REVIEWS

The Review Section of E&A consists of three parts. The first is made up of brief reviews of books and articles (and perhaps films, etc.) that are concerned in some way with the rights and wrongs of human treatment of non-human animals. The second part of this Section is entitled 'Replies' and contains comments on or responses to reviews published in earlier issues of E&A. By letter the Editor invites the authors of works reviewed to respond, and by this proclamation in each issue invites all other interested readers to submit comments. The third part of the Reviews Section is a list of works of which reviews are invited. Any member who wishes to review any work in this continuing 'Reviews Needed' list should contact the Editor.

Steve F. Sapontzis, "Are Animals Moral Beings?", *American Philosophical Quarterly* 17 (1): 45-52 (January, 1980);
 "A Critique of Personhood", *Ethics* 91 (4): 607-618
 (July, 1981); "Must We Value Life to Have a Right to It?",
Ethics & Animals 3 (1): 2-11 (March, 1982)

Professor Steve Sapontzis has enriched the recent philosophical literature with an original and carefully reasoned defense of a very strong animal rights position. He argues that animals are capable of performing virtuous acts, that they merit a sort of moral respect which should be expressed in our extending to them the rights to "life, to dignity and to a fulfilling life", and that the common tendency to regard all and only human beings as constituting a morally significant class called 'persons' is wrong-headed. The challenge presented to ordinary—and even to "enlightened"—views of what is owing to animals is, obviously enough, quite serious.

But Sapontzis' challenge to standard moral reflection goes yet deeper. "A Critique of Personhood" attacks an entire constellation of ethical views labeled 'humanist egalitarianism', within which a conceptually confused and morally objectionable notion of personhood is entrenched. He holds that this concept and its context block further moral progress and proposes that it be scrapped in favor of a

practice of moral assessment based on individual merit, rather than class membership.

He begins his attack on the received moral frame of reference by noting that 'person' is a word with distinct "metaphysical" and "moral" uses. The former use ('personhood-d') is descriptive—it denotes a certain class of things, on the basis of their possession of a particular cluster of traits. Sapontzis claims that this use denotes all and only human beings. The latter use ('personhood-e') is evaluative—it indicates those whose interests merit respect. Persons-e enjoy the right to life, to dignity, and to fulfilling life; those who possess such rights are to be contrasted with nature and property.

The humanist egalitarian perspective identifies these distinct uses of 'person'. Hence, it holds that all and only human beings are such that they enjoy the right to life, to dignity and to a fulfilling life. Sapontzis carefully shows just why this is an error. He sorts out the kinds of claims someone might be making in identifying

person-d with person-e, considers arguments that could be brought in defense of the various types of identity claims, and concludes that they all fail.

After observing that 'person-d' and 'person-e' are not *intensionally* equivalent (*i.e.*, they are not synonymous, as 'bachelor' and 'unmarried man' are commonly taken to be), he goes on to claim that the terms do not pick out exactly the same set of objects—they are not *extensionally* equivalent, as are 'the Morning Star' and 'the Evening Star'. An assertion of extensional equivalence could be maintained on three sorts of grounds: if, as a matter of fact, language users employed them to refer to the same set of things (which they don't, as witness the linguistic behavior of slaveholders) or if there were some logical or linguistic rule to that effect (which there isn't, since any such rule would violate the principle that evaluations cannot be inferred from descriptions), or if there were a successful "transcendental argument" with that conclusion.

The burden of such an argument would be that the assumption of extensional equivalence is a necessary condition for the very possibility of morality; this might be the case if rationality were a necessary condition of a thing's being morally considerable. But, as Sapontzis sees it, were this true, 'rationality' could then not mean 'ordinary human intelligence', for what is necessary for moral status is not intelligence of this sort, but rather the possession of virtues. Rationality in the sense of human intelligence cannot be a prerequisite for such status, since non-humans display such virtues as "love, self-sacrifice, responsibility, moderation and parental concern" ("Critique", p. 614). Hence, no transcendental argument trading on the idea of rationality will support the extensional

equivalence of the two senses of 'person'.

Having sundered the two senses of 'person', Sapontzis concludes by rejecting the moral relevance of ontological status (except in the sense that the possession of some trait may be a necessary condition for the development of some moral virtue). Thus, instead of engaging in the fairly common practice of extending the reference class of 'person-e' beyond "all and only human beings", he suggests that such categorical approaches to assigning moral status be replaced by a criterion centered on individual merit. "Moral status", Sapontzis writes, "is properly due, earned and lost on the basis of moral character, that is, on the possession of moral virtues, and on that alone" ("Critique", p. 616).

