Welcome back to our second conversation about John Locke and his theory of persons and personal identity. We talked last time about some general issues regarding Locke’s views on identity and on conditions of identity, and we discussed his ideas about the identity of simple atoms and compounds and living things and machines. Today I want to get to his views on personal identity and on the role that personal identity plays in his philosophy.

Now, Locke is going to define a person as a thinking being conscious of his or her thoughts. It is in one’s thoughts and in one’s consciousness that one’s identity as a person lies. He’s very straightforward about this. If you look on pages 448 to 449 of your readings, he says very clearly, quote — this is in paragraph 11:

We must consider what person stands for which I think is a thinking, intelligent being that has reason and reflection and can consider itself as itself, the same thinking thing in different times and places. Which it does only by that consciousness which is inseparable from thinking and, as it seems to me, essential to it.

So the idea here is that who you are as a person is to be identified with your conscious life, with your states of mind, with your thoughts, your feelings — those states of mind that are conscious and that are most personal.

And so if we think about how Locke talks about the identity conditions of human beings on the one hand -- animals, plants, machines and human beings on the one hand and persons on the other, we see a certain symmetry. So if you remember, animal/plant/machine/human identity lies in a continuing functioning life over time. Well, I guess in the case of a machine it wouldn’t be a life. But a continuing set of functions over time. So in all of these cases you have a collection of physical parts, whether it be organs, limbs, machine parts, etc., which are organized together for a certain purpose that continues on over time. In the case of a living organism it’s a life.
In the case of a machine it’s a set of functions. But in any case, the identity of that thing then lies in the continuation of those functions and the continuation of that life, not in the continuation of any one of the parts. So if your dog loses a limb in an accident or if you replace the monitor on your computer, it is still the same dog and it is still the same computer because its identity does not lie in the collection of its parts but rather in the organization of the parts and the function to which that organization contributes.

We have a similar parallel view when it comes to personal identity. All of the thoughts, feelings, emotions, and other conscious mental states that are in your mind work together to form this person. And so long as that conscious life — so long as that mental life continues over time, it remains the same person even if any of those individual parts changes.

So, for example, when I — I’m sure this is true for a lot of you. When I was younger, there were lots of foods I didn’t like. So if you’d ask me when I was 12 years old, “Well, do you like blue cheeses? Do you like ripened cheeses?” I would’ve said, “No, I hate ripened cheeses.” That attitude — that particular taste would’ve been a part of my personhood at that time. Now I live ripened cheeses. I love blue cheeses. And so you can say, “Well, you’re not the same person as you were then because this attitude is changed. You’re no longer the same conscious entity as you were when you were 12 years old.” But Locke would say, “Well, look. The issue is not whether every single mental state in a person’s mind remains the same over time, but the same conscious life is continuing on over time.” Therein is where personal identity lies.

And so as a sort of a general principle of personal identity, Locke’s view is that so long as the same conscious life persists, the same person exists. So long as the same conscious life persists, the same person exists. Now, our primary evidence — you might ask, “Well, how do you know whether or not you’re the same person that you were 20 years ago? How do you know whether the same conscious life exists now at
T2 as did in the past at T1?” Locke says that our primary evidence that the same conscious life is going on now at T2 that went on before at T1 is memory. That is, the evidence that one is the same person that one was before lies in one’s memory. Locke says, “So long as the person at T2 can remember the conscious states of the person at T1, they’re the same person.”

Now, of course this can’t be a rigid or exceptionalist principle because there are gaps in people’s memories. It would certainly be counterintuitive and it would certainly go against our common ways of thinking and speaking about personal identity to suggest that for every lapse in memory there is a gap in one’s personal identity. So the fact that I can’t remember everything that I thought, felt, believed two weeks ago doesn’t mean I’m not the same person as I was two weeks ago.

