagging at this point that Oyowe is making the points we made earlier and throughout this thesis about describing Ubuntu as communitarian.

community. Either Metz's version of Ubuntu is communitarian and prioritises the good of the community over that of individuals, which may lead to the sacrifice of individual rights; or Metz's Ubuntu is individualist in nature, and prioritises the rights of individuals over that of the community, in which case there is little left to say about Metz's principle of prizing harmonious relationships. The latter then just becomes a *nice-to-have*, as is the case with regard to harmonious relationships in perhaps all political arrangements.

Taking a side-glance at remarks made earlier in this thesis, we see that Oyowe frames the discussion in terms of the typicals of political philosophy: Ubuntu is either communitarian or it is individualist with a nice-to-have, thin nod to a communal element. Take especial note of the crudeness and lack of nuance in the dichotomy: either the individual is prioritized over the community and the human rights-based political arrangement is possible, or the community is prioritized over individual, and the undesirable communitarian arrangement obtains.

In response to Oyowe, Metz (2014a) complains that Oyowe (2013) misrepresents his theory and that the misrepresentation has led to a dilemma which Metz does not face. According to Metz (2014a:307),

Oyowe reads my theory as positing two distinct final goods to be promoted, namely, those of individual freedom and communal relationship, whereas I instead posit a single basic good, human dignity *qua* the capacity for communal relationships, that is to be respected.

In other words, for Metz, the capacity for communal relations is human dignity, which in turn gives rise to human rights. For Metz, "to express respect for the sole basic value of the dignity of the capacity for community just is (in part) to uphold individual freedom" (2014a:314). "Human rights," Metz (2014a:307) says, "are ways of treating people as special by virtue of their capacity to commune, not ways of balancing competing interests in freedom and community". To quote Metz (2014a:313) once more,

...supposing that individuals have a dignity by virtue of their capacity for friendliness, roughly an agent must treat them (when innocent) in a friendly way, where human rights violations are ways of treating (innocent) individuals in grossly unfriendly ways. Such an explanation of what a human rights violation is constitutes a promising rival to the

standard Western, Kantian view that it is essentially a degradation of autonomy. It is a moral-philosophical gem mined from African worldviews, one worth studying under a loupe.

Metz is therefore of the view that Oyowe has taken aim at a straw man. Oyowe sees the promotion of friendliness *and* individual human rights as two distinct goods which often come into conflict. Metz reiterates that in his system, the promotion of friendliness *equals* respect for individual human rights.

I agree with Metz that Oyowe has largely taken down a straw man in this respect. I can see that Metz doesn't argue for two distinct goods, but rather for a single good in promotion of friendliness *qua* respect for individual rights, arising out of the capacity for communing *qua* human dignity. And that is what I would like to take from Metz for the purposes of this thesis – his specifically individualist version of Ubuntu. And, it is worth stating clearly that I take it so that I can reject it.

In the debate, Metz also takes issue with the Oyowe's characterization of the state of nature and what that means for the individual. Note an important point about how contract doctrines conceive of the person according to Metz.

“First,” Metz (2014a:313) says, “Oyowe maintains that my conception of dignity conflicts with the descriptive thesis about how individuals come to be”. This assessment arises out of Oyowe's charge against Metz that “grounding dignity in a yet-to-be-realised capacity for community represents the individual as existing in principle outside the network of relationships that constitutes community” (Oyowe, 2013:108). The idea here is that individuals necessarily require the network of relationships required for thriving and that, according to Oyowe, Metz (like other contract theorists) is not able to account for this necessity. But Metz asserts that this criticism of ‘individualist’ philosophies “rests on a misreading of the social contract tradition”, because all that social contract theorists such as Rawls claim is “that what is morally important about people is their capacity for autonomy, and that a conception of justice needs to be appraised in light of how it bears on that capacity” (Metz, 2014a: 315-316).

Now putting to one side for the time being the debate between Metz and Oyowe itself, the distinction between the respective conceptions of *the citizen*, as the intersection between philosophical anthropology and political philosophy, between Ubuntu and contract theories such as Rawls', should be made. Metz makes clear that what is important about contract doctrines is that *autonomy* is what is morally important about people¹⁰⁸, and that is the work that contract thought experiments are supposed to do. The charge that individualist philosophies argue that individual persons can obtain and thrive outside of community networks is a non-charge because individualist philosophies don't hold that, according to Metz. That much, then, Ubuntu and individualist philosophies have in common – individuals need communities to thrive¹⁰⁹.

For his version of Ubuntu then, Metz locates human dignity in *the capacity to commune* – something internal to the individual person¹¹⁰. Human dignity, Metz says, just is the capacity to commune. Note, of course, that having the capacity to commune, and *actually* communing, are two different things. It is possible for the individual person, conceived on Modernist terms, *not* to commune. And this then employs a very specific conception of the person – an individualist conception of the person.

It is perhaps worth lingering at this juncture for a moment. We have only just agreed with Metz's critique that Oyowe mischaracterizes individualist philosophies, i.e. Oyowe says that individualist philosophies rely on a conception of the "individual as existing in principle outside the network of relationships that constitutes community" (Oyowe, 2013:108). How is it then that we can take issue with individualist philosophies on the grounds that it is possible for the

¹⁰⁸ Recall the reference above to Nussbaum (§2.4.1) where she speaks of what is important to the liberal tradition, i.e. that all have a moral worth based on the capacity to form a conception of the good. What Nussbaum says there must be read in light of what Metz says here, and *vice versa*.

¹⁰⁹ Of course, *how* and *why* individuals need community to thrive is the crucially important issue and where the debate is.

¹¹⁰ Here it is worth noting an important commentary on this by Shutte (1993:46-47), writing about African philosophy as distinct from Western specifically: "A point agreed on by virtually all writers [on traditional African thought] is that persons are defined not by this or that natural property or set of properties but by the relationships between them and others. So, for instance, Menkiti: 'in the African view it is the community which defines the person, not some isolated static quality of rationality, will or memory' (1979:158 [as in Shutte, 1993]). In European philosophy of whatever kind, the self is always envisaged as something 'inside' a person, or at least as a kind of container of mental properties and powers. In African thought it is seen as 'outside', subsisting in relationship to what is other, the natural and social environment." Whatever his reasons, Metz therefore abandons a fundamentally important tenet of Ubuntu and African thought more generally by opting for the "isolated static quality of" the capacity to commune.

individual, conceived on Modernist terms, not to commune, while at the same time agreeing with Metz's critique that Oyowe mischaracterizes individualist philosophies?

The important point here is to refer, once again, to the metaphysics of personhood in terms of UP as I have characterized it hereinabove. Metz invokes what is important for the philosophical moment for individualist philosophers, just as Nussbaum relies on an intuition at the heart of the liberal tradition: that the individual is of primary moral worth. And forgive me if my characterization is too bold, but Metz does this while acknowledging that individualist philosophies do not hold individualism as such when it comes to metaphysics. In Ubuntu, as I have described it above, metaphysics and ethics intersect in the person. This is why doing metaphysics invokes ethics, and doing ethics invokes metaphysics. For Metz, and individualist philosophies, there is a perhaps unbridgeable gulf between ethics and metaphysics, with the result that persons assume two different identities, a metaphysical one and an ethical one. And a central issue in current philosophy of personhood is this new problem of dualism – a metaphysical person and a normative person, and how the two come together in one and the same person. "...I am simply not aware of any influential Western, liberal or individualist thinker who has claimed it is possible for, say, a baby to grow up into a normal adult without socialisation" Metz (2014a:314) says. The original position thought experiment and the like are merely "supposed to bring out what is of normative importance" (Metz, 2014a:315). Why the "socialisation" has no "normative importance" must leave us wondering.

We therefore note the theoretically problematic notion of the individual person. The mere existence of a second/other person – the person's mother, at the least – places a limitation on the otherwise-absolute autonomy of the individual person. It seems to me that the commentary from Metz bolsters this point even further.

Metz himself acknowledges that none of the big thinkers in the Western canon think that persons can exist outside of the relations – familial relations, for instance, are crucially important for persons to thrive. And it is here that we must then ask, in what sense is it appropriate to consider persons as individuals at all? Keep in mind that the social contract is not presented as an historical event. Rather, it is necessarily presented as a hypothetical analogue which captures the nature of the political arrangement as the justified limitation of the absolute freedom of individual persons. This much is trite. But if the social contract is supposed

to capture and explain the limitations on individual persons who supposedly enter social contract negotiations as absolutely autonomous creatures, then the limitations are more fundamental than the absolute autonomy of the individual person because we're trying to explain the limitations. Individual autonomy is a control in the thought experiment. And that means, at best, the notion of an individual with absolute autonomy is just a hypothetical placeholder with no actuation as such. Metz might appeal to his "capacity to commune", but as mentioned, it is much too weak to account for the actual "socialisation" that he also says *must* happen. And so, we are brought back to the metaphysical gap in social contract moral and political philosophy: what is the person?

All of this is to say that theorists such as Rawls, Nussbaum and Metz need to do much more work to substantiate the notion of the absolutely-free individual as an appropriate starting point for normative philosophy. One must blind herself of any metaphysics of personhood in order to proceed with the normativity of personhood on the individualist outlook. What we find in the literature is the individual is presented as a starting point – say, in the Rawlsian original position – and we are required to accept this without question, until we reach the end of the thought experiment and then, further, are amazed at the way in which this thought experiment justifies the rights and entitlements of *the individual*. All that social contract theorists such as Rawls claim is "that what is morally important about people is their capacity for autonomy," Metz says (Metz, 2014a:315-316), "and that a conception of justice needs to be appraised in light of how it bears on that capacity". I should like to reply to Metz and say that that might be the case, but social contract theorists need to justify why the capacity for autonomy is held to such a high degree of moral importance, first. What about the "socialisation" Metz speaks of: the development of the ability to reflect on moral questions? What about the ability to distinguish genuine goods from mere base desires, an ability which must be formed within a community? What about the importance of that community? And, as we have argued with reference to the severely cognitively disabled, what about the moral value of human beings which seems, intuitively, to precede the capacity to form a conception of the good life? This moral value, in fact, exists whether humans can form such a conception or not. Individualist theories ought to take these other issues into account, too. And to resolve this point with reference to Metz's individualist Ubuntu, a moral dignity based simply on the capacity to commune, misses this point.

Metz is right then, in terms of his critique of Oyowe's mischaracterization of individualism. Individualist philosophers do not think that persons can exist outside of community. But Metz is wrong for a reason different to the one stated by Oyowe. Taking what Metz has said about individualist philosophies, we find ourselves in the situation of having to accept one conception of the person when doing metaphysics, and of having to ignore that very conception to do ethics.

Before proceeding to a personalist response to all of this, let us briefly return to the Metzian imperative: "an action is right just insofar as it produces harmony and reduces discord; an act is wrong to the extent that it fails to develop community" (Metz, 2011:334). To be clear, Metz prizes harmony and the reduction of discord, but the adherence to these relational virtues are seen as respect for individual human rights. The *capacity for friendliness* between two individual persons constitutes the human dignity of the individual persons, respectively. The relational dimension of Metz's Ubuntu is therefore instrumental, and not constitutive, of personhood. It is for this fundamental reason that Metz's Ubuntu is seen as individualist¹¹¹.

5.4.2) A personalist response

Now for perspective, it is important to say that Metz never claims to unearth Ubuntu in its pure form, as it was practiced in pre-colonial times. His intention, as is the intention in the present thesis, is "not...to mirror any traditional people's belief", but rather "to cull out what is morally compelling about [indigenous African worldviews], at least to a broad, multicultural readership" (2015:398). As Angier (2019:200) notes,

there is nothing overtly objectionable about the Metz method ...[and that it] is admirably honest about the limits of its ambition: it does not set out to deliver an anthropologically accurate account of African ethics, but is boldly constructivist instead.

¹¹¹ After analysing and assessing to be "sound" what he calls "the Metz method", Angier (2019:207) takes issue with the way in which Metz has employed that method: "...his construal of *ubuntu* in particular – as precluding a retributivist ethic, the martial virtues and 'supernaturalism' (on the one hand), and as warranting self-expression, and an under-textured 'solidarity' and 'identification' with people (on the other) – it seems clear that the inspiration for his construction of African ethics lies far less in Africa than in the nostrums of Western liberal egalitarianism and individualism".

Nevertheless, as Ntibirirwa tells, “[moral] philosophy depends on metaphysics as it is concerned with the concrete and the existential conduct of the human being” (2017:114). Anything that is going to be “morally compelling about [indigenous African worldviews]” is going to have to be rooted in a metaphysics that is incompatible with individualism, because African metaphysics is incompatible with individualism.

That said, it is perhaps now also worth taking a side-glance at philosophical personalism here, and the danger of developing an individualist personalism, which is the lesson we learned from thinking about Burgos’s integral personalism. Yes, in the personalist worldview there is the element of interiority and subjectivity, as well as the element of freedom; and we might be tempted to interpret these in an individualist way, or to conclude that these tenets lead us to adopt an individualist worldview. But this is a mistake. Besides the need to make all tenets of personalism consistent and interpretive of each other, individualism is something that requires justification in itself; persuasive justification which is lacking in the work of Burgos.

We now approach the heart of the matter. What individualist philosophies, be it Ubuntu (in the case of Metz), personalism (in the case of Burgos) or liberalism, hold as morally important, is the moral worth of individuals. And this is where the distinction between UP and individualist philosophies enters the fray. What is important for the UP political arrangement is that individuals are “beings-in/with-community”¹¹², as stated by Ntibirirwa (2017:129). Whereas individualist philosophies use the moral worth of the individual as a starting point for their philosophical reflection, relying on both metaphysical and ethical insights, UP relationism starts with the notion that *persons are beings-in/with-community*.

The starting point therefore cannot be the isolated or abstracted individual so that we can determine just limitations on an otherwise unabated autonomy. The otherwise unabated autonomy is a myth. And unabated autonomy is not the state of the perfected person. The perfected person is a being-in/with-community, from the very beginning as we see in any ontology of a human being, because even the foetus, as we saw, is a being-in/with-community with her mother. As we saw in Macmurray, from the very early stages, the relationship between

¹¹² It is worth noting here, in case the reader is already looking for the distinction between UP relationism and communitarianism, that this will be provided in the next section that looks at the importance of the personalist turn-to-the-subject. For now, we focus on Ubuntu personalism vs individualism.

mother and foetus is one subject to transcendence and personal perfection – which is to say, that which involves the notion *personhood*. And we will consider Shutte’s notion of transcendence in a moment to further fortify this idea. But the starting point must be the being-in/with-community – and perhaps, what freedoms and autonomy ought to be possible in *such* a community; how should freedoms and autonomy be used; should they be used to further the ends of the community; and so on. And this ought to be a far more intuitively persuasive starting point than a hypothetical individual with absolute autonomy and moral worth based on an internal capacity such as one to form a conception of the good life or one to form relations; precisely because of the nature of persons who are constrained from the very beginning and in principle – constrained *as* individual beings in their individuality. *That* should be the starting point of our theory of justice.

Now the structure of such a theory of justice is very different to that of contract theories. If we take the thought experiment of the contract as far as it would assist us, then we might say that the morally important issue in the case of *UP* is that the person is a being-in/with-community. The person is not, first and foremost, an autonomous, rationally choosing agent with this or that capacity, e.g. a capacity for friendliness. The person is primarily a being-in/with-community. Put differently, we might say the individual in the original position is required to choose principles of justice based on her being a being-in/with-community. But even so, we would need to question why or whether it is the individual as such *choosing* principles of justice per se. Keep in mind that even this variation on the Rawlsian theme can only go so far because, at least for Rawls, the facts that the individual stands alone in the original position; that the individual *chooses*; that the individual is *a choosing creature*, etc; are all specific to Rawlsian justice, and, with a nod to my argument in the first chapter, all thickening agents to Rawlsian justice.

To return to Metz (2014), he grounds human dignity in *the capacity to commune*. It is therefore clear that Metz’s system is individualist, even if the individualism is based on a capacity to commune, rather than e.g. the Kantian capacity to reason. Metz’s (2014) Ubuntu defines human rights violations of individual citizens as those actions which deny those beings with the capacity to commune the ability to be the subject or object of communing, or friendship. The capacity to commune gives beings human dignity and entitles them to human rights. The capacity to commune is what gives rise to friendship, says Metz (2014), and friendship is the

crucially important virtue in his Ubuntu. But the mere capacity to commune and how one enacts or uses that capacity are two very different things in a system relying on an individualist metaphysics of personhood. For Metz (2014), the focus is on the former; whereas, at least intuitively, Ubuntu focuses on the latter, i.e. that the capacity to commune is used – that it constitutes one’s personhood, and what the person is. Tutu would certainly have said “*Yu, u no buntu*” is meant for beings who have the internal capacity to be friendly, hospitable, magnanimous, and so on, if that is what he meant. But he didn’t say that: he says the high praise – “*yu, u no buntu*”; hey, you are a person” – is reserved for those who build and nourish relations. For Mandela, it is not the mere fact that a host has the capacity to be hospitable for instance, in the same way that it is not the mere capacity to forgive at the TRC. It is *actually* forgiving; *actually* being friendly; acting in a way consistent to being described as having ubuntu or being virtuous: *that* is the focus. And it is not doing so as an absolutely isolated individual: it is *actually* forgiving others, in relation; it is actually being friendly to others, in community; and so on. Without others and community, forgiveness, friendliness, hospitality, magnanimity are not possible, and it would not be possible to have ubuntu; it would not be possible to attain the abstracted personhood that Ntibagirirwa describes in his metaphysics. And while we have Ntibagirirwa in mind, let us state clearly that the metaphysics he describes based on the language of Bantu, in light of Tutu’s explanation that you give someone high praise by telling them they have personhood when they nourish relations, points to a relationally constituted conception of personhood that must inform our conception of Ubuntu. A reduction to something like a paltry capacity to commune, in fact, loses what ubuntu is.

If we take the tenets of personalism to be interpreted considering each other, then we start to see with greater clarity what ubuntu is. Relation is what constitutes a person, at all. *Contra*, Metz describes a methodology focused on respect for a capacity internal to agents, i.e. the capacity to commune, and a further ancillary prizing or honouring of friendship and/or relationship. The likes of Mandela and Tutu describe something completely different: an outwardly orientated moral methodology focused on *relationship* to oneself and others, with the relationship being rooted in the nature of what the being is - flowing from and to communion with others; constituted as such in that relationship. This, in turn, is a rich contribution to the personalist understanding of relation and communion – in contrast to the attenuated conception of relation and communion we see in the personalism of Burgos.

