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The Concept of the Relational Self

1.1 Introduction

Who am I? That most profound of questions has troubled humans from the time people first began to think. The nature of the self raises complex and puzzling questions. It is not an issue which is only of interest to insomniacs, daydreamers or philosophers. It is of central importance for lawyers. The law's understanding of the nature of the self determines the way legal rights and responsibilities are understood; what goals are set for legal intervention; and the nature of legal proceedings.

It is not the aim of this book to provide a fully argued answer to the question of the self. Not least because the author lacks the ability to do so! Rather, it will explore one particular concept of the self: the relational self. In recent years there has been a growing body of literature on the concept. Sociology,¹ theology,² ethics,³ anthropology,⁴ philosophy⁵ and disability studies⁶ have all explored this understanding of the self. This book will start by explaining the concept of the relational self, and its primary aim is to consider the implications for the law if it were adopted.

1.2 The Traditional Individualised Understanding of the Self

Lawyers tend not to spend much time contemplating the nature of the self. Yet it is a concept at the heart of the law. It is found in the names we give our

¹ P. Donate and M. Archer, *The Relational Subject* (Cambridge University Press, 2015); N. Crossley, *Towards Relational Sociology* (Routledge, 2011).

² M. Pagis, 'Religious Self-Constitution: A Relational Perspective' in C. Bender, W. Cadge, P. Levitt and D. Smilde (eds.) *Religion on the Edge: De-centering and Re-centering the Sociology of Religion* (Oxford University Press, 2012), 92; J. Herring, 'The Vulnerability of God and Humanity' (2018) 180 *Law and Justice* 5.

³ H. Lindemann, *Holding and Letting Go: The Social Practice of Personal Identities* (Oxford University Press, 2014).

⁴ L. Shults, *Reforming Theological Anthropology: After the Philosophical Turn to Relationality* (Eerdman, 2003).

⁵ C. Sedikides, L. Gaertner, and E. O'Mara, 'Individual Self, Relational Self, Collective Self: Hierarchical Ordering of the Tripartite Self' (2011) 56 *Psychological Studies* 98.

⁶ S. Reindal, 'A Social Relational Model of Disability: A Theoretical Framework for Special Needs Education?' (2008) 23 *European Journal of Special Needs Education* 135.

cases: *Smith v. Jones* indicates there is a person called Smith who is claiming against another called Jones. In criminal cases the whole process is based on the idea the defendant is a self who can be held to account for what they have done in the past: that they are the same person in court and when they are punished as they were when they committed the crime. The law assumes that there are individual human beings who can be given legal rights and responsibilities. Further, the nature of those rights, interests and responsibilities reveals our understanding of what is important about the self. The understanding of what a person is, what is important to people and how people flourish will powerfully influence what we consider to be good law. This book will argue that understanding the self in relational terms means a very different set of rights, values and interests will be at the heart of the law, compared with more individualised understandings of the self.⁷

I will start by exploring features of the traditional understanding of the self, before exploring the relational understanding.

1.2.1 The Self as Unique

Hans Joas⁸ refers to the self as one of social science's greatest discoveries. The separation of human beings into separate individual selves means that we recognise the different interests, claims and personalities of each one. It recognises each person is unique. Martha Nussbaum⁹ explains why she believes the individual should be the basic unit for political thought:

It means, first of all, that liberalism responds sharply to the basic fact that each person has a course from birth to death that is not precisely the same as that of any other person; that each person is one and not more than one, that each feels pain in his or her own body, that the food given to A does not arrive in the stomach of B.

Someone's personal identity in this sense consists of those features she takes to 'define her as a person' or 'make her the person she is'.¹⁰ Crucially, it identifies those features that make her different from others. By the law taking seriously the nature of the unique self it avoids a person being seen as merely part of a group, with no regard for what makes them different. It means, for example, when a court in a family case decides what order will promote a child's welfare, it can consider the interests, character, family situation and relationships of the particular child before it, rather than rely on generalisations about what is

⁷ E. Olson, 'Self: Personal Identity' in W. Banks (ed.) *Encyclopaedia of Consciousness* (Elsevier Academic Press, 2009).