And so we might want to tinker with Locke’s criterion of personal identity a little bit and say something like this. I’m gonna give sort of a reformulated principle. A person X at T2 is the same person as Y at an earlier time, T1, if and only if X could in principle remember the thoughts and experiences of Y. So what this does is it allows for the possibility and of course the actuality of gaps in memory while preserving a notion of personal identity that meets with common sense while at the same time ruling out instances where it would seem clear that personal identity would not be preserved. So I can be the same person as I was two weeks ago, even though I can’t remember certain things that I thought, felt, believed two weeks ago. But I couldn’t be the same person, say, as Napoleon Bonaparte because I couldn’t even in principle remember the thoughts, feelings, beliefs, experiences of Napoleon Bonaparte two or three hundred years ago, or whenever he was rampaging across Europe.

So this amended principle is going to be Locke’s principle of personal identity. He gives a short statement of it on page 451. This is the continuation to paragraph 12 from page 450. So 451, quote:
As far as any intelligent being can repeat the idea of any past action with the same consciousness it had of it at first, and with the same consciousness it has of any present action, so far it is the same personal self. For it is by the consciousness it has of its present thoughts and actions that it is self to itself now. And so will be the same self as far as the same consciousness can extend to actions past or to come.

Let me say one more thing about Locke’s conception and principle of personal identity before I move on to talking about the relationship of his notion of personhood and personal identity to moral and legal questions, which is his primary interests in the concept. And that is to point out that nothing that Locke has said or nothing that Locke will say carries any dualistic implications. In other words, nothing Locke has said thus far or will say to come implies anything about the dualism of mind and body in the way that Descartes understands it. That is, for Locke — Locke’s person is not necessarily or need not be a distinct, separate entity from his human being. Remember, he’s got — he wants to say there are two important concepts. There’s the concept of a human being on the one hand and there’s a concept of a person on the other. Both of these concepts will apply to any individual human being. So I satisfy both the description human being and the description person. But it is not the case or need not be the case that each of those words, human being and person, refer to a different entity within this discrete individual.

That is, for Locke these are merely two different ways of describing the same thing. Now, that does not mean that these two ways of describing the same thing are merely semantic variants. It does not mean that they’re synonymous or that you can simply interchange one word for another in any context. For Locke, these two different descriptions carry very different implications. That is, it’s going to make a big difference whether someone can be described — whether an individual can be
described as a person or not. And it’s gonna make a big difference whether — in other words, you may have a situation in which the term *same human being* applies to an individual, but *same person* does not apply to that individual. These are going to be important cases in moral and legal contexts and all of this will become clear as we move forward.

I want to make it very clear that for Locke the distinction between human beings and persons — the fact that in any individual, both terms may apply. Or, in some cases, only one term or the other may apply. Does not have dualistic implications, does not imply that the mind and body are separate, does not imply that we have a non-physical soul, does not imply any of the things that we find in Descartes’ theory of persons and personal identity.

Locke says this in a number of places. If you look on page 450 towards the bottom of the page, he says, quote: “The question being what makes the same person and not whether it be the same identical substance which always thinks in the same person, which in this case matters not at all.” And he says the same thing in other places as well but I don’t want to read too many quotations.

If you look at page 458 he says — at the bottom in paragraph 19, quote: “Self is that conscious thinking thing, whatever substance made up of, which is sensible or conscious of pleasure and pain, capable of happiness or misery, and so is concerned for itself as far as that consciousness extends.” So Locke is pretty clear that he has no dualistic ideas in mind in introducing this distinction between human beings and persons.

Indeed, for Locke the word *person* is an essentially forensic term, meaning it’s a moral and legal term. It’s a term that we use to refer to individuals when we want to refer to them under a moral or a legal description, when we want to speak of them in ways which have moral and legal implications.
Locke says very clearly that it is only insofar as we are persons that moral and legal obligations and prerogatives apply to us. That is, it is only insofar as we are persons that we have duties to others and that we deserve consideration — certain sorts of consideration from others. That’s what he says on page 459, paragraph 20, quote: “In this personal identity is founded all the right and justice of reward and punishment.”

I’m gonna give two examples that sort of illustrate this point and hopefully will serve to clarify it. These are gonna be examples in which responsibility, either moral or legal, I think would be considered by most of us to be diminished. In other words, they are contexts in which we would want to say that despite that an individual human being has done something wrong, that nonetheless they are of diminished responsibility because they are either of diminished personhood or we have an instance in which there is absent personhood. Let me give the two examples and then I think this will become clearer.

