

REPLIES

(IN RE E&A III/4, Nelson's review of articles by Sapontzis)

First of all, I would like to thank Professor Nelson for his lucid, thorough review of my work. It is certainly gratifying, not to mention flattering, to have one's work given the careful, thoughtful attention Professor Nelson has accorded mine.

Professor Nelson expresses reservations concerning two of the positions I have developed. He thinks I have underestimated the moral significance both of "the kind of thing a being is" and of "taking an interest in x". I would like to take this opportunity to respond to both of these criticisms.

In my essay entitled "A Critique of Personhood" (*Ethics* 91/4 (1981)), I develop a thoroughly meritorian position in opposition to what I believe to be the logic of prejudice which has characterized moral philosophy. From ancient Greece to the present, moral philosophers have conferred moral status, such as meriting rights, on the basis of morally irrelevant, descriptive properties, such as being Greek, Christian, white, and human. In my essay I argue that in order to escape prejudice we must stop doing moral philosophy in this way and start according moral status on the basis of morally relevant, evaluative

characteristics, such as being virtuous. I argue that "moral status is properly due, earned, and lost on the basis of moral character, that is, on the possession of moral virtues, and on that alone."

In that article I acknowledge two addenda to that clarion call: (i) if being virtuous requires certain descriptive properties or capacities, such as a sensory system, then one may infer from a being's lacking these properties or capacities to its not meriting rights, and (ii) one may without prejudice provisionally accord rights to the young who have the capacity for developing good moral character but have not yet had the opportunity to do so. Part of Prof. Nelson's reservations concerning my meritorianism seems to amount to a call for yet another addendum to that position. Through developing the case of a robot baby-sitter and discussing the oddness of ascribing rights to God, Nelson argues that whether a being merits rights depends on whether it needs rights, i.e., on whether it has interests that need to be protected or furthered by rights. Although I would quibble over his examples, I think Nelson is basically correct and gladly accept this third addendum to my meritorianism. It in

no way compromises my critique of the logic of prejudice nor suggests that non-human animals who are virtuous nonetheless do not merit rights, for such animals do have interests which need protection and assistance.

However, Nelson's robot baby-sitter is intended to raise a second, more significant criticism: assuming that a robot "whose flexible and sophisticated programming allows it to respond to the moral goods and evils of situations which endanger children" is, nevertheless, not virtuous, "it may well be that some understanding of one's act as being motivated by moral concern is both necessary for it to be fully virtuous and more characteristic of persons than Sapontzis admits." My immediate reaction to Nelson's robot example is that it is inconsequential, for we have no way of deciding whether that robot would or would not be virtuous. How such machines, if they ever become common, will be integrated into our morality is a matter which will be decided as we develop, live with, and get to know them, and until such machines become part of our lived world, thought experiments about how we should evaluate them are just idle speculation lacking moral significance. About all I can say at this point is that assuming that such a robot baby-sitter could not be virtuous because it is a machine strikes me as yet another expression of the logic of prejudice — perhaps in the future there will have to be a machine liberation movement!

More seriously, Nelson's robot does raise an important issue concerning moral motivation: a fully moral agent is one who wants to do what is right. If a person did the right thing but did not want (from feelings of sympathy or respect) to do it, we assume he had ulterior motives, was unaware of the moral significance of his action, or just responded reflexively; so, the

example of a presumably unfeeling machine protecting children from danger does not strike us as a fully moral agent. I believe that it is this belief about fully moral motivation which leads us to doubt whether insects who see to the needs of their young but who (as far as we can tell) do not grieve if death takes those young are really morally motivated, rather than just being directed by some chemical stimuli and biological circuitry.

