

8-2005

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Repository Citation

Wilson, S. (2005). The Species-Norm Account of Moral Status. *Between the Species*, 13 (5), 1-29.
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BETWEEN THE SPECIES

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Issue V

August 2005

The Species-Norm Account of Moral Status

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Abstract: *Many philosophers have argued against Singer's claim that all animals are equal. However, none of these responses have demonstrated an appreciation of the complexity of his position. The result is that all of these responses focus on one of his arguments in a way that falls victim to another. This paper is a critical examination of a possible response to the full complexity of Singer's position that derives from the work of Carl Cohen, Kathleen Wilkes, and F. Ramsey. On this response, a being's moral status depends not on the capacities and abilities she does in fact have, but instead on the capacities and abilities normal for the members of her species. However, this response is ultimately unacceptable, for it depends on a faulty conception of loss and misfortune and its underlying moral principle is irrational at best and morally objectionable at worst. The failure of even this response to Singer gives us good reason to conclude with Singer that all animals are equal.*

Peter Singer has argued that "all animals are equal". Since then, many philosophers have attempted to spell out just where Singer has gone wrong, for it is clear to them that not all animals are, in fact, equal. Indeed, only a little reflection on common sense should tell us that, as the title of an article written against Singer's conclusion states, "some animals are more equal than others".¹ However, none of the responses to Singer have been able to rebut his arguments completely. The problem is that most philosophers have misunderstood the overall structure of Singer's position, resulting in responses to one of his arguments that fall victim to another. This fact helps to explain why there is a continued interest in his work on the moral status of animals: while many

people think that there is something seriously wrong with his conclusions, no one has been able to clearly articulate where he has gone astray.

This paper will be an examination of a possible response to Singer's arguments. On this response, an individual's moral status depends not on the properties and abilities she actually possesses, but depends instead on the properties and abilities normal for her species. The advantage of this response, if it were successful, is that it would address all of Singer's arguments concerning the moral status of animals. Since it is the only such response whose structure allows it to take the full complexity of his position into account, it has a distinct advantage over the other responses. A further advantage of this response, if it were successful, is that it would provide a new and compelling account of the basis of human equality. However, this response ultimately fails. The failure of even this position, which takes the full complexity of Singer's position into account, provides us with a good inductive reason to believe that Singer's conclusion might be correct after all.

1. Singer and PEI

Most people believe that there is a fundamental moral difference between human beings and animals. The best way to characterize this belief is as follows: although animals are worthy of our concern, they do not merit the kind of concern that human beings do. Put another way, we could say that while both animals and human beings have direct moral status, only human beings deserve a full and equal moral status.² Let's call this common view about the moral status of human beings and animals the *Direct but Unequal* (DBU) thesis.

Singer argues that there is no good defense of the DBU thesis.³ He has two arguments for this conclusion. The first is the Argument from Species Overlap (ASO).⁴ The basic idea here is this: if there is a sharp moral divide between human beings and animals, then this must be due to the properties that human beings have and animals lack. However, there are no properties that all and only human beings have that can ground such a moral difference. More formally, the argument runs as follows:⁵

- (1) In order to classify all and only human beings in moral category *C* there must be some property *P* that all and only human beings have that can ground such a classification.
- (2) Any such *P* that only human beings have is a property that some human beings will lack (i.e., infants, the senile, the severely cognitively disabled, etc.).
- (3) Any such *P* that all human beings have is a property that not only human beings will have (i.e., some animals will have it as well).
- (4) Therefore, there is no way to classify all and only human beings in moral category *C*.

The essential insight behind the ASO is simply this: certain human beings and animals have similar abilities and capacities, and thus will be included or excluded from a moral category together as long as we assign moral standing on the basis of abilities and capacities.

The second argument Singer employs against the DBU thesis focuses on what is truly objectionable about such practices as racism and sexism. It may be thought that these practices are objectionable because someone who favors the members of his

own race or sex is acting as if the members of his own race or sex are more intelligent, morally sensitive, etc., than the members of other races and sexes, when this is clearly not the case. In other words, racism and sexism depend on the mistaken claim that human beings are not equal, when in fact all human beings are equal.

Singer rightly points out that this line of argument against racism or sexism is not very strong. For it is obviously not true that all human beings are equal. If we are to focus on any of the properties that are thought to be morally relevant and unique to human beings (e.g., rationality, moral capacity, ability to communicate with a language, etc.) we will find that some human beings have these properties to a greater extent than others. This is a different point from the point made in the ASO, for the point made there was that some human beings lack these properties. There may be a limited number of such human beings, however, and so this may be morally irrelevant.⁶ The point being made here is that these properties that are thought to be important are properties that admit of different degrees.

