

## **Moral Status As a Matter of Degree?**

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### **Abstract**

Some people contend that fetuses have moral status but less than that of paradigm persons. Many people hold views implying that sentient animals have moral status but less than that of persons. These positions suggest that moral status admits of degrees. Does it? To address this question, we must first clarify what it means to speak of degrees of moral status. The paper begins by clarifying the more basic concept of moral status and presenting two models of degrees of moral status. It then sketches several significant considerations in favor of, and several against, the assertion of degrees of moral status. The paper concludes by drawing lessons from the discussion.

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Despite the political polarization of the abortion issue, there has been considerable attention in recent decades to the moderate thesis that human fetuses, or at least some fetuses, have moral status but less than that of paradigm persons.<sup>1</sup> If this thesis is correct, there are degrees of moral status; the latter isn't all-or-nothing. Also in recent decades, the claim that sentient nonhuman animals deserve moral consideration on account of their interests or welfare—and not merely for human-centered reasons—has become much more widely accepted.<sup>2</sup> Many who embrace this claim, however, would deny that animals' moral status equals that of human persons. Their position, too, suggests that moral status admits of degrees.

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Thus, recent discussions of the ethics of abortion and the moral status of animals provoke two issues:

- (a) Does moral status come in degrees? If so, what framework best characterizes degrees of moral status?
- (b) More basically, what does it mean to speak of degrees of moral status?

This paper addresses issue (b) while clarifying the options regarding issue (a). Both tasks are in the service of ultimately providing a satisfactory answer to (a). (The present author is ambivalent about how to do that.)

Inasmuch as this paper will not attempt to settle issue (a), our ultimate goal, it is worth noting up front the expected payoff of the investigation:

- In setting up the discussion, there will be an analysis of moral status and an argument that the concept is useful and can be employed without circularity. (Few discussions of moral status make its meaning explicit. Fewer argue for its utility and none before, to my knowledge, has confronted the circularity charge.)
- The discussion as a whole will permit better understanding of the ethical-theoretical options in considering contested cases of moral status. These cases include not only fetuses in connection with the abortion issue and those animals who appear to be sentient nonpersons, but also early embryos (e.g., in connection with embryonic stem-cell research), humans who on some leading theories count as sentient nonpersons (e.g., those in advanced stages of Alzheimer's disease, normal newborns), and individuals who on those same theories may represent borderline cases of personhood (e.g., Great Apes, dolphins, and some humans).
- More specifically, the discussion will (1) identify two models of degrees of moral status (a distinction not noted by other authors), (2) demonstrate that there are respectable reasons for asserting degrees of moral status even if one accepts a principle of equal consideration (contrary to the assertion, noted later, of one of the very few explicit discussions of degrees of moral status), (3) identify two models of unequal moral consideration (another neglected distinction), and (4) provide various arguments in favor of unequal consideration, a position held by many (importantly, because the literature contains very little argumentation for unequal consideration as opposed to a framework in which nonpersons lack moral status altogether).

Among the contested cases of moral status, the discussion will primarily consider nonhuman animals. But the models presented

can be applied or adapted for consideration of other contested cases as well.

## 1. What Does It Mean To Speak of Degrees of Moral Status?<sup>3</sup>

### *1.1 Preliminary: The Concept of Moral Status*

The meaning of references to higher and lower moral status and of other language suggesting degrees of moral status has received scant attention in the literature.<sup>4</sup> In attempting to clarify such language, we need to begin with the more basic concept of moral status. To say that a being—a person, fetus, or cat—has moral status is to say, first, that how moral agents treat that being is morally important. We should not shoot at cats for sport, for example. But if the only reason we shouldn't do so is that hunting cats for sport might damage what is legally regarded as someone's property (the cat), or that doing so might upset people who find out about it, that would mean that cats lack moral status. On this view there is nothing about the cruelty per se that is morally problematic; it's just that such cruelty is likely to have negative effects on human beings. If cats have moral status, though, then one reason why cruelty toward them is wrong is that it harms them for no compelling reason, explaining why such behavior is wrong even if a cat has no "owner" and the cruelty is hidden and kept secret. So to have moral status is to bear direct or independent moral importance. Further, the moral importance of one with moral status is closely connected with *one's interests or welfare*. (By contrast, an action-type may have independent moral importance—for example, enslaving people may be intrinsically wrong—but, lacking interests, an action-type cannot have moral status.) If Mimi the cat has moral status, then to treat her merely as a tool, a resource for amusement, or property with no independent regard for her interests is to treat Mimi wrongly. Nearly all the leading work in animal ethics and, I suggest, the only plausible account of the wrongness of cruelty to animals support the thesis that sentient animals, who by definition have an experiential welfare and therefore interests, have (at least some) moral status.<sup>5</sup>