That animals are indeed virtuous is defended in "Are Animals Moral Beings?". 'Moral being' is there defined as any being capable of acting in a fashion that is morally worthy, and which merits moral rights—namely, the familiar triad of life, dignity and a fulfilling life. On a strictly behaviorist view, animals often act in ways that would unhesitatingly be described as moral, *i.e.*, as good or praiseworthy. But our hesitation to regard animals as moral actors is not so much a matter of whether their courageous, selfless or compassionate *acts* are moral *as acts*. The major question is whether they are moral in the sense of indicating that animals are ethically assessable as *agents*, and hence, whether their actions deserve whatever extra moral merit is attributable to the good acts of moral agents.

There are two ready lines of reasoning supporting the contention that animals are not moral beings in the 'agent' sense. The first of these takes reason to be a necessary condition for recognizing that an act has

moral value, and for engaging in the act because it has moral value. Only acts so understood and so motivated are acts of moral agents. The second line has it that rationality is a necessary condition for acting freely, and that only freely chosen acts can be moral acts in that sense. Sapontzis rejects both arguments. With respect to the first, he notes that the requirement that a moral act proceeds out of a recognition of its moral character demands only that the agent responds to the moral goods and evils of a situation. It cannot plausibly be taken to demand that agents have the understanding of meta-ethical issues characteristic of moral philosophers. Granted this, what remains to be determined is whether animals ever do recognize and respond to the moral goods and evils of situations, or whether their actions proceed simply on the basis of instinct, or conditioning.

Surely, much animal behavior cannot be understood on the model of Pavlov's dogs, or the compulsive behavior of salmon swimming upstream to mate. And we do seem ready to regard certain sorts of more complex, more nuanced conditioned or instinctive behaviors as morally valuable. Both maternal instincts and moral habits, *e.g.*, count as responses to moral goods and evils; both, says Sapontzis, are directed to accomplishing a good, or alleviating an evil, and hence meet the common sense criterion for producing moral actions ("Moral Beings", p. 49). Further, some animal actions—say, the cases of porpoises helping drowning sailors—must be regarded as spontaneous acts of kindness. Porpoises have not been conditioned to act so, and it seems unlikely that they could be responding to instinctual drives.

What rationality in the sense of normal human intelligence does confer on its possessor is the ability to

control and reconstruct both the world and the possessor. This is morally significant, since, on Sapontzis' view, a moral action is constituted as such by its being a part of a moral enterprise, part of the project of attaining an ideal way of life. He writes:

Although many animals possess sufficient reason, sensitivity, or intelligence to recognize virtues and to do virtuous deeds, they seem to lack the ability to lead a dedicated moral life... While many of their actions are virtuous, animals are not moral beings, because these actions are not part of a moral life ("Moral Beings", p. 50).

But, although animals cannot act morally, and thus are not moral beings, they ought still be regarded as objects of moral respect. Animals can act virtuously. In this respect, they are similar to God, who is taken always to act virtuously, but never to be striving to act better, or to the naturally well-disposed, who are virtuous spontaneously rather than as a considered part of an idealistic enterprise. But, according to our common practice, such virtuous acts and virtuous actors are worthy of our moral respect. Hence, animals who act virtuously also deserve such respect; moral beings, in their quest to forge a morally better world, should extend to them the rights to life, to dignity and to a fulfilling life.

Sapontzis is concerned to minimize the significance of one's understanding of the moral character of one's acts, and of the freedom of one's choice in electing a given act from other alternatives. All that is required is that one act with regard to the goods and evils of the situation. This is altogether compatible with being unable to frame any account of what makes something morally good or evil, or of what moral

value is; as Sapontzis points out, ignorance of such matters is not limited to non-humans. The main positive criterion he seems to insist on in judging an act as a response to the goods and evils of the situation is that the agent is free of ulterior motivations. But consider a machine whose flexible and sophisticated programming allows it to respond to the moral goods and evils of a situation—say, a robot designed to recognize and respond to situations which endanger children. Surely, our life-saving robot will act on no ulterior motives.

While there may well be a means for marking of the (presumably) non-virtuous behavior of the robot from the (putatively) virtuous behavior of the dog, when they vie with each other over who will save a child from the fire, it is not immediately clear how to do so on the basis of the present account. If we cannot do so, we are left with either including our robots into the sphere of moral respect, or drawing the distinction between the virtuous and the non-virtuous nearer to the threshold of humanity. It may well be that some understanding of one's act as being motivated by moral concerns is both necessary for it to be fully virtuous, and more characteristic of persons than Sapontzis admits.

And should it be possible for animals to be virtuous, does that not indicate that they might be vicious as well? If so, the casuistry of our relationship with animals becomes even more complicated. If ordinary moral consciousness has tended to avoid bestowing full moral laurels on the dog who saves the child, so to has it tended to exculpate the bear who crushes a child. Has this bear forfeited its right to life, dignity and a fulfilling life?