Let’s take an example, a most extreme example, of absent personhood and it’s gonna be a bit of a fanciful example but it’s one that’s designed to illustrate the point. Suppose that I kidnapped someone and hypnotized them, and then sent them to rob a bank. So I grab this poor unsuspecting person off the street, I throw them in the back of the car, I take them somewhere and hypnotize them. I then instruct them to go and rob a bank. Suppose that this person goes and robs the bank, and then is promptly caught.

Suppose further that the plot is revealed, that the police find out that this person — that this individual — I should use the word *person*. In a lecture like this it’s gonna matter whether we use the word *person* or *human being*. Let’s say the police find out that this individual was acting under my hypnotic control. I think clearly all of us would want to say that this individual is not culpable for the crime in the same way that he
would’ve been had he simply on his own gone into a bank and robbed it.

Now, a question arises. Well, why isn’t he? I mean, you can imagine two scenarios. In one scenario this individual simply walks into a bank because he wants money and says, “Okay. Stick ‘em up. Give me your money.” The second scenario is the one we described where I kidnap the man because I want money, and I hypnotize him and I send him into the bank. But we can imagine that the two actions are identical. That is, in both cases this individual human being walked into a bank, pointed a gun at the teller, demanded money. If the only concept that we have to describe this individual is the context of a human being and if responsibility, both moral and legal, applies to him insofar as he is a human being, then there is no way to explain why he is culpable in one instance and not culpable in the other. He is as much the same human being that robbed the bank in the second case as he is in the first.

So let’s be clear about what it is we’re trying to explain. I think we all have the common intuition that the man who robbed the bank under hypnosis is not culpable for what he has done in the way that the man who robbed the bank in a sound frame of mind is. And yet, from the standpoint of human being, the cases are not interestingly different. In both cases this individual human being robbed a bank.

What Locke wants to say is that what explains the difference, what explains why we think that in the first case the man is culpable but in the second case he is not, is not because his humanhood — not a word — is absent but because his personhood is absent. He may be the human being that committed the crime but he is not the person that committed the crime. I am the person that committed the crime. I’m the person, the one who programmed him, who hypnotized him and sent him to rob a bank.

Now, we can give less fanciful examples for this. We can imagine that someone sleepwalks. And suppose that this person, this individual, has taken all the precautions that one can take with respect to sleepwalking — that is, he’s not — what he does is not
the result of recklessness or negligence. So we can suppose that he’s got all the safeguards in place that are reasonable to expect of a human being, but that indeed he manages to get out of his room while sleepwalking. He walks up onto the roof and knocks a flowerpot off of the ledge which falls down below and lands on someone’s head and kills them. Again, I think that most of us would agree — most of us would conclude that this individual does not have the same kind of responsibility, morally or legally, for what has happened as would one who was awake. And who had done it either deliberately or out of some sort of negligence.

Again, it’s because — not because of anything to do with the individual under the description of being a human being. In that case, the two cases would be identical. In both cases the same individual human being knocked a flowerpot off of a ledge and killed someone down below. No. The reason why we react differently to each of the cases, the reason why we think there’s culpability in one and no culpability or diminished culpability in the other is because of either — of some sense of either absent or diminished personhood.

Actually, Locke gives an example like this. He gives an example with a sleepwalker. If you look on page 460, paragraph 21, he says, quote: “To punish Socrates’ waking for what sleeping Socrates thought, and waking Socrates was never conscious of, would be no more of a right than to punish one twin for what his brother twin did whereof he knew nothing. Because their outsides were so like that they could not be distinguished for such twins have been seen.” Unquote.

So he gives an explicit example in terms of — well, how we would we treat someone — something that someone had done while he was sleepwalking versus something that they’d done while they were awake. He said, “Look. We’d have to treat them differently. In the case of sleepwalking we would have a case of either absent or diminished personhood, and rights and responsibilities accrue to us insofar as
we are persons, not insofar as we are merely human beings.” So it’s under that personal description rather than under the biological description that all of our rights and obligations arise and are ascribed.  