We have spoken of *the capacity to commune*, to include all the relational virtues, including friendliness; and we have spoken of *actually communing*. Let us take a further step and introduce the concept of *obligation* into the discussion. In assessing Metz (2011:540) – which Metz doesn't object to – the requirement is for “moral agents to ‘prize’ and ‘honour’ harmonious relationships as opposed to promoting these values as much as they can” (Oyowe, 2013:106). When Cynthia Ngewu forgives the people who killed her son at the TRC, she is not merely prizing or honouring harmonious relationships. That is an incredibly tepid way of describing something beyond the mere powers of nature. Something much richer is going on. The fact that she has the capacity to forgive, and the fact that she has reason and therefore prizes forgiving, don't feature at all. She is quite literally *enacting*¹¹³ the values as much as she can, contra Metz; and she is doing so in a way that, by her own admission, restores not only the humanity of the monsters who killed her son¹¹⁴, but also restores her own humanity – the cosmological, objective dimension of her and their humanity and personhood. And that, in terms of UP, is how *obligation* is activated. I *must* forgive because when I forgive, you *and I* are restored to the standard of the cosmological dimension of personhood: our actions must conform to the standard of *what we are*, which is not individual beings with certain capacities, but rather beings-in/with-community¹¹⁵.

In the UP worldview, Ngewu's, her transgressors', and the collective's humanity is reduced through the monstrous actions of the transgressors – “persons act in *this* way: they kill young men in monstrous ways for political reasons”. In an act of her own individual freedom and in exercising her agency, Ngewu forgives the transgressors so that the humanity of the transgressors, the collective *and Ngewu* is restored¹¹⁶ – “persons act in *this* way: they forgive the very same monstrous actions of those who transgress them”. *My humanity is inextricably bound-up in yours*, Tutu says. This is what the social constitution of personhood looks like on

¹¹³ It is worth noting here that for Wojtyla, action plays a crucially important role in the constitution of personhood, as spelt out in his book, *The Acting Person* (1969).

¹¹⁴ Just as an aside, it can never be known with certainty whether it was one person or many who killed the Gugulethu Seven, of which Christopher Piet, Ngewu's son, was one. It was probably more than one, but there was only one man who sought amnesty at the TRC. This historical point doesn't detract from my argument though.

¹¹⁵ It is worth noting (again) that I am merely making the point here that the yet-to-be described moral philosophy based on Ubuntu is based on personhood, which necessarily intersects both metaphysics and moral philosophy. I am not however doing moral philosophy here, i.e. I am not saying what “our actions must conform to the standards of *what we are*” entails as a moral philosophy.

¹¹⁶ Forgiveness can only be given out of the freedom and subjectivity of the forgiver, but as we said, freedom and agency are oriented towards the cosmological dimension of the person.

the UP worldview. *Obligation* – the right thing to do; ethics – arises out of what we are – *persons*. And persons are beings-in/with-community, necessarily.

As for Metz, in the end, it seems to me that when his Ubuntu is pushed, it will reveal itself to be nothing more than a form of liberalism based on individual autonomy, or what Taylor (1985) describes as atomism – where the community has merely instrumental value for the individual. Metz (2014a:311) claims that

[w]here the Kantian finds value in people’s capacity to govern themselves, a more characteristically African view deems it to inhere in their capacity to relate to others.

What Metz then describes as a “moral-philosophical gem” (2014:313) is really a lump of coal. He attempts to side-step the dichotomous quagmire created by the individualist/communitarian debate. Notice that Oyowe levels the charge in terms of a human rights/communitarian dichotomy, where human rights is understood necessarily in terms of individualism. But in his answer to Oyowe, Metz retreats to an individualist system: the *capacity* to commune, separate from *actually* communing or any obligation to do so; separate from the richness of African metaphysics. And he does this by seeing obligation to *actually* commune as an unacceptable overreach into communitarianism, so the emphasis is all on the individual.

Even if I do think Oyowe has taken aim at a straw man then, I also think that by bobbing in the individualist/communitarian dichotomy, Metz is stuck in a different dilemma. Either he admits to the communitarianism that Oyowe accuses him of – which he has already demonstrated he is determined to avoid; or he takes the position he explains in response to Oyowe, in which case he abandons what is genuinely interesting about Ubuntu and seeks refuge in a capacity internal to the individual human being. It is, after all, Metz himself who tells Oyowe that none of the great liberal thinkers negated the role of community in an individual persons’ ability to thrive.

Metz’s individualist Ubuntu abandons the role of the community in constituting the person, opting instead for the diluted, thin view, along with the great liberal thinkers, that *persons thrive in community*. In this way, communing is not central to personhood, at least not in the distinctively African way. This is incoherent with a metaphysics that recognizes that persons are always and necessarily in communion. Communing is a metaphysical necessity. Human

beings, as members of a species, but also in other more complex ways and to greater degrees, are in relation with each other, so that even the individual who has decided to live alone on a deserted island is in communion with humanity and a part of the complex network of relations amongst humans in which personhood is constituted.

Considering its linguistic roots and the philosophical value that these have, as well as the metaphysics we have described above with thanks to Ntibatirirwa, we must say that Ubuntu is not coherent with individualism, valiant as Metz's crusade has been. To refer to Cynthia Ngewu who forgives her child's killers at the TRC: it is not that the mother forgives so that she can prize friendly, harmonious relations. The obligation for the mother to forgive is activated by something deeper: the mother's need to be human once again. The mother's humanity, desecrated by her son's killers because human beings are not to be treated in the way that she was treated, must be restored. The humanity of her son's killers is desecrated by human beings who are not to treat Cynthia Ngewu in the way that she was treated. Her humanity, and the humanity of her transgressors, is held ransom by her transgressors' actions. The ransom is her selfless forgiveness; her generosity of spirit, and it is this selfless forgiveness and generosity of spirit that restores and perfects the cosmological dimension of her personhood, and the personhood of the Other, including her transgressors, precisely because that is the way in which human beings act.

5.4.3) Metz's reading of 'a person is a person through other persons'

So much for Metz's individualist conception of Ubuntu. The breadth of his work is both impressive and inspiring, but the substance amounts to a dilution of precisely what makes Ubuntu so attractive¹¹⁷. As he himself says, none of the big guns of Western liberal intellectual history deny that persons need other persons to thrive, and if that really is the case, then it is hard to see why we should go through the trouble of working out Ubuntu if there is a roughly similar kind of regard for the relationship between individual and collective anyway. "*Persons have dignity because they have a capacity to commune, yes; but what is really important for the philosophical moment is that they have dignity, not that they commune.*"

¹¹⁷ On this score, even if for different reasons, I am with Oyowe who says that Metz's theory "seems to veer dangerously in the direction of the liberal tradition" (2013:106).

Before moving on, there is something else I'd like to address about Metz's Ubuntu, and that is his reading of a central dictum of Ubuntu – *a person is a person through other persons*. Metz analysed this dictum in some of his early work on Ubuntu, and then after considerable engagement with others offers a discussion (2016: 205-208) which would have benefitted from the engagement over the years. Here is a summary of his analysis. He engages the dictum by considering the two clauses individually. In respect of the first clause, and relying on thinkers such as Ramose, Menkiti, Gaie and Dandala, he makes the point that “a person is a person...” is not a tautology, but rather sets out that the dictum describes what a person ought to do to be a real or genuine person¹¹⁸. “Just as one might say that a jalopy is ‘not a real car’ (Gaie, 2007:33), so Africans often say of those who lack ubuntu that they ‘are not a person’ (Gaie, 2007:33)” (Metz, 2016: 205). So far so good.

We start to squint when we read Metz's analysis of the second clause, “through other persons”. Here is where the dilution happens – where the liberal virtues presumed by the big guns of Western intellectual history such as “[living] communally or [honouring] harmonious relationships” are employed. Metz provides some data. Take for instance Former-Constitutional Court Justice Yvonne Mokgoro, who remarked that “Harmony is achieved through close and sympathetic social relations within the group” (1998:17, in Metz, 2016:206). It is hard to see what sets this apart from alternative views – what makes Ubuntu intellectually interesting, in other words. Or take the reference to “the most influential African political theorist, the Ghanaian Kwame Gyekye [who] notes [that], ‘The fundamental meaning of community is the sharing of an overall way of life, inspired by the notion of the common good’ (2004: 16)” (Metz, 2016: 206). From this sort of data, Metz takes ‘identity’ and ‘solidarity’:

On the one hand, there is what I call ‘identity’, a matter of being close, belonging and participating, thinking of oneself as bound up with others, sharing a way of life, and considering oneself part of the whole. On the other hand, one finds reference to being sympathetic, responding to others’ needs, acting for others’ well-being, and promoting the common good, which I label ‘solidarity’. (207)

¹¹⁸ Here we note similar nuance to the use of the phrase “genuine person”, so that it is not the case that someone who does not meet this standard is not a person in the literal sense, but rather what the person ought to be.

And then, in addition to this, Metz brings in “one more concept: dignity”, which we have “in virtue of our natural capacity for community, as above” (2016: 207). If there was any mystery about the roles identity and solidarity play, dignity based on a capacity internal to the individual should clear that up. This is Metz’s analysis of the dictum – *a person is a person through persons*.

Back in 2011 (543), Metz dismissed Botman’s view, which Metz assessed to be representative of a more traditional conception of dignity on the African view, that “[t]he dignity of human beings emanates from the network of relationships, from being in community; in an African view, it cannot be reduced to a unique, competitive and free personal ego”¹¹⁹. But consider Metz’s analysis against the intuition of what the dictum might actually be saying: *a person is a person through persons*. When reading that for the first time in an unbiased manner, one might be forgiven for thinking that there is some sort of social constitution theory of personhood going on here. And then contextualise it: “I am because we are, and since we are, therefore I am” (Mbiti, 1990: 106); or think of the linguistic analysis offered by Ntibatirirwa as described above and specifically, how Ubuntu as personhood is the abstract of substantiality of the *muntu*; or Cynthia Ngewu who speaks of the importance of forgiving the men who murdered her son so that they could all be human again; or Tutu who speaks of the inextricability of the way in which one is bound up in the other; or Mandela who can’t be liberated unless his oppressor is liberated. And so on.

It should be clear that taken in context, *a person is a person through persons* is some kind of social constitution theory. And here I would like to level the same charge which I did against Burgos in respect of personalism, against Metz in respect of Ubuntu. These are the strong claim and the weak claim of relations. There is nothing interesting about the weak relations claim because nobody is going to disagree that persons need to prize harmonious relations to thrive – as Metz himself tells us. I’ve spelt out this argument in respect of Burgos and will not belabour the point here. Suffice to say that if Ubuntu is going to be interesting, then it needs to make the case for the stronger relations claim; the social constitution of persons claim – the claim that also happens to sprout forth from the most intuitive readings of the *dicta* of Ubuntu; exactly what Botman says, which Metz dismissed: human dignity emanates from the network of

¹¹⁹ This quotation of HR Botman is taken from Metz’s 2011 text.

relations which human beings find themselves in. If you allow me an indulgence, my assessment of Metz is that in dismissing what Botman says, Metz really dismisses what is genuinely precious about Ubuntu. And, it is worth mentioning that contrary to Metz's analysis, as demonstrated in these lines, it is possible to achieve the kind of human dignity that Metz is in search of while remaining true to what Botman describes.

5.4.4) The problem of collectivism

That then is what I have to say about Metz and his individualist conception of Ubuntu. His is such a thorough conception of individualist Ubuntu that it can be treated as a representative of the category. In analysing his work here we have underscored the point that our Ubuntu theory cannot be individualist. But it also cannot be collectivist. Recall that the task of this thesis is to construct a foundation for the pluralist political order based on human rights. Collectivism, as we know it, is a principled problem to the human rights order, and African philosophy and Ubuntu are replete with interpretations tending towards collectivism.

According to Tshivhase, “[the] African view of personhood is characteristically communal, and so, it is relational” (2018:62). The highly influential Menkiti (1984:171) accepts the formulation of ubuntu coined by John Mbiti, “I am because we are, and since we are, therefore I am” (1969:108-109), and Menkiti then uses this formulation of ubuntu to argue for the primacy of the community over the individual, to the extent that it is the community that confers personhood on the individual. Menkiti argues that personhood is defined by the community; biology – such as being a human being – does not give rise to personhood; and that it is possible to fail to achieve personhood, which is a kind of status (Menkiti, 1984:172-174; 178-179). All of this does not bode well for the task at hand – grounding the pluralist political order based on human rights.

For his part, Kwame Gyekye (1998:318) notes that:

[the] communal or communitarian... aspects of African socio-ethical thought are reflected in the communitarian features of the social structures of African societies. As remarked by many scholars and researchers on the cultures of Africa, these features are not only the outstanding, but the defining characteristics of those cultures.

And Senghor (1964: 93 – 94):

Negro-African society puts more stress on the group than on the individuals, more on solidarity than on the activity and needs of the individual, more on the communion of persons than on their autonomy. Ours is a community society.

It should be clear then that African philosophy places great value on community. This means that African communities are structured around “the moral and political principle that the community is more important than the individual, so that individuals are expected to set aside their interests in favour of the interests of the community” (Maybee, 2019: 289).

As has already been said, one of the major purposes of human rights is to protect individual persons from abuse by other persons, be they other individuals, groups or communities, the state, and so on. These rights arise out of a human dignity that we recognize all persons to have. As mentioned in §4.2, events from history such as the Holocaust or political arrangement such as apartheid self-communicate their injustice. At the same time, we recognize that these injustices are, at heart, infringements on human rights. Put differently, human rights serve to protect us from the kinds of injustices we see in events such as the Holocaust or in apartheid.

How do we therefore reconcile the seeming disparity between human rights on the one hand, and the collectivist nature of African societies, without falling into the same trap as Metz has, i.e. modifying the African philosophy to the extent that it is no longer African?

The answer has already been gestured at repeatedly. The problem lies in an individualist conception of the person, anthropologically speaking, i.e. that persons are isolated, individuated ontological entities. This problem does not however arise when African societies are considered in terms of social constitution conceptions of the person, i.e. persons are constituted in relation. This, we said, is the work that the notion of *humanity* in *UP* does: the network of distinctive relations between individual human beings which constitutes persons and personhood; what we also call the cosmological dimension of personhood. What is more, as we have said with the central tenet of Ubuntu as an ethos, just as the good/humanity of the individual is inextricably bound up in the good/humanity of the collective, so too the good/humanity of the collective is inextricably bound up in the good/humanity of the collective. The collective could therefore

never act to infringe the rights of the individual person. In fact, we might say that whereas on the Western picture where persons are individuated entities, human rights serve to protect the individual from the collective; on the *UP* picture, where persons are constituted in relation, human rights serve to protect the individual as much as they serve to protect the collective. What is key then is not whether human rights exist; or whether individuals will be protected against the tyranny of a majority for instance, as the threat of collectivism is often presented in the literature. What is key rather is how we are to conceive of human rights at all on the picture just presented, i.e. the *UP* picture, where high regard is given to the collective without the system descending into a collectivism in which the collective plays the role that the individual plays in individualism. This is a matter we will pick up again in the next chapter, when we give a more practical indication of what the political arrangement based on *UP* might look like, including a list of basic values and rights.

One final word on collectivism. We have just said that African societies hold the collective in high regard, and that the problem of collectivism only arises when it is approached in terms of an individualist anthropology. This means that there is a more refined way to put it, because the relational constitution of personhood is more fundamental than collectivism when it comes to African societies. Thus, the notions “relational” on the one hand, and “collectivist” or even “communal” on the other, are not synonymous. Indeed, because this thesis has called into question our understanding of the anthropology at the heart of African societies, it also calls into question the equation of *communal* with *relational* and *vice versa*. The two are not the same.

5.5) Ubuntu ethos and the transcendence of the self – grounding the polity in a marriage of metaphysics and normativity in the person

We have now given a description of both an *UP* metaphysics and ethics, both of which must be read in the light of the other. We have said that, in terms of *UP* metaphysics, the highest form of being is personhood, and that personhood, and therefore being, is reinforced through virtuous action, where *virtuous* action is *personal* action. Personhood is constituted in the distinctive relations of human beings with each other, where these human beings are part of a lineage and share a common ancestry. We have also shown how this conception of personhood and virtue sidesteps what ends up being a false dichotomy between individualism and collectivism,

because this personhood is relational and social. As I have said on more than one occasion, there is a risk of a circularity, or playing with words, when I invoke phrases such as “virtuous action is personal action”. It is crucially important to expand on this. The next step we must therefore take is to say exactly what the link between metaphysics and normativity is – how they come together in the person, and how the circularity is averted.

The widespread view in the literature, from Boethius to Rawls as argued in the first chapter, is that personhood is constituted in beings who have some capacity or essence, e.g. the cognitive capacity of typical human beings. While this thesis does depart from this view, there is still nevertheless an important role for advanced cognitive capacity to perform in the personhood picture. In terms of *UP*, it is in the concept of *transcendence* that we see the completion and perfection of the cosmological dimension of personhood, which is the location of the intersection of the metaphysical and the normative. But, importantly, transcendence, as understood by *UP*, must be rightly oriented, i.e. towards the affirmation of cosmological personhood which is constituted relationally. Transcendence is therefore generated out of cosmological personhood and is directed back towards cosmological personhood.

In this section we state clearly where this notion of transcendence comes from, i.e. from the Ubuntu philosophy of Augustine Shutte; and we analyse and set it up for use in our own project – how it accounts for the intersection of metaphysics and normativity.

5.5.1) ‘Transcendence’ in the Ubuntu philosophy of Augustine Shutte

We start with a basic understanding of transcendence of the Self – every individual person’s ability to go beyond herself and participate in the extra-self; act as *I/me* in relation to *Other*, where Other can be other people or other non-people¹²⁰. In *Philosophy for Africa* (1993), Shutte embarks on the task of exploring the possibilities of developing a systematic philosophy from indigenous African wisdom. He pays considerable attention to the shortcomings of Western mainstream philosophy from Modernity onwards, criticizing particularly materialism and the dualism which arose from the philosophy of Descartes. This he does to show that African philosophy has a significant and important contribution to make to philosophy. He develops a

¹²⁰ According to Anke Graness (2018:45) for instance, “most Africans understand the earth to be a source of life that deserves respect”.

conception of the person that is anti-individualist: an interesting consideration in this project's focus on the citizen. He notes that:

From Plato and Aristotle, through Augustine and Aquinas to Descartes and Kant, however different individual philosophers might have been, there is a remarkable consensus in their understanding of persons. And this has centred on the view that in some way or other persons transcend the material realm. Indeed, for this tradition it is precisely this transcendence that is signified when human beings are called, in the technical sense, persons. It is the source of everything that has come to be associated with the notion of persons in European thought: moral responsibility, dignity, freedom of choice, agency and even immortality. It is the source too of the idea that persons are the subjects of duties and rights that go far beyond those that may be granted or imposed on them by any particular state or legal system (1993: 62).