These issues are too complex to deal with in detail here; let me just make the following two comments to indicate why these issues do not threaten the meritorian animal rights position I have developed. First, not to be a fully moral agent is not to be a non-moral agent. An individual who regularly, intentionally did the right thing even though he was not motivated by wanting to do the right thing would still be morally superior to an individual who did not even do the right thing (see my "Moral Value and Reason," *The Monist* 66/1 (1983), for some suggestions about the complexity of moral evaluations of actions and agents). Second, until recently we have not closely observed nor tried to understand the lived world of animals; consequently, we have seriously underestimated the complexity and range of animal psychology, as ethological studies are beginning to show. Many more such careful, sympathetic studies are needed to show the full extent of fully moral motivation among animals. Consequently, even if we recognize the need for emotional involvement in fully moral motivation, it does not follow that this will require that virtuous agents be closely similar to humans.

Nelson's other reservation concerning my meritorian position is that it would complicate our moral casuistry and lead us to condemn some animals as vicious. I find no conceptual

problem with declaring some animals vicious and punishing or attempting to rehabilitate them. This is already common practice. What is needed to make that practice morally acceptable is to extend to accused animal criminals the commitment to impartiality, adequate defense counsel, rejection of cruel and unusual punishment, and the other safeguards of the human criminal system. In dealing with animal misbehavior we should keep in mind the sorts of things we keep in mind when dealing with the misbehavior of people from very different cultures, children, and the retarded. That is, generally, we need to evaluate them against the best that can be expected of them, given their background and capacities, rather than evaluating them against the standards for normal human adults raised in our society. Perhaps this is a fourth "kind of being it is" addendum to my meritorianism. If so, I gladly accept it, for it merely adds further, realistic complexity to that position. It does not at all point in the direction of a difference "which would justify ascribing a right to life to persons but not to animals" – we do, after all, ascribe a right to life to children, even though we do not expect them to be as morally accomplished as adults.

Turning to Nelson's second reservation, that I underestimate the moral significance of taking an interest in something, I should first mention that I have recently published an essay devoted to this issue. It is entitled "The Moral Significance of Interests" and appeared in the Winter, 1982, issue of *Environmental Ethics*. The main thesis of that essay is that the difference between taking an interest and merely having an interest in something is of only secondary moral importance.

Here again, Nelson offers three reasons to show that I have underestimated matters: the misfortune of

death requires that death be the frustration of a desire to live; we value life itself, not just the quality of life; and if merely having an interest provides a sufficient foundation for a right, then dogs should have a right to vote, since they have an interest in who wins the election. I do not think any of these objections points toward a morally serious difference between having and taking an interest in something.

If the logical oddity of the misfortune of death is that "death removes the subject of the harm," then referring to death frustrating a desire to live no more meets this problem than does referring to death's eliminating the possibility of the individual's future happiness. The deceased does not experience the frustration of his desire to live any more than he experiences the loss of the happiness he might have had. Paradoxical as it may at first seem, the subject of the misfortune of death, be that construed as the frustration of a desire or the loss of future happiness, is the living, who suffer this misfortune when they die.

I would not deny that experiencing, especially foreseeing, death as the frustration of categorical desires may give an emotional dimension to death which is lacking in other cases, e.g., those of people and other animals lacking categorical desires and those of individuals who die suddenly and unexpectedly while unconscious and who, consequently, do not experience their deaths at all. However, argument is needed to show that only when this dimension is present is death a misfortune and life to be protected by a right to life.

Perhaps Nelson's second objection, that "it is not merely the quality of life that we value, but life itself," is supposed to provide that argument. Just what "quality" and "life" refer

to, to what degree the latter is separable from the former, what value the latter has if distinguished from the former, and what moral significance there is to these distinctions are some of the questions that would have to be answered before we can know how much of an argument there is here. For the time being, let me just observe that at an intuitive level I would agree that we value life itself, but, then, so do virtually all animals, so that using valuing life itself as a criterion for having a right to life would not even suggest that such right-holders must be closely similar to humans. Virtually all animals respond with great fear or anger and frantic attempts to escape or resist when they recognize their lives are being threatened. Some philosophers reject "blindly clinging to life" as expressing the "valuing" of life itself, but I have argued elsewhere that this is unjustified ("On Being Morally Expendable," *Ethics & Animals* III/3 (1982)). So intuitively it would seem that animals do take an interest in life itself and should, therefore, benefit from whatever moral significance attaches to that interest.