If intelligence (or rationality, etc.) really does carry the kind of moral weight it is commonly thought to carry, then racists and sexists have not been doing anything that is in principle wrong; rather, they have just been mistaken about certain facts. A racist operates as if every member of his race were more intelligent, morally more sensitive, etc., than the members of another race when in fact that is not the case. The racist is mistaken in thinking that these properties line up so neatly across races. But if that is the only mistake that a racist or sexist is making, then he need not amend any of his moral principles. He needs only to apply them in accordance with the facts. Rather than being racists or sexists, he should instead be a “sophisticated inegalitarian”. If

intelligence, rationality, moral sensitivity, etc., are really morally important and able to ground differences in moral standing then we should separate human beings not according to race, but rather according to their intelligence, rationality, etc. We should claim that the interests of human beings with a very high IQ are to receive extra weight in moral deliberation because they are, e.g., smarter, and differences in intelligence can ground differences in moral standing.

This line of reasoning shows us that the racist is not objectionable because he assumes that members of other races are not as intelligent as the members of his own.⁷ If that were the truly objectionable aspect of racism then the objectionable nature of racism stems from a factual error. The sophisticated inegalitarian is not factually mistaken; however, he is just as objectionable as the racist. Some other mistake is being made by both of these figures, and it is this mistake that is responsible for their objectionable natures.

Singer concludes that what is responsible for their objectionable natures is the fact that they assign concern to beings on the basis of morally irrelevant properties. The fact that a very intelligent person is very intelligent does not make his suffering or enjoyment any more morally special than the suffering or enjoyment of an individual that is less intelligent. What is relevant here is not the intelligence of the person that is suffering or enjoying something, but is rather the suffering or the enjoyment itself.

Singer suggests that what this argument shows us is that the claim of human equality should not be understood as a factual claim at all, for as a factual claim it is patently false. Rather, it is a normative claim that is characterized best with the Principle of Equal Consideration of Interests (PECI):

The essence of the Principle of Equal Consideration of Interests is that we give equal weight in our moral deliberations to the like interests of all those affected by our actions.⁸

PECI instructs us to shift our attention away from such morally irrelevant considerations as the intelligence of the one that has an interest, and concentrate instead on the interest itself.

Once we have done this, we have no way of limiting that kind of equal concern to human beings. The usual reason for attempting to do so is that human beings are more intelligent, rational, morally sensitive, etc., than animals, and so we need not consider their interests to be as important as ours. But if the difference in intelligence between different human beings is not morally relevant, then why should it be relevant when comparing human beings and animals? Either intelligence is able to ground different moral categories or else it is not. The Sophisticated Inegalitarian Argument (SIA) above was meant to show us that intelligence cannot ground different moral categories; we cannot now claim that it can and remain consistent. The result is that the basis of human equality, namely PECI, extends to animals as well. There is no defensible way to mark off separate moral categories for human beings and animals.

2. Partial Responses to Singer

Those that respond to Singer's position typically respond to only one of his two arguments. The result is that these responses fall victim to the other argument.

Demonstrating this with a few examples will help us both to appreciate that an adequate response has yet to be developed and to understand the complexity of Singer's position better.

For example, some philosophers have argued that the number of human beings who have abilities and capacities similar to animals is very limited, and that this should cause us to reject the ASO. The fact that there are a limited number of such human beings might support this conclusion in one of two ways. First, it might be thought that morality is meant to cover cases that we encounter in the actual world and is not meant to cover exceptional or rare cases.⁹ The failure of our moral system to capture these human beings should not be seen as a failure of our system itself, but rather as a kind of necessary limitation. Second, some philosophers claim that the only thing the ASO demonstrates is that not all human beings are equal. The fact that there are very few human beings with abilities and capacities similar to those of animals is taken as a means to soften this blow for us: people like Singer tend to exaggerate the number of these human beings by using terms such as “cognitively impaired human beings”, which misleads us into thinking that people with Down’s Syndrome fall into this category. However, the only human beings that should be counted here are those infants who are born with severe cognitive impairments that do not allow them to develop in any significant way. Since there are so few human beings in this condition, there is nothing wrong with concluding that not all human beings are equal.

It is questionable whether these responses to the ASO are successful. However, it is not necessary to make such a determination here. Even if these responses successfully rebut the ASO, the resulting position can do nothing to respond to the SIA. In fact, the reasoning used falls prey to the reasoning of the SIA. On this response, these human beings are not equal because they are not as intelligent, rational, morally sensitive, etc. as normal adult human beings. It has been assumed, therefore, that

these are morally relevant properties. If they are morally relevant properties then the sophisticated inegalitarian is on secure footing. The lesson to be learned is this: in order to refute one of Singer's arguments, we must respond with reasoning that does not fall prey to the other. This response to the ASO does not take this complexity into account, and therefore is bound to fail.