Sapontzis may well be able to lay

these worries to rest. Showing the moral insignificance of the kind of thing a being is may be harder. Consider Sapontzis' use of the example of God to indicate that a being may not be a moral actor, but may yet be virtuous, and hence deserving of the rights to life, dignity and a fulfilling life.

To say that God merits moral respect because of His virtue has an odd ring to it. At best, it seems a very weak way of putting the point; at worse, it confuses respect with worship and adoration. But even if the kind of being God is does not preclude respect, it does preclude God's having any interests of the sort which could possibly need protection or acknowledgement in the form of rights to life, dignity and a fulfilling life. This suggests that the kind of being a virtuous actor is may be very important in determining in what manner moral respect is appropriately tendered to it. It may further suggest a means of resurrecting the moral utility of 'personhood', were it the case that persons have interests which other virtuous actors fail to have.

In his most recent article, "Must We Value Life to Have a Right to It?", Sapontzis takes up the suggestion that persons may have interests which demand a certain kind of moral protection—say, a right to life—which animals do not deserve.

Ruth Cigman's "Death, Misfortune and Species Inequality" (*Philosophy & Public Affairs* 10 (1)) is Sapontzis' target; her argument is seen as "well on the way to becoming a classic among opponents of animal rights" ("Must We Value Life . . .", p. 2). Briefly, Cigman has it that an entity could have a right to life only if its death would be a misfortune to it, and death can be a misfortune only to those things which can value life itself.

This argument has been around for a while; one can see it plainly in the work of Michael Tooley (Cf. "Abortion and Infanticide" *Philosophy & Public Affairs* 2 (1)). Tooley defines 'person' as "any being which has a right to life", and attempts to determine what is necessary to have a right, and *a fortiori*, the right to life. Like Cigman, Tooley locates the answer in the interests of the individual in question. In particular, it is at least a necessary condition of having a right to life, that one's interests be harmed by losing life, and this, Tooley claims, is only the case for those beings who possess a cognitive capacity sufficient to conceive of themselves as continuing subjects of experience, and to desire to remain so. This is a trait which is *not* had by all human beings, and, as Tooley sees it, which may well be had by some non-human animals; hence, not all humans enjoy the right to life, and not all animals lack it.

Such an account avoids many of the most pernicious aspects of the humanist egalitarian moral framework Sapontzis criticizes in "A Critique of Personhood." It does not identify persons with "all and only human beings". Neither does it imply that the sphere of moral consideration abruptly ends at the demarcation between persons and non-persons. For, although non-persons may not be capable of the propositional attitudes requisite for death to be a harm to them, they may well have sufficient consciousness to experience pain, and to wish to avoid it; that is, they may be sentient and hence have an interest in remaining free of pain that moral agents have a *prima facie* obligation to respect.

But if it is not in being humanistically chauvinist that the Tooley-Cigman style position offends, it may offend in its egalitarianism—or so I believe Sapontzis might argue, in

keeping with his attack on the standard moral framework. A central moral notion for Tooley is *harmfulness*. In his earlier two articles, Sapontzis seems uninterested in harmfulness *per se*. His interest there is in *merit*. No class of creatures ought to be accorded a certain set of "rights" as its due simply in virtue of its metaphysical properties; this is mere prejudice. So whether or not death is properly seen as a harm to a swarm of industrial and sociable bees, as it would surely seem to be to an equal number of indolent, asocial human felons is not to the point in determining what morality bids us do in our quest for a better world, it would seem. What is owing to the members of a class is a matter of their individual worth. Hence, it would appear to follow, in a "burning building" situation, if you can save the inhabitants of one room only, save the bees. How can you consistently claim to value industry over indolence and cooperation over selfishness if you act otherwise?

However, in "Must We Value Life to Have a Right to It?", Sapontzis seems to depart from his meritocratic moral perspective, and to enter a more customary ethical arena, where the interests of individuals—and hence the kind of thing they are—become quite important. Unlike Cigman, he does not hold that "taking an interest in life" is essential to death's being a misfortune to any individual, but he is willing to grant (at least for the purpose of this article) that having a right to *x* implies that lacking *x* is a misfortune, and hence that any being unable to experience the misfortune of not-*x* could not properly be said to have a right to *x*. This would seem to be the case even if the being in question were an appropriate subject of moral respect. As Sapontzis writes:

The prejudice of speciesism does not lie in denying animals

the same set of rights enjoyed by humans. Animals have no interest in equal educational or vocational opportunities, so it would be nonsensical to suggest that they should share human rights to them. ("Must We Value . . .", p. 8)

So it would seem, contrary to the position expressed in "A Critique of Personhood", that metaphysical properties, and hence class membership, could be extremely relevant to moral status. Sapontzis argues that Cigman is incorrect in her view that death is a misfortune only to those beings which can value life itself; on his view, it is not necessary to *take* an interest in *x* in order to be harmed by the loss of it. It is sufficient to *have* an interest in *x* in order to be harmed by the loss of *x*. But surely, different kinds of beings will have different kinds of interest.