Our reflections permit a more formal elucidation of the concept of moral status. *To say that X has moral status is to say that (1) moral agents have obligations regarding X, (2) X has interests, and (3) the obligations are based (at least partly) on X's interests.* Although condition (2) is presumably entailed by condition (3)—how could obligations rest on X's interests if X had none?—explicitly stating condition (2) helpfully reminds us that not everything has interests and that having them is neces-

sary for moral status. The parenthetical qualification in condition (3) is motivated by the possibility that some factor in addition to X's interests, such as the state of a moral agent's character, might also ground the relevant obligations.

The meaning of *moral status*, then, is reasonably clear. Before advancing to the thornier conceptual terrain of degrees of moral status, let's consider two challenges regarding the more basic concept. First, do we need it? One might claim that assertions of moral status are redundant, adding nothing to certain claims about our obligations and their grounds.<sup>6</sup> Indeed, this claim appears to be supported by the elucidation of moral status just offered. Rather than asserting that cats have moral status, we might just assert, say, that we have an obligation not to harm cats needlessly, that cats can be harmed because they have interests (grounded in their experiential welfare), and that the obligation rests at least partly on their having such interests, which are thwarted when cats are harmed.<sup>7</sup> In response to this challenge, I acknowledge that talk of moral status is redundant and can always in principle be replaced by other language. Yet, as this paper as a whole will demonstrate, the language of moral status furnishes a convenient shorthand for general assertions about our moral obligations to beings of different sorts and the grounds of those obligations.

One might reply, however, that the convenience of the term *moral status* is outweighed by distracting questions its use might provoke. For example, speaking of cats as having moral status might encourage people to say, "Well, how much moral status do cats have? Do they have less than we?"<sup>8</sup> But notice: Although we could drop references to "moral status" and speak merely of obligations and their grounds, such questions as "Do we have *weaker* obligations of nonmaleficence (nonharm) to cats than we have to people?" will not disappear. Nor should they, for these are important questions. I therefore do not regard the possibility of provoking such questions as a cost that must be weighed against the convenience afforded by the language of moral status. In working out whether there are degrees of obligation to different sorts of beings, we will have to adduce normative considerations that can in principle be expressed without any mention of moral status, for, again, use of the term is redundant. But the fact of linguistic convenience remains.<sup>9</sup>

Some who agree that talk of moral status is useful may now feel I have relinquished too much in conceding that talk of moral status is, strictly speaking, redundant. The objectors I have in mind—who are likely to include many with strong moral commitments regarding abortion and/or animals—will contend that moral status is a fundamental concept with metaphysical significance, suggesting that my appeal to linguistic convenience will hardly capture the concept's importance. (An example of such a position is the traditional view that all and only human

beings have moral status.) I maintain, however, that the objection is misguided. On the one hand, if there is some deep metaphysical fact about which sorts of beings have moral status, and how much, this supposed fact cannot simply be asserted—not responsibly anyway—in the face of so much disagreement about moral status. On the other hand, if one (more responsibly) *argues for* a metaphysical framework of moral status, then one will in effect argue for recognizing obligations to certain beings (who have interests) and not to other beings, and possibly for recognizing obligations of different strengths to different sorts of beings. In that case, talk of moral status will conveniently summarize these assertions, and will in principle be replaceable by them, as I have claimed.

Let's turn now to the second challenge, which might well be posed by those who advance the objection just considered: Is my approach problematically circular? I hold that assertions of moral status resolve into assertions about obligations and their basis in beings' interests. If we confront the question of whether persons have greater moral status than cats, we must consider whether our obligations to persons (or at least some of these obligations—see next subsection) are stronger than our obligations to cats. In order to answer this, one might think, we should ask whether persons have greater moral status than cats; a difference in moral status, perhaps metaphysically underwritten, would *justify* obligations of different strength toward the two sets of beings. But this reasoning is clearly circular: We look to justify claims about obligations of possibly differing strength to persons and cats in terms of whether they differ in moral status, yet the very meaning of degrees of moral status is to be cashed out in terms of such obligations.