⁸ H. Joas, *The Genesis of Values* (Polity Press, 2000).

⁹ M. Nussbaum, *Sex and Social Justice* (Oxford University Press, 1999), 62.

¹⁰ E. Olson, 'Personal Identity' in E. Zalta (ed.) *Stanford Encyclopaedia of Philosophy* (Stanford University, 2015), 1.

generally good for children.¹¹ Treating people without regard for their individual situations and characteristics will exacerbate the disadvantages that exist in society for those who differ from the norm. The feminist literature on the male norm is a good example of how a law that fails to recognise difference perpetuates inequality.¹²

1.2.2 The Self over Time

The traditional concept of the self captures the idea that there is a significant link between the entity that existed in the past and the entity that exists now. The Jonathan who acted a year ago, the Jonathan who acts now and the Jonathan who acts in the future have a morally significant connection. We certainly live as if that is true. We save now to spend later; exercise now to keep healthy later; even create now a legacy for when we die. Similarly, we feel ourselves responsible for our past acts. We apologise, seek to compensate or take credit for past actions. This all reflects a belief in the self which exists over time.

Clearly, the concept of self over time is significant for lawyers. Criminal law punishes the person today for acts they did in the past. Under contract law the person today is bound by the promise they made a month ago. And a person who produces an advance directive is seeking to influence how they will be treated in the future if they lose capacity.¹³ Similarly, when a decision has to be made about a person who is no longer able to make decisions for themselves, a particular focus on the values that the person used to have is generally seen as appropriate. For example, if a lifelong ardent vegetarian has now lost capacity, it seems appropriate to respect their earlier wishes and not feed them meat.¹⁴ In all these examples, we see the person in the present as responsible for and linked to the person they were in the past, and as having some rights to determine what will happen to them in the future. That is because they are sufficiently morally connected: they are the same (or essentially the same) self.

1.2.3 The Self, Property and Bodies

The concept of the self is also used to explain a separation between things which are mere 'property' and things which are our 'self'. Those things that relate to the self have particular importance and value. For example, if someone ran off with my slippers, it would be different from them running off with my hand. That is because the latter is more closely connected to the self. The right to bodily integrity is one of the most strongly protected

¹¹ *Re B (A Child)* [2009] UKSC 5.

¹² For example, N. Naffine, *Criminal Law and the Man Problem* (Bloomsbury, 2019).

¹³ Olson, 'Self: Personal Identity'.

¹⁴ *Ahsan v. University Hospitals Leicester NHS Trust* [2006] EWHC 2624 (QB).

rights that one can have. Jesse Wall and I have argued that the right to bodily integrity

is non-reducible to the principle of autonomy. Bodily integrity relates to the integration of the self and the rest of the objective world. A breach of it, therefore, is significantly different to interference in decisions about your body. This explains why interference with bodily integrity requires justification beyond what will suffice for an interference with autonomy.¹⁵

This leads to a broader consideration of the relationship between the self and the body. The kind of thought experiment commonly used to encourage people to start thinking about the nature of the self is to imagine that persons A and B have their brains removed and person A's brain is put into person B's body. The resulting person will have the memories and values of person A but the body of person B. Are they person A or person B? Should the new person be responsible for the crimes or debts of person A or B or both or neither? Which person should own the property that previously belonged to A or B? If either A or B had issued an advance decision about what should happen to them does this bind the new person?

Many people struggle with these questions. The theory of Cartesian Dualism, that the self was located in the mind, which used the body as a machine, or that the self was a pearl seated inside a shell (the body), has few supporters today.¹⁶ Our bodies are commonly seen as having a close connection to our identity. Neuroscience shows that the mind cannot be seen as simply a thing living in a body.¹⁷ Our minds, consciousness and emotions react to and reflect changes throughout the body. Bodies reflect and partly constitute the self, although quite how this is understood varies greatly. This explains why we struggle with the switching head issue raised in the previous paragraph. The self involves both mind and body. The weight the law attaches to bodily integrity, as discussed in the previous section, reflects the law's acceptance of the special connection of the self to the body.