Another common strategy used against Singer is to rebut the SIA. For example, some philosophers claim that what makes human beings distinctive is that they have achieved a certain level of rationality, intelligence, moral sensitivity, etc. On this response, the distinctive properties of human beings are emergent properties—they come into existence once a being is intelligent enough, rational enough, morally sensitive enough, but further advances of rationality, intelligence, etc., do not give one more of what makes human beings distinctive.¹⁰

Once again, it is an open question whether this response is acceptable. Whether it is or not does not matter at this point, for it does nothing to respond to the ASO. In fact, the reasoning used here falls prey to the reasoning of the ASO: if we attain full and equal moral status only when we are intelligent enough, then the human beings who never become rational or intelligent enough will not have full and equal moral status. We have seen once again that partial responses to Singer's position will not work: what is needed is a response that is able to handle both of his arguments at once. Unless such a response can be developed, we have no reason to reject his conclusion.

3. The Species-Norm Account of Moral Status

This section will outline a theory of moral status that might be able to support the DBU thesis, which originates with the work of Carl Cohen¹¹, and has been extensively

furthered and defended by Kathleen Wilkes¹² and H. Ramsey.¹³ This response also appears to capture many common-sense beliefs that are widely held by people concerning the value and moral status of cognitively impaired human beings. It is therefore worthwhile to determine whether the account is defensible.

The account has two parts. First, it is claimed that there is a way that the members of our species should be. Two of the properties human beings should have are the ability to act morally and to be autonomous.¹⁴ Ramsey in particular focuses on these two properties as constituting the distinctive value of the members of our species. However, if this is all there is to the proposal it would run headlong into the ASO, for these two properties that are claimed to confer value upon us are properties that not all human beings possess. The second part of the proposal allows Wilkes and Ramsey to provide an intriguing and original response to Singer's arguments. Both Wilkes and Ramsey claim that all human beings, even those that lack the distinctive properties, are equally valuable precisely because they are the sorts of beings that should have these value-conferring properties. Thus, the moral status of a being is determined not by the properties and abilities she does in fact have, but is instead determined by the properties and abilities that are normal for her species, and thus are the properties and abilities she should have. Let us call the conjunction of these two claims the Species-Norm Account of Moral Status (SNAMS).

Before we consider this proposal in more detail, it is worth noting how it allows us to respond to both the ASO and the SIA. First, if we compare a human being that is cognitively impaired with a normal cow, for instance, we may find that they both have similar abilities and capacities. However, if SNAMS is correct, then the moral status of

the human being is stronger than the moral status of the normal cow. Although the human being does not have the abilities and capacities normal for her species, she should have them; thus, since she is the kind of being that should have those abilities and capacities, she should have the same moral status as any other human being. The cow, on the other hand, is not unfortunate for having the level of intelligence it has, and so does not deserve any kind of compensation for being in the state in which it exists. The cow's moral status will depend on the abilities and capacities that are normal for its species, and since autonomy and moral capacity are not normal for cows, the cow will not deserve a full and equal moral status. We thus have a response to the ASO: there is one property that all human beings have, that no animals have, and that can ground a unique moral status. That property is the property of being a member of a species whose members should be autonomous and able to act morally.

SNAMS is also able to respond to the SIA. If what grounds an individual's moral status are the capacities and abilities normal for the members of her species, then it will follow that every member of our species will have the same moral status. The reason for this is simple: what is normal for our species does not vary from individual to individual. Since that which grounds the moral status of every human being is just one property common to us all, it follows that we all have the exact same moral status. Thus, this account, if defensible, will provide a new and compelling account of human equality.

Another advantage of this proposal is that it is not overly anthropocentric. For what is morally special about all human beings is not the mere fact that we are human, but rather that we are members of a species whose members should be autonomous

and able to act morally. This is a property that the members of other species can have as well, and so we can conclude that any intelligent aliens that we meet (if any) should be given the same moral status that we have.

However, before we can rest content with this account of moral status, we must first determine if there are compelling reasons to accept it. It is comprised of two claims, each of which need to be defended, for both are controversial. Recall that these two claims are as follows: first, there is a way that members of our species should be; second, the moral status of a being depends on the properties and abilities it should have. In this section attention will be focused on the first claim, while a critical examination of the second claim will wait for the remaining sections.

Both Wilkes and Ramsey insist that we cannot use a statistical notion of what is normal for the members of our species and instead rely on an Aristotelian understanding of the first claim. Wilkes writes:

The 'Aristotelian Principle', broadly, claims that every creature strives after its own perfection, and thus that any member of kind K which is not a perfect instance of kind K is something to be pitied or deplored.¹⁵

Wilkes maintains that any being that falls short of the potential it should reach given that it is the kind of being it is has suffered an Aristotelian loss.