Turning to Nelson's final objection, that basing rights on just having

interests would lead to such absurdities as giving dogs the right to vote, his discussion of this case seems not so much a reduction to absurdity as an explanation of why what has traditionally and unquestioningly been labelled absurd is really quite reasonable and could, through the use of proxies, be carried out intelligibly and intelligently. Indeed, in California we already have two animal rights political action committees; PAWAC and ROAR, which are engaged in securing political power for animals through human proxies. Since we have traditionally held that political institutions should be designed and governed by moral values, we should expect that bringing animals from the backwaters into the mainstream of our morality will require revisions in our political institutions as well. There is nothing inherently absurd in this prospect, since the political interests of animals can be represented and protected by competent human proxies, just as the political interests of children and the mentally infirm are currently so represented and protected. Consequently, I do not believe that I have "proven too much" by arguing that one can have a right to something he has an interest in but is incapable of taking an interest in.

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Reply to Sapontzis

(IN RE E&A III/4 and above, Nelson's review and Sapontzis' reply)

In my review of Professor Sapontzis' work, I suggested that, even if we were to grant that animals were virtuous agents, it would not follow that the moral respect due that virtue need be expressed in extending them

the rights to life, dignity and a fulfilling life; it would also need to be shown that the agents stood in need of those rights, that they had interests which could be protected and furthered by those rights. In his

reply, Sapontzis accepts this as a "third addendum" to his meritorianism, but if there is any implication that my remarks drove him to this realization, he is surely being over-generous. The amount of hard thinking he has done on the issue of animal interests clearly indicates that he is aware that his meritorianism alone is insufficient to secure the extension of such rights to animals; they must not only *deserve* them, they must *need* them as well.

My suspicion is that the meritorianism (*sans* addenda) is not only insufficient, but unnecessary as well. As I indicated in my review, I do not see that it is required to undermine the "logic of prejudice", and, further, I am concerned about the implications of regarding fundamental features of moral status as granted on the basis of good behavior. If Sapontzis has indeed shown that animals can be virtuous, that is a significant result in itself; but it seems to me irrelevant to questions about what is owing to them morally, at least on a level so basic as is occupied by the right to life.

One reason for thinking this stems from the view that morality enjoins us to show "equal respect to equal interests," be they of the just or the unjust, of the human or the animal. But this is an element of a consequentialist ethical framework, with which Sapontzis is unsympathetic. Another is simply the fear that if moral status is a function of our behavior, few of us could with much confidence lay claim to rights, although perhaps I should speak for myself alone here. A third is that the moral status of the virtues is in part derived from morally worthy projects. Professor Sapontzis has forcefully argued that the differences between humans and animals in such respects as 'freedom' and 'rationality' do not exclude animals from the range of moral virtue. Admittedly, they are

not moral actors, but the practice of paying moral respect to God and to the naturally well disposed indicates that being so is *not* a necessary condition for having rights. And in his response he says "An individual who regularly, intentionally did the right thing even though he was not motivated by wanting to do the right thing would still be morally superior to an individual who did not even do the right thing" (p. 4). 'Intentionally' here is ambiguous. Does it have something of the force of 'not by mistake' or does it mean 'understood as a morally good action'? If the former is the proper reading, I just remain unconvinced that the actions rebound *at all* to the credit of the individual; this is really the point of my machine example.

But even if we allow that (some) animals are 'intentionally' situated appropriately to be virtuous, a problem remains. Virtues are those traits which are conducive to the attainment of some good goal; they derive moral quality from the worthiness of the projects to which they contribute. So, human parental concern, for example, is worth moral approval because it contributes to the development of discerning moral agents, who will strive to make the world a better place. The corresponding virtue in animals is of less worth, since it does not have the same goals.