1.3 Theories of the Individual Self

1.3.1 The Bodily Self

One understanding of the individual self is to conceive of it in bodily terms. Your body is the same now as it was then, maybe with a bit of extra fat or a little less hair! Your body now is similar to the body you will become. This theory is sometimes called animalism: that we should be understood as

¹⁵ J. Herring and J. Wall, 'The Nature and Significance of the Right to Bodily Integrity' (2017) 76 *Cambridge Law Journal* 566.

¹⁶ H. Robinson, 'Dualism', <https://plato.stanford.edu/entries/dualism> [accessed 1 February 2019].

¹⁷ B. Hood, *The Self Illusion* (Constable, 2012).

biological organisms.¹⁸ The continuity of the self is found in terms of biological continuity. Aristotle is perhaps the best known holder of this view.¹⁹ But it is not convincing. Our bodies are constantly changing. Prosthetics and organ transplants offer replacement parts, without surely changing the essential nature of the self. Old bits of us fall off and new pieces grow. In purely biological terms, little of us exists now that did so at the time of our birth.²⁰ Our bodies contain countless non-human organisms that are crucial to our being.²¹ The image of the constant body is a false one. Further, most people would want to see there being more to their sense of identity than their biological material.

1.3.2 The Psychological Self

'I think therefore I am,' Descartes famously declared.²² This reflects a more popular theory in contemporary thought than the bodily self, namely, that psychological constancy constitutes the self. This view emphasises that our values, memories and personalities persist over time. While these will change and develop, there is a degree of consistency about these things which creates a unique sense of identity and self. Hume argued that we are 'bundles of mental states and events'.²³ We are made not of cells or atoms, but memories. We are processes and events, rather than substances: more like a theatre production than a static entity.

This approach has its appeal, but it is not without its difficulties. Were Dr Jekyll and Mr Hyde two persons or one?²⁴ Is a person who undergoes a religious conversion (or complete loss of faith) and has an utter change in behaviour and values a different person or the same? These questions show the problems with relying on psychological continuity for the essence of the self. The emphasis on memory can have some strange consequences. Eric Olsen gives this example:

Suppose Charlie's memories are erased and replaced with accurate memories (or apparent memories) of the life of someone long dead – Guy Fawkes, say. Ought we to conclude, on the basis of memory evidence, that the resulting person is not Charlie but Guy Fawkes brought back to life, or ought we instead to infer from the absence of physical continuity that he is simply Charlie with memory loss?²⁵

¹⁸ P. Snowdon, 'Persons, Animals, and Ourselves' in C. Gill (ed.) *The Person and the Human Mind* (Clarendon Press, 1990).

¹⁹ E. Olson, *The Human Animal: Personal Identity without Psychology* (Oxford University Press, 1997).

²⁰ J. Herring and P.-L. Chau, 'My Body, Your Body, Our Bodies' (2007) 15 *Medical Law Review* 34.

²¹ J. Herring and P.-L. Chau, 'Interconnected, Inhabited and Insecure: Why Bodies Should Not Be Property' (2014) 40 *Journal of Medical Ethics* 39.

²² R. Descartes, *Discourse on Method* (1637).

²³ D. Hume, *Treatise of Human Nature* (Clarendon Press, 1978, original work 1739).

²⁴ E. Olsen, 'Was Jekyll Hyde?' (2003) 66 *Philosophy and Phenomenological Research* 328.

²⁵ E. Olson, 'Self: Personal Identity'.