The transcendence that Shutte speaks of perhaps includes the capacity to commune, as Metz would call it; or the capacity for autonomy, as Kant would call it¹²¹. But in describing it as *transcendence*, Shutte delimits the Modern understandings in a way that neo-Kantian thinkers may not be comfortable with. This kind of transcendence is not a new point of interest for Shutte, for in an essay entitled *What Makes Us Persons* (1984) he argues that “persons depend on the presence and personal activity of other persons for the exercise of their distinctively personal powers” in order to substantiate what he calls “personal causality”, in opposition to physical causality; and does this towards showing that “[insofar] as persons are capable of exercising such a causality they transcend any system of physical causes and are thus, as such, immaterial” (1984:67). At this stage, we might flag a seeming contrast between Shutte and the cosmological/subjective dimensions of the person framework. As discussed in the previous chapter, Shutte's reflection on agency and personhood seems to tend toward cognitive capacity and relation as the criteria of personhood, away from the network of relations which we find in the human species. We will revert to this later.

In the meantime, let us note that we have said above that the typical virtues associated with Ubuntu – hospitality, kindness, mercy, and so on – are virtues which are associated with

¹²¹ Or, at least, a constructivist reading of Kant.

persons; they are essential to personhood. We do not expect these virtues from other creatures in creation. In the quote in the preceding lines, Shutte gives this point even greater clarity. Not only do we think of persons as being hospitable, but persons also *need* other persons in order to be hospitable to¹²². It is not possible to be hospitable in isolation. Here we see then persons as subjects responding to objective situations, recognizing their own objective, cosmological dimension, which they share with other members of the human species; considering it in relation to other objectified factors such as other persons, the pros and cons of being hospitable in that situation, and so on; for it is not possible to simply be hospitable as an isolated subject in a radically subjectivist, solipsistic world.

It should be clear in the text from Shutte above that he offers significant contribution to the focus of this project. He draws a distinction between human beings and other animals based on human beings' capacity to transcend the material realm. In a certain sense, what makes human beings so special that they alone should be afforded certain rights while other creatures should not? Is this not a kind of speciesism as abhorrent as racism or sexism? For Shutte, the transcendence of human beings which includes the capacity to commune in the specifically human/personal way that they do, distinguishes humans/persons from animals in a principled way which distinguishes this human exceptionalism from arbitrary racism or sexism.

Shutte's reflection on *transcendence* is therefore useful. It includes subjectivity, interiority and many of the other ways in which the advanced cognitive capacity of human beings is used – what gives rise to autonomy in Kant; the capacity to commune in Metz; and so on. In addition to this though, transcendence also captures the important aspect of *actually going beyond subjectivity and interiority*, so that subjectivism and/or solipsism are avoided. Transcendence is generated by interiority and subjectivity, but it is *actual* communion – going beyond the material realm, and the subjective realm; it is relating to the Other as a being with similarly advanced cognitive development. I must therefore emphasise that in terms of this thesis, while it is rooted in capacities, transcendence is *not* a capacity, even if it might be useful to think of it as such at certain times. When we encounter other beings of similar cognitive development, we expect them to act in certain ways, and to refrain from acting in other ways. And we act

¹²² It is possible to conceive of the question as to whether persons can rely on the existence of other non-person beings, e.g. whether Mowgli could rely on the existence of Baloo to participate in personal activity. Suffice to note here the point about the relational nature of personhood, and at this stage I am happy to say that it could be relational to other persons, but also to other non-person beings. The important point is *that* it relates.

with and relate to them as such. And it is here that the higher level of personhood is constituted: when transcendence is rightly ordered. In *UP* terms, we say that the subjective, interior dimension of personhood – what Shutte calls *transcendence* – is oriented towards the objective, cosmological self. And in this way we attain intersubjectivity.

To expound the position, we must again call to mind the *metaphysical* point that ethics involves ethical creatures, which is another way to say that ethics involves persons. The ethical creature, i.e. the person, is constituted in relation from the beginning of her life – with her mother, in a relationship that is both physical and transcendent of the physical. The fact that a person opts to live in a mountain cave alone as an adult, ceasing all contact with other persons, does not negate her personhood. Because she is born of a human mother and enjoys that particular relationship of lineage with that person/her mother, she is always and necessarily a person; always and necessarily part of the special relation that humans enjoy. What is more, when we who do not live in mountain caves go on a hike and encounter this cave dweller who has cut off practical relations with other persons, we recognize a being with similar transcendence to our own. And then we act with and relate to that being as such – as we would with any other person. This recognition is species-dependent, but species-dependent in a very special way as we have already described; and the way in which we act towards and relate to that person is personal, i.e. ethically: from smiling and offering the mountain dweller a piece of bread and sip of water, to trying to communicate with her, establishing (somehow) if returning to society might be to her benefit and in her interest, assisting in such reintegration and so on; or leaving her in peace if the mountain dweller so desires, as the case may be. In contrast, to act unethically would be to act impersonally, i.e. as persons ought not act: to kill the mountain dweller, or continuously harass her despite her wanting to be left alone.

Now think back to §5.2.3 where we said that part of what makes human relations so special is that the relata are actual beings, but also counterparts of those actual beings in other possible worlds. We relate to the cave dweller in this actual world, but we also relate to counterparts of the cave dweller in other possible worlds: one whom we torment in various ways; whom we respect by leaving him in peace; and so on. And it is these counterparts and our relations to them, as well as our relations to the actual cave dweller, that determine our actions – ethics. This is the uniqueness of the network of human relations which constitute personhood.

In this way, as *human beings* we are *persons* from the beginning and always, necessarily, because as part of common lineage we are the relata of unique and special relations which give rise to ethics. Building on the categories as discussed above, according to Ntibagirirwa (2018:122):

The issue is whether Bantu proceed by inference or by intuition in deriving morality from Ubuntu. Bantu know that they are beings whose particularity is to act by virtue of intelligence¹²³ as different from *bintu* which act by pure inertia or vitality. There is no doubt that it is by intuition as, for the *mntu*, to be human is to be moral. To act or to behave contrary to the dictates of morality is to expose oneself to being judged as a hyena, an animal as it is often heard in popular language, that is, as a human deprived of Ubuntu (humanness). Thus Burundians and Rwandese talk of *igipfamutima* (a person with dead heart) or *Abantu bapfuye bagenda* (people who are dead although they appear to be alive), or *Abantu babaye ibikoko* (people who have become like animals, without humanness in them).

Khoza (2011:79) quotes a story, related by Mandela to Tim Modise in explanation of ubuntu:

In the old days, when we were young, a traveller through a country would stop at a village, and he didn't have to ask for food or for water. Once he stops, the people give him food, entertain him. That is one aspect of [ubuntu], but it will have various aspects.

Khoza (2011:80) comments:

What Mandela is saying is that *you don't know this person* who comes to your doorstep in need of sustenance; yet, because they are human like you, kindness and generosity will be extended to them. This is not seen as a moral duty so much as friendliness towards the stranger. We act out of compassion, based on an understanding of our common human condition, recognising our mortality and our dependence on each other.

¹²³ I would say that *intelligence* here is another input to *transcendence*.

The metaphysics is therefore one which necessarily involves ethics – *the right thing to do* arises out of *what is*. Or, as we have said, we cannot talk of Ubuntu as a metaphysics without talking of Ubuntu as an ethos. And this is because, in terms of Ubuntu, which finds its expression in personhood, metaphysics and ethics come together in the person.

Now for Shutte, transcendence is the relationality and communion of agents, and it is also this transcendence which is the source of moral worth and human dignity. With §5.2.3 in mind, we join the dots and say that *transcendence is the human network of relations and what makes it so special*, so that humans are distinguished from other creatures, and, as relata in these networks of relations, are constituted as persons.

But the question of the severely cognitively disabled raises its head again, for these and other human beings might not have the capacities needed for transcendence as described by Shutte. And this then creates quite an important, even if subtle distinction between what Shutte argues for, and for the image that is taking shape in the lines of this thesis. We are working towards a morally realist political system that recognizes the inherent dignity of all human beings just by being human beings; and not because they possess some capacity for communing or for transcendence as such.

To add to that, having raised the goal of a political system that recognises the inherent dignity of all human beings just by being human beings, it is also important to note that this species requirement, i.e. common ancestry and membership of this special network of relations between human beings, is a development by *UP*. Graness (2018:46) says that “[participants] in the debate on Ubuntu concur about the processual nature of personhood”, meaning “that personhood is not a trait that exists at the beginning of a human being’s life”, as Shutte says according to Graness¹²⁴. According to Ramose (1999:58):

¹²⁴ Graness (2018:46, fn. 9) notes a contradiction in Shutte’s position, because while he says “...I depend on relationships with others for being the person I am, in the beginning, at the start of my life, I am really not a person at all. Or put it another way and say that I am a potential person...So I must see my life as a process of becoming a person” (2001:24), he also writes, in the same book, “As regards the question of abortion it would be safest to base one’s considerations on the supposition that human persons come into being at the moment of conception” (2001:134).

In order to be a person, the human individual must, according to traditional African thought, go through various community prescribed stages, and be part of certain ceremonies and rituals. Only at the completion of all prescribed stages does the human individual acquire the status of a person.

This is a common position expounded in the literature too – that *personhood* is something that one is not born with; that it is something like a status that must be attained, and that it is something that can be lost. It is a problematic position that ties in with the problematic aspect of collectivism – the provision for a system to infringe human dignity to the extent that the Holocaust or apartheid is justified, because certain members of society are not considered persons.

But fortunately, we are not arguing for a narrative of return here. Our study is taking what is good and leaving what is bad. So, while we acknowledge the value of the idea of the ever-developing person towards complete personhood, we do also acknowledge that all humans, just by being humans, are persons – because persons are constituted within in the network of special human relations.

And so, we join the dots between what was said in §5.2.3 and what is being said here and now. In all human beings we recognise relations of relationally constituted persons. In cognitively typical human beings, we see them as participants in the transcendence described by Shutte – where the special communing of human beings to constitute personhood takes place. But we also recognise that part of what makes transcendence important is that humans are able to relate to counterparts of beings in this actual world, in other possible worlds. Recall that Shutte spoke of the transcendence of the material realm. And this is perhaps a way of speaking of the transcendence of the actual world, into other possible worlds, where it is possible to relate to counterparts. And it is because of this that we can say that human beings relate to the actual human being who suffers severe cognitive disability, while also at the same time relating to counterparts of this human being who is cognitively typical in other possible worlds. That metaphysics of relation accounts for the reason you are outraged when you discover that my severely cognitively disabled brother sleeps in the kennel when you visit me, for you relate at once to my brother in the actual world, sleeping in the kennel, as well as to my brother's

counterpart who is cognitively typical in another possible world. And it is in those relations that the personhood of severely cognitively disabled human beings is constituted.

Importantly, we do not relate to what cognitively disabled human beings are not when we relate to their counterparts, for it is precisely *their* counterparts and *them* that we relate to.

We are therefore indebted to Shutte for highlighting the importance of transcendence in the African worldview. He has shown that it fits in snugly and so serves as crocodiles in the moat we are building around the metaphysics of *UP* which we have described above. It is important because what transcendence captures is important. Personhood is rooted in what a particular being is, i.e. being of a particular lineage and sharing a common ancestry, where that lineage and common ancestry constitutes a network of special relations. Personhood, and human dignity, cannot be constituted in the possession of certain properties and capacities – reason, communing or *the capacity for* transcendence. Rather, personhood is constituted by the *transcendent relations* of human beings. Remember: all creatures relate at the level of species. What makes human beings different is that, because of their transcendence, their relations are transcendent, and it is in these transcendent relations that personhood is constituted.

5.5.2) Mogobe Ramose comments on Shutte

Important as his work on Ubuntu is, Shutte is not presented in this thesis as emblematic of Ubuntu academic philosophy. Ramose (2003) is critical of Shutte and likens the latter's work to "philosophical colonisation" (2003:199)¹²⁵. It is important to note that there is this tension in the literature. Ramose argues that in Shutte's philosophy we see a kind of doctor-patient relationship between the highly regarded Western philosophy which alone is qualified to prescribe medication on the one hand, tending to a patient needing a cure – African philosophy, on the other. I am generally uninspired by Ramose's critique of Shutte and would even go so

¹²⁵ In the Introduction, I offered some remarks to escape this criticism directed by Ramose towards Shutte. As an African student, my formation has taken place within the English-speaking analytic tradition, and it is with a susceptibility to this bias that I approach Ubuntu as philosophy. But, as explained, I make no pretension of producing a work in the history of philosophy; nor do I proffer what Matolino & Kwindigwi (2013) refer to as a narrative of return. I am persuaded by Matolino & Kwindigwi (2013) that pure Ubuntu was situated within a cultural, spiritual and historical context that no longer exists, and my aim is therefore rather to produce a philosophy for the future, *inspired* by the deep insights of Ubuntu. As long as Shutte aims to do the same, I don't necessarily see this as a real challenge from Ramose.

far as to say that at times I think it is overly harsh, even if I don't have the space to discuss this in detail here. I've dedicated more than a few lines to the linguistic roots of Ubuntu hereinabove. Because what I've taken from Shutte, i.e. *transcendence*, does not contradict the thorough linguistic consideration conducted above, I am happy to reduce my commentary on this critique of Shutte from Ramose to footnote 123.

But Ramose (2003) does take issue with the historical characterization of Shutte's Ubuntu. Shutte describes the gradual formation of South Africa over centuries, with "the manner in which people from different parts of the world came together in this southernmost part of Africa" as central to this formation. How does Shutte say all these people actually came together? "The San, the Khoikhoi, the various Bantu peoples, Europeans of various nationalities, and people from a variety of Eastern Islands, met and began to live side by side in this place" (Shutte, 2001:191).

For Ramose (2003), this historical situation of Ubuntu is problematic. On this score, I am persuaded by Ramose. Not only is *ubuntu* a concept that is rooted beyond geographic South Africa, as we have seen in our discussion of the link between ubuntu and the Nguni languages; but the suggestion that people lived in harmony in southern Africa indeed cannot be taken seriously. Suffice to say Africa and its peoples have suffered tremendously under colonial rule, and in many cases, continue to suffer its effects to this day.

It is also here that we can make a distinct point about Ubuntu and its importance for political philosophy. Recall that Rawls's *PL* produces a scheme of basic liberties for all. But between the lines of Tutu's reflection on the TRC is the point that if it had not been for the magnanimity of the citizens of South Africa who had been oppressed during apartheid, South Africa as we know it today would never have gotten off the ground. In other words, the oppressed peoples of South Africa could not appeal to some very basic liberties – for example, equality before the law and access to justice. If they had, the New South Africa would have been stillborn. Not only would the state have been crippled by civil claims for damages suffered at the hands of its agents, damages which would often have resulted in the death of loved ones, but on a deeper, human level, Project South Africa needed its citizens to forgive, instead of enforcing some very basic, fundamental human rights; instead of seeking (Rawlsian) justice.

This important point for our political philosophy journey is lost in the naïve description from Shutte (2001), and we must be grateful to Ramose (2003) for pointing it out – even if Ramose himself has complex ideas about the New South Africa as such.

Be that as it may, this criticism doesn't seem to strike at what I have taken from Shutte either. In considering a titan such as Ramose and his critique of Shutte, I am happy to take forward the transcendence which Shutte has described. And it is transcendence which will aid us in overcoming the dichotomy between individualism and communitarianism: not in constituting the person as in individualism and collectivism, but in grounding the cosmological, objective dimension of the person.

5.5.3) Shutte's Ubuntu and personalism

Let us therefore take a moment to say explicitly what the convergences and divergences between Shutte's Ubuntu and *UP* are. The low hanging fruit is in the consistency with what we have said about the first two tenets of personalism – that, as far as we know, human beings are exceptional and radically different from the rest of creation, and that human beings enjoy a dignity that is rooted in this categorical distinction from other creatures. For Shutte, human beings are different in this way because of their specifically human capacity for a special kind of communion – *transcendence*. The distinction that transcendence gives to human beings is sufficient to save his exceptionalism from arbitrariness. This transcendence, in turn, coheres with nothing other than – in personalist terms – subjectivity and freedom. But transcendence is also rightly oriented towards relationality and communion; towards intersubjectivity.

It is worth emphasizing that *transcendence* even for Shutte is much more than just a capacity – and we must be uneasy with focus on *the capacity for transcendence*. In addition to the related capacities, Shutte furthermore uses a foundation of literature to advance an argument in favour of the necessity of other persons in developing personhood. He draws on the case of “wild children”, Mowgli-types “who have been left to die at birth but for one reason or another having not died, but have grown to physical maturity (often in the company of animals) totally outside the society of other persons” (1993:75). From Shutte's description of the development of persons, we see a unique, anti-individualist philosophical anthropology. We see emphasis and focus on the role of relations *in constituting the person*, but also in transcendence. How Shutte's

work is distinct from Metz's work that is centred by an individualising principle - *the capacity for communing* – should also be clear. This is a subtle but significant departure from the mainstream view of seeing the capacity for reason as the source of autonomy and source of dignity. It is this transcendent communing and relating which can adequately explain the magnanimity of African people¹²⁶ and the underlying philosophy of the TRC. On the other hand, it seems the mere capacity to commune does little to ground the unique philosophy of the TRC – the mere *capacity to commune* and even *prizing harmony* hardly account for the reasons Cynthia Ngewu gave for the way in which *she* acted¹²⁷.

So, as one of the objectives of this project is to establish that there is a false dichotomy between individualism and communitarianism, Shutte's position that persons are *constituted* by other persons is of value. This is ultimately the distinction between Shutte and Metz. Metz and most liberal theorists could easily accommodate the view that persons thrive in relationships with other persons. Individualists are happy to accept that persons need other person-relationships to thrive – this is a point we argued in our analysis of the personalist philosophy of Burgos (§3.4). The philosophically interesting notion with Ubuntu, and which to my mind is abandoned by Metz, is that persons are *constituted* by other persons; a person is *actually made up* of other persons; that one person is somehow identical to other persons; inextricably bound up. If this idea – that persons are somehow identical to other persons – is *prima facie* absurd, then it is because it is approached on the assumption of the Modern conception of the person, an assumption that we call into question in this thesis. If, as we saw with the intellectual history of the concept *person* in resolving the problems of the Trinity (§3.6), person is understood as an *a priori* relation term – like son or father, then identifying one person with another person as a logical necessity because person is a relation term does not seem absurd at all.

To return to Shutte, he should also be seen as bringing to light the challenges with the kind of strong communitarianism which Ubuntu and African philosophy more generally are associated with. As we have seen above, Shutte's transcendence is relational, but it is not relational in a way that is reducible to matter as relationships are typically thought of. For Shutte, the

¹²⁶ To be clear, this is not an essentialist point about a certain race, but rather a point about values which are pervasive amongst a certain group of people.

