Do human non-persons have basic rights simply because they are members of a species characterized by personhood? Are we justified if we give moral preference to human non-persons over non-human non-persons with equivalent mental capacities, provided that the latter do not belong to a species characterized by personhood? Michael Wreen has argued for this speciesist view in his recent, important article, "In Defense of Speciesism."[1] I have very recently argued that he fails to make a case for his view.[2] Now Wreen has forcefully rejected my criticisms in his "My Kind of Person."[3] In the present article, I am pleased to contribute another installment to the debate on speciesism. This issue, which is central not only to animal rights issues but also to ethics in general, certainly needs critical attention. Wreen is one of the very few philosophers who has put his keen philosophical acumen to the task of defending a view taken for granted by virtually all humans. When the current round of argumentative dust has settled, however, I believe that the reader will agree that speciesism remains unjustified.

Before proceeding further, I want to lay one of Wreen's charges against me to rest. He thinks that I have overlooked half of his argument. According to his numbering, the argument for speciesism has four stages: (1) humanity and personhood are claimed to be linked conceptually, thus providing a "solid" basis for our ability to identify with human non-persons in a unique way; (2 and 3) becoming and remaining a human person is subject to the laws of nature and chance, forces over which humans have little or no control; and (4) human non-persons should be ascribed basic rights on the grounds of equality of opportunity or fairness (WII: p. 52). In my critique, I said that Wreen's argument consisted of two major appeals: an appeal to metaphysics (or "quasi-metaphysics," to use his term) and an appeal to fairness. This is an "oversight," he says, which results in my "concentrating mainly [sic] on stages (1) and (4) (WII: p. 24). In fact, however, I omitted no stage of Wreen's argument in my critique. His (1)—which is really two steps (the conceptual point and the claim that this point supports our ability to identify with human non-persons)—was discussed first as an "appeal to metaphysics." I then discussed 2-4 under the heading of "an appeal to fairness." (Incidentally, (2) is already included in (3); I do not know why Wreen gave them two numbers, given the way they are stated.) It is true that I spent much more time on his (1) and (4); they obviously are open to more objection than the empirical claims in (2-3).[4] This does not indicate that I overlooked any part of his main argument, let alone half of it. However, I am happy to follow Wreen's numbering here in order to avoid any further misunderstanding.

I will argue (as I did before, but with the benefit of Wreen's recent responses) that the quasi-metaphysical, conceptual claim in (1) is not justified. Even if (1) succeeded, however, it—in conjunction with the largely correct though overstated (2-3)—provides no support for speciesism without the crucial fairness claim in (4). I will show that claim to be unsuccessful on two counts.

First, let me consider (1). Wreen's main argument for the claim that "the concepts of a human being and a person are not related merely empirically" is his contention...
that it is supported by the following "plausible" identification principle:

(IP): It's a necessary truth that the statement "X is a live human being" is good evidence for the statement "X is a human person."

(WII: p. 50)[5]

If (IP) is true, then being a live human is criteriologically—rather than empirically—related to being a human person.

Why should we accept (IP)? Because, according to Wreen, it is a "near relative" of another extremely plausible principle:

(RI) [Re-identification Principle][6]: It is a necessary truth that bodily identity is evidence for personal identity. (WII: p. 50)

In my critique, I charged (a) that Wreen did not provide a defense for (IP), since (RI) is relevant to a very different sense of "identification," and (b) that (IP) is quite implausible in any case (p. 123).

Wreen responds to (a) that the relationship between (RI) and (IP) is "obvious"—the latter is "conceptually prior" to the former: "For to deny (IP) while holding fast to the re-identification principle would be like accepting the principles of calculus while rejecting those of basic arithmetic" (WII: p. 24). But does (RI) really presuppose (IP)?

I think not. The bodily criterion of personal identity concerns the question of how we determine whether person X is the same person we knew before: is this person still X, or is he/she another person altogether? (RI) does not tell us how to determine whether X is still a person. The identification which is genuinely conceptually prior to (RI) is the individuation of person X from person Y in terms of bodily characteristics. Such individuation presupposes that one has already determined that X is a person. How one determines this is not specified.

