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HUMAN CAPACITIES AND MORAL STATUS

by

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For Gabriel
Not here but not forgotten

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Introduction

The thesis of this book is that if something is human, it has the sort of moral status that you and I each have—what I shall henceforth call “serious” moral status. The reason for labeling it “serious” is to explicitly distinguish it from the many real yet lower-grade sorts of moral status that other things in the universe have, such as works of art, natural landscapes, plants, trees, and at least some non-human animals. The reason for labeling it “serious” instead of “human” is that there could be other things besides humans that have the sort of moral status that you and I each have. Or so I argue.

I take it for granted that you and I each have serious moral status. This assumption is not something I argue for in this book. But this assumption is not controversial. Each of us firmly believes that we have serious moral status. You believe, for example, that other people owe you a certain amount of respect, and that they should not try to harm you unless they have very good reasons to do so.

Serious moral status has many dimensions or aspects besides the two just mentioned, which focus on respect and harm. Perhaps certain natural rights are a part of serious moral status, such as the rights to life, liberty, and the pursuit of happiness. Perhaps serious moral status prescribes a certain sort of aesthetic response on the part of those who encounter it in others. Like love, serious moral status is a many-splendored thing. The nature of serious moral status—its precise shape, structure, and content—is something open to debate. But the nature of serious moral status, like the reality of your moral status and mine, is not something I argue for in this book.

What I argue for in this book is a pair of claims, which focus, not on the *reality* or *nature* of serious moral status, but on the *basis* of serious moral status—that is, on the features about us in virtue of which we possess serious moral status. The thesis of the book, recall, is that if something is human, it has serious moral status. Is being human, then, the basis of serious moral status? Well, yes and no. I argue that being human involves possessing a feature that is itself a basis of serious moral status, in anything that possesses it, whether its possessor is human or not. I argue that the feature of us humans, in virtue of which we have serious moral status, is the possession of certain *capacities*.

The move towards capacities, in the context of discussions about moral status, is both common and controversial. It is common because many current debates

about the moral status of things—whether the things in question are nonhuman animals, human fetuses, or what have you—eventually migrate towards a discussion of the capacities of the things in question—for example, the capacity to feel pain, the capacity for self-consciousness, and the capacity to think rationally. However, the move towards capacities is controversial because, more often than not, this move is an indication—indeed, a bright red flag—that certain humans are about to be assigned a different moral status than the sort of moral status you and I each have. After all, if a human’s capacities are the basis of its moral status, how could a human having lesser capacities than you and I have the same “serious” moral status as you and I? For this reason, the move towards capacities is strongly resisted in some quarters—and eagerly welcomed in others.

If the main argument of this book is correct, then resisting (or welcoming) capacities for this reason is premature. For this main argument consists in a pair of claims, which, taken together, entail that all human beings have the same sort of moral status that you and I each have:

1. If something is human, it has a set of typical human capacities.
 2. If something has a set of typical human capacities, it has serious moral status.
- Therefore,
3. If something is human, it has serious moral status.

This argument is sound, I argue, because typical human capacities include both what might be called “active” capacities and “passive” capacities, and also include both what might be called “lower-order” capacities and “higher-order” capacities. Although both distinctions are somewhat rough, I have an active capacity to raise my arm on purpose, a passive capacity to feel pain when pricked, lower-order capacities to do each of these things right now, and higher-order capacities to do each of these things even when I am relatively “incapacitated”: for example, when I am temporarily comatose. Most writers who focus on the moral relevance of capacities tend to ignore a thing’s higher-order capacities, or its passive capacities, or both. But I argue that all of a thing’s capacities—whether active or passive, whether higher-order or lower-order—are relevant to its moral status. Allowing passive higher-order capacities to be relevant to an entity’s moral status solves a number of problems that are otherwise very difficult to solve. But, as we shall see, allowing passive higher-order capacities to be relevant in this way also generates many new problems that other accounts do not face.