¹²⁷ Some people may well take issue with this characterization of history, but they can simply then see this as an illustrative fiction about ubuntu. The historical accuracy of this description of the TRC is not relevant to the normative and metaphysical case that I am making.

transcendental-relational is juxtaposed with the physical/material, and the personal is understood in this way, i.e. specifically transcendent of the physical/material, and as we are adding, actual. In less abstract terms, as we have pointed out above, at times this has meant that Shutte thinks personhood is something that is entirely non-material; something that must be worked towards and attained. At other times, Shutte has said that we should consider the foetus a person – perhaps a more physical/material position. Whatever the case, a communitarianism that in any way sees the community conferring personhood on a human being, so that it is conceptually possible for a human being not to be considered a person, is problematic and must be rejected for the same reasons that Nazism and apartheid are rejected.

Finally, we are now able to draw on the definitions we have provided way back in the introduction to assess what we have said so far. Metz offers a theory of Ubuntu in which individual human beings have human dignity, where this human dignity is constituted in the individual's capacity to commune. Because this capacity to commune is internal to the individual, just as other capacities such as autonomy or to form a conception of the good life, and because harmonious relations are merely prized but not necessary, Metz's theory of Ubuntu is individualist. And we have pointed out the many issues with this view – that it seems to be specific to normative philosophy, while at the same time recognising that descriptive philosophy recognises that human beings are beings in relation, broadly speaking – be it to thrive or that they are constituted as persons. Contrast this position with the way in which we have described communitarianism in this thesis, where the personhood and therefore the dignity of the individual human being is constituted by community in a way that allows for human beings not to be considered persons, and therefore not be bearers of human dignity. This view must also be rejected.

What we are left with is the need to recognize the descriptive and normative relationality of persons, i.e. that persons are relational beings in terms of metaphysics and ethics, in a constitutive manner; and that because of this, all human beings, *just by being human beings*, are bearers of human rights. This is the view we find in *relationalist personalism*, and *UP*, as we are arguing for in these lines.

That is the positives which we draw from Shutte's philosophy. To further draw out this specific brand of Ubuntu, let us now critique what we have said so far and say explicitly what contrasts with personalism in the work of Shutte.

5.5.4) *A UP critique of Shutte*

As we saw in the personalist philosophy of Macmurray (§3.7), relating and communing is a two-way street between mother and child from the beginning. Through its unique apprehension of and towards its mother, through the physical expression of joyful or positive cries, the child who has mere potential and not yet the capacity for transcendence nevertheless communes with the mother. It is motivated by its physiological, material responses to the mental apprehension of its mother. We have used these arguments of Macmurray to substantiate the cosmological dimension of the person as found in the philosophy of Wojtyla. And, importantly, it is also this cosmological dimension of the person where the special, transcendent relations are found that secures the personhood of those who lack what Shutte calls transcendence, for these human beings too, along with the cognitively typical counterparts in other worlds, are related in the network of human relations. On this picture, we now understand what Spaemann means when he says of those who lack transcendence that "they are patients" (2012: 243). They are compromised because they lack the capacity for transcendence. In Crosby's commentary on Wojtyla, the transcendence completes and perfects the cosmological dimension of the person. When that transcendence is missing, we are dealing with a patient – but we are still dealing with a person!

But to the extent that Shutte reduces personhood to the capacity for transcendence and what we might call the subjective, interior dimension of the person – Shutte is mistaken. As pointed out in §4.4.3. with reference to Shutte's example of a child who is yet to develop such transcendence and who is raised in a non-personal environment: a wolf might care for and meet the physical needs of such a child, just as a mother would; but, according to Shutte, it is the mother's "belief in the existence of personal capacities in the child" (1984:74) that makes the child a person. Today, as we know, there are human beings who believe that non-human animal pets such as dogs and cats have personal capacities. To my reading, anything in Shutte's *corpus* helping his system avoid such beliefs – that pet dogs can be persons – is unfortunately opaque.

But Shutte's view is nevertheless valuable. *Transcendence* remains a valuable concept for our purposes. When he speaks of the mother's "belief in the existence of personal capacities in the child", he could well be referring to the mother's relations with the cognitively typical/developed counterpart of the child in another possible world. And in this way, we can say that personhood is constituted relationally in transcendence amongst human beings, where the relata consist in actual human beings and their counterparts in other possible worlds¹²⁸.

Let us conclude this discussion of Shutte's contribution to both a metaphysics and an ethos of Ubuntu, how it compares to personalism, and how it assists us in overcoming the dichotomy between individualism and communitarianism. And let us start with the latter, as this seems to be a central point of this section. The major takeaway from Shutte is the notion of transcendence. It captures the unique features of human beings with typical cognitive development: the various capacities to commune, for reason, and so on. In personalist terms, it captures the subjectivity and interiority of the individual person, and provides the impetus for freedom. Shutte locates personhood in this transcendence and relationality, and that is correct when we see the concept of transcendence serving to complete the cosmological dimension of the person. And in this way, we overcome both an individualist anthropology which sits at the heart of the individualism/communitarianism dichotomy in political philosophy, and we affirm a relationally constituted conception of personhood.

5.6) A clear statement on the Ubuntu Personalist conception of the citizen

It is now time to draw conclusions and provide an explicit statement on *UP*. We will do so within the framework of the five tenets of personalism.

5.6.1) Human exceptionalism

The first point we must make is the point about human exceptionalism – that human beings are categorically distinct from non-human animals. As Crosby tells us (2016), we really are beings that can be apprehended from outside of ourselves because of our material bodies, and we really are individual substances of a rational nature. This might not be the whole story, but that doesn't

¹²⁸ It is important to say that it remains possible that persons who relate to non-human animals such as pet dogs as persons might be wrong. I don't have the space to deal with that issue in this thesis though.

mean that it is unimportant. In ordinary life, to distinguish substances we apprehend from the outside as persons from non-persons, we identify *human* beings, as species. This is because human beings are situated in a unique network of relations; a network made unique because of transcendence, in which even dead ancestry and unborn offspring are also related and revered, and it is in this network of relations that personhood is constituted in participating members, i.e. all human beings.

That all humans are persons is taken from the distinctively human network of relations between individual human beings in terms of common ancestry. Because of the network of human relations, persons are constituted in relating human beings who transcend the physical, material, and actual realm. These relations vary in degree, from the thin relations of same-species membership – when I recognise the suffering of a human being in a warzone on a different continent – all the way to the thick relation of mother and son. We account for the way in which we are affected when we see human strangers suffering on the other side of the planet by the fact that we relate to them as human beings – we share a common ancestry with those creatures. Through recognising that they are human, and because of the capacity for transcendence, we see their personhood. And as persons, they must be treated in certain ways.

Personal relations are self-reinforcing, so that the more persons relate in personal ways, i.e. ways which strengthen relations, the higher the levels of personhood achieved. This means that personhood goes together with person life, i.e. the way in which persons live. And this is why even severely cognitively disabled human beings are persons: as humans, they participate in the distinctive network of human relations and share in the ancestry; and in that participation, other human beings relate to their actual selves as severely cognitively disabled human beings, but other humans also relate to their cognitively typical counterparts. This is why they live as persons do. Other humans within their community relate to them as persons do to other persons. And this is all very rational. Where such humans are treated as anything but humans and persons, we are scandalised, and rightfully so, because through their humanity and species relation, they participate in transcendent relations, even though they lack the capacity for transcendence. Those with whom they relate, who are cognitively typical, also relate to their cognitively typical counterparts, and in this way, their personhood is constituted. So, it is not the biological fact that severely cognitively disabled human beings are human beings that makes

them persons, but to reiterate, it is the relations between these beings which affect these beings ontologically, which constitutes their personhood.

What is more, we can identify cognitively typical counterparts of severely cognitively disabled human beings and other patients in a world that is much closer to our own world than worlds in which say mosquitoes or mango trees are persons. And this is precisely so because of the distinct network of relations between human beings that exists – transcendence. We relate to how other human beings actually are, but we also relate to how they are not, how they could have been, and how they are yet to be. And it is in this sense that we can relate to human beings as persons, regardless of what features they possess or lack in the actual world, even where that feature is the biological fact of being a human being, for it is in the *relations between human beings* that personhood is constituted.

That said, the political arrangement is an arrangement for persons, and since human beings are persons and other creatures – living or not – are not persons, the political arrangement is an arrangement for human beings. This is not to eschew questions around how animals ought to be treated – it is squarely a question about the political arrangement and the fact that it is an arrangement for persons. Animals and other non-human beings must be treated in a certain way, e.g. it would be wrong to torture them or treat them with wanton cruelty; but this is because of what persons are – because, through their subjectivity, persons have responsibilities, towards other persons and non-person beings. Animals and other non-human beings ought not to be treated in certain ways, but not because of what *they* are. To therefore talk of animal rights is confused. Animals don't have rights and entitlements. Persons have duties and responsibilities, towards other persons, but also non-person beings.

I am aware that not all African thinkers share the view that all human beings are persons. The following statements are attributed to Menkiti (1984:172-174):

1. [...] it is the community which defines the person as a person, not some isolated state quality of rationality, will or memory.
2. [...] personhood is something which has to be achieved, and is not given simply because one is born of human seed.
3. [...] the notion of personhood is acquired.

Ntibagirirwa (2017:130) takes issue with this view. He calls this view “erroneous and misleading” and points out that “the ontological identity of the mu-ntu in the universe of beings (*ntu*) is based on intelligence and the heart” (130). He argues that it is intelligence that enables the individual “to live in mutual relationships and harmony with other [individuals] in the community and in the universe” (130). Intelligence, he says, “has a communitarian character, yet without undermining *umuntu -w’-ubuntu...*”, i.e. being-with/in-community. And, crucially, Ntibagirirwa adds, the “community has to safeguard this ontological order” (131).

Being-with/in-community is an important concept when coming to terms with the concept *citizen* in UP terms because here it stands diametrically opposed to contract doctrines which see some feature, e.g. capacity for reason, but also even capacity for communing, as *the* essential feature. No, in line with our intuitions about human beings, the human species makes up a network of complex and unique, transcendent relations, and as such all human beings, as participants in these networks and as relata of the relations, are persons. What is more, on account of being a person in *this* political community, *this* human being/person is a citizen of *this* political community.

On the UP view then, by virtue of the distinctive transcendent relations between them, human beings are categorically distinct from other beings. Human beings are persons. And by virtue of their personhood, they are citizens.

We contrast this with the individualist view – that persons/citizens are those beings who possess some qualifying internal feature or capacity, be it reason, the capacity to form a conception of the good, the capacity to commune, or others. Nor is it the collective that decides who is to be counted as persons, and who not. And so we also contrast the UP view with communitarian views, including some understandings of Ubuntu, that sees personhood as something detached from the species human beings. We say that persons are constituted in the transcendent relations between human beings.

Finally, in line with Spaemann, we note that if we were to discover some other species whose members typically possessed the features of personhood, i.e. transcendent relations in the manner we have described it above, then members of that species too would be seen as persons.

Personhood is therefore not limited to the human species, even if the human species is the only species we know of at present whose members are persons.

5.6.2) *Human Dignity*

Human beings have the unique potential to achieve personhood in the subjective, transcendent sense – what we have described as the highest form of being, and which is achieved when it is oriented towards the cosmological dimension of personhood. And because of this unique potential which is present from the day of conception, all human beings have a special dignity – what we call human dignity. This human dignity is present from the very beginning, as part of the ontology of the human being – again, we see the intersection of metaphysics and ethics. It is inherent, and it is brought with the individual human being into any political arrangement.

But this human dignity is not the source of individual autonomy or merely the capacity to commune in a potential way. At the heart of this human dignity is varying degrees of communion itself. Human beings are persons because of their unique relations to other beings. The relation between humans and other species is different to the relations between non-human species. We have said that because the human species is categorically different to pandas and pawpaws, and even that difference between humans and pandas is different to the difference between pandas and pawpaws, precisely because human beings are persons – they are the relata of transcendent relations. And what I mean here is that humans possess transcendence which ensures that they commune in ways that are categorically distinct from the ways in which other creatures commune. This is a fundamental tenet of *UP*. And so, we account for the unique relation of species membership in *homo sapiens* with the notion of the cosmological dimension of the person – the network of uniquely complex relations in which personhood is constituted.

Now because human dignity is based on this cosmological dimension of personhood, human dignity is relational – it is not based on autonomy or any capacity such as the capacity to commune. We give the high praise of acknowledging their personhood to someone when they are hospitable, sharing, caring, and so on; when they display *relational* virtues intentionally and through the subjective, interior dimension of the person – which is to say, when they orient their subjective, interior dimension of personhood towards the objective, cosmological dimension of personhood. It is in the display of these relational virtues that personhood and humanity is

perfected and displayed¹²⁹. This is what Cynthia Ngewu teaches us: a virtue such as forgiveness ensures that both the victim and aggressor receive their humanity, their personhood back: through forgiveness, the uniquely personal relation between two human beings, between two persons, is restored. And it remains the forgiving victim who is worthy of the high praise of ubuntu¹³⁰.

To be clear, even though some human beings do not possess the cognitive and other faculties needed to reach the highest levels of personhood, they are nevertheless persons in the cosmological sense by virtue of their membership to the human species. What is important is not that they lack specific qualities or features; what is important is that they are human beings in transcendent relation with other human beings. They are patients, and their cognitively typical counterparts in other worlds are also related to the complex human relations which constitute personhood. Had they been of typical development, they would be nothing other than typical human beings. From the moment they are conceived, they are brought into the network of person space and person life that is typical of human persons. And as human beings in transcendent relation with other human beings, starting with the mother and then extending outwardly, they are constituted as persons.

Human beings in transcendent relation with other human beings constitute persons. The citizen, by virtue of being a person because she is a human being in this unique network of political relationships, is the bearer of a special value which we call human dignity. Because she is a person entering the political community, in contract terms, she enters the political arrangement with her human dignity.

Contrast with individualist views of the person/citizen, where human dignity is dependent on the human being possessing some feature or quality. Where specific human beings lack this feature or quality, they are considered non-persons. This, we have said, is unacceptable.

¹²⁹ Here is actually the crux of the moral philosophy of *UP*, which falls outside the scope of this thesis. In short, personhood is relational, and the right thing to do is to foster relations because in so doing, one fosters personhood.

¹³⁰ Keep in mind that this is framed within a view that sees personhood in terms of degrees, so that we are all a kind of minimum person and so a bearer of dignity in the cosmological dimension of our personhood; but that we can attain greater and greater degrees of personhood and humanity when the subjective, interior dimension of our personhood is oriented towards the cosmological dimension.

Similarly, and also in contrast with *UP*, we have said that communitarian systems and readings of Ubuntu which see the human dignity that is implied by personhood as something that a human being is yet to achieve, is also unacceptable.

By virtue of being related in the network of transcendent relations, all human beings are persons from the beginning, and as such, enjoy human dignity.

5.6.3) Interiority & Subjectivity

UP does not negate individuality. Rather, *UP* is not individualist in the sense that it does not make the individuality of the citizen the central focus of the political arrangement; or to put it differently, individuality is not what is most important for the philosophical moment. And there is a subtle but important difference in this because it saves *UP* from charges that it might be anti-human rights, for instance.

UP recognizes the subjectivity of the individual person. Each citizen is a Someone, and never a something. And this is related to the value of human dignity which each citizen possesses, as just discussed. Each citizen possesses an interiority from which to approach the world beyond herself. It is within this interiority that the Subject is found. It is here that the citizen can form a view and an opinion; to evaluate and subscribe to a system of belief and worldview; to consider, to think, to dream and envisage.

But it is also at this level that the individual citizen can view herself as herself in transcendent relation to Other. In personalist terms, it is at this level that the citizen, as a Subject, can treat herself and others as object. Yes, Kantian ethics requires that I never lie, not even to the axe-wielding murderer; but even so, as a Subject in this particular situation, *what ought I to do?* To be a Subject, the individual must ask this question in earnest. The individual cannot outsource her moral responsibility to anyone or anything – not even the moral system to which she subscribes. The Subject must direct her moral reasoning towards the strengthening of personal relations, and act accordingly.

The citizen is such a subject. She has a right to think and consider herself in different situations, as a subject. She must exercise her judgement in a way that conforms to the practice of a subject

as such, and she must act accordingly. She cannot outsource or defer her subject-responsibility. But she must always do so as a subject-citizen; which is to say, a subject-person; which is to say, a subject-being-in/with-community. The subject-citizen is never an isolated, individualized ontological entity as the individual in the original position, or as a being simply with the capacity to commune. The capacity to commune exists in virtue of being part of the species *human being*. The subject-citizen is always in a subject-object relationship, where the object is herself, other persons, non-person animals and/or other inanimate creatures, as the case may be.

As we have already said, individualism takes interiority and subjectivity to be the most important, and in certain cases, even the only factor to consider for the philosophical moment. This cannot be the case, for the subject is always in relation and in community – relation and community which affects the ontology of the subject, i.e. the nature of what the subject is.

But whereas individualism places too much emphasis on interiority and subjectivity, communitarianism places too little emphasis on it, especially in those cases where personhood and derivative human dignity are philosophical items that must be attained subject to meeting standards set by the community.

5.6.4) *Freedom*

Here I can set *UP* apart from other forms of personalism by looking at the disparity between two conceptions of freedom as found in the work of Burgos versus the experience of Mandela. For Burgos, and one of the reasons why we have said his work is individualist, freedom is centred by questions around the freedom of the individual as an individual being. For Mandela, he cannot be free if a fellow human being, even his former oppressor, is not free. For Mandela, freedom is necessarily enjoyed only in relation because Mandela is talking about *personal* freedom. “[To] be free,” he says (1995:617) “is not merely to cast off one’s chains, but to live in a way that respects and enhances the freedom of others”.

Mandela’s conception of freedom is the conception of freedom of the *UP* worldview. If the freedom of somebody else in my political community is infringed, then my freedom is infringed. As a personal quality, freedom is relational, as personhood is relational. This is why

Cynthia Ngewu says her forgiveness would result in her, the man who killed her son, and everyone else, receiving their humanity and personhood back¹³¹. The unfreedom of a fellow citizen attenuates and dilutes my own freedom. And here Ramose's critique of Shutte might come to our aide. At one level *ubuntu* means *humanity* in a very literal way. But as we have seen, in terms of Ubuntu metaphysics, humanity is also *the highest form of being* – it means *personhood*. And in this framework, the idea of *my humanity* doesn't refer to an individualist idea. The idea of *my humanity* immediately situates me in relation to the rest of the human beings in my network of relations; my species. And when the humanity of my species is attenuated, then my humanity is attenuated. When the humanity of my species is restored, then my humanity is restored. Here it is also worth noting that we are probably only completely human in heaven, or Utopia, as the case may be. Complete and perfected personhood is something that must be constantly worked towards.

Importantly, this happens in a qualitative, not a quantitative way. The quality of one person's freedom is inextricably bound up, as Tutu would say, in the freedom or unfreedom, of the next person. And if, in a certain sense, one person is free, that freedom is tarnished by the unfreedom of the next person. This obtains most clearly in the apartheid state. White people are free, but their freedom really comes against the backdrop of the unfreedom of Black people, and so their freedom is qualitatively tarnished – something not even to be cherished. The freedom of White people under apartheid is therefore not the kind of freedom which political philosophers pursue when they conceive of freedom.