However, there are problems with using an Aristotelian understanding of the first claim. Recall that Aristotle divides living beings into three kinds: the (merely) living, the function of which is to take in nutrition and grow, the (merely) sentient, the function of which is to have sense-perception, and finally the rational, the function of which is to guide their conduct with reason. Each of these three kinds of beings are constituted by

matter that is given its particular form by its soul (this is the hylomorphic account of the soul).¹⁶ If this is right, then a being that is not rational is not, on the Aristotelian account, of the same kind as we are. Rather, it will be either merely sentient or merely alive, depending on the abilities and capacities it does in fact have.

It should be noted that this is not just an outdated relic of Aristotelian philosophy. Modern Aristotelians, such as Martha Nussbaum, argue that in order to be a human being, one must have certain properties and capacities, including rationality, moral capacity, and autonomy.¹⁷ For Nussbaum, then, if an infant had severe enough cognitive disabilities, it would not count as a human being at all. This is not just a terminological point: for both Aristotle and Nussbaum, lacking certain essential properties makes an individual, even if it has human DNA, of a different moral category all together. This understanding of the first claim, then, will not allow Wilkes and Ramsey to argue that all human beings, including severely cognitively disabled infants, should be a certain way and should therefore have a full and equal moral status, for this interpretation explicitly denies that claim.

Perhaps we could use something similar to Ruth Millikan's notion of "proper function" to defend the claim that there is a way that all human beings should be.¹⁸ According to Millikan, the proper function of a thing is determined by the historical-causal history of that thing. The sorts of things with proper functions are organs, artifacts, reasoned behaviors, learned behaviors, customs, and such intentional items as language, meanings, and beliefs. According to Millikan:

A proper function of such an organ or behavior is, roughly, a function that its ancestors have performed that has helped account for proliferation of the genes responsible for it, hence helped account for its own existence.¹⁹

This is a decidedly anti-statistical notion of proper function, for what matters on this account is not how certain things are in fact put to use; rather, what matters in determining a proper function of a thing is the historical-causal chain leading up to its existence. The function of a heart would be to pump blood even if almost every human being on the planet had a faulty heart that could not in fact pump blood. The function of the heart is to pump blood because the reason hearts continue to be reproduced is due in part to the fact that they pump blood; it is the fact that the reproduction of hearts in future generations requires that normal hearts pump blood that gives the heart the function of pumping blood.

Perhaps we can apply this account of normal function to defend the claim that there is a way that human beings should be. Recall that the two abilities that make human beings distinctively valuable are autonomy and the ability to act morally. A plausible case can be made for the claim that the function of the upper hemispheres of the human brain is to allow us to be autonomous and act morally. If we could defend this, then we could make sense of the claim that there is a way that every human being should be; the way every human being should be is determined by the function of our organs, especially the brain, and the function of those organs is determined by the historical-causal history that is responsible for their reproduction. If we could successfully argue that acting morally and being autonomous are partly responsible for

the reproduction of human beings, then we might just have a way of explicating the first claim in a thorough manner.

Whether this project can be successfully completed is not of concern here. This option has been discussed only because the defense of the first claim offered by Wilkes and Ramsey appeared to be in conflict with their overall conclusion, and so until such an alternative proposal was made, it was not clear if this account of moral status could even get off the ground. Let us therefore assume, for the sake of argument, that the above explication of the way human beings should be is tenable. Let us now turn our attention to the second claim.

Why should an individual's moral status be determined by the abilities and capacities she should have rather than by the abilities and capacities she does in fact have? According to Ramsey, a being that does not have the abilities and capacities she ought to have has suffered a misfortune, and the unfortunate deserve compensation.

He writes:

To claim that the handicapped ought to be compensated implies that we believe we owe them something which is not owed to animals with similar capacities or attainments to handicapped people. This is to claim that a handicapped human life is of greater value than the life of a healthy non-human animal. The reason we believe this is because we recognize that a healthy non-human animal has suffered no loss by being an animal.²⁰

Wilkes makes a similar point. In discussing a cognitively impaired infant who is of the same mental capacity as a chimpanzee, she writes:

The interests (present and future) we can ascribe [to the infant] are, like the interests of any sentient creature, interests that demand respect and support—*ceteris, as always, paribus*. In this respect they demand the respect and support that the interests of a non-human animal at the same level demand. However, again there is more to it than that; there is also the same decisive difference...between the impaired infant and the chimpanzee, even when both were at approximately the same mental level: the infant, but not the chimpanzee, has suffered an Aristotelian tragedy.²¹

Both Wilkes and Ramsey take our attitude of pity and the belief that the humans are quite unfortunate to constitute evidence for the claim that the humans are of greater worth, even though they lack the properties that confer value to the members of our species. Other than this evidential claim, neither provides compelling arguments for the second claim of the Species-Norm Account of Moral Status.²²

In the remaining sections it will be demonstrated that this second claim must be rejected. It will be shown in the next section that both Wilkes and Ramsey are using an account of misfortune that has been successfully refuted by the work of Jeff McMahan. In the sections following that, it will be argued that even if this account of misfortune were defensible, we have good reason to think that a being's moral status does not depend on the abilities and capacities normal for her species. In fact, the second claim falls prey to slightly modified versions of Singer's arguments. Since this alternative account of the basis of moral status was so appealing because it was considered capable of refuting these arguments, it will have nothing to speak for it.