A reply to this is that even if there is a difference in moral quality of human vs. animal virtue, it is not sufficient to justify any difference in the rights we attribute to them. The support for this would come from our attribution of moral status to the naturally well-disposed, *i.e.*, those who act virtuously but not with any thought of striving toward a better world. But this response overlooks that it is *not* our *understanding* of our virtues that alone gives them their quality, but what they in fact

contribute to. If animal's virtues contribute to projects of less moral worth than do human virtues, they are less worthy. Hence, Sapontzis' argument that virtue is a necessary condition for moral respect, and that there are no valid "intensional" reasons for denying rights to animals may actually leave them in a sort of moral limbo. For the "extensional" element (so to speak) of virtue--the project aimed at--is significantly different. This leaves animals with a sort of "second-class" virtue, the implications of which are unclear.

It might still be maintained that the very presence of animal virtue calls for moral respect tendered in the form of a right to life; all that would have to be admitted is that, in conflict situations, the life of a human is to be preferred to the life of a non-human, and this is generally allowed (some complications might ensue if meritorians were asked to choose between a faithless person and a faithful dog, I suppose). This position, however, needs an argument. Or, it could be held that virtues are intrinsically, rather than instrumentally valuable; it would be interesting to see this position worked out too. In any event I am not convinced that one needs to be virtuous--or even minimally decent--in order to enjoy basic rights. It seems to me that virtue is very largely its own reward--it may entitle its possessor to the status of moral exemplar, to praise, and perhaps to some kind of "non-basic" respect, but it is not a necessary condition for such basic moral respect as is expressed in the right to life.

What is necessary--and I tend to think sufficient, as well--is that death somehow be a harm to its 'victim.' This is an extremely complex issue. In my review, I indicated that I was unsatisfied, on Epicurean grounds, with Sapontzis' account of the way in

which death is a harm, and suggested that a Tooley-style analysis--the harm of death residing in its frustrating our desire to continue existing as a subject of experience--might do us better. Understandably, given the vagueness of my remarks there, Professor Sapontzis can't find any merit to this: wouldn't death remove the subject of the frustration in my account, even as it removes the subject of the loss of happiness, on his?

Let me try to be a bit clearer. I want to suggest that there is a moral reason for not killing a person that may not obtain for non-person animals. Persons generally cherish life and desire to go on living; non-persons--i.e. those who lack a reflexive consciousness--do not. Insofar as I should respect your desires concerning yourself, I ought not to kill you.

There are a number of possible responses to this. One is to note that many non-humans may well have reflexive consciousness--I believe that that is in fact the case, and am ready to accept the moral consequences. Another would be to point, as Sapontzis does, to the tenacity with which animals *in general* cling to life, whether they are reflexively conscious or not. I think a response might be made to this position, but I will not attempt to do so here. The objection that troubles me most is that this analysis is too weak to bear the weight put on it. For even granting a general intense desire to continue to live, given my premises, such desires seem groundless; there is, after all, nothing for anyone to fear. Ought we be as inhibited in contravening desires based on misconceptions as we are desires that have a good foundation? If not, this extremely fundamental right would appear to rest on a pretty weak reed.

Further, on this view, while killing may be an offense against the victim

it still does not harm them, at least in what would seem to be the central sense--it does not make them worse off. It shows death to be a harm only in the sense that to be wronged is to be harmed, and this invites the further response that being deprived of further happiness is to be wronged, even if not harmed, as well. But such a response would have force only if 'the happiness B would have had' has the same significance when it is death that deprives B as when it is, say, ignorance or illness. I think the difference is that, in the latter cases, B may well take or have an interest in the happiness that might

have been hers, but if B is dead, there is no question of this being the case. If being wronged is hooked up with having one's interests adversely effected, then the loss of happiness occasioned by death does not wrong the victim.

This is not the place to attempt to fully work out the intricacies of this issue. I remain persuaded, though, that a proper analysis of the sense in which death adversely effects the interests of its victims is a key to determining the character and the scope of the right to life.

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