Freedom is therefore important on the *UP* framework, but not in an individual liberalism kind of way. Freedom is the freedom of the human person, but that necessarily implies Other – it is freedom of a transcendently relational being. And as we have just said, even at this abstracted level – we will look at more practical examples in the next chapter – this conception of freedom seems most genuinely correct. We are in search of the freedom of all in the political arrangement, not just a certain group or a certain number in the political arrangement. And that

¹³¹ At the risk of being repetitive, this is not to say that everyone had stopped being humans and persons in the literal sense; rather, the terms are used here with their deeper meaning; against the backdrop of the African metaphysics we have described: humanity and personhood are lost when impersonal events happen to persons; and great personal acts, like Ngewu's forgiveness, are required to restore personality.

is because the freedom of the individual is to be understood as an individual constituted in relation.

One might still be tempted to think that obtaining freedom by dubious means might still nevertheless be freedom, but this would be a mistake. First, be wary of any influence of the Modern conception of personhood, and especially Kant's notion of autonomy, both of which are called into question in this thesis. We have already said at length why persons are not individualist terms, but rather relational terms. Second, it was Kant who showed us that just doing as one pleases does not equate to freedom; that in fact, it is possible to be a slave to things such as passions; and that freedom is obtained by observing laws. In Chapter Two we contrasted autonomy in Kant and Rawls with autonomy in Christianity, which sees God as freedom itself. In similar ways, while we do not appeal to Kantian reason or to Kantian autonomy to establish those laws, we have argued at length that persons are, by nature, relational, and as such, personal freedom can only be established in transcendent relation, i.e. in terms of relational freedom. As with other established philosophies, *UP* conceives of *freedom* as having a specific substance, and that substance is transcendentally relational. One cannot be free and shackled by impersonal – i.e. anti-relational or unfriendly – views such as oppression.

Finally, while in this philosophical moment we are really concerned with freedom within the context of the political arrangement, it must be said that the *UP* conception of freedom – i.e. that there is no “my freedom” without “our freedom” – does give substance to why some persons in relatively free societies go to great lengths to fight for the freedom of persons in different countries on the other side of the planet. Mandela said the people of South Africa could never be free unless the people of Palestine are free – in terms of the political arrangement of the New South Africa, Mandela was certainly talking of one thing, but he made a very different, very important point about the nature of the metaphysical, and therefore moral nature of freedom. Because persons are relational, there can be no “my freedom” without “our freedom”. Yes, oppressor and oppressed are unfree in different ways, but they nevertheless remain unfree. In fact, there is a strong sense in which we might even say that the slave to racist ideology for instance is more unfree in apartheid South Africa than the Black child.

To continue the trend, individualism takes a very specific conception of freedom – *individual* freedom. And it places a lot of value on this freedom. It determines the political arrangement

based on how the other necessary features of the arrangement, e.g. government, come to bear on the moral and political centrality of the individual which often manifests in individual freedom. This view is not only rejected by UP, but it is also unjustifiable and unsustainable, for the reasons we have set out above.

But as with interiority and subjectivity, if individualism goes too far with freedom in one direction, communitarianism goes too far in the other direction, not giving enough value and importance to freedom. Human beings, as persons, are free creatures, able to think, create and act with freedom. It is out of this freedom that responsibility arises, for we cannot be responsible if we are not free. Communitarianism therefore must recognize the freedom of the individual to adequately hold her responsible.

5.6.5) Relation and Communion

All the other tenets of personalism on the *UP* worldview is conceived in terms of a thick conception of this tenet – persons are constituted in relation. This is not a thin, uncontroversial, and therefore philosophically uninteresting idea. No, when we talk of relation and communion on the *UP* worldview, we are talking of the social constitution of persons, that is, persons are constituted in relations between individual human beings; in the network of relations between human beings, and persons are perfected in communion when they direct their transcendence, i.e. their subjectivity and interiority, to the strengthening of relations and towards intersubjectivity.

When we speak of relation and communion in the *UP* sense, we are not talking about one isolated, individual entity striving towards harmonious relation to another isolated, individual entity. Rather, we are talking about two entities that are inextricably bound-up in each other – again, as Tutu would say. When we consider these two entities, we must not consider their physical bodies as the totality of their existence. Physical bodies, important as they are, do not make up the whole of the person. As Ntibagirirwa (2017) says, a person is also intelligence and heart; and this is not the physical heart that is pumping blood throughout the body; this is heart in the metaphoric sense: feeling for and empathising with the other – subjectivity and interiority, but also transcendence.

When we think of the *relation* between two persons, we must instead think of them as being as much individual as they are collective. One necessarily implies an-Other, just as the terms *child* and *mother* imply each other. As the abstract of substantiality of the highest form of being, *person* is a relation term, but it is a special kind of relation. It is the kind of relation that unites two entities without negating the individuality of either of the two entities. And here is where the classical literature on the doctrine of the Trinity in Christian intellectual history comes to our aid. *Person* captures that relation between different substances with two essences – Son and God; Father and God; Holy Spirit and God. The Son is as much individual (Son) as He is collective (God). And the same with the Father and the Holy Spirit: they are as much individual as they are collective. Personhood captures this unique relation between individual and collective in the Godhead. But most importantly – *person* is a relation term.

To take a step further, let us state it as follows: the person is a substance with two dimensions – one collective, one individual. The collective dimension is the cosmological, objective dimension constituted in the transcendent relations between human beings. The individual dimension is subjectivity and interiority, driving freedom and self-direction. Neither dimension is prioritized over the other – rather, the individual dimension completes and perfects the collective dimension. And in this way, freedom and interiority is oriented – it has a substance. This means that every individual person is a being-for, being-from, or being-with, to use the words of Ratzinger (1996:28) in his discussion on what it means for Man to be created in the image and likeness of God¹³². Or, to use the words of Ntibagirirwa (2017), *person is a being-in/with-community*. But with reference to Mbiti, we have also seen how person in the African view is a being-from (ancestors)¹³³, being-with (contemporaries), and being-for (offspring).

¹³² It is not necessary for the sake of argument that one is persuaded by Ratzinger. Rather, what is important, is the relationalist nature of Christian anthropology which comes through in his writing, especially given the place of Christian anthropology in Western intellectual history. In this sense, individualism must be seen in perspective, as one view amongst many; as one with difficulties and shortcomings; and certainly, the point that other views exist and are persuasive should be made. It is worth saying therefore that of the Modern conception of individualist freedom and its relation to Christian anthropology, Ratzinger (1996:28) actually says that to “be totally free, without the competing freedom of others, without a ‘from’ and a ‘for’ – this desire presupposes not an image of God, but an idol. The primal error of such a radicalized will to freedom lies in the idea of a divinity concerned as pure egoism. The god thought of in this way is not God, but an idol. Indeed, it is the image of what the Christian tradition would call the devil – the anti-God – because it harbours exactly the radical antithesis to the real God. The real God is by his very nature entirely being-for (Father), being-from (Son), and being-with (Holy Spirit). Man, for his part, is God’s image precisely insofar as the “from”, “with”, and “for” constitute the fundamental anthropological pattern.”

¹³³ There is a sense in which, on the African view, ancestors are also beings-with, for they are persons of a kind now in the afterlife. In another sense though, ancestors are distinct from persons who are with us now, and in the

Person is therefore a relation-term. Just as *brother* picks out an ontological entity that points to a relation-to; so too person picks out an ontological entity that points to another/other persons: ancestors, offspring and contemporaries. In the same way that it makes little sense to speak of metaphysics without speaking of ethics in terms of Ubuntu, it makes little sense to speak of person as an individual entity, i.e. one that doesn't imply the existence of other persons. This is what it means when we say that person is a being-in/with-community. But let us take one more step in respect of relationality and community before we reach a position in which we can say in clear terms what we mean by relation and communion when it comes to the *UP* conception of the citizen.

As we have said, the tenets of personalism – human exceptionalism, human dignity, interiority and subjectivity, freedom, and relation and communion – must be read in light of each other. We have already spoken of the cosmological dimension of the person, which obtains in the species *homo sapiens* and constitutes human exceptionalism and human dignity. We then also spoke of the individuating factors of subjectivity and freedom, the third and fourth tenets of personalism, and how this is rooted in the advanced cognitive capacity of typical human beings. And we have said, repeatedly, that subjectivity and freedom must be oriented. If we ask in which direction they must be oriented, then we would have to answer that these must be oriented back towards the cosmological dimension of the person – human exceptionalism rooted in that network of special relations, and human dignity. And it is here that relation and communion find their true expression: the orientation of transcendent subjectivity and freedom, which arises out of the cosmological dimension of the person, back towards the cosmological dimension of the person. When this happens in the case of an individual person, we see the actuation of the abstracted personhood that Ntibigirirwa speaks of in his metaphysics of Ubuntu, and we hear Tutu say, “*Yu, u no buntu!*”.

That is the metaphysics, and how it relates to ethics. Let us now say how what we have said applies to the citizen, i.e. the political conception of the person and individual member of the political arrangement.

same way that contemporaries relate to the yet-to-be-born now, so too the ancestors related to contemporaries. This is the sense that the point is being made in.

The citizen is a being in political relation and communion. She is a person in the ontological sense, but also a person in the political sense. To be a person in the political sense means that she is the bearer of human dignity and certain corollary human rights, which are not to be infringed upon, even if they may justifiably be limited. These limitations and their just establishment and enforcement, even in certain cases using force and coercion, are the central problem of political philosophy¹³⁴. Her human dignity may never be infringed upon. It cannot be limited. Her human dignity is a value that she possesses by virtue of her being a *relata* in the transcendent relations of human beings. In contract terms, this is something that she carries into the social contract.

The citizen exercises her interiority and subjectivity, as well as her freedom, in a way that nourishes what she is – a being-in/with-community. Her subjectivity and freedom must be exercised as a being-in/with-community and is oriented in this direction. She is not in conflict with her community: what she is is inextricably bound-up in what her community is. When her community, or some other one in her community is injured, she is injured. When her community, or some other one in her community is praised, she is praised. Upon reflection, it would become clear that this is the way in which all communities work. This is, in fact, a most intuitive conception of the relationship between individual and community. I would venture to say that this accounts for why some individuals are often prepared to die for their community.

Importantly, this discussion is not a discussion of ethics, even if the ethics, at times, is unavoidable because, as we have said, to talk of Ubuntu in metaphysical terms is to talk of ethics. Until now, our discussion of *UP* has been metaphysical in nature. As a form of personalism, one might think of this as a groundwork to a broader metaphysics, because it starts with a metaphysics of personhood. Where we have mentioned ethical concepts such as freedom, or relational virtues such as friendliness, hospitality, magnanimity and so on, we do so here only as placeholders and without any adumbration of what they entail. That would form the substance of further work. It is however important to say that including them here in this description is unavoidable, since to talk of Ubuntu metaphysics is to talk of Ubuntu ethics.

¹³⁴ Recall that earlier on in this thesis we identified the central problem of political philosophy as the question of constituting the just order in light of competing conceptions of the good. That, in a sense, is a slightly less abstract variation of this formulation, because it already takes conceptions of the good, or even competing conceptions of the good, to be the answer.

5.7) Conclusion

The political arrangement is an arrangement for persons. There is something special about persons, and it is this something special that gives rise to the need for the political arrangement at all. This something special is the way in which persons relate to each other. It is a transcendent relation that sets human beings apart from other species, and which is then later completed and perfected by each individual member in a way that is oriented to communion and participation. Shutte correctly called this latter activity *transcendence*, and at the same time, demonstrated broad consensus between Western intellectual history and African philosophy on the nature of the person as far as this transcendence is concerned. The person transcends the material realm, and so it can transcend the particular. The person transcends the actual, and relates to counterparts of the actual in other possible worlds. When the individual person transcends the actual and particular to enter what is common, then the highest form of being is approached. The person moves closer and closer to the highest form of being, even if only asymptotically.

Within the context of the political arrangement, the citizen is the political conception of the person. As citizens, persons enjoy personal, transcendent relationships with each other. This personal relationship, between citizens, unites citizens with other citizens in a way that actualizes what is true about the person: that persons are substances with two dimensions – cosmological/collective and subjective/individual. The citizen is individual, is the bearer of human dignity, interiority and subjectivity, and enjoys freedom. But these aspects of the person are substantiated in transcendent relation and towards communion with other citizens, in the same way that the dignity, subjectivity and freedom of persons are actualized and accentuated within communion.

Conceived as such, we overcome the individualist conception of the person which we have described as counter-intuitive, both in metaphysics and in political philosophy. In doing so, we have improved upon the work of Burgos, who conceives of an individualist personalism. But we've also improved on the work of Rawls, providing a theoretical justification for the position that all human beings, by virtue of being human, are included in the political arrangement as persons and as citizens. The much harder task, which was to improve upon Rawls's genius move of attempting to offer a system which is neutral amongst competing comprehensive

doctrines, was to offer not a system that is neutral as Rawls tried and failed to do; but to offer a system that is foundationalist and morally justifiable.

The strategy to achieve this was to cut through the dichotomy that typifies political philosophy: individualism versus collectivism. We've said that grounding the political arrangement on a conception of the person that is constituted in transcendent relation is a way to do this. And in this way, we've argued for a conception of the person that grounds the just pluralist political order.

As things stand, the grounding is abstract and theoretical. In the remaining chapter, I offer a clear statement on the vision of the political arrangement in terms of UP, particularly as it pertains to the relationship between individual and collective.

The Citizen: An Ubuntu Personalism Conception

6.1. Introduction

6.1.1 *Taking stock*

We have now reached the conclusion and the sum of our efforts. It is time to say what everything in these lines has led to.

We have a conception of the citizen¹³⁵ that is inspired by our *UP* conception of the person. This conception of the person has two dimensions – a cosmological, objective and relationally constituted dimension; and a subjective, interior dimension that grounds individual freedom. Every human being is a person in virtue of the cosmological dimension of personhood. The subjective, interior dimension of the person is developed in community, and it perfects the cosmological dimension. And the subjective, interior dimension is rightly oriented towards completing and perfecting the cosmological dimension, in harmony and communion with herself and others. Every human being is therefore a citizen of her political community.

Now this doesn't mean that the collective can overpower the individual in a way that is anti-individualist, such that an individual might have no human rights. As we have already said, inspired by Tutu, the humanity of the collective is inextricably caught up in the humanity of the individual. When the humanity of the individual is undermined, the humanity of the collective is undermined. The individual person is therefore conceived and constituted as a person from the beginning, in relation to other persons, starting with her mother. She is constituted in these initial relations as a person in the cosmological dimension. She is then

¹³⁵ To be clear, the focus of this thesis is the abstracted notion *citizen*, so that issues such as the requirements for citizenship; whether citizenship is granted by birth; how one might attain citizenship of a new or different country and so on shall form the subject of subsequent democratic processes, keeping in mind the rights (e.g. to equality) mentioned herein below. These issues shall therefore be addressed in the future.

through language¹³⁶ and other personal interaction, in person space, nurtured and developed into a subject. Once a subject, the individual then strives to use her freedom, which is a product of her subjectivity and interiority, to complete and perfect the cosmological dimension of her existence; of her personhood; of her selfhood, which is relational, and which is necessarily oriented to communion with herself and others. There is a circularity here, but it is not vicious.

This anthropology inspires our political anthropology, that is, our political conception of the person – the citizen. The person – the whole person – is also a citizen, that is, a member of a political community. The citizen is necessarily found in a political community. We can therefore talk of a cosmological dimension of the citizen, from the beginning. But the citizen is also, through certain developmental interventions in relation by and with various role players, nurtured into a political subject who is then called upon to act in a way, exercising her freedom, to complete and perfect the cosmological dimension of her political selfhood – her political community.

Now we must remember that our citizen is the member of a pluralist political order. This means that we must address the issue that Rawls attempted to address through neutralism and the overlapping consensus. We saw that these do not work. We must offer an alternative – how is our pluralist political order going to be stable¹³⁷? And while it is possible to revert to a foundationalist approach, there are some inherent dangers that we must address. At the most fundamental level, there is an inherent contradiction between pluralism and foundationalism, for while foundationalism commits to a single foundation, pluralism says there is a plurality of foundations which must be considered. If we reject neutralism in favour of UP as a foundation, then we must address this contradiction and say how we are going to achieve the kind of stability which Rawls aimed at with his overlapping consensus¹³⁸.

¹³⁶ There is an important issue here from the philosophy of language which must also be deferred to future work: what is the relationship between personhood constituted in relation, and language; and what came first, language or personhood?

¹³⁷ By ‘stable’ and ‘political stability’, I mean the ability of the political arrangement to remain intact despite changes in the relative power of one culture *vis-à-vis* the others; and as an alternative to what Rawls (1993) calls a mere *modus vivendi*, which is a compromise between different cultures to maintain the peace, but a compromise which will collapse once one of the cultures attains sufficient power.

¹³⁸ There is also, furthermore, the related issue of political legitimacy, which we will address further below. Political legitimacy refers to the justification for the state to use force, even violence, in respect of citizens who do not subscribe to the theory of justice.

6.1.2) Chapter outline

We begin by setting out, in clear terms, a list of basic rights which must ground the UP political arrangement (§6.2). Other rights can be added to this list through democratic process to form a constitution, but the basic rights themselves can never be deleted. They are generated and justified by our conception of the person – through the interaction of metaphysics and normativity – and they justify the use of force by the state when it acts in protection of them. They ground our political arrangement¹³⁹. After spelling out this list of basic rights, we then shift to the question of stability – how will we achieve political stability in a way that Rawls was unable to in his overlapping consensus? We consider this, and we also look at three contentious issues in the human rights based society today and how UP would deal with it (§6.3). And then, we conclude this thesis by describing some of the work that needs to happen in the future (§6.4).

6.2) A list of fundamental rights

In §3.1.2., as a means of giving our exposition of personalism a lodestar, we gave substance to what we mean by ‘pluralist human rights-based polity’, as we have used the term throughout this thesis, by saying that we are interested in justifying the kind of society in which policies and laws are decided and enacted in terms of democracy, but where the exercise of such a democracy is constrained by certain fundamental rights. The political arrangement is an arrangement for persons. We have said, in the Chapter Five, what UP looks like, and we have said what a conception of the citizen in terms of UP is. Using this conception of the person as inspiration and justification, we have come to the point where we need to spell out the list of those fundamental rights.