4. The Species-Norm Account of Misfortune

On the proposal we are considering, the reason that a being with abilities and capacities that fall below those normal for her species should have the same moral status as the other members of her species is because she has suffered a loss. This loss has made her unfortunate, and so she deserves some kind of compensation for that loss. A necessary condition of defending this proposal, then, is defending the claim that a being whose abilities and capacities that fall below those normal for her species has suffered a loss and is unfortunate. However, recent work by Jeff McMahan²³ suggests that having abilities and capacities that fall below normal is neither necessary nor sufficient for suffering a loss and being unfortunate.

To see that it is not necessary, McMahan asks us to imagine the following situation, which he labels *The Superchimp*:

A newborn chimpanzee is administered a form of gene therapy that causes its brain to continue to develop in ways that parallel the development of the human brain. As a consequence, this chimpanzee, as an adult, comes to have cognitive and emotional capacities comparable to those of a ten-year-old human child. After some years of exercising these capacities, however, this Superchimp suffers brain damage that reduces him to the psychological level of a normal chimpanzee, after which he lives a contented life among other chimpanzees, with a mental life indistinguishable from that of a normal chimpanzee.²⁴

If being unfortunate required that a being have abilities and capacities that fall below those normal for his species, then we would be forced to conclude that Superchimp is not unfortunate as a result of the loss of his cognitive powers.

McMahan rightly points out that there is something wrong with this conclusion. In Wilkes's quotation above, she claims that the loss of a comparable amount of mental abilities and capacities would constitute a tragedy if it occurred to a ten-year-old human child. There is no good reason to deny that this is true of Superchimp as well. He once had abilities and capacities that far surpassed the ones he has now but lost them, and that is a great misfortune for him. It does not matter that he is now as intelligent as normal chimpanzees.

To see that falling below the level normal for your species is not sufficient for suffering a loss, McMahan asks us to consider the following example.²⁵ Suppose that chimpanzees become an endangered species. Suppose, further, that the changes in Superchimp are inheritable, and that Superchimp fathers many of the chimpanzees remaining in the world. If there were enough chimpanzees produced as a result of this, each of which has heightened mental capacities and abilities, then the Species-Norm Account of Misfortune would imply that those chimpanzees that do not have these greater mental abilities are very unfortunate. Once again, however, this does not seem to be the right thing to say. The fact that some chimpanzees are more intelligent does not seem make the other chimpanzees worse off than they were before: they are living lives that are going as well as possible given their abilities and capacities, and so it is hard to see just how they are unfortunate.

McMahan suggests that the proper way to determine whether a being is unfortunate is by determining how close that individual is to achieving its full potential given its physical make-up. Superchimp, then, has suffered a loss and is unfortunate on this account because Superchimp has a genetic make-up that should allow him to have greater abilities than he does in fact have. Furthermore, normal chimpanzees would not have suffered a loss even if most other chimpanzees had heightened capacities, and this is due to the fact that the normal chimpanzees are not falling short of their potential.

If we apply this theory to human beings, the result is that infants born with certain severe cognitive defects have not suffered a loss and are not unfortunate. The reason they have not suffered a loss is that they are not falling short of their potential: given their physical make-up and genes, they have the abilities and capacities we should expect them to have. If this theory is correct, then, we cannot claim that all human beings that fall short of the abilities and capacities normal for our species have suffered a loss and are unfortunate.

5. The Son of Superchimp

However, let us put the above objection to the side. Perhaps a defender of the Species-Norm Account of Moral Status could save the Species-Norm Account of Misfortune from these objections. Even if he could, his overall position is still untenable. In this section a slightly modified version of the Superchimp example will be presented as a first attempt to argue against the claim that a being's moral status should depend on the abilities and capacities normal for her species.

Consider *The Son of Superchimp*:

The alterations of Superchimp's DNA affect his germ cells, and so his heightened cognitive capacities are inheritable. Superchimp becomes the proud father of Son of Superchimp (SOS). Like his father, SOS has the cognitive capacities of a normal ten-year-old-human child.

Now if a being's moral status depends not on the abilities and capacities he does in fact have, but depends instead on the abilities and capacities normal for the members of his species, it would follow that SOS has the moral status of a normal chimpanzee. If we also suppose, as both Wilkes and Ramsey apparently do, that a chimpanzee will have a moral status that is far weaker than that of a normal ten-year-old child, it will follow that SOS has a moral status that is far below that of a normal ten-year-old child.