Because such reasoning would be circular, it is not reasoning I endorse. The mistake is thinking that the issue of whether there are degrees of obligation to different sorts of beings should be settled by appeal to moral status. Such an appeal summarizes claims about obligations without justifying them. Working out whether we have weaker obligations to some beings (e.g., cats) than to other beings (e.g., persons) must be determined on the basis of normative and theoretical considerations that make no prior assumptions about moral status. Otherwise the assertions about moral status will simply function as dogmas, unhelpfully reinforcing initial disagreements among people. Examples of such normative and theoretical considerations supporting the claims that require justification appear below in the section "For and against Moral Status as a Matter of Degree."

But if, as I have suggested, assertions of moral status summarize claims about obligations without justifying them, why do such assertions sometimes appear to play a justifying role? One might reasonably say to someone who hunts ducks for sport, "You've got to stop that. Ducks aren't just things; they have

moral status.” Apparently, the point about moral status supports the claim that the sport hunter should desist. In a way, this is correct, for to say that ducks have moral status is not merely to say that we should not harm them gratuitously; it is also to say—perhaps as a reminder—that they have interests of their own that provide the basis of the obligation. (Saying that we shouldn’t damage works of art would require a different basis.) So the assertion of an obligation might in a particular context be justified by the assertion of moral status. But any justificatory power here would require a background commitment to the thesis that beings of the relevant sort (e.g., ducks) have moral status or perhaps, more generally, the thesis that all beings with an experiential welfare (and therefore interests) have moral status. But, as explained in the previous paragraph, these general claims about moral status in the background of contextual justification are themselves justified on the basis of normative and theoretical considerations that make no prior assumptions about moral status. Thus, circularity is avoided.

### ***1.2 Unpacking Assertions of Degrees of Moral Status***

We return to our question of what it means to speak of moral status as a matter of degree. Consider my claim that any adequate analysis of cruelty must acknowledge the moral status of cruelty’s victims. Assuming for now that this is correct, then since sentient animals can be treated cruelly, they qualify as having moral status. Some who accept this judgment will deny that all sentient animals have the same moral status as human persons, suggesting that moral status can vary between the poles of *full* and *none*. There is more than one coherent way of unpacking this idea that human persons have greater moral status, which comes in degrees, than sentient animals. (I will speak of *persons* or *human persons* in order to refer to individuals who—unlike, say, fetuses—uncontroversially have full moral status. Failure to mention humans of debatable moral status or debatable personhood should not be construed as implying anything about their moral status. And hereafter, *animals* will refer only to *sentient* animals.)

Most people, including most animal protectionists, believe that it is generally worse to kill a person than to kill a mouse, even if the latter action is *prima facie* wrong or morally problematic. This judgment of presumptively greater wrongdoing seems especially clear with respect to cases of painless killing, in which the *prima facie* wrongness of causing suffering becomes irrelevant. Now, assuming that mice have moral status, how should we interpret the thesis that it’s generally worse to kill persons than to kill mice? Two models suggest themselves.

According to what we may call the *Unequal Consideration Model of Degrees of Moral Status*, it is generally worse to kill

persons because they are due full moral consideration, whereas mice are due some, but less, consideration. To explain unequal consideration, it will help first to clarify equal consideration.

To grant *equal consideration* to two beings A and B is to hold that *we should grant roughly equal moral weight or importance to A's and B's (prudentially) comparable interests*.<sup>10</sup> Equal consideration is a rather general idea compatible with many specific moral outlooks. Utilitarianism, for example, grants equal or impartial consideration to all beings who have a welfare. Human rights views grant equal consideration—in a more individual-protecting manner than utilitarianism—to all human persons. Animal rights views do the same for persons and other animals.