Now before jumping into the list of rights, it is important to flag a tendency to see rights within the specifically Modern, liberal conceptions of freedom, autonomy, and rights. And we must flag what we have said so far about the untenability of the best of these Modern systems, as well as what we said in the first chapter about liberalism’s seeming monopoly on human rights. But we must also flag what we have said about the person – that she is constituted in

¹³⁹ Much greater elucidation of this list of basic rights and all of their intricacies will form the basis of future work. Here, they are presented specifically as the result of an application of the theory developed in Chapter 5.

communion: in relation and in community. She is a citizen because she is a being-in/with-community. And this means that any conception of the freedom of the person must find expression in communion. When thinking therefore of the rights and freedoms of the citizen, it is, in other words, impossible to think of the rights and freedoms giving expression to an individual, autonomous being in the Modern sense, because that is not what persons are. Persons are beings-in/with-community. And the same can be said of citizens – these are beings-in/with-community: beings-in/with-political-community. Whereas human rights in the liberal picture serve to protect the individual from overreach on the part of the majority, human rights in the UP picture serve to enhance the relationship of and between beings-in/with-community; they serve to enhance the relations between individual and collective.

Furthermore, we must also say that this list of fundamental rights is formed based on what it means to be a person in the political sense – what it means to be a citizen. In other words, it is not possible to be a complete citizen without these rights. As we will see, each citizen, as a person, has inherent dignity and the right to have that dignity respected. This citizen is a constitutive element of the political arrangement, which includes the state. When the individual citizen's dignity is not respected, that citizen is treated as something less than what he or she is. We recognize that in the horror of the way in which that individual citizen is treated, whatever the disrespect might manifest as, but we also recognize the disrespect of the citizen in what the political arrangement overall is; what the collective is. The dignity of the individual is inextricably caught up in the dignity of the collective, as Tutu (1999) told us, and this means that there is as much wrong in the political arrangement itself as there is in the mistreatment of individual citizens, for it is the political arrangement that justifies the mistreatment of individual citizens. This is why we can refer to the political arrangement when we want to point out one that mistreats its individual citizens – Nazi Germany, for instance. We therefore have a list of rights that protects citizens for the purpose of preserving the political arrangement. This is why this list of rights is fundamental, and why the political arrangement, through the state, is justified in promoting and protecting these rights. These rights are not the rights of individuals in the Modern sense; rather, they are the rights of individuals-in/with-community; they are the rights of beings whose existence is necessarily limited by the existence of an-Other just like her; the rights of beings who must live together. The limitation in the political arrangement finds expression through the power of the state to promote and protect these rights.

What then, is this list of fundamental rights that we are we talking about?

6.2.1) Inherent dignity and the right to have your dignity respected

The first fundamental right for our political arrangement based on UP is the recognition that all, just by being human beings, are bearers of human dignity. It is a fundamental moral worth that constrains the way in which citizens can be treated. And this moral value is inherent. In contract terms, it is something that citizens would bring into the social contract. It is something that cannot be taken away from citizens. It can be undermined or disrespected, but it can never be taken away from citizens. Nobody therefore has a right to dignity. The citizen has inherent dignity as such.

Perhaps it worth lingering at this juncture. The idea of “dying with dignity” is prominent amongst activists for assisted suicide. To the extent that the *dignity* in “dying with dignity” refers to *human dignity*, this activism is based on confusion. Persons have dignity from the moment of conception until the moment of death, regardless of how they are treated or in what state they physically are in. Human dignity is, of course, different to the idea in *an undignified death*, as the mental health patients in the Life Esidimeni case died undignified deaths, i.e. in a manner that undermines their human dignity. But all of them still had human dignity – which is precisely why the Life Esidimeni case was such a scandal!

Then, flowing from this inherent moral worth is the right to have her dignity respected. In this regard, the wording of section 10 of the South African Constitution is spot on – *Everyone has inherent dignity and the right to have their dignity respected*. In terms of UP, this is quite correct.

Two further important points must be made about human dignity. Firstly, the dignity and moral worth is *human dignity*, and this means it is dignity as a human being, and dignity because you are a human being. And the dignity is rooted firmly in the anthropology guiding this description – personhood with a cosmological dimension and a transcendent dimension, constituted in relation. It is therefore not a matter of the individual being able to do and “be” whoever she wants to be. The dignity is specifically limited to being a human being, exercised as a human being.

Secondly, a limitations clause in a constitution serving to limit the application and enforcement of rights by citizens is quite justifiable. We have already said that fundamental to the nature of the political arrangement is the issue of limiting rights because there is more than one person in the political arrangement. The limitations clause cannot be applied to human dignity as such though. Human dignity, as a moral value, cannot be attenuated or limited. Again, it can be infringed and undermined, but it can never be limited.

On the other hand, the *right* to have your dignity respected *can* be limited. The right to have your dignity respected is a moral value activated by the political arrangement.

6.2.2) *The right to equality*

The recognition of inherent dignity and the right to have that dignity respected forms the basis and justification of a right to equality – that all in the political arrangement will be treated equally. We employ a certain form of substantive equality, so that where limitation and/or qualifications are set upon the right to equality, those limitations and/or qualifications will be employed equally and fairly. For instance, we will see further down below that only those who have reached a certain age of maturity will be allowed to vote. This means that while citizens who are younger than the relevant age are equal before the law because they are equal in dignity, for reasons different to dignity and equality, they will be treated differently to people who are older than the relevant age. But those who are younger than the relevant age will all be treated equally. In other words, instead of a formal equality, a substantive equality where like is treated alike shall be employed.

6.2.3) *The right to life & bodily integrity*

The right to life and bodily integrity is crucially important to the UP political arrangement. It is a fundamental expression of the moral value of human dignity, for every person and citizen is a person and citizen by virtue of being a *human* being in human relation with other human beings. The physical, material bodies of human beings are the *relata* in the relationships in which the cosmological dimension of persons are first constituted. Here *person* is most clearly an *a priori* relation-concept, just like *brother* or *mother*. Two human beings relate to each other specifically as humans do, and it is in that human-relation that personhood is constituted. The

mother recognises the human form of her unborn baby and relates to her baby in a human, personal way. We see the suffering of other human beings on the other side of the planet due to natural disaster or war and we are affected because we relate to those (stranger) humans in a human, personal way. Two beings are *human* beings, and therefore persons, by virtue of their *human* bodies. Respect is therefore due to the *human* life form which enters relations, which includes both the life and the human body.

Now importantly, because the subjective, transcendent dimension of the person can stand at a distance from her cosmological, objective dimension, which includes the body, the same respect that the Other must afford to the human body must also be afforded to the human body by the subjective, transcendent dimension of the person. In other words, each person must respect her own body in her relationship to that body. And this does place some limitation on what a person might be able to do to her own body in terms of respect for bodily integrity. Let us consider this for a moment.

Let us pose the following question. In what way might the right to life be limited in a constitutional democracy as we know it? The right to life is limited in the case of private defence: where a would-be victim responds with proportionate force to defend herself against an aggressor, and where such proportionate force results in the death of the aggressor, the would-be victim could raise the private defence and not be convicted of murder. In that case, the right to life of the aggressor is limited. It is important to note that this defence could be applied in cases where the life of the subject or a third-party might be in danger.

Now the same limitation on the right to life would apply in the UP political arrangement. In this case the life and bodily integrity of either the subject or a third party would be protected against an aggressor because the humanity¹⁴⁰ of the would-be victim is being threatened. If the one who kills the aggressor does not act, then the humanity of the would-be victim would be undermined. But notice that the humanity of the would-be victim would be undermined by the aggressor. In fact, because of the cosmological dimension, the eventual death of the aggressor undermines the humanity of all – including the aggressor, the would-be victim and the one who kills the aggressor. And it is for this reason that the aggressor's death is justified – it is carried

¹⁴⁰ Or the *personhood*, but we use the word *humanity* to invoke the weight of Ngewu.

out as an appropriate response to his disrespect of the humanity of all. In this way, the right to life and bodily integrity, important as it is, can be limited to the extent that it can be taken away.

Importantly, the right to life and bodily integrity also places an obligation on the state to provide a minimum level of quality medical care to all citizens for free, even if the nuts and bolts of this system, e.g. the extent of such care – should it include surgery for a condition that is not life-threatening? – would be determined by policy through the functions of democracy.

6.2.4) Freedom of choice & conscience

Importantly in the *UP* political arrangement is freedom of choice. All in the political arrangement must be afforded the right to choose, in line with what they come to value as individuals in community. This extends to economic decisions, career decision, decisions about which associations to continue to belong to and/or join, and this includes political, cultural, religious, social and other associations.

It is however important to remember that the various tenets of personalism must be interpreted in terms of each other. Within the interaction of these tenets, we saw in the last chapter how the transcendent dimension of the person completes and perfects the cosmological dimension of the person. This means that certain members of the political arrangement, while enjoying equality in dignity with all humans in the political arrangement, nevertheless do not possess the transcendent dimension of the person. This is most notably the severely cognitively disabled, and so in such cases, where human beings are not able to make appropriate choices for themselves, their caregivers are tasked with the responsibility of making decisions for them. This applies to matters affecting the personal wellbeing and formation of these human beings. It is therefore the responsibility of the caregivers, e.g. the parents, of young children to decide on their cultural, religious, and social association. It is up to parents to make decision such as whether these children will forgo certain luxuries to obtain private healthcare and education or not. Caregivers might decide to allow these persons to gradually start making these decisions for themselves in matters that are commensurate with the development of these persons, but those decisions are left to the caregivers who would need to take responsibility for any adverse consequences of such decisions.

There are exceptions to the responsibilities which caregivers can take in terms of the decisions of those under their care. Part of the formation of the transcendent dimension of the person is the capacity to vote in democratic elections for those who are to occupy public office, as well as running for public office. Those who lack the sufficient development of the transcendent dimension of personhood will not participate in these activities, and caregivers will not make political decisions on their behalf. Caregivers will not be able to represent these persons in political office, and they will not be able to cast a vote on their behalf.

Importantly, freedom of conscience is also to be interpreted in such a way as to guarantee freedom of expression of such conscience.

6.2.5) Freedom of association

The next important right to the UP political arrangement is that of freedom of association. Our political arrangement is necessarily pluralist, and this means that we are going to have several different associations, including cultural, political, religious, social and more. These associations constitute the cosmological dimension of the person, and play an important role in developing the transcendent dimension of the person. They form part of the person-space and network of relationships in which the cosmological dimension of the person is located, later to be perfected by the transcendent dimension. This means that the associations produce the transcendent dimension of the person, and the person then reaffirms and strengthens the cosmological dimension. But because these associations play such an important role in the cosmological dimension of the person, when the person reaffirms and strengthens its cosmological dimension, it also reaffirms and strengthens the networks of relationships which all serve to constitute personhood. These networks of relationships are also these associations.

Importantly, the transcendent dimension is rightly oriented towards the perfection of the cosmological dimension of the person. This means that, in line with the previous right of freedom of choice and conscience, the adult person acts rightly when she acts in the interest of these associations. But this does not bind her to these associations in an absolute way. On the contrary, in certain cases, especially where the conscience of the subject so directs, the best thing that a subject might do for an association is to abandon it.

Consider the example of an association propagating racial supremacy through apartheid. The ideology on which such an association is based – racism – is opposed to the recognition of the dignity of all human beings, *qua* human beings. There are two important points arising from this example.

Firstly, to the extent that the practice and exercise of this association affects non-members in an unavoidable and harmful way, the state would be required to intervene. However, where the practice and exercise of this association does not affect non-members in an unavoidable and harmful way, the state has no business intervening. In other words, suppose the local chapter of the Ku Klux Klan, as an association, consists of 13 old White men who meet once a week – say a Tuesday evening – in one of the members’ homes; and the extent of their activities is limited to reading in admiration the writings of old Klan members. The state has no role in breaking up this chapter because their activities, warped as they are, do not affect anyone who does not visit one of their meetings. Their activities are clearly avoidable and unharmed.

In cases where the local chapter meets to plan and execute the lynching of Black people: here the state must intervene and stop the Klan, because their activities seek to undermine the humanity of other citizens. And in such cases, the state would be justified in using physical force and violence because the state is protecting the human dignity of its citizens. I will revisit the issue of the justification of state power further below. In the meantime, let us note that this point gives insight into state intervention – it must always be appropriate and commensurate with the wrongdoing. The state might therefore decide to task a group of people – philosophy graduates, say – to try to persuade the Klan chapter of the error of their ways, but as the state must address unlimited needs with limited resources, the state has to assess this against other priorities. The priority of these will be decided at the level of policy and democratic vote.

Secondly, we see the way in which the five tenets of personalism interact – they are interpreted in light of each other. The rights and freedoms which are guaranteed by the UP political arrangement are there to protect the individual and her dignity, but not as an individualist being, because that is not what she is. Her dignity is protected and respected as a socially constituted individual; as a being-in/with-community. Community – in this context, *association* – is to be protected as much as individual persons are. In other words, freedom of association is as much about the individual being free to associate as it is about the freedom of the association to exist

in its own right, say as a juristic person. And here is the interesting point: as an association of persons, we are to understand associations such that the integrity of the association is caught up, is inextricably bound up, in the integrity of individual persons constituting it. This guarantees the freedom of the association to exist, but it also places constraints on the association so that, for instance, the members of the association cannot carry out physical violence against non-members.

6.2.6) Freedom to stand for office

Tied closely to the right to equality is the right and freedom to stand for office. Our polity sees all as equal in dignity, equal before the law, and as such, each has an equal right to decide to stand for political office. It might be said that this right ought to have been included in the right to equality, but the freedom to stand for office is important enough for it to be established on its own. As with the qualification of the right of equality, this right too is limited to those who have reached a certain age of maturity, those who do not suffer cognitive impairment, and any other such debilitation which might rule out potential candidates and as may be justified in legislation passed through democratic process.

6.2.7) The right to private property

Finally, the *UP* political arrangement shall also recognize the right to private property. Remember that we are constituted as persons in different relationships and associations. Private property, especially in cases where individuals come and work together to build value and wealth, is something that gives tangible expression to the social constitution of personhood. When a person is born into a family, that newborn person participates in the material possessions of that family. We know this as inheritance, and it is indeed an arbitrary transfer of limited resources in the political arrangement if the social constitution of personhood is not the dominant view of how persons are constituted. When a group of persons come together to form an entrepreneurial venture, that is an association, like all associations, is constitutive of their personhood. Seen in light of the other basic rights described hereinabove though, the right to private property is understood as giving expression to an important aspect of the cosmological dimension of persons.

These seven fundamental rights are based on the *UP* conception of the person and citizen, and they are to be interpreted and applied to concrete situations as such.

6.3) Ubuntu Personalism as a foundation for the pluralist political order

6.3.1) The person as foundation to the political arrangement

Now we come to the question of stability. To be clear, let me begin by setting out what I mean by *the question of stability*.

The question of stability as such is borrowed from Rawls (1993:140-144) and it is here where he introduces the overlapping consensus and juxtaposes it with the concept of a mere *modus vivendi*. In both instances, we are talking about the pluralist political order which consists of many different conflicting comprehensive doctrines. In the case of a *modus vivendi*, peace is achieved in the political order, but this peace is a result of a balance in the political power of the various comprehensive doctrines. The minute one of the comprehensive doctrines receives more power and can strongarm one or more of the other comprehensive doctrines, that comprehensive doctrine will do so and the stability of the pluralist political order will come apart. Contrast this with the overlapping consensus – which we have explained and discussed at length in the first chapter. Here, all of the comprehensive doctrines, so the theory goes, buy into the principles of justice in the overlapping consensus. And the result is the stability of the pluralist political order, even if one of the comprehensive doctrines receives more political power than one or the others.

By now, it is important to note the concept “pluralist political order” in two different senses. First, we might think of a political order that is justified by and to several comprehensive doctrines, where the political order is neutral amongst the various comprehensive doctrines. I’ve set up this inquiry by showing that this kind of political arrangement which is neutral amongst comprehensive doctrines – “neutralism” – doesn’t work, and so it is important to say that this is not what I am aiming at here. On the other hand, and in a different sense, we might think of a political order which enables and protects life lived according to several different comprehensive doctrines, even though it is only justified in terms of one comprehensive doctrine. And it is this latter political order that I am in search of in this thesis.

In sum then, the question of stability arises out of the inherent tension and conflict between competing comprehensive doctrines in the pluralist society. How do we ensure that the pluralist political order will remain stable, even in the face of varying degrees of political power of the different comprehensive doctrines?

The answer from *UP* is the cosmological dimension of personhood. Recall that in the cosmological dimension of personhood, there are various relations which nurture the subjectivity and agency of the individual person. These relations start with species and the mother and child relation, but they extend to other relations in varying degrees – from the father to the extended family, to the local culture and/or religion, regionality, nationality, and so on, until you reach again, the human species as a whole. Each of these clusters of relations within the broader network of person-relations represents an aspect of the cosmological dimension of the person, for persons are constituted in each of the differing clusters of relations or associations of persons in their lives. In this way, a person is a person through persons.

UP recognizes the permissibility of all comprehensive doctrines in the pluralist society, for these are nothing other than person-associations. This is why freedom of association is crucially important. But *permissibility* here has a very specific meaning and pertains only in a very specific sense. This is a kind of *political* permissibility, as opposed to moral, epistemic or other permissibility. Consider for instance a fundamental irrationality of atheistic materialism. All philosophy, science, mathematics and so on presuppose order in the universe. None of these disciplines can account for the source of that order within themselves as that order constitutes the tapestry of philosophy, science, mathematics and so on. This means that atheistic materialism, as a philosophy, bootstraps itself, i.e. it is unable to account for the origin of the order on which it relies. *UP* would nevertheless consider atheistic materialism a politically permissible stance, for *political* reasons. *UP* is not concerned with the kind of theoretical incompleteness just described in atheistic materialism, which is used here as an example. We would be able to make many more examples of different systems that *UP* considers permissible for political reasons. Because it is a person-association, atheistic materialism, like all comprehensive doctrines and other worldviews, is politically permissible in terms of *UP*.

We might want to linger at this juncture for a moment. A comprehensive doctrine is first and foremost something cognitive – it is a theory. As one such theory and comprehensive doctrine,

UP is going to disagree with other comprehensive doctrines. It will agree that certain aspects of the other comprehensive doctrine are correct – where there is coherence and compatibility with *UP*. But where there is incoherence and incompatibility between *UP* and other comprehensive doctrines, *UP* is going to say those comprehensive doctrines are wrong. Importantly, *UP* will allow for incoherence and incompatibility between it and other comprehensive doctrines to a certain extent – an extent allowed for by *UP*. More substantively, and in terms of the *UP* political arrangement, that extent is defined in terms of the fundamental rights and principles set out hereinabove, which are based on the conception of the person.

Now since we've set up this inquiry in response to Rawlsian liberalism, we might note further that, at this point, Rawlsian liberals will point out that *UP* is not able to justify the *UP* limitations imposed on them in the political arrangement in terms of their own comprehensive doctrine – as neutral Rawlsian justice does. Remember that there is an overlapping consensus on the principles of justice, which means that all can agree on the principles of justice and justify them in terms of their own, respective comprehensive doctrines. But as I argued in Chapter Two, the overlapping consensus is an illusion and there is no neutrality in PL. So that is the first response to the objection from political liberals – even though neutrality has been attempted, it is not achieved, and it cannot be appealed to.