The implications of this view are clearly unacceptable. Suppose that scientists are hoping to find good candidates to be experimental subjects. When they learn of SOS, they are thrilled. Here is a being that can respond articulately to the questions asked of him, can describe the different sorts of sensations the medicines tested on him cause him to have, and yet at the same time has a diminished moral status and so can be used at the scientists' will, without giving consent and against his wishes. The proposal is clearly shocking. It would not do SOS much good to explain to him that although he is very smart, most chimpanzees are not, and so he does not have a strong moral status. He would rightly complain that the abilities and capacities of other chimpanzees are hardly relevant to his moral status. What matters are the abilities and capacities he does in fact have.

Perhaps we can respond to this objection by adopting an asymmetrical version of the Species-Norm Account of Moral Status. On this suggestion, a being whose abilities

and capacities fall below what is normal for the members of her species will have the same moral status as the members of her species, while a being whose abilities and capacities fall above those normal for the members of her species will have an elevated moral status. Thus, SOS will have a moral status that depends on the abilities he in fact does have, and since he is rational, autonomous, and able to act morally, he should receive the same moral status that normal ten-year-old children have, namely, a full and equal moral status. Normal chimpanzees, on the other hand, will have a moral status appropriate for the members of their species.

There are two serious problems for the proposed response. First, it is an entirely ad hoc move. The only reason to alter the Species-Norm Account of Moral Status in the proposed way is because we are convinced that SOS's moral status is greater than that of a normal chimpanzee. We think that SOS's moral status depends on the abilities and capacities he does in fact have rather than those normal for his species. The attempt to save the Species-Norm Account of Moral Status by introducing the asymmetry results in a very unstable theory: a person who does this is claiming that a being's moral status depends on the abilities normal for her species, and then denies that very claim when confronted with SOS.

Suppose we allow the ad hoc suggestion and adopt the asymmetrical version of the Species-Norm Account of Moral Status. If we do then another, and more serious, problem arises. If beings that have capacities and abilities far above those normal for the members of their species have an elevated moral status, then we can now become sophisticated inegalitarians again. Armed with this response, why can't an especially gifted human being claim that since he is smarter, more autonomous, and morally more

capable than most other human beings, he should have an elevated moral status? It would appear that the asymmetrical version of the Species-Norm Account of Moral Status must claim that such a person would have an elevated moral status, thus conflicting with the claim that all human beings are equal.

So we have one compelling reason to conclude that an individual's moral status does not depend on the abilities and capacities normal for her species. If we did assign moral status in this way, SOS would have a reduced moral status, which is absurd. The only way to modify the Species-Norm Account of Moral Status so that it implies that SOS has the moral status we think he does have would also imply that not all human beings are equal.

6. Alternative Classificatory Schemes

An examination of the underlying structure of Species-Norm Account of Moral Status can generate another argument against it. Its structure can be represented as follows:

The moral status of a being, *A*, depends on the properties and abilities that are normal for the members of biological category, *BC*, of which *A* is a member.

Many people find this classificatory scheme quite plausible when species membership is used for *BC*. Would it be equally plausible if we were to use some other values for *BC*? By replacing *BC* with gender we would have the Gender-Norm Account of Moral Status, by using race for *BC* we would have the Racial-Norm Account of Moral Status, and by using genetic make-up we would have the Genetic-Norm Account of Moral Status. Would any of these be equally acceptable?

One apparent reason to answer this in the affirmative is as follows. Since there are no significant differences between the abilities that are normal for different races or genders, there would be no difference between using the Species-Norm Account of Moral Status and either the Gender-Norm or Racial-Norm Accounts. What is normal for our species does not vary enough for either of these accounts to be any different than the Species-Norm Account, and so these accounts will have the exact same practical import as the Species-Norm Account of Moral Status.

However, there is a problem with this response. There tend to be statistically significant differences between the performance of different genders and races on standardized tests. There are, of course, two possible explanations for these differences. One is that the tests, educational system, or society in general (or all of the above) are biased, and that this bias favors certain individuals over others on these tests. The other is that the differences are somehow due to the genetic differences between the sexes and races. As explanations of the different scores on these tests, neither option can be ruled out completely. The claim that the Gender-Norm or Racial-Norm Accounts of Moral Status are not objectionable, however, depends on the first explanation being correct and the second incorrect.

Now some people may not find this to be a bad thing, for they are convinced that the first explanation is correct and the second is incorrect. They may be right about that; however, their commitment to the equality of all human beings seems to be rather tenuous. They would have to wait until the final verdict was in before they could be sure that all human beings are in fact equal. A stronger commitment to the equality of human beings would not have to wait for such a verdict—someone who is strongly

committed to the equality of all human beings would claim that, even if the different scores on the tests were due to genetic rather than societal differences between the races and sexes, this does nothing to undermine the claim that all human beings are equal.