To clarify the concept of unequal consideration, consider various interests that individuals have. Persons have interests in experiential well-being, autonomy, and life (remaining alive). Sentient nonpersons, including animals, have interests in experiential well-being and (let's assume for this discussion) life.<sup>11</sup> If persons and animals have an interest in life, must their respective life-interests be comparable in the relevant sense? No. The relevant sense is prudential: having roughly the same thing at stake from the standpoint of one's overall well-being or interests. Persons ordinarily have an enormous stake in staying alive insofar as continued life is necessary for much of what they value prudentially, which is connected with long-term projects, plans, and relationships. With much less temporal self-awareness, mice presumably do not have the same stake in remaining alive as opposed to enjoying experiential well-being, or a good quality of life, while they are alive. So a stronger moral presumption against killing persons than against killing mice is compatible with equal consideration. What we require, then, in order to explicate the idea of unequal consideration, is a comparable interest shared by persons and sentient nonpersons.

Probably the best example of such an interest is experiential well-being, an interest common to all sentient beings. For simplicity, let's focus here on the avoidance of suffering. Avoiding some degree of suffering seems more or less equally important, prudentially, regardless of who the subject is, because the primary evil of suffering is its intrinsic or experiential badness. (The harm of death, by contrast, seems largely instrumental—bad due to the opportunities it forecloses.) So is it equally bad to cause some amount of suffering to a raccoon and a person—say, by smashing each over the back with a heavy stick (causing, let's say, sudden great pain, several hours of discomfort and distress, but no lasting injury)? To focus on the strength of our obligations to the raccoon and person, respectively, let us ignore such indirect effects of the suffering on other individuals such as raccoon lovers and society as a whole. The Unequal Consideration Model of Degrees of Moral Status claims that it is morally worse to cause a certain amount of suffering to a person than to

cause equal suffering to a raccoon. The two individuals have comparable interests in not suffering, but the person's interest has greater moral importance than the raccoon's interest. In general, where persons and sentient nonpersons have comparable interests, those of persons carry greater moral weight. In this sense, persons have greater moral status than raccoons.

There is another way of unpacking the idea that moral status admits of degrees. After all, even those who assert equal consideration across species acknowledge that not all interests—not even all interests likely to have the same name—are comparable. For example, as suggested above, the judgment that certain animals have an interest in life is consistent with the judgment that persons have a greater stake in life. Thus, according to the Unequal *Interests* Model of Degrees of Moral Status, it's generally worse to kill persons than to kill mice because the equal consideration to which persons and mice are entitled grants equal moral weight only to comparable interests. Insofar as the life-interests of persons and mice are not prudentially comparable, persons having a greater interest in staying alive, the reason for the stronger presumption against killing persons is simply that doing so harms them more, ordinarily, than killing mice harms mice. Other things equal, it's worse to cause more harm than less harm. In this limited sense, which refers to the noncomparability of certain interests possessed by persons and certain animals, both have moral status but persons have more.

Conceptually, it can be challenging to distinguish between the Unequal Consideration Model and the Unequal Interests Model. Supporters of each are likely to agree on many judgments—for example, that it's generally worse to kill persons than to kill mice, and that it is morally problematic to cause anyone to suffer. Again, the best test case between the models may be whether it is equally problematic to inflict suffering on persons and to inflict it on nonpersons. Yet thought-experiments intended to highlight this issue can be complicated by other factors that may make it difficult to isolate the matter of *degrees of consideration*: Can't the instrumental harm of suffering, its potential to interfere with valued pursuits, vary importantly? What is the relationship of the agent to the victim? What about indirect effects on others? Still, the difference between the two models of degrees of moral status is meaningful and very important in certain contexts (e.g., the ethics of animal research<sup>12</sup>).

Having clarified two ways of understanding what it means to speak of degrees of moral status, let us consider arguments for and against the thesis that beings who have moral status have it to varying degrees.

## 2. For and against Moral Status as a Matter of Degree

Does moral status come in degrees? Here I will simply indicate some significant considerations for and against an affirmative answer.

### *2.1 Traditional Morality and Beyond*

*Traditional morality* (at least in the West) suggests a negative answer to our question because, according to tradition, all and only human beings have moral status, which they have equally. For those traditionalists who understand “human being” in its biological sense and assert that a one-cell zygote, the product of conception, is a human being, an important implication of the traditional view is that zygotes have the same moral status as paradigm persons such as you and I. While this judgment is infamously debatable, many embrace it. Another implication of the traditional approach is that chimpanzees and dolphins have the same moral status as pebbles, namely, none—an implication I take to be nearly a *reductio ad absurdum* of the position. Here I will assume what I and many others have argued: that failure to attribute any moral status to sentient nonpersons is a fatal flaw in a moral theory.<sup>13</sup> In particular, this failure entails an inability to explain adequately the wrongness of cruelty to animals; the judgment that such cruelty is wrong proves independent of empirical judgments about negative causal spillovers onto persons. Sentient animals count for something in their own right. They have moral status. Any adequate view will, unlike the traditional view, accommodate this judgment.