Secondly, it is correct that the conception of justice offered by *UP* is foundationalist and not neutral amongst the various comprehensive doctrines found in the diverse society. Anyone who so wishes is free to refute *UP*, but it seems clear to me that it is the best on offer as things stand. As we have shown, liberalism in its Rawlsian, Razian and Kantian variations has failed and left a theoretical vacuum. We need a theoretical grounding for the pluralist political arrangement based on human rights. What we don't want is the vacuum to be filled by an authoritarian political philosophy in which the rights of citizens are not respected. We want the vacuum to be filled by a political philosophy that respects the rights of citizens, including, importantly, the right to form their own comprehensive doctrine. For its part, *UP* is such a political philosophy. It is based on a non-liberal comprehensive doctrine yes, but this comprehensive doctrine generates a political theory that respects the rights of citizens, including their capacity – even their responsibility – to form their own comprehensive doctrine, within the specified limits of *UP*.

Not only are these comprehensive doctrines allowed in terms of *UP*, they are in fact important and respected as important ways in which persons are constituted. Each of these comprehensive doctrines must regulate matters falling within the purview of each of its associations. They must foster the relationships, reinforce the practices, inculcate new members, and so on. Furthermore, while freedom of association places a limitation on the state in terms of restricting who citizens can associate with – the state can't do that – freedom of association also places a responsibility on the citizen to associate correctly – with cultures that affirm human dignity for instance. Just as Citizen A is a member of this comprehensive doctrine, which is an association constituting her personhood at one level; she is also a member of this political arrangement, which is an association constituting her personhood at another level. As citizens, i.e. members of the political arrangement, it must be left to individual citizens to choose to either continue their participation in an association or not. And it must be left to individuals to think about how they will contribute to that association. The aim here is not for the state to decide which associations should live or die, even in the case of very bad associations; but rather for free citizens to decide which associations must live and die by their continued participation in such associations. There is a subtlety to this point that might be missed if one doesn't tread carefully.

The cosmological dimension of the person is constituted in relation, starting with *species membership* seen as participation in a network of relations. This cosmological dimension is affected, one way or the other, in the different relationships it participates in, and which serve to further constitute it – including the network of relationships known as the political arrangement, in which the person is also constituted as a citizen. This cosmological dimension is then completed and perfected by the subjective, transcendent dimension of the person – by the person's own thoughts, convictions, beliefs, and so on; on an ongoing basis. The subjective dimension therefore serves to perfect and complete the various networks of relationships in which the cosmological dimension of the person is constituted, and this is done through active participation with positive or negative/critical contributions. As far as the political arrangement therefore goes, persons as citizens are incentivized to work towards the perfection and completion of the political arrangement based on the rights described above, because the political arrangement is one of the networks of relationships which serve to constitute them as persons.

In this way, we see that persons are also the *loci* of conflicting associations. For instance, let us consider the person who is both a convicted radical Muslim who believes a woman who commits adultery must be publicly stoned to death and, a citizen in the *UP* polity, which recognizes the inherent dignity of the very same woman such that actions such as stoning her in public are not allowed. It is in this very example that the question of stability is raised. Recall that Rawls's solution to a problem such as this was that the various comprehensive doctrines will agree on the neutral principles of justice in the overlapping consensus, but we showed that this is not the case. How does *UP* deal with this?

As a foundationalist political philosophy, the state according to *UP* will intervene and not permit the woman guilty of adultery to be stoned in public, using force and violence if necessary. The state in this case derives its authority from the political arrangement, which is a network of relations and one of the associations which constitutes the cosmological dimension of the individual person. And as one of the associations which constitute the individual person, the political arrangement and the state it generates defines, *to an extent*, what a person is. The extent to which it does this is specifically limited to matters pertaining to the political arrangement; matters pertaining to that specific association, just as a different association, a religion for instance, regulates matters pertaining to that association. And that means that the state can arrest and jail the one who stones a woman publicly, because of what the one is, a person.

When a lion attacks a springbok, we do not sanction the lion by shooting it for instance, because the nature of lions is to attack springboks. When a person attacks another person – stones her because she committed adultery, for instance – we treat such a person in a certain way, *because* she is a person; we physically restrain that person, or lock that person up, precisely because the person is a person.

The state, as one of the associations constituting the person, is allowed to intervene in matters where the basic rights of citizens, as described above, and others as enacted later through democratic process, are infringed. Citizens can lobby and vote for the enactment of certain rights, laws, and policies subsequent to the basic rights; and they can protest the existence of certain subsequently enacted rights, laws, and policies. What they cannot do is protest and challenge through democratic action the basic rights as described above, for these are

fundamental to the person; they make the person what she is. They are based on the individual person and her different constituting relations and associations.

To return to the example of the radical Muslim and member of the *UP* polity and make it clear, the state is empowered to restrain him – it'll probably be a male, but not necessarily – from stoning the woman guilty of adultery because of what he is. He is a person, and persons act in certain ways. Stoning other persons, for whatever reason, is not one of those ways. For the specifically political purpose of deciding how persons are to live together, and based on our experience of events such as the Holocaust, apartheid, Genghis Khan boiling his prisoners of war, and so on, we know there are certain ways in which persons must not act. In terms of *UP*, this is because persons – all, just by being human – have human dignity. We therefore might differ on the moral significance of suffering as such, the industrial food complex, workers in sweatshops, the use of artificial intelligence in research, consuming heroine and other hard drugs, consuming alcohol and prescription drugs, which religious holidays should be observed, whether tertiary education should be free, whether a known liar should be allowed to work as a publicist, whether someone who had an extra-marital affair with a pornographic actress should be elected as president, and so on. But what we cannot differ on is that all, just by being human, are bearers of human dignity, and this entitles them to be treated in ways that excludes actions such as stoning them to death.

And it is in this way that *UP* is foundationalist. It is foundationalist in that it offers a certain comprehensive doctrine, but the comprehensive doctrine is rooted in a minimal conception of the person, and not in a complete moral philosophy as such. The foundationalism of *UP* is in its appeal to what human beings need to exist and flourish as citizens. This is what the list of basic rights gives expression to. The right to freedom of association gives expression to the cosmological dimension of the person – that she is constituted and developed as a being-in/with-community. The right to have one's dignity respected, which also gives rise to the right to equality, gives expression to our avoidance of the kind of political arrangement that kills six million of its citizens because they are Jews.

Now we might also be wondering that since *UP* is foundationalist and a kind of limited moral theory as such, why should the whole moral philosophy not apply for personal behaviour? Why should *UP* not be enforced as a foundationalist moral philosophy that all citizens are bound to?

There is more than one answer to this question. Perhaps the most important one would be to remember the critique against Raz's perfectionist liberalism (§2.5.2), from an influential liberal in Nussbaum no less, that we really undermine the dignity of persons, as persons, in a fundamental way when we force them to conform to a comprehensive doctrine that is not of their choosing. We cannot compel persons to be moral: an important part of being moral is having the freedom to be moral. It is only when people act freely that we can hold them responsible for their actions, and responsibility is an essential aspect of the moral act. This is why it is important to allow people to be able to have freedom in matters of conscience and belief – it is one of the central issues to being persons at all.

But as with all other associations and their responsibility to foster themselves, the political arrangement, through the state and its machinery, also has a responsibility to foster itself. And here we see an explicit move away from the vision of the state as neutral between comprehensive doctrines. The state fosters itself through the promotion of the rights on the fundamental list. This means, first, that the basic rights that we have described above, as giving specific expression to the philosophy of *UP*, must be fostered and inculcated in the citizenry. Just as the state has the right to use force and violence to intervene where appropriate, the state also has the right to engage with citizens in forming and developing the *UP* philosophy through education, funding of the arts and other cultural activities, funding social and youth development projects, and so on.

Secondly, and relatedly, it also means that the state has the power to use force where these rights are being infringed as a matter of self-preservation – the self-preservation of the state itself.

That is the theory of basing political stability on the *UP* conception of the person. We might now appeal to examples to further expatiate and strengthen the argument.

6.3.2) Case study 1: Marriage

Marriage might be considered one of the contested topics of our public life. There is the issue of same-sex marriage, which is an issue that has enjoyed attention in multiple countries throughout the world. But there are other aspects to this issue which have received attention

from the courts in South Africa, particularly Muslim marriages. Regarding the latter, there have been questions around the potentially polygamous nature of Muslim marriages and the potential prejudice these pose to women in particular.

Should the state intervene in certain marriages where parties are prejudiced or potentially prejudiced? Should the state recognize some marriages and not others? What about marriages that seemingly discriminate against certain people – the Catholic Church says that marriage can only be between one man and one woman, and therefore excludes same-sex marriages: should the state intervene in such marriages and compel associations such as the Catholic Church to recognize all marriages on the basis of not discriminating?

In terms of *UP*, we undermine persons, and therefore our citizens, when we fail to give due recognition to the cosmological dimension of their personhood, which is also to be found in their respective relations and associations. In this sense, the state has no business getting involved in cultural and/or religious rites such as marriage. Nor does the state have any role in regulating marriages. These should be left to the sole purview of the contracting parties and their respective religions and/or cultures. And this is because the association of two individuals in the religion of Islam has got nothing to do with the association of those individuals and a third individual in the association of the political arrangement¹⁴¹.

This means that if women freely choose to marry in terms of cultural rites which might be deemed to be discriminatory towards women when viewed through a liberal lens, then those women should be allowed to marry under such conditions and must be held responsible as such. It seems dangerously inappropriate for a state to intervene in the affairs of a cultural institution such as marriage. This must be the case as far as possible, but certainly not absolutely.

¹⁴¹ It might be useful and practical for some non-discriminatory system allowing for the official registration of a marriage for legal purposes. For instance, where a court of law might be called upon to adjudicate a dispute involving a marriage – divorce, for instance – it would be useful for a marriage and its details to have been recorded earlier, e.g. at the time of its conclusion: when and where it took place; the cultural rites and customs observed; the consent by oath and signature of the parties involved; and so on. But if at some later stage a court of law is called upon to adjudicate a dispute, then the dispute must be settled in terms of the rules and customs of the culture or religion, and not a state law on marriage. The state must have no regulatory involvement in cultural practices such as marriage.

In certain forms of radical cultural practices, discrimination and prejudice often result in severe consequences for certain members of society. In radical interpretations of Islam, women must be stoned to death for committing adultery. The killing of citizens for not conforming to the tenets of a particular culture represents a step too far in the practice of that culture. This is why the right to life is important, and here it would be justified for the state to intervene, with force, if necessary, in the protection of victims of such potential or actual violence – be it for failing to observe a tenet of the culture or for wanting to dissociate from that culture. And this would be because while the association of Islam is important to those who participate as such, the association in the political arrangement would override the tenets of the religious association where the specific rights to life and respect for dignity are being infringed by the adherents of this radical form of Islam.

This same logic would apply to all the basic rights described above. The state has a duty to intervene in cases where the fundamental rights of the individual person are being infringed.

6.3.3) *Case Study 2: Female genital mutilation*¹⁴²

Now that we have established the importance of freedom of association, and we have said that freedom of association also implies responsibility of association, as in the case of a woman who willingly enters a prejudicial marriage for instance, we must make the point of the constraints of this responsibility.

In certain African and other cultures today the abhorrent practice of female genital mutilation is still widespread. The practice represents the worst kind of cultural practice and should be condemned wherever it is found.

¹⁴² The term *female genital mutilation* has certain negative connotations attached to it. It is also a term that is generated outside of a culture that performs the practice, which practice takes on different meaning within that culture. It is important therefore to be sensitive to this nuance: that while we who are perhaps outside of the culture might agree on characterising the practice as female genital mutilation, we must acknowledge that those who practice the culture might view the practice differently. We need only look to the Maasai of Kenya who associate the practice with coming into womanhood, and as a practice performed by senior women of the tribe, so that brusque diagnoses of e.g. unbridled patriarchy as an explanation of the phenomenon should leave us intellectually unsatisfied.

Female genital mutilation represents a complexity for our system. Typically, as we have said, the young are brought into the world and situated in various relations in which their subjectivity and agency is nurtured and developed. The state, typically, has no business intervening in these relations. Both the participants and the culture are protected by freedom of association. The personhood of the young is established in these relations and associations.

On the other hand, where the bodily integrity of the child is threatened, the state has a duty to intervene, and would be justified to use force where necessary. This is because of the right to bodily integrity, interpreted in a way that affirms the cosmological dimension of the child as a human being with inherent human dignity first. No pluralist society based on human rights could ever tolerate such heinous practice and the state would be justified in protecting the child against practitioners of female genital mutilation because of what *they* are – persons. Again, the state is justified in using force against perpetrators and practitioners of female genital mutilation because the perpetrators are persons, and they are required to act in certain ways – as persons.

6.3.4) *Case Study 3: Abortion*

If all human beings, simply by being human, are persons, at least in the cosmological, objective dimension, then it is not possible to legitimate abortion. Persons are constituted relationally, first cosmologically and then subjectively. The relation between mother and child, even where the child is not wanted, is necessarily a personal relation – between two persons. The unborn child is therefore a person and must be afforded dignity and respect as any other person would.

Here it is also worth pointing out the shortcoming of Judith Jarvis Thomson's (1971) famous violinist thought experiment. There is an important relation between mother and child, always and necessarily, even in the case of unwanted pregnancies, from the very moment of conception – even before the mother realizes that she is pregnant. The newly conceived foetus, from the earliest moments, is completely dependent on its relationship with its mother. It is a being-in/with-community with its mother that is entirely dependent on its mother. And the mother, for her part, in terms of the cosmological dimension of her personhood, is entirely biologically responsible for this other being, even if she is unaware of her pregnancy. Once she becomes aware of the conception, this awareness exists in the subjective, transcendent dimension of her

personhood, and it is rightly oriented towards the perfection of the communion which exists between her and the foetus. It should be quite clear that that communion cannot be perfected in its termination. And it should be clear that the justification of abortion is reliant on an individualist conception of the person; one that puts the focus on the needs and desires of the individual person/mother. And it is in this sense that the famous violinist is set up to produce a certain result: because of its individualist conception of personhood, it is going to produce an individualist result to the question, and that is going to justify abortion. The famous violinist has no relationship with the subject of the thought-experiment, which is set up with a specifically individualist anthropology.

At the same time, there are complexities to the issues of unwanted pregnancies. The state must recognize the subjectivity of the mother, and if she is unable to rear the child, the state must dedicate resources to the rearing of those children by independent third parties.

6.4) A look to the future...

We started this journey by noting that while we were going to explore a conception of the citizen in terms of Ubuntu, we were not committing ourselves to a narrative of return. We never intended to unearth some seemingly perfect and uncorrupted philosophy from a pre-colonial era. What we intended to do was to look to the philosophy of Ubuntu to be inspired for a political philosophy for the future. And we said that the best hope of doing so was to put Ubuntu in conversation with major philosophical debates.

In the analytic tradition, we set up the question. We looked to political philosophy, and specifically, to the still-influential political philosophy of John Rawls. *PL* as a political philosophy was perhaps our best attempt, as a species, at grounding the diverse political arrangement based on human rights. We know from history what we want to avoid – Nazism, apartheid, and others – and we know that the future is diverse – not Pakistan for instance where the law of the country is based on Sharia law. As mentioned, *PL* was a fine attempt at grounding our diverse political arrangement based on human rights, but we undermined *PL* in important ways. It excludes certain categories of human beings and in the end, it faces an as-yet unidentified dilemma: either it is unstable, or it is not neutral. We paid our respects to a fine

attempt and then moved on in search of other ways in which to ground our political arrangement.

We then moved from the analytic tradition to continental Europe – to philosophic personalism, the eclectic movement based on the dignity, subjectivity, freedom and social nature of persons. We said why personalism could save the diverse political arrangement based on human rights which *PL* was thought to have justified, but noted that personalism, specifically in the state of the art form from Juan Manuel Burgos, had problems of its own.

It was at this point that we moved to introduce *UP*, which is a novel reading of both personalism and Ubuntu philosophy. We sketched out a metaphysics and, leaning on relevant parts of the literature, developed a conception of the person. And then finally, we used this conception of the person to ground our political arrangement – based on human dignity and seven basic rights, understood in terms of our *UP* philosophical anthropology.

The political arrangement is an arrangement for persons. The persons we are talking about here are human beings. There may be other persons that we might discover in the future, but we'll cross those bridges when we get there. For now, we note that even though a pride of lions might have some social order with a hierarchy and so on, it is nowhere near what we might call a political arrangement. No, political arrangements are for persons – human persons.

Human persons, in turn, are beings in relation. A person is a person through other persons. Their personhood is constituted in relation. One of the most basic facts guaranteeing my species is that I was born of my mother. And even if a human being were to be formed in a laboratory, that being would be formed with reference and therefore in relation at the level of species to the *homo sapiens* species. From the moment of conception, there is a relational dependency between the foetus and the mother. When the mother becomes aware of her pregnancy, this objective, cosmological reality is perfected and takes on a subjective reality: it is *this* mother who is now pregnant with *this* child; she can talk of “the way *I* feel about *my* child”. And it is precisely these human persons who we are talking of when we talk of the citizens of the political arrangement.

As persons, citizens enjoy many different networks of relationships, starting with the child-mother relationship, then the child-father relationship, child-family, children-friends, and so on, including all religious, cultural and all other social relationships. All these relationships serve to constitute the person in its cosmological dimension. As the child grows and develops, she develops subjectivity and freedom; she develops transcendence, and as a person, this transcendence is rightly oriented when it is directed towards the completion and perfection of its cosmological dimension – those networks of relations which constitute its personhood.

The network of relations constituting the political arrangement is one of those networks of relationship constituting the person, and it is the network of relations constituting the citizen. This is what we mean when we say, the political arrangement is an arrangement for persons. This is where the concepts *citizen* and *person* overlap. And it is here now that we start to see a glimmer of what this citizen might look like.

And now we might, for the last time, note the metaphysical character with which our ubuntu dictum *a person is a person through other persons* has taken. It is a far more intuitive characterisation of the dictum than the rather tendentious moralistic reading of someone like Thaddeus Metz and those who follow him. Yes, metaphysics and ethics intersect in the person, as I have said; but this is first and foremost a metaphysical reality, as we have deduced from the philosophy of Ntibagirirwa.

The citizen, as a human being and as a human person, is a bearer of human dignity. This entitles the citizen to not being treated in certain ways, and it entitles the citizen to equality in the political arrangement. And in giving further expression to this equality, it entitles the citizen to other basic rights such as life and freedom of expression which are necessary for the practical actuation of this human dignity. One of the ways in which this freedom of expression might be actuated is through the establishment of an appropriate system of democratic elections for those who might govern. And these individuals who are in government might, with reference to the basic rights, enact further legislation to regulate the affairs of the political arrangement.