Here is how one could accept (RI) and the bodily individuation of persons it presupposes without accepting (IP). One accepts Feinberg's notion of "commonsense persons" (a notion accepted by Wreen on p. 47 of his original article): persons in this sense are "those beings who are conscious, have a concept and awareness of themselves, are capable of experiencing emotion, can reason and acquire understanding, can plan ahead, can act on their plans, and can feel pleasure or pain."[7] Who counts as a person in this sense is an empirical question (assuming, as one is amply justified in doing, that logical behaviorism and its variants are false). X, let's say, has been determined to be a person. How do we know that X is X rather than Y? Because X has a unique set of physical characteristics. We individuate X from Y in terms of these bodily characteristics. Likewise, after a lapse of time, we decide that the individual we are now confronting is probably the same X we confronted earlier provided that this individual has the body we previously determined to be X's. Let's suppose that we cannot imagine circumstances in which bodily identity would not be good evidence for personal identity. Then we could accept (RI). But we need not at all believe that it is necessarily true that "X is a live human being" is good evidence for "X is a human person." Whether X is a person or not is a purely empirical matter, we can hold, even though—one has been found to be a person—we may hold that the relationship between this particular X and this particular body is not purely empirical. In short, the following two questions are logically independent: (1) "How do we determine if X is a person?" and (2) "How do we tell whether this is person X and not person Y?" (RI) concerns the second question; (IP) concerns the first. Thus, they are also logically independent. (RI) does not presuppose (IP).

Moreover, my original second criticism of (IP), which I have here called criticism (b), still stands: since we can, with no difficulty whatever, conceive of circumstances in which "X is a live human being" would not be good evidence for "X is a human person," the claim that this evidential relationship is necessary must be false (i.e., (IP) is false). Wreen responds by agreeing that we can imagine the evidential relationship not to hold but denying that this shows that (IP) is false:

All inductive principles, even the best of them, and even criteriological principles, may have to give way to particular circumstances in the face of evidence to the contrary. (WII: p. 24, emphasis added)

However, this won't do. It is part of the concept of "criterion" that if x is cri-
teriologically related to y, then there is no evidence that we would count as showing that x is not good evidence for y. This is what distinguishes a criteriological claim from an empirical one. To quote Sidney Shoemaker, whose sense of "criterion" Wreen explicitly adopts in his response to me (WII: p. 24).

Thus, (IP) is false. It is at most empirically true that "X is a live human being" is good evidence for "X is a human person." Wreen has not shown that "the concepts of a human being and a person are not related merely empirically."

If (IP) is false, it cannot provide "a solid metaphysical basis" for the alleged fact that we identify with human non-persons in a way in which we cannot identify with non-human non-persons, as Wreen claims in the second part of his stage (1). This is true regardless of how one interprets "X identifies with Y."[9]

Even if stage (1) had succeeded in its entirety, Wreen's argument for speciesism would nevertheless, as I said earlier, have failed without the final, crucial step: the plea for fairness. That plea, as I argued originally, has not been shown to be conceptually coherent in the context of Wreen's argument. It is also irremediably circular. I will now explain why Wreen's responses to these charges leave his argument for speciesism unsalvaged.

Anyone who reads Wreen's (1)-(4) can see that (4), his conclusion, needs explanation and defense. Wreen, of course, is well aware of this and offers us both. According to (4):

Human non-persons, then, should be ascribed basic rights; for although in the primary case it is persons who are ascribed basic rights, equality of opportunity, or, better, fairness, requires us to ascribe basic rights to human non-persons as well. (WII: p. 52)

Since (4) is a normative claim, it does not follow from the non-normative (1-3). What separate grounds are we given for believing that "fairness" justifies the ascription of basic rights to human non-persons but not to non-human non-persons belonging to species uncharacterized by personhood? These humans, we are told, have been deprived of their personhood by "Natural contingency" or laws of nature beyond their control. They have been "denied" a chance at becoming or remaining a person by "foul fortune." Nature has been unjust, inequitable, unfair. It is the cause of their non-personhood. According these individuals basic rights is "compensation" or "restitution" for the initial injustice.[10] To quote from Wreen's defense of (4):

What I argue, in part, is that when nature—laws of nature and Natural Contingency—denies a human being the usual qualifications for possessing basic rights, namely personhood, basic morality, perhaps natural law, makes due restitution for such a fundamental injustice... Put somewhat differently—and certainly extravagantly—it would be appropriate to ask the Supreme Court of Justice of the Cosmos for adequate compensation for having been denied personhood. (WII: pp. 55-56)

This defense of (4) personifies nature by implying that pure chance or natural law can inflict injustice, deny opportunities, and provide "compensation" or "restitution." Here is another apt quote from his defense:

Basic morality, perhaps natural law, ensures at least the minimum of fairness here, and redresses the moral balance, makes up for nature's inhumanity to humanity, by according basic rights. (WII: p. 53)

But only moral agents—perhaps—can inflict injustice, provide restitution, ensure the minimum of fairness. The terms "Natural Contingency," "natural law," "the cosmos," and "nature" do not designate a moral agent. So isn't Wreen's conceptual framework conceptually incoherent?