But there are various views that can accommodate the judgment that sentient animals have moral status. Among those views, some do and some do not assert degrees of moral status. Let us first examine views that extend equal consideration to all sentient beings (persons, sentient animals, late fetuses) and then examine views that deny that all sentient beings are due equal consideration.

### *2.2 A Debate among Equal-Consideration Views about Degrees of Moral Status*

In the preceding section, we explained equal consideration as follows: To give equal consideration to A and B is to hold that we should grant roughly equal moral weight or importance to A's and B's (prudentially) comparable interests. Experiential well-being served as an example of a comparable interest across species. So equal consideration extended to animals implies that the moral presumption against, say, causing mice to suffer is

just as strong as the moral presumption against causing persons to suffer to the same degree. Clearly, equal consideration extended to animals is incompatible with much current routine treatment of animals. Many moral theorists, however, have endorsed this principle's extension to animals and some, including several utilitarians, have taken it to be virtually self-evident.<sup>14</sup> It is beyond the purposes of this paper to present in detail leading arguments in favor of equal consideration for animals. Suffice it to say here that proponents of equal consideration for animals generally take equal consideration for persons as a starting point, motivate the realization that animals also have moral status, and argue that nothing short of equal consideration for animals is fully coherent and intellectually honest.<sup>15</sup> What is important for present purposes is that, among champions of equal consideration for animals (EC for short), there is conceptual room for disagreement about whether moral status comes in degrees.

One type of EC theorist embraces the Unequal Interests Model of Degrees of Moral Status. On this model, as described earlier, while all sentient beings deserve equal consideration—equal protection of their comparable interests—some of their interests are noncomparable in ways that justify significantly different moral protections. Thus, while it is in the interests of both mice and persons to continue to live, persons generally have a much greater stake in life—are harmed more by death—so killing persons is worse, other things equal, than killing mice.

Moreover, in other cases in which sentient nonpersons and persons have interests that are naturally designated by a single term, but where the interests are largely instrumental, it will often turn out that the respective interests aren't comparable. Consider, then, a being's interest in liberty—freedom from external constraints. Whether or not liberty is intrinsically valuable, its instrumental importance to persons is indisputable and enormous, making possible most of the actions and activities that give value to our lives. Mice, too, have an interest in liberty. If severely constrained, they cannot do much of what they want to do such as look for food, explore, move to more favorable living conditions, and perhaps reconvene with social group members. Nevertheless, it is a respectable (though hardly obvious) thesis that severe restrictions of liberty placed on persons and mice will typically harm persons more—either on the assumption that persons' well-being is more centrally affected by their ability to do what they want to do than mice's well-being is affected by this factor or, alternatively, on the assumption that what persons want to do is objectively more valuable, in ordinary cases, than what mice want to do. If this thesis is correct, on the strength of either assumption, then equal consideration is consistent with a stronger moral presumption against restricting persons' liberty than that against restricting mice's liberty.

The EC theorist who accepts the Unequal Interests Model of Degrees of Moral Status can continue. Consider lifeboat cases, in which one must toss overboard a person or a dog or else all aboard will drown. Everyone agrees that we should toss the dog. Why this is justified, especially if we embrace equal consideration, is subject to dispute. But that we should sacrifice the dog is agreed. Similarly with “Whom to save?” scenarios: We should rescue the person in a burning building before the dog or other nonhuman animal. Again, grounds offered for this judgment vary, but the judgment is shared. Perhaps an EC theorist would appeal to noncomparable interests in staying alive in lifeboat cases and to this factor as well as the appropriateness of moral discretion where not all can be rescued in “Whom to save?” scenarios. Regardless of the justifications proffered, the pattern is clear.