So, then, this book brings together a discussion in ethics, over the existence, nature, and types of moral status, with a discussion in metaphysics, over the existence, nature, and types of capacities. I argue that certain metaphysical distinctions among capacities are helpful for answering questions in the moral arena, and that the position I advance is better at solving certain problems than other positions.

This book employs a certain sort of controversial methodology, and reaches certain sorts of controversial conclusions. The methodology I employ relies upon our intuitions: in particular, it relies not only upon our intuitions about familiar

cases, but also upon our intuitions about unusual—some would say metaphysically bizarre—thought experiments from time to time. Some of the hypothetical cases in my argument involve machines that can instantly duplicate a human body, futuristic brain surgery that cannot currently be practiced in modern hospitals (at least not legally), non-human aliens, and causal overdetermination. In other words, I am working within a stream of contemporary philosophy that imitates the work of authors like Jeff McMahan, Derek Parfit, and Michael Tooley.¹ The methodology I employ is also controversial because it relies upon the work of contemporary moral and political philosophers like John Rawls and Martha Nussbaum. This, by itself, is not especially controversial, since these philosophers are widely discussed already. What makes reliance upon Rawls and Nussbaum controversial in my case is the fact that I use their work in tandem with the unusual thought experiments, and the fact that I use their work to reach the controversial conclusions.

The conclusions I reach commit me to the idea that human fetuses and embryos have serious moral status. They also commit me to the idea that serious moral status is possessed by humans in a permanent vegetative state, humans suffering from terrible brain diseases, and humans born with terrible genetic disorders. In other words, I am reaching conclusions that are just as “conservative” and “pro-life” as those reached by many Roman Catholic philosophers such as Pope John Paul II. Indeed, in certain places, and for reasons that will become clear as the argument progresses, I reach conclusions that seem to be *more* conservative than some leading Roman Catholic writers in the natural law tradition. However, no theological premises are involved in any part of my argument. This is not only a book that a pro-life Catholic can give to an atheist in order to explain why the Catholic position is correct as far as it goes; it is also a book that a pro-life atheist can give to a Catholic in order to explain why the position of some Catholic authors does not go quite far enough.

This, then, is a book that begins with certain intuitions we all have about ourselves, works through a few metaphysical distinctions, a few thought experiments, and a few contemporary moral philosophers, and ends up with substantive, and controversial, conclusions about the moral status of humans at the beginning and ending stages of life. If the argument of this book is sound, this will have important implications for the proper way of framing a number of debates in the context of biomedical ethics. For if all human organisms really do have serious moral status, whether or not they are very undeveloped, diseased, or damaged, then this must have some impact on our ongoing moral and political debates about the proper treatment of such organisms at various stages of their biological lives.

The chapters of the book are structured as follows. Chapter 1 explains the concepts of the main argument in more detail, and explains why personal pronouns such as “you” and personal names such as “Ronald Reagan” are applied to human

¹See McMahan, J. *The Ethics of Killing: Problems at the Margins of Life*. Oxford: Oxford University Press (2002); Parfit, D. *Reasons and Persons*. Oxford: Clarendon Press (1984); Tooley, M. *Abortion and Infanticide*. Oxford: Clarendon Press (1983).

organisms throughout the book. Chapter 2 defends the first step of the main argument by focusing on human organisms that undergo temporary changes involving “incapacitation” of one sort or another. Chapter 3 defends the second step of the main argument, partly by focusing on the same sorts of “incapacitation” cases that appeared in Chapter 2, and partly by focusing on moral arguments that emerge from Rawls and Nussbaum. Chapter 4 and 5 relate the main argument to two controversial arguments in contemporary applied ethics: the Argument From Potential, which focuses on normal human organisms at the beginning stages of life (such as human infants, fetuses, and embryos), and the Argument From Marginal Cases, which focuses on abnormal human organisms (such as human organisms that are disabled, diseased, or genetically deficient). Finally, Chapter 6 considers a number of lingering objections, focusing especially on those objections related to my methodology, my treatment of the line between life and death, and my treatment of the line between defective humans and nonhuman entities.