Wreen replies (after raising this objection himself) that terms like 'Justice,' 'restitution,' and 'compensation' are handy...
metaphors, just as 'accord basic rights' is. . . . The anthropomorphism is not inex- tirpable, just convenient and vivid" (WI: p. 57).[11] I replied that I would like to see how these metaphors could be extirpated from the defense of (4). He responds that "the showing in question is easy enough, though: just read "In Defense of Speciesism" sans the phrases in question—or read this paper as it stands" (WII: p. 27).

The trouble is that eliminating these phrases from "In Defense of Speciesism" leaves Wreen with no argument. Wreen's stage (4)—the conclusion of his argument for speciesism—itselt contains these "metaphors." This also holds for "My Kind of Person," which repeats the conclusion (although it eliminates the defense for it). If "justice" is merely a convenient metaphor here, so is "fairness." As nature, not other persons, is clearly the culprit in (4) (see 2-3), the objectionable personification continues. A genuine extirpation job eliminates Wreen's conclusion.

If that weren't problematic enough, the fatal flaw of circularity remains. I had argued that Wreen's defense of speciesism is circular as follows. By maintaining that we should accord basic rights to human non-persons because they had been unfairly deprived of the personhood which is characteristic of their species, Wreen assumes that they already have a basic right: the right to be treated justly or fairly. (The terms "compensation" and "restitution" make this especially clear.) Wreen responds by distinguishing "justice (or fairness or equality)" as a right from "justice (or fairness or equality)" as a principle. The principle grounds the right, he says. Justice as a right is not used in the argument for speciesism, Wreen tells us; justice as a principle is. The principle of equality is applied to human non-persons in the argument, thus grounding their basic right to justice. It is not, then, presupposed that human non-persons already have basic rights. In this way, Wreen argues, "the circle can be, and is, broken" (WII: p. 27). What is the principle of "justice (or fairness or equality)?" We are told that "all creatures in the relevant (person-related) class are to be treated fairly and equally in respect to personhood generated rights" (WII: p. 27).

This move does not enable Wreen to escape the charge of circularity; instead, it changes the circle's location. The basic question at issue is whether species membership can be a morally relevant characteristic. Feinberg's version of speciesism, the view which Feinberg rejects and which Wreen believes that he has established by his argument, is as follows:

(PS) [Feinberg's version of speciesism]: A live creature's belonging to a species, not necessarily our own, which is generally characterized by personhood, is of some moral weight, and enough, in fact, to ascribe a right to life to that creature. (WI: p. 48)

Wreen cannot use his principle of justice to establish (PS). To suppose, as Wreen does, that the principle that "all creatures in the relevant (person-related) class are to be treated fairly and equally in respect to personhood generated rights" applies to human non-persons is to presuppose that membership in a species characterized by personhood has moral weight. Not only is the circle not broken; it has tightened into a noose for the argument.

For this reason, and many more, speciesism has not been justified. If human non-persons have basic rights—as I believe they do— we would do well to look beyond their humanity for the source of these rights. In doing this, we will learn that non-humans—whether or not they belong to personhood-characterized species—have basic rights, too.

Notes

1. Michael Wreen, "In Defense of Speciesism," Ethics & Animals V (1984), pp. 47-60. Subsequent references to this article will be indicated in the text as follows: (WI: p. _).


3. Michael Wreen, "My Kind of Person," Between the Species II (1986), pp. 23-8. Subsequent references to this article will be indicated in the text as follows: (WII: p. _). I want to thank Prof. Wreen for sending me an advance copy of this article.
4. My only objection here was that it is often the case that humans do have control over circumstances which would turn them into non-persons (p. 126). Wreen concedes this (WII: p. 27). We continue to disagree about the ethical consequences of this fact, however. See note 10 below.

5. Wreen is much less tentative about the role of (IP) in the conceptual stage of his argument in his response than he was in his original article. Compare WI: pp. 49-50 with WII: pp. 24-5. See also my p. 128, n. 7. Note, however, that (IP) implies nothing one way or the other about the existence of certain species characterized by personhood. The fact of the matter is that since "commonsense personhood" is not defined biologically (as Wreen himself notes on p. 47), non-persons could and— if recent work in ethology is correct—probably do exist (see my p. 127). (IP) as stated is entirely compatible with this fact.