Another problem arises if we consider the Genetic-Norm Account of Moral Status. Let's suppose, for the sake of argument, that some people with extremely high IQs are as intelligent as they are due to genetic influences, and that some people with extremely low IQs have their level of intelligence due to genetic influences as well. We could claim that people with an extremely high IQ comprise a distinct kind of being, and those with an extremely low IQ comprise another distinct biological category as well. There is no question whether the resulting view is objectionable, for it clearly is. This argument is just a slightly modified version of the SIA. Whether the Gender-Norm or Racial-Norm Accounts of Moral Status are objectionable may seem to depend on certain facts, so we simply develop another account where the facts are not in question and the resulting moral view is clearly unacceptable.

So it would seem that not every value for *BC* can be used in the above schema to result in an acceptable account of moral status. Is this due to something objectionable about the schema itself, or is it rather that there is something objectionable about using something other than species membership as the value for *BC*? The defender of the Species-Norm Account of Moral Status must of course argue that there is nothing objectionable about the schema, for it is the one he uses, but that there must be something wrong with using anything other than species membership. Can such an argument be found?

One tempting reply is to claim that while species membership is clearly morally relevant, it is equally clear that race, gender, and genetic make-up are not morally relevant at all. This is hardly satisfying. We are in the midst a debate concerning the moral status of human beings and animals, in an attempt to determine whether human beings with abilities and capacities comparable to those of animals will nonetheless have a stronger moral status than the animals. It cannot be claimed at this point that species is morally relevant while sex, race, and genetic make-up are not. The account of moral status being discussed is supposed to show us why being a member of our species gives us a strong moral status, and so it is quite illegitimate to use as a premise the very conclusion for which the argument is aiming.

Perhaps a defender of the Species-Norm Account of Moral Status could offer an argument along contractarian lines for claiming that species membership is, while race, gender, and genetic make-up are not morally relevant. Peter Carruthers has attempted to do just this in an influential and sustained work on the moral status of animals.²⁶ However, it is not clear that contractualists can adequately meet the challenge of the ASO.²⁷ Even if such a defense could be offered, it would do nothing to help the supporter of the Species-Norm Account of Moral Status. For in relying on a contractualist theory of morality, he will have abandoned his theory of moral status altogether. In other words, if a contractualist theory of morality can be used to support the claim that species membership is, while race, gender, and genetic make-up are not, morally relevant, then the Species-Norm Account of Moral Status is completely superfluous. A good defense of contractualist theories of morality might be able to support the DBU thesis (but that is a highly controversial assumption), but it will not help

in supporting the Species-Norm Account of Moral Status. Similar points apply to any attempt along utilitarian or Kantian lines to support the claim that species membership is relevant while gender, race, and genetic make-up are not.

The defender of the Species-Norm Account of Moral Status cannot defend the claim that the objectionable nature of the Gender-Norm, Racial-Norm, or Genetic-Norm Accounts of Moral Status is the reliance on something other than species membership rather than the underlying structure of the view. We can now see the theory for what it really is. The theory has been developed to help provide theoretical support for an intuition that many people have. However, the theoretical support offered is nothing more than a restatement of the intuition that is in need of support. It is claimed that a being's moral status should depend on the species of the being, thus assuming that species membership is morally relevant. That is exactly what is in need of proof, and cannot be used to support itself. At the very least, then, we have no reason to accept the Species-Norm Account of Moral Status.

We may very well have reason to reject it as well. At this point it seems reasonable to conclude that it is the structure of the Species-Norm Account of Moral Status itself that is objectionable. This is a simpler explanation of what is wrong with the Gender-Norm, Racial-Norm, and Genetic-Norm Accounts of Moral Status, and it allows us to see clearly what has gone wrong with the Son of Superchimp example as well. There is something essentially arbitrary in assigning moral status to a being on the basis of abilities and capacities he does not have. How we should treat someone should depend on the interests that being has, not on the biological category to which

he happens to belong. Anything else is irrational at best, and morally objectionable at worst.

Conclusion

We have seen that Singer's position is more complex than most people assume. The most common responses to Singer have demonstrated this in that they fall victim to his overall argument strategy. The Species-Norm Account of Moral Status seemed to have the resources necessary to refute all of Singer's arguments. However, it is an untenable position. First, it relies on a notion of loss and misfortune that is unsupported and leads to counter-intuitive results. Second, the moral principle on which it is founded is equally unacceptable. Although this response has the right structure to meet Singer's challenge, it is still incapable of finally refuting his argument. This gives us at least some inductive support for Singer's conclusion, and until a better argument against it is made, we should tentatively agree with Singer that all animals are equal.²⁸

¹ Francis and Norman (1978) "Some Animals are More Equal than Others", *Philosophy*, 53.

² C.f. David DeGrazia (1996) *Taking Animals Seriously: Mental Life and Moral Status* (Cambridge: Cambridge University Press), pp. 36-7.