Sapontzis supports his point against Cigman by noting that we ascribe many kinds of right to humans too young, too damaged or simply too ignorant to be aware of what those rights protect. To the response that these putative counter-examples are abnormal, and hence do not disprove an analysis of rights predicated on normal cases, Sapontzis offers another counter-intuitive consequence of that view. Industrial pollution is a major source of animal suffering, and since animals are unable to understand the relationships between pollution and suffering, they must, on the view in question, be incapable of valuing a pollution free environment. But does it further follow that animals are not suffering a misfortune in losing healthy habitats?

Sapontzis concludes that the inability to understand what is causing one to suffer is morally unimportant where avoidable suffering is concerned. Hence, beings may well have rights to

things which ". . . normal beings of their kind are incapable of understanding and valuing" ("Must We Value . . .", p. 6).

Sapontzis' view that one need not understand what is harming one to be harmed by it seems correct. But it might be argued that the evil of death is a special case; in order to be harmed by death, one must possess the kind of psychological concepts and cognitive capacities of the sort that Tooley and Cigman require. For how else are we to understand how death harms someone, if it is not by frustrating desires that they have? As Epicurus noted long ago, death, if a misfortune at all, is a curious kind of misfortune. It does not make anyone worse off, or prevent anyone from being better off, for there is simply no one for these comparative notion to be applied to (granted the assumption, uncontroversial in the case of animals, that death is annihilation).

Sapontzis argues that our general practice of judging death to be a misfortune *to the person who dies* rests on the view that death eliminates any possibility of future happiness for the dead individual, not solely on the notion that death frustrates certain categorical desires. Since this consideration applies equally to animals, it would seem inconsistent to withhold a similar judgment of misfortune in their case.

However, the manner in which death eliminates any possibility of future happiness is logically odd, since it does so without making the purported subject of this misfortune any worse off. Death is not, after all, like being permanently immobilized in a sensory-deprivation chamber, still existing, yet unable to enjoy anything (to the best of our present knowledge). So, if we are to continue to regard death as a misfortune for any creature, we will have to resolve the

problem that death removes the subject of the harm. If the harm of death does not reside in the frustration of a desire to live, it is difficult to see where it may be placed.

Another complicating factor is suggested by Thomas Nagel's well-taken observation that it is not merely the quality of life that we value, but life itself, and that (in general) the loss of death cannot be reduced without remainder into the permanent loss of the possibility for further enjoyment. (Cf. Nagel's "Death", reprinted in his *Mortal Questions* (Cambridge, 1979). Both these considerations—the possible role of the frustration of categorical desires and the value placed on life itself by those beings capable of conceptualizing life itself—suggest that there may well be a morally important distinction between persons (*not* in the sense of "all and only human beings") and other animals, which may find defensible expression in the extension of a right to life to persons, but not to animals who fail to be persons.

Another consideration raised by Sapontzis' work in "Must We Value Life to Have a Right to It?" mirrors that suggested by "Are Animals Moral Beings?": it is hard to shake the suspicion that Sapontzis may have proved too much. If it is not necessary to take an interest in something in order to have a right to it, we cannot be sure on these grounds that such moral reflexes as the restriction of the right to suffrage to persons

have a respectable moral foundation. Surely, on Sapontzis' account, animals have an interest in the results of election and legislation; they may well be subjected to otherwise avoidable suffering, depending on the outcome of many an election. Would it not be more in keeping with Sapontzis' overall program were he to suggest that animals be extended suffrage—exercised, of course, through human proxies. Perhaps such proxies would have to satisfy some authority that they understood and were acting on behalf of animals' interests, insofar as that could be determined, and would exercise their proxy independently of their own right to participate in the electoral process.

Sapontzis' work has the great merit of bringing to the readers' attention how deep speciesism penetrates. It lies not only at the base of actions and attitudes, but it affects reasoning as well; the very inferences that we draw are biased by species prejudice. But our reflexive dismissal of voting rights for animals may indicate a sensitivity to something of real importance; the ethical significance of taking an interest in *x*. Just as persons (and presumably nothing else) place a special value on the exercise of personal autonomy and upon their contributions to the social organization that binds them together, so do they place special value on life itself. Such matters are involved in legitimately according special status to reflexively conscious individuals, of whatever species.

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