In sum, our political arrangement includes all human beings in the political arrangement – the first piece of intellectual silver and improving on Rawls. Our political arrangement sidesteps the theoretical failings of neutralism and articulates a foundationalist theory of justice – the second piece of intellectual silver and our second improvement on Rawls. Our political

arrangement is not individualist and takes into account in appropriate ways all of what is important – the third piece of intellectual silver and an improvement on the personalism of Burgos. Our political arrangement does not negate agency and subjectivity by steering clear of the kind of collectivism that swallows up the individual – the fourth piece of intellectual silver and an improvement on the relational personalism of John Macmurray. And our system is based on the inherent human dignity which ensures that human beings are not treated in certain ways – the fifth and final piece of intellectual silver. We have sought to give expression to this final point through our list of basic rights, which all serve to ensure that the citizen, based on *UP*, thrives.

The *UP* conception of the citizen is therefore not an attempt to unearth what the individual member of the political arrangement in pre-colonial times might have been. On the contrary, the *UP* conception of the citizen is an attempt at drawing on what the past teaches us and how it might equip us to look to the future.

BIBLIOGRAPHY

Books & Articles

arap Moi, D.T. (1986) *Kanyan African Nationalism: Nyayo Philosophy and Principles*, London: MacMillan

Angier, T. P. S. (2019) The Metz method and ‘African ethics’, in *Debating African Philosophy Perspectives on Identity, Decolonial Ethics and Comparative Philosophy*, ed George Hull, 195 – 209, London and New York: Routledge Taylor &Francic Group

Aristotle (Date Unknown) *On Interpretation*, trans. Edghill, E. M., <https://arquivo.bocc.ubi.pt/pag/Aristotle-interpretation.pdf> Accessed online on 10/06/2025

Beck, S. & Oyowe, O. (2018) Who Gets a Place in Person-Space?, in *Philosophical Papers* (Grahamstown), Vol. 47 (2), pp 183 – 198

Berlin, I. (1991) *Crooked Timber*, New York: Knopf

Brooks, T. (2015) The capabilities approach and Political Liberalism, in *Rawls’s Political Liberalism*, ed Thom Brooks and Martha C. Nussbaum, 139-173, New York: Columbia University Press

Bornman, J. (2017) Life Esidimeni the greatest cause of human right violations since democracy, *Mail & Guardian*, <https://mg.co.za/article/2017-10-09-life-esidimeni-the-greatest-cause-of-human-right-violations-since-democracy/> Accessed 14/07/2023

Burgos, J. M. (2019) Wojtyla’s Personalism as Integral Personalism: The Future of an Intellectual Project, in *Quaestiones Disputatae*, Vol. 9, No. 2, 91-11, Washington D.C.: The Catholic University of America Press

_____ (2022) *Personalist Anthropology: A Philosophical Guide to Life*, Wilmington, DE: Vernon Press

Callaghy, T.M. (1980) State-subject communication in Zaire: domination and the concept of domain consensus, *Journal of Modern African Studies*, 18 (3), 469-492

Camoso, C. C. (2017) the Moral Status of Anencephalic Homo sapiens, in *Contemporary Controversies in Catholic Bioethics, Philosophy and Medicine*, 127, ed. Eberl, J. T., pp. 53- 66, Springer International Publishing

Catechism of the Catholic Church (1995), Kenya: Paulines Publications Africa

Congregation for the Doctrine of the Faith (1987) *Instruction on Respect for Human Life in its origin and on the dignity of procreation Replies to certain questions of the day*, Accessed online on 13/08/24 at https://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_doc_19870222_respect-for-human-life_en.html

_____ (2008) *Instruction Dignitatis Personae On Certain Bioethical Questions*, Accessed online on 13/08/24 at https://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_doc_20081208_dignitas-personae_en.html

Crosby, J. (2016) The Personalism of John Henry Newman as Interpreted Through the Personalism of Karol Wojtyła, in *Newman Studies Journal*, Vol. 13 (2), pp 24 – 39

Dandala, M. (1996) Cows never die: embracing African cosmology in the process of economic growth, in: Lessem, R. & Nussbaum, B. (eds), *Sawubona Africa: Embracing Four Worlds in South African Management*, Sandton: Zebra Press, pp 69-85.

Ereshefsky, M. (2002) Species, in *Stanford Encyclopaedia of Philosophy*, Accessed online on at <https://plato.stanford.edu/entries/species/> on 11/02/2025

Finnis, J. (1980) *Natural Law and Natural Rights*, Oxford: Oxford University Press

_____ (2011) Intentionally Killing the ‘Permanently Unconscious, in *Intention and Identity: Collected Essays Vol. II*, pp. 313-321, Oxford: Oxford University Press

Gade, C.B.N. (2012) “What is Ubuntu? Different interpretations among South Africans of African Descent”, in *South African Journal of Philosophy*, 2012-01, Vol. 31 (3), pp. 484 – 503

Gordon-Roth, J. (2019) Locke on Personal Identity, in *Stanford Encyclopaedia of Philosophy*, Accessed online at <https://plato.stanford.edu/entries/locke-personal-identity/> on 01/08/24

Graness, A. (2018) Becoming a person: personhood and its preconditions, in *Ubuntu and personhood*, ed. Ogude, J., Trenton, New Jersey: African World Press

- Gyekye, K. (1998) Person and community in African thought, in *Philosophy from Africa a text with readings*, ed. P. H. Coetzee, A. P. J. Roux, pp. 317 – 336, South Africa: International Thomson Publishing
- Hobbes, T. (1651) *Leviathan or the Matter, Forme, & Power of a Common-wealth Ecclesiasticall and Civill.*, London: Printed for Andrew Crooke, at the Green Dragon in St Pauls Church-yard, Accessed at <https://historyofeconomicthought.mcmaster.ca/hobbes/Leviathan.pdf> on 13/02/2025
- Hull, D. (1978) A Matter of Individuality, in *Philosophy of Science*, Vol. 45, No. 3, 335-360, Chicago: The University of Chicago Press, Accessed online at <https://www-jstor-org.ezproxy.uct.ac.za/stable/pdf/187022> on 11/02/2025
- Jahn, J. (1990) *Muntu: An outline of neo-African culture*, London: Faber and Faber
- John Paul II (1995) *Evangelium vitae*, Accessed online on 13/08/24 at https://www.vatican.va/content/john-paul-ii/en/encyclicals/documents/hf_jp-ii_enc_25031995_evangelium-vitae.html
- Kagabo, L. (2006) “Alexis Kagame (1912-1981): Life and Thought”, in K. Wiredu (Ed.), *A Companion to African Philosophy*, pp 231 – 242, London: Blackwell
- Kant, I. (2017) Groundwork to the metaphysics of Morals, in *Early Modern Texts*, ed. Bennett, J., Accessed at <https://www.earlymoderntexts.com/assets/pdfs/kant1785.pdf> on 13/02/2025
- Kaunda, K.D. (1966) *A Humanist in Africa: Letters to Collin M. Morris from Kenneth D. Kaunda*, London: Longman
- Kenny, H. (2016) *Verwoerd: Architect of Apartheid*, Jonathan Ball Publishers SA
- Khoza, R. J. (2011) *Attuned leadership: African humanism as compass*, Johannesburg: Penguin Books
- Leydet (2023) Citizenship, in *Stanford Encyclopaedia of Philosophy*, Accessed at <https://plato.stanford.edu/entries/citizenship/#ChalInteDive> on 11/02/2025
- Lewis, D. (1986) *On the Plurality of Worlds*, Oxford: Basil Blackwell Ltd

- Locke, J. (1823) *Two Treatises of Government, In the Former, The False Principles and Foundation of Sir Robert Filmer, and His Followers, Are Detected and Overthrown: The Latter, Is an Essay Concerning the Original, Extent, and End of Civil Government* <https://www.yorku.ca/comninel/courses/3025pdf/Locke.pdf> Accessed 10/06/2025
- _____ (2017) *An Essay Concerning Human Understanding*, ed. Jonathan Bennett, Accessed online at <https://www.earlymoderntexts.com/assets/pdfs/locke1690book2.pdf> on 01/08/24
- Macintyre, A. (1981) *After Virtue*, Notre Dame: University of Notre Dame Press
- Macmurray, J. (1961) *Persons in Relation being the Gifford Lectures delivered in the University of Glasgow in 1954*, London: Faber and Faber Limited
- Mandela, N. (1995) *Long Walk to Freedom*, Randburg, South Africa: Macdonald Purnell
- Maritain, J. (1951) *Man and the State*, Washington D.C.: The Catholic University of America Press
- Marx, K. (1845) *The German Ideology Part I: Feuerbach. Opposition of the Materialist and Idealist Outlook, A. Idealism and Materialism*, Accessed online at <https://www.marxists.org/archive/marx/works/1845/german-ideology/ch01a.htm#2> on 13 February 2025
- Matolino, B. & Kwindigwi, W. (2013) The end of ubuntu, in *South African Journal of Philosophy*, Vol. 32 (2), pp 197 – 205
- Maybee, J. E. (2019) “African philosophy, disability, and the social conception of the self”, in *Debating African philosophy perspectives on identity, decolonial ethics and comparative philosophy*, ed. George Hull, London & New York: Routledge
- Mbiti, J. (1990) *African Religions and Philosophy*, New York: Praeger Publishers
- _____ (2008) *African Religions and Philosophy*, Second Edition, Essex: Heinemann
- Menkiti, I. (1984) “Person and Community in African Traditional Thought”, in *African Philosophy: An Introduction*, ed. R. A. Wright., 171 – 181. New York: University Press of America

- Metz, T. (2007) Towards an African Moral Theory, in *The Journal of Political Philosophy*, Vol. 15 (3), pp. 321-341
- _____ (2011) Ubuntu as a moral theory and human rights in South Africa, in *African Human Rights Law Journal*, 2011-01, Vol.11 (2), pp. 532-559
- _____ (2014a) African values and human rights as two sides of the same coin: a reply to Oyowe, in *African Human Rights Law Journal*, 2014-01, Vol. 14 (2), pp. 306-321
- _____ (2014b) Just the beginning for ubuntu: reply to Matolino and Kwindigwi, in *South African Journal of Philosophy*, Vol. 33 (1), pp 65 – 72.
- _____ (2014c) Ubuntu and public governance
- _____ (2015a) Ubuntu in relation to western political philosophy
- _____ (2015b) Ubuntu and the value of self-expression in the mass media, in *Communicatio South African Journal for Communication Theory and Research*, Accessed at <https://www-tandfonline-com.ezproxy.uct.ac.za/doi/pdf/10.1080/02500167.2015.1093330> on 14/02/2025
- _____ (2016) An African Egalitarianism Bringing Community to Bear on Equality, in *The Equal Society Essays on Equality in Theory and Practice*, ed. Hull, G. pp 203-226, Cape Town: UCT Press
- Molefe, M. (2019) *An African Philosophy of Personhood, Morality and Politics*, Cham, Switzerland: Palgrave Macmillan Cham
- M Mthembu, D. 1996. ‘African values: discovering indigenous roots of management’, in: Lessem, R. & Nussbaum, B. (eds). *Sawubona Africa: Embracing Four Worlds in South African Management*. Sandton: Zebra Press, pp. 215–226.
- Nagel, T. (2003) Rawls and Liberalism, in *Cambridge Companion to Rawls*, ed. Samuel Freeman, Cambridge: Cambridge University Press
- Nkrumah, K. (1964) *Consciencism: Philosophy and Ideology for Decolonization and Development with Particular Reference to the African Revolution*, London: Heinemann
- Nozick, R. (1974) *Anarchy, State, Utopia*, United States: Basic Books
- Ntibagirirwa, S. (2017) “Ubuntu as a Metaphysical Concept”, in *Journal of Value Inquiry*, 52: 113-133, Springer <https://doi.org/10.1007/s10790-017-9605-x> Accessed: 08 June 2024
- Nussbaum, M. (1992) Human Functioning and Social Justice: In Defense of Aristotelian Essentialism, in *Political Theory*, Vol. 20, No. 2, 202-246
- _____ (1999) *Sex and Social Justice*, Oxford: Oxford University Press

- ____ (2000) *Women and Human Development: The Capabilities Approach*, Cambridge: Cambridge University Press
- ____ (2006) *Frontiers of Justice: Disability, Nationality, Species Membership*, Cambridge Massachusetts: Belknap Press
- ____ (2011a) *Creating Capabilities: The Human Development Approach*, Cambridge, MA: Harvard University Press
- ____ (2011b) Perfectionist Liberalism & Political Liberalism, in *Philosophy & Public Affairs*, Vol. 39, No. 1, pp. 3-45 Accessed at <https://www.jstor.org/stable/41301860> on 11/02/2025
- Nyerere, J.K. (1968) *Ujamaa: Essays on Socialism*, London: Oxford University Press
- Oyowe, A. O. (2013) Strange bedfellows: rethinking ubuntu and human rights in South Africa, in *African Human Rights Law Journal*, 2013-01, Vol. 13 (1), p.103-124
- Ramose, B. M. (1999) *African philosophy through Ubuntu*, Harare: Mond Books
- ____ (2003) I doubt, therefore African philosophy exists, in *South African Journal of Philosophy*, Vol. 22 (2), pp 113-127
- ____ (2014) Ubuntu: affirming a right and seeking remedies in South Africa, in *Ubuntu: curating the archive*, ed. Praeg, L. & Magadla, S., Scottsville, South Africa: University of KwaZulu-Natal Press
- Ratzinger, J. (1969) *Introduction to Christianity*, New York: Herder and Herder
- ____ (1991) *Conscience and Truth*, Presented at the 10th Workshop for Bishops February 1991 Dallas, Texas, Accessed online at <https://www.ewtn.com/catholicism/library/conscience-and-truth-2468> on 13/02/2025
- ____ (1996) Truth and Freedom, in *Communio* 23 (Spring 1996), *Communio: International Catholic Review*, Accessed online at <https://web.archive.org/web/20130515224208/http://www.communio-icr.com/articles/PDF/ratzinger23-1.pdf> on 18/07/2024
- Rawls, J. (1971) *A Theory of Justice*, Revised Edition, Cambridge, Massachusetts: Harvard University Press
- ____ (1993) *Political Liberalism*, New York: Columbia University Press
- ____ (1999a) *The Law of Peoples*, Cambridge, Massachusetts: Harvard University Press
- ____ (1999b) *A Theory of Justice*, Revised Edition, Cambridge, Massachusetts: Harvard University Press
- ____ (2001) *Justice as Fairness*, Cambridge Massachusetts: Belknap Press of Harvard University Press

- Raz, J. (1986) *The Morality of Freedom*, Oxford: Oxford University Press
- Rosales, J. M. (2013) Liberalism's Historical Diversity: A comparative conceptual exploration, in *Contributions to the History of Concepts*, Vol. 8, Issue 2, pp 67 – 82
Oxford: Berghahn Books, Inc.
- Schechtman, M. (2014) *Staying Alive: Personal Identity, Practical Concerns, and the Unity of a Life*, Oxford: Oxford University Press
- Senghor, L. S. (1964) *On African socialism*, tr. M. Cook. New York: Praeger
- Shutte, A. (1984) "What makes us persons?", In *Modern Theology*, Vol. 1 (1), pp. 67-79,
Oxford, UK: Blackwell Publishing Ltd.
- _____(1993) *Philosophy for Africa*, Cape Town: UCT Press
- Siedentop, L. (2017) *Inventing the Individual The origins of Western liberalism*, UK: Penguin
Random House
- Slosar, J.P., Repenshek, M. F., Bedford, E. L. & Trancik, E. (2017) Anencephaly and Human
Dignity in the Clinical Context: Reconceptualising Viability and Proportionate
Reasoning, in *Contemporary Controversies in Catholic Bioethics, Philosophy and
Medicine*, 127, ed. Eberl, J. T., pp. 67-82, Springer International Publishing
- Spaemann, R. (2012) *Persons The difference between 'someone' and 'something'*, Oxford:
Oxford University Press
- Taylor, C. (1985) Atomism, *Philosophical Papers, Vol. 2: Philosophy and the Human
Sciences*, pp. 187 – 210, Cambridge, England, Cambridge University Press,
- Tempels, P. (1959) *Bantu Philosophy*, Paris: Présence Africaine
- Thomson, J. J. (1971) A Defense of Abortion, in *Philosophy & Public Affairs*, Autumn, 1971,
Vol. 1, No. 1 pp. 47 – 66 Accessed on 27/07/2024 at [https://www-jstor-
org.ezproxy.uct.ac.za/stable/pdf/2265091](https://www-jstor-org.ezproxy.uct.ac.za/stable/pdf/2265091)
- Tshivhase, M. (2018) "Personhood without ubuntu", in *Ubuntu and Personhood*, ed. James
Ogude, pp. 62 – 78. Africa World Press: New Jersey

Tutu, D. (2000) *No future without forgiveness*, London: Rider Ebury Press Random House

Verbeke, G. (1987) "Substance in Aristotle", in *The Metaphysics of Substance, Proceedings of the American Catholic Philosophical Association*, ed. Daniel O. Dahlstrom, Vol. LXI, pp. 35-51, Washington DC: The National Office of The American Catholic Philosophical Association

Williams, T.D. & Bengtsson, J. O. (2022) Personalism, in *Stanford Encyclopaedia of Philosophy*, Accessed at <https://plato.stanford.edu/entries/personalism/> on 11/02/2025

Wojtyla, K. (1969) *The Acting Person*, Holland: D. Reidel Publishing Company
_____(1993) *Person & Community Selected Essays*, Trans. by Theresa Sandok OSM, New York: Peter Lang

Wood, E. M. (1972) *Mind and Politics: An approaching to the meaning of liberalism and socialist individualism*, California: University of California Press

Dissertations

Seale, W. (2015) *Rawls, the severely cognitively disabled and the person life view*, Bellville: University of the Western Cape, Accessed at <https://uwcscholar.uwc.ac.za/items/11947cda-954f-44f3-9b97-370fa5ca09be> on 13/02/2025

Shutte, M. F. N. (1982) *Spirituality and Intersubjectivity*, Stellenbosch: University of Stellenbosch, Accessed at <http://hdl.handle.net/10019.1/57526> on 13/02/2025

Case law & legislation

Azanian Peoples Organization (AZAPO) and Others v President of the Republic of South Africa and Others (CCT 17/96) [1996] ZACC 16; 1996 (8) BCLR 1015; 1996 (4) SA 672 (25 July 1996) <https://www.saflii.org/za/cases/ZACC/1996/16.html> Accessed 08 June 2024

Constitution of the Republic of South Africa, Act 108 of 1996

Film

Polanski, R. (2002) *The Pianist*, Canal+ Studio Babelsberg StudioCanal

Spielberg, S. (1993) *Schindler's List*, Universal Pictures Amblin Entertainment