³ Peter Singer (1990) *Animal Liberation, new revised edition* (New York: Avon Books), chapter 1, Peter Singer (1993) *Practical Ethics, second edition* (Cambridge: Cambridge University Press), chapters 2-5. Cf., Richard J. Arneson (1999) "What, if Anything, Renders All Humans Morally Equal?" in Dale Jamieson (ed.) *Singer and His Critics* (Oxford: Blackwell Publishers).

⁴ This is commonly referred to as the Argument from Marginal Cases, but that term is offensive and counter-productive.

⁵ Cf. Daniel Dombrowski (1997) *Babies and Beasts: The Argument from Marginal Cases* (Chicago: The University of Illinois Press).

⁶ See, for example, Steve Sapontzis (1987) *Morals, Reasons, and Animals* (Philadelphia: Temple University Press), pp. 141-142.

⁷ I should amend this statement, for clearly there is something objectionable about the factual claims that a racist makes. To be able to assume that the members of one race or sex are more intelligent than the members of other races or sexes, even in the face of overwhelming evidence that these abilities do not line up so neatly across the races or sexes, is unjustified and offensive. The point I am making is that this is not the most offensive aspect of the racist's thinking.

⁸ Singer (1993), p. 21.

⁹ Cf. S. F. Sapontzis (1987) *Morals, Reasons, and Animals* (Philadelphia: Temple University Press), pp. 141-2; Tibor Machan (2002) "Why Human Beings May Use Animals", *The Journal of Value Inquiry* 36; Francis and Norman (1978); Meredith Williams (1980) "Rights, Interests, and Moral Equality", *Environmental Ethics* 2; and Bonnie Steinbock (1978), "Speciesism and the Idea of Equality", *Philosophy* 53.

¹⁰ Cf. Steinbock (1978); Williams (1980); and R. G. Frey (1980) *Rights and Interests: The Case Against Animals* (Oxford: Oxford University Press), chapter 1.

¹¹ Carl Cohen (1986) "The Case for the Use of Animals in Biomedical Research", *The New England Journal of Medicine* 315. Cohen's article is not mentioned in detail in what follows because he does not offer any argument for the claim that the moral status of a being depends on what is normal for her species; rather, he merely asserts that this is so. Both Wilkes and Ramsey provide arguments to support their view, and so I focus my attention on those arguments.

¹² Kathleen Wilkes (1988) *Real People: Personal Identity Without Thought Experiments* (Oxford: Clarendon Press).

¹³ F. Ramsey (1998) “Distinctive Moralities: The Value of Life and Our Duties to the Handicapped”, *The Journal of Value Inquiry* 32.

¹⁴ Wilkes actually mentions six properties. However, the criticisms to be leveled against the proposal will not be affected if I consider the two important ones on which Ramsey focuses instead.

¹⁵ Wilkes (1988), p. 62.

¹⁶ Cf. Jeff McMahan (2002) *The Ethics of Killing: Problems at the Margins of Life* (Oxford: Oxford University Press), pp. 7-14.

¹⁷ See Martha Nussbaum (1988) “Nature Function, and Capability”, *Oxford Studies in Ancient Philosophy*, suppl. vol. 1; Martha Nussbaum (1992) “Human Functioning and Social Justice”, *Political Theory* 20; and Martha Nussbaum (1995) “Aristotle on Human Nature and the Foundations of Ethics”, in J.E.J. Althom and Ross Harrison (eds.) *World, Mind, and Ethics: Essays on the Ethical Philosophy of Bernard Williams* (Cambridge: Cambridge University Press).

¹⁸ Ruth Millikan (1984) *Language, Thought, and Other Biological Categories* (Cambridge, MA: MIT Press), chapters 1-2; Ruth Millikan (1993) “In Defense of Proper Functions”, in Ruth Millikan, *White Queen Psychology and Other Essays for Alice* (Cambridge, MA: MIT Press).

¹⁹ Millikan (1993), p. 14.

²⁰ Ramsey (1998), p. 513.

²¹ Wilkes (1988), p. 67.

²² Wilkes is actually quite explicit in denying that these attitudes can be rationally defended. She writes, “There seems to me to be no compelling or convincing justification or explanation of this attitude”, Wilkes (1998), p. 62.

²³ Jeff McMahan (1996) “Cognitive Disability, Misfortune, and Justice”, *Philosophy and Public Affairs* 25; McMahan (2002), pp. 146-149.

²⁴ McMahan (2002), p. 147.

²⁵ McMahan (2002), pp. 148-9.

²⁶ Peter Carruthers (1992) *The Animals Issue: Moral Theory in Practice* (Cambridge: Cambridge University Press).

²⁷ Cf. Scott D. Wilson (2001) “Carruthers and the Argument From Marginal Cases”, *The Journal of Applied Philosophy* 18.

²⁸ I would like to thank Mathew Hanser for valuable comments on an earlier version of the paper.