It is a pattern of favoring humans in certain types of cases in which their interests conflict with animals’ interests. And it is to this pattern that an EC theorist who accepts the Unequal Interests Model will appeal in justifying judgments of unequal moral status. According to such a theorist, while EC has considerable egalitarian force in directing our treatment of sentient beings—creating much stronger presumptions against harming them than moral tradition endorses—the noncomparability of certain interests and perhaps other factors justify sufficient favoring of humans in cases of genuine conflict that we may say, without distortion, that human persons have higher moral status than nonhuman animals.<sup>16</sup>

Another type of EC theorist rejects assertions of degrees of moral status on grounds of conceptual parsimony. To be sure, these thinkers accept that there are some noncomparable interests—that death, for example, typically harms humans more than mice. But they deny that this fact justifies talk of degrees of moral status. Such talk, they maintain, is unnecessary to explain considered moral judgments such as the stronger presumption against killing persons. These judgments can be explained simply by noting that killing persons harms them more than killing mice harms mice—and it’s generally worse to cause more harm than less.<sup>17</sup> The upshot: “We have no reason to posit such degrees of moral status, so we can conclude that moral status is not a matter of degree, but is rather on/off: a being either has moral status or lacks it.”<sup>18</sup>

Note that within this intra-EC dispute over degrees of moral status there might be no disagreement about our obligations to various beings. All can agree on the moral “facts.” But EC theorists disagree on whether attributions of degrees of moral status are apt.

### ***2.3 Unequal Consideration and Degrees of Moral Status***

Let us turn now to a class of theories that seem conceptually required to assert degrees of moral status. According to unequal consideration (UC) theories, although all sentient beings have direct moral importance and therefore moral status, how much consideration a particular being deserves depends on what sort of being it is. According to a UC theory, while you and your cat share an interest in experiential well-being, an interest of comparable importance to each of you, your interest in experiential well-being has greater moral weight than your cat's. Thus, the moral presumption against causing you to suffer to some predictable degree is stronger than the moral presumption against causing your cat to suffer to the same degree, because you are a person while the cat is a sentient nonperson. That persons deserve priority is even more obvious with respect to interests (e.g., life) in which persons apparently have more at stake. Thus, giving less weight to sentient nonpersons' interests across the board is justified. This moral picture makes it natural to speak of degrees of moral status. You and your cat, unlike a rock, have moral status, but you have more than the cat has.

UC theorists present different specific pictures of moral status. One picture is a *two-tier model*, according to which persons have one level of moral status while sentient nonpersons have a lower (but nonzero) level of moral status.<sup>19</sup> A second picture is a *sliding-scale model*, according to which there are any number of degrees of moral status. On this view, the degree of consideration to which you are entitled—that is, the degree of moral weight your interests are to receive in comparison with others' comparable interests—depends on the degree of your cognitive, affective, and social complexity. Thus persons have the highest moral status, Great Apes and dolphins a bit less, elephants and monkeys somewhat less than apes and dolphins, middling mammals still less, rodents less, and so on down through the phylogenetic scale (to the extent that it tracks complexity of the relevant sorts) from birds to reptiles to amphibians to any other animals who are sentient.<sup>20</sup> A proponent of the sliding-scale approach is likely to merge it, partially, with the two-tier model insofar as she is likely to defend equal consideration, and equal moral status, among persons; hence, a sliding scale from barely sentient creatures through the most complex sentient creatures short of personhood and then an egalitarian tier for persons. In any case, champions of the sliding-scale approach judge that persons have greater moral status than sentient nonpersons. They differ from proponents of the two-tier model in adding that sentient nonpersons vary among themselves in degrees of moral status.

All UC theorists agree that there are differences in moral status among beings who have it. But why might someone who rejects moral tradition, and therefore accepts that sentient animals have moral status, regard UC as more plausible than EC? Here it will be worthwhile to mention a few major considerations, because UC has been so little explored in the literature. In providing reasons to support a UC model, these considerations provide reasons to assert degrees of moral status.

The first consideration involves sensitive assessment of the relationship between morally relevant properties and moral status. Everyone agrees that persons have moral status. Any enlightened view, we are here assuming, will also acknowledge that sentient nonpersons have moral status. But perhaps the fact that there is consensus about persons or (more or less equivalently) about moral agents, those beings who are subject to moral responsibilities and obligations, suggests that there is something very special about these beings that justifies greater moral status than sentient beings who are not persons or moral agents. On this view, while tradition may be wrong that personhood is necessary for moral status, it is right that personhood is sufficient—and that persons are special