Another example of diminished personhood that I think is sort of good to bring out because it reflects actual legal practice. We have to understand that this notion of personhood and of responsibility and prerogatives attaching to personhood is reflected in our moral and legal practice. That is, the way we engage in moral and legal judgment is heavily influenced by these ideas about where responsibility and prerogatives attach, at what level of description prerogatives and responsibilities attach, and what role absent and diminished personhood plays in the ascription of those obligations and prerogatives.  

So another example that I like to give are examples of diminished personhood. For example, we don’t hold minors responsible either morally or legally for wrongs that they commit in the same way that we do for adults. At least that has been traditionally our practice. Now, I know that there’s a number of initiatives going across the country in a number of states which are handing down more adult punishments for juvenile offenders. But this is something, I think, that we really have to think very hard about. And that is there is a reason why we don’t hold children and minors responsible for their actions in the same way that we do adults and that is because we are generally of the view that children and minors suffer some sort of diminished personhood. That is, they’re not fully developed as persons. Their conscious life is not fully matured. Their capacity to reason, to exercise judgment, is not fully developed,  

Notice this holds true not only on the side of responsibility but also on the side of prerogatives. We don’t allow children to vote. We don’t allow children to make contracts. We don’t allow children to enlist in the military. We don’t allow children to enjoy a number of benefits and prerogatives, and engage in a number of self-beneficial
activities that we allow adults to engage in, also because we believe that children are of diminished personhood.

There is a bit of a — if I may comment for a minute on this move towards treating juveniles like adults in the courts and in the prisons, there is a bit of schizophrenia about this. It's either a bit schizophrenic or reflects an inability to think logically, right? The very same reason why we don't let children vote is the reason why we don't treat them like adults in prison. In both cases, either in the case of a prerogative on one hand or in the case of a responsibility on the other, we believe that children do not have the developed personality to either enjoy these benefits or to suffer these punishments.

And so as long as we're not inclined to allow children to make contracts and to allow children to vote or to drive cars, or to do any number of things that we think they ought not do because they suffer diminished personhood, I don't see then how we can turn around and say, “Oh, but they should be punished the way we punish adults. They should be held accountable for wrongdoing in the way that we hold adults accountable for wrongdoing.”

And the same goes for mental illness and for diminished mental capacity -- what used to be called mental retardation. In all of these cases we have at least what intuition would tell us is the sort of diminished personhood that affects judgment in such a way that we can't say — that we don't want to say that the individual is either responsible or should enjoy certain prerogatives in the same way as someone whose personality is fully formed and undamaged.

And this is not simply sort of a principle. There's an underlying set of intuitions here that I think are worth calling our attention to. I think there are intuitions that we almost all share. But that because they're not often explicitly stated, we may not realize that we share them. The general intuition that underlies this idea of, first of all, attaching responsibility and obligations and prerogatives to personhood rather than to
mere humanhood, and to altering and adjusting our levels of obligation and prerogative — adjusting them in accordance with the level of personhood we think an individual is in possession of is because we generally think that responsibility can only attach to those things over which we have conscious control. You’re only responsible for those things that you’ve done under your own conscious will. And, incidentally, you only deserve rewards for those things that you’ve done under your own conscious will.

In cases of absent and diminished personhood, our consciousness and control, our control over our actions, is in question. Either entirely, meaning we have no control over what we’ve done — like in the hypnotism case — or that we only enjoy diminished control or limited control over what we’ve done — as in the case of mental illness or deficiency, or in the case of juveniles.

This Lockeian idea, not only of persons but of the idea of tying rights and responsibilities, obligations and prerogatives, to individuals insofar as their persons and to the extent of their developed personhood has vast implications that we find across our moral and legal landscape. Certainly part of the reason why abortions are legal in this country is because at some level we’ve adopted the position that fetuses do not have — do not enjoy the personhood, the level of personhood if any, that the adult does, that the grown woman does. And that in a conflict between their interests — and that’s what a case of abortion is, is a conflict of interest. On the one hand, it’s the interest of the grown woman who wants to not be pregnant and then there’s the interest of the unborn infant. Certainly if it was believed and agreed upon across the board that fetuses — that prenatal infants have the full-fledged personhood of a full-grown adult, abortions couldn’t possibly be legal in this country. Certainly part of the reason for the legality of abortions — and the issue is very complicated. There also are aspects of the legality of abortion that have absolutely nothing to do with the status of the fetus. It has to do with the prerogative of the government to invade into the private sphere. In
many ways the current abortion laws that we have are about privacy concerns.