9. Wreen adamantly rejects my interpretation of his "X identifies with Y." He now says that he was not talking about "psychological identification" (of which empathy is a form, according to all the psychologists I have seen who write on this subject) at all (WII: p. 26). If Wreen is offering a new definition of a standard psychological term, should he not have said so? As it stands, the way "X identifies with Y" is used in his paper suggests the usual psychological interpretation. One thinks "that could have been (or could be) me," as he repeatedly tells us. If what he intended to refer to is not psychological identification, why use the first person this way? It now seems that he wants to make a metaphysical point here instead: I identify with Y if it really could have been me, not when I merely think "it could have been me." (Frankly, to use the phrase "identify with" instead of, say, "be identifiable with," in making a metaphysical point rather than a psychological one, seems very odd indeed.) Even if this is what Wreen means, however, I still must question his claim that we cannot identify with non-humans. He tells us:

All I mean is that the common judgment "that could be me" holds for all human beings, whether persons or not, that it doesn’t for non-human non-persons. (WII: ibid.)

Why doesn’t it hold for non-humans? If I "could" have been born with 47 chromosomes, why not with 46. Why "could" I have been a Down’s child but not a chimpanzee with the same mental capacity as a Down’s child? In either case, I would have been ensnared in alternative causal series.

I find the remarks Wreen makes on the distinction between his sense of identification and empathy baffling. E.g., he claims (WII: p. 49) that his brain-damaged Walter Weber identifies with humans "that have no inner life, or a radically diminished one" (WII: ibid.). Does Walter Weber think "it could be me" when he contemplates another brain-damaged human? How so? Another puzzle: Wreen says that the Weber-type identification with certain humans was part of his point in introducing his three cases of human non-personhood (Weber is one of those cases). "I am not sure Pluhar quite understood this," he remarks (WII: n. 4). That’s absolutely true and not a bit surprising, given that nothing of the sort was said—we were to identify with Weber—and I readily admit that I still don’t understand. Again, Wreen denies that empathy with (as opposed to identification with) the severely brain-damaged or permanently insane is "rationally" possible, but he says that he can empathize with birds and antelope (WII: ibid.). But even if these humans were irreversibly comatose (a strange kind of congenital retardation or permanent insanity!), we can still put ourselves in their positions. Even if sentence on the part of the other individual were required for empathy, however, this in no way shows that we could empathize with birds but not with, say, Alzheimer’s victims.

In short, whatever "X identified with Y" is supposed to mean, without (IP)’s "quasi-metaphysical underpinning," it cannot be used to support speciesism.

10. Of course, this only applies to non-persons who have not been responsible for their own condition through intention or
negligence (such as non-persons who were Hollywood stunt people, who didn't wear their seat-belts, or who botched their suicide attempts). This doesn't bother Wreen. In response to my having pointed out that "at most Wreen has made a case for the ascription of basic rights to those human non-persons whose condition is no fault of their own" (p. 126). (The first two words are emphasized because they were inadvertently omitted from Wreen's quotation in his response.) Wreen replies that it would be consistent with his position to hold that such non-persons have forfeited their right to life (WII: p. 26-7). I continue to find this counter-intuitive, but the reader must check his/her own intuitions on this point.

11. In this context, Wreen also claims that such terms "are used metaphorically by all those who reject (SS) [Singer's "speciesism"] and (FS) and, in fact, by everyone who employs the concept of a basic right at all" (WII: p. 57). However, (1) Why must a proponent of basic rights personify change or natural law? Only moral agents are capable of respecting or violating basic rights. (2) Rejectors of speciesism who endorse the notion of basic rights also have no need thus to personify nature. In reiterating his "you, too" charge in "My Kind of Person," Wreen actually makes a very different charge: he claims that anti-speciesists who accord moral considerability to non-humans anthropomorphize these non-humans. Why? By applying terms (moral and psychological) for which the adult human is the model to those who are non-human. In doing this, anti-speciesists use the terms in a "metaphorical" or "derivative" sense (WII: n. 6). In response, I first want to point out that this would be a very different sort of metamorphizing from that which Wreen has been charged with doing. Second, to say that any application of psychological or moral terms to non-humans is anthropomorphism is to say that it is cognitively unjustified. But why should one accept this allegation? Even if "Wittgenstein has taught us" that the adult human is the model for all psychological and moral ascriptions (I happen to be one of those philosophers who have not been "taught" this by anybody, including Wittgenstein), it does not follow that the application of such terms to others is cognitively unjustified or metaphorical. Suppose that I learn the concept of box on the basis of my exposure to cigar boxes. Do I "cigarboximorphize" if, later in life, I classify music boxes as boxes? Is this a cognitively unjustified ascription?