There is also a concern that the psychological self over-emphasises the mental aspect of our identity. It makes no reference to our bodies. This seems to enforce Cartesian Dualism, which draws a sharp distinction between the body and mind, and sees the body as simply a tool for the self. This approach is, as already mentioned, very unpopular in much contemporary thought. Our sense of self and the nature of our bodies are closely entwined.²⁶ Our bodies dictate how we are treated, disadvantaged, benefited and categorised by society. Disability, looks, sexuality, age, physical shape and race all have profound impacts on the choices we have open to us and that we can make.²⁷

The emphasis on psychological continuity is also problematic for cases where a person has a cognitive impairment. Quite clearly, there can be problems with its application in a case where a person's condition means they do not have a coherent set of memories, values and beliefs. But more significantly, it also appears to elevate cognition as a core element of the human self. And a particular form of cognition: one based on rationality, coherence and belief. This sends an implied message that those incapable of these forms of cognition are not properly human selves.

1.3.3 The Soul

One can begin to see why religious writers have developed the concept of a soul as an eternal self.²⁸ This much discussed concept is somewhat opaque. It is generally seen as the essence of the self. It is not restricted to the body, but is more than mere thoughts and memories. It is not necessarily a religious concept, but most of the writing on the soul is found in theology. Plato, Descartes and Leibniz all supported concepts of the soul outside of a formal theological context.²⁹ Plato suggested the soul should be seen as having three parts:

1. The logos (reason), which directs and balances the competing desires in the self with reason.
2. The thymos (emotion), which drives us to act for emotional reasons in acts of bravery or love.
3. The pathos (carnal appetites), which drives people to meet bodily needs and passions.

Under this model, things go wrong for a soul when their logos fails to control either the thymos or pathos and the person becomes out of control through emotions or bodily desires. As can be seen, this understanding of the soul involves the integration of the mind and the body.

²⁶ Herring and Wall, 'The Nature and Significance of the Right to Bodily Integrity'.

²⁷ D. Rhodes, *The Beauty Bias* (Oxford University Press, 2011).

²⁸ R. Swinburne, *The Evolution of the Soul* (Oxford University Press, 1984), 21.

²⁹ Ibid.

Capturing a definition of the soul in modern terminology has proved problematic. The soul has been defined as ‘the inner essence of a being comprising its locus of sapience (self-awareness) and metaphysical identity’.³⁰ Generally, it is taken that souls are immortal and survive death. Hence, they are regarded as incorporeal and can be separated from bodies. Clearly, the concept of the soul has significance in the hope it offers for those who believe in an afterlife. It can also have significance to the present, as it offers an idea there is an ‘essential you’ and that wrongful acts can be dismissed as an aberration not reflecting the true self (the soul). It also offers coherence to one’s life: despite all the ups and downs, changes and similarities, there is an essential you which is at the core of it all.

Although presented as three models (the self as the body, the self as mind and the soul), it is possible to combine these approaches.³¹ There is an extensive literature on the individual self. As the focus of this book is on developing the theory of the relational self, I will not develop these theories further, but rather focus more on the objections to these traditional models and developing the concept of the relational self.

1.4 A Rejection of the Individual Self

A significant body of writing rejects the conception of the individual self. Ngaire Naffine writes:

We can think of human beings as discrete individuals, fully independent of one another and preferring it that way, because others cause worry: they pose a threat to property and personal security. Such nervous, self-isolating beings need law to keep others at bay. They do best – are most autonomous, even happy – when left to their own devices. This way of thinking about persons may seem quite natural because it has been so influential in our Western liberal legal and political tradition.³²

However, she explains that image of the self is a caricature. No one can, in fact, survive without the practical, emotional and psychological support of others.

One powerful line of critique of the concept of the individual self has come from feminist writing. Simone de Beauvoir boldly declares: ‘He is the Subject, he is the Absolute – she is the Other.’ The claim is that the assumptions about the self in law, politics and wider culture are based on a male norm.³³ Cynthia

³⁰ New World Encyclopaedia contributors, ‘Soul’. *New World Encyclopaedia*, www.newworldencyclopedia.org/p/index.php?title=Soul&oldid=1007531 [accessed 31 January 2019].

³¹ C. Sedikides and M. Brewer, ‘Individual Self, Relational Self, and Collective Self Partners, Opponents, or Strangers?’ in C. Sedikides and M. Brewer (eds.) *Individual Self, Relational Self, Collective Self* (Psychology Press, 2002), 1.

³² N. Naffine, ‘The Liberal Legal Individual Accused: The Relational Case’ (2014) 29 *Canadian Journal of Law and Society* 123.

³³ D. Meyers (ed.) *Feminists Rethink the Self* (Westview Press, 1997).

Willett, Ellie Anderson and Dianna Meyers³⁴ argue that ‘the self is a free, rational chooser and actor – an autonomous agent’ and that those who do not live up to this are seen as not being real people. They explain:

Since women have been cast as lesser forms of the masculine individual, the paradigm of the self that has gained ascendancy in U.S. popular culture and in Western philosophy is derived from the experience of the predominantly white and heterosexual, mostly economically advantaged men who have wielded social, economic, and political power and who have dominated the arts, literature, the media, and scholarship. As a result, feminists have not merely perceived the self as a metaphysical issue but have also drawn attention to its ethical, epistemological, social, and political imbrication.

The privileged white male-dominated influence mentioned in the quote is not explicitly acknowledged in definitions of the individual self. However, it is apparent in many practical manifestations of these definitions. The highly influential Kantian writing on the self imagines a person who finds absolute moral values through the power of rational thought. Similarly, the ‘homo economicus’ of mainstream economics is driven by reason to rank and maximise desire satisfaction. These highly influential understandings of the self do reflect a particular understanding of what a self is. They imagine a self free from relationships and society who strives for moral or economic perfection through rationality. There is no discussion of relationships; indeed, if anything, these are seen as threatening objectivity. For example, Kant expressed concern that social and emotional bonds could undermine a rational commitment to duty. They could cause a person to defy their rational obligations by focusing on their caring responsibilities. Similarly, the person who complies with their relational responsibilities fails to act in line with self-interest and self – wealth maximisation. That undermines the expectations that underpin traditional economic analysis. These individualistic models also play down the role of emotions and ignore the ‘complexity of the dynamic, intrapsychic world of unconscious fantasies, fears, and desires’.³⁵ The focus on rationality underplays the worries, prejudices, unwanted desires, ambivalences and fears that are central to human experience.

So, the definition of the individual self presupposes and privileges a particular class of humans. As Willett, Anderson and Meyers put it:

Although represented as genderless, sexless, raceless, ageless, and classless, feminists argue that the Kantian ethical subject and homo economicus mask a white, healthy, youthfully middle-aged, middle- or upper-class, heterosexual, male citizen.³⁶

³⁴ C. Willett and E. Anderson, ‘Feminist Perspectives on the Self’ (*Stanford Encyclopaedia of Philosophy*) <https://plato.stanford.edu/entries/feminism-self/> [accessed 1 February 2019].

³⁵ C. Willett and E. Anderson, ‘Feminist Perspectives on the Self’ (*Stanford Encyclopaedia of Philosophy*) <https://plato.stanford.edu/entries/feminism-self/> [accessed 1 February 2019].

³⁶ Ibid.

The image of the self as in its nature governed by rationality, self-direction and self-sufficiency meant that caring work and relating to others were subservient aspects of the self. As Willet et al. put it: ‘To identify the self with the rational mind is, then, to masculinize the self.’³⁷ They go on to explain:

The masculine realm of rational selfhood is a realm of moral decency – principled respect for others and conscientious fidelity to duty – and of prudent good sense – adherence to shrewd, fulfilling, long-range life plans. However, femininity is associated with a sentimental attachment to family and friends that spawns favoritism and compromises principles. Likewise, femininity is associated with immersion in unpredictable domestic exigencies that forever jeopardize the best-laid plans and often necessitate resorting to hasty retreats or charting new directions. By comparison, the masculinized self appears to be a sturdy fortress of integrity. The self is essentially masculine, and the masculine self is essentially good and wise.³⁸

Further, the individualised notion of the self, as bounded and self-contained, encourages the promotion of self-reliance and independence. The self should be directing his efforts to doing all he can do to maximise personal gain. As Lorraine Code writes:

His independence is under constant threat from other (equally self-serving) individuals: hence he devises rules to protect himself from intrusion. Talk of rights, rational self-interest, expediency, and efficiency permeates his moral, social, and political discourse.³⁹

The problems with this individualised conception of the self can be summarised as follows. First, they fail to recognise the reality that relationships and caring responsibilities, far from being impediments to the self, are core to people’s identity. As Willett and Anderson ask:

Who models this free, rational self? Although represented as genderless, sexless, raceless, ageless, and classless, feminists argue that the Kantian ethical subject and homo economicus mask a white, healthy, youthfully middle-aged, middle- or upper-class, heterosexual, male citizen. On the Kantian view, he is an impartial judge or legislator reflecting on principles and deliberating about policies, while on the utilitarian view, he is a self-interested bargainer and contractor wheeling and dealing in the marketplace. It is no accident that politics and commerce are both domains from which women have historically been excluded. It is no accident, either, that the philosophers who originated these views of the self typically endorsed this exclusion. Deeming women emotional and unprincipled, these thinkers advocated confining women to the domestic sphere where their vices could be neutralized, even transformed into virtues, in

³⁷ Ibid.

³⁸ Ibid.

³⁹ L. Code, *What Can She Know?: Feminist Theory and the Construction of Knowledge* (Cornell University Press, 1991), 77–78.

the role of empathetic, supportive wife, vulnerable sexual partner, and nurturant mother.⁴⁰

We will explore this further when developing the concept of the relational self.

Second, the model of the individual self privileges male interests and diminishes or denies women's sense of self. There is a long history of women being presented as weaker or inadequate versions of men, and these differences being used to justify subordination of women.⁴¹ Indeed, the caring and relational values are used to produce legal structures which oppress women. Hence, we can see pregnant women treated as 'fetal container'⁴² and forced to have medical procedures solely to benefit the foetus. Similarly, legal doctrines assume a wife's identity is subsumed with her husband's on marriage.⁴³

Third, more broadly, the traditional visions of the self promote an ablest, classist and racist vision of the white able-bodied male as the norm around which to develop an understanding of the self. As Clifford Geertz, a renowned anthropologist, notes:

The Western conception of the person as a bounded, unique, more or less integrated motivational and cognitive universe, a dynamic center of awareness, emotion, judgment, and action organized into a distinctive whole and set contrastively both against other such wholes and against a social and natural background is, however incorrigible it may seem to us, a rather peculiar idea within the context of the world cultures.⁴⁴

Fourth, there are concerns about the consequences of taking the individualised version of the self. Kenneth Gergen writes:

If what is most central to me is within me – mine and mine alone – then how am I to regard you? At the outset, you are fundamentally "other" – an alien who exists separately from me. I am essentially alone; I come into the world as an isolated being and leave alone. Further, you can never fully know or understand my private world, for it is never fully available to you, never fully revealed.⁴⁵

As he argues, the image of the individualised self leads to self-doubt, distrust of others and a crisis of self-esteem. Worse still, 'If the self is the centre of one's existence, and one can never fully know or trust another, then our primary mission must be to "look out for number one"!'⁴⁶ This can lead to what

⁴⁰ C. Willett and E. Anderson, 'Feminist Perspectives on the Self' (*Stanford Encyclopaedia of Philosophy*) <https://plato.stanford.edu/entries/feminism-self/> [accessed 1 February 2019].

⁴¹ Ibid.

⁴² L. Purdy, 'Are Pregnant Women Fetal Containers' (1990) 4 *Bioethics* 273.

⁴³ J. Herring, 'No More Having and Holding: The Abolition of the Marital Rape Exemption' in S. Gilmore, J. Herring and R. Probert (eds.) *Landmark Cases in Family Law* (Hart, 2011), 212.

⁴⁴ C. Geertz 'From the Native's Point of View: On the Nature of Anthropological Understanding' (1974) 28 *Bulletin of the American Academy of Arts and Sciences* 26.

⁴⁵ K. Gergen, *An Invitation to Social Construction* (Sage, 2015), 94.

⁴⁶ Ibid., 95.