But certainly in our moral and legal thinking about the subject, the fact that the mother is undoubtedly of full-fledged personhood and thus enjoys the full range of rights and perogatives, in comparison with the fetus whose personhood is highly questionable and indeed by many denied and certainly the earliest stages, it’s hard to imagine. When it comes to a competition of interests between the two, we’re inclined to go in the direction of the individual whose personhood is established and whose rights and perogatives are therefore unquestionable.

And so this is just an example. I know abortion is a very controversial subject and my intention is not to take any sort of position on this. I merely want you to see — because philosophy is often — people often think of philosophy as a kind of an esoteric abstract subject which has no sort of connection to practical issues. I want you to understand the extent to which, the depths to which, the Lockeian conception of personal identity and, more importantly, this notion that obligations and perogatives, responsibilities and rights, attach to us insofar as we are persons and to the extent of the development of our personhood runs throughout our moral and legal consciousness, throughout our moral and legal practices, and is an integral part of those moral and legal practices.

Certainly, if you want to take an equally controversial issue — this one at the end of life rather than at the beginning — euthanasia, sort of an end-of-life jurisprudence, also reflects the influence of these ideas. When a person is in a persistent vegetative state or in an unending coma, as was a very highly celebrated case not long ago involving Terri Schiavo, part of the argument why it is — in favor of the capacity to terminate the life of such an individual is that personhood is absent. And with the absence of personhood goes an absence of certain rights and certain protections.

That said, there’s one more issue to consider before we close this chapter of our
discussion on this topic, and that is the limits that Locke thinks have to be in place on the legal consideration of absent and diminished personhood. In other words, Locke is not a utopian or — how shall I say — idealistic thinker. He’s very practical. And Locke realizes that, yes, while both morality and the law has to take into consideration the possibility of diminished or absent personhood in the assignment of responsibilities and obligations, Locke also recognizes that there are limits to this because there are limits to how well one can prove whether an individual has undergone diminished or has experienced absent personhood. In other words, there are certain practical realities having to do with criminal procedure that make it impossible to always be able to tell whether a person suffered diminished or absent personhood at the commission of a crime. And that the law can’t, because of its inability to prove this in every case, simply let everybody loose.

Furthermore, the law does not only exist in order to track responsibilities and obligations. The law is not solely an instrument of justice. It is also an instrument of order. And Locke recognizes that there may be times when you have to lock someone up, even though you’ve not been able to prove that their personhood was fully within their control and fully functioning at the time of a commission of a crime. If only for the sake of public safety.

So let me use one of the examples that we’ve already used and let me bring in a new example. So we have the example of a sleepwalker, the sleepwalker who, after taking all the precautions that sleepwalkers should take, manages to get through whatever restraints set in place, and gets up on a roof, knocks off a flowerpot, and kills someone down below. Now imagine a different case where someone comes home from the bar. Let’s say that this person is inebriated to the point of his stumbling around. That individual goes up to the roof, stumbles around and knocks a flowerpot off the roof, kills somebody down below.
Now, let's imagine two court trials going on side by side. In both cases the defendants claim to not remember anything about the incident. So the sleepwalker says, “I have no idea what happened. I went to bed. The next thing I know, I’m being woken up by cops telling me that I just killed someone.” Similarly with the drunk, you know. “I came home from the bar. I was in a festive mood. The next thing I remember was waking up in the clinker with the cops telling me that I’d killed someone.”

Now, Locke says we may not be able to prove whether either of these gentlemen is telling the truth or lying. After all, how do we know whether, in either case, their personhood was diminished or otherwise incapacitated or even absent? How do we prove that? And, of course, you can’t. And the drunk may be telling the truth. He may have no memory whatsoever. In which case, as Locke’s principle holds, he literally was not the same person. The man sitting in the court was not the same person as the man who knocked the flowerpot off. There’s an instance of absent personhood.

Nevertheless, Locke, who just earlier said the sleepwalker should not be treated like the waking person, then goes on and says that the drunk should be locked up. And his reason is entirely prudential. His reason is very simple. We can’t always know. But the law does not only exist to assign justice, to exercise justice. The law also exists to keep order. Drinking, unlike sleepwalking — or at least drinking to excess, unlike sleepwalking, can be considered a character defect. If the person — if this individual is someone who’s getting that drunk, who suffers from that particular character defect, might we not also think that this person is a liar?

In other words, what Locke wants to say is in both cases we have what is essentially a menace, a danger to the public. In both cases also we cannot prove one way or the other whether the person is telling the truth about their diminished or absent personhood. But in the case of the drunk, we have other reasons to think that this
person may not be telling us the truth. That is, they already have demonstrated one very serious character flaw. And so in the case of the drunk, despite the fact that we cannot know for sure, we a) have reason to suspect that they’re not telling the truth and b) in any event we have someone who is clearly a public menace. And so for prudence’s sake we’re gonna lock him up.

Let me read to you what Locke actually says about this case. This is on pages 462 to 463, paragraph 24. So he’s imagining the drunken case. Quote:

But is not a man drunk and sober the same person? Why else is he punished for the fact he commits when drunk though he be ever afterwards conscious of it? Just as much the same person as a man that walks and does other things in his sleep is the same person answerable for any mischief he shall do in it. Human laws punish both with a justice suitable to their way of knowledge.

Now here’s he imagining where we might also arrest the sleepwalker, providing what he’s done is serious enough to worry that he’s a menace. Here’s the crucial part:

Human laws punish both with a justice suitable to their way of knowledge because in these cases they cannot distinguish certainly what is real, what is counterfeit, and so the ignorance and drunkenness or sleep is not admitted as a plea. For though punishment be a next to personality and personality to consciousness, and the drunkard perhaps be not conscious of what he did, yet we justly punish him because the fact is proved against him, but want of consciousness cannot be proved for him.

So Locke is prepared to accept that we may wind up punishing people who morally speaking are not culpable. That is, who are telling the truth. They really were of diminished or absent personhood at the time of the crime. We may be willing to lock them up anyway. Not in this case, though, for the sake of justice because justice would
seem to demand that we not lock them up if their crime was committed by another person or in the condition of diminished personhood. No, it’s not in the name of justice. It’s in the name of prudence, of practicality, of keeping public order, which Locke believes are also aims of the law.

And so we may have instances where a moral and legal judgment may diverge or where at least the proverbial jury is out on the moral judgment but a legal judgment nonetheless needs to be made. And for the sake of safety and public order, it’s made — we are on the side of caution.

That’s all I’m going to say about John Locke’s theory of persons, personal identity. The most important thing to remember and what’s so different about how Locke comes to the views that he comes to from the way Descartes comes is that Locke’s interest in the subject is entirely from the direction of morality and the law. He thinks that without a concept of a person, there is no way to explain the different ways that we distribute punishments and rewards. For Descartes — Descartes comes to the conclusions that he comes to entirely from his considerations on science. For Descartes, unless we have some notion of the mind as a separate thing from the body, there is no way to explain what seems to be the radical different properties of physical existence on the one hand and mental life on the other.

So in both cases, Descartes and Locke, we have two thinkers who are coming to certain views on persons and on personal identity in order to make sense of other things that they already believe, of other views that they’re holding. But because the things that they’re trying to explain are so different, the positions that they come to are very different.

What we’re going to do in the next few lectures now is look at a series of critiques of the very idea of persons and of personhood and of personal identity. We’re gonna look at the philosopher Gilbert Ryle and at the behaviorist/psychologist B. F. Skinner.
In both cases we have instances of thinkers who are highly skeptical that there are any such things as persons. Moreover, they are highly skeptical that the notion of a person, that the concept of a person, has any useful theoretical work to do. That is, that there’s anything that is usefully explained by the idea of a person and by the idea of personal identity.

And that’s what we’ll move on to next time. I will not give you any things to think about because there are no readings for the next lecture. The next lecture I’m simply going to introduce the critics and introduce the basic parameters within which the critics operate, and the basis of their critique against the idea of persons, personhood, and personal identity. Thank you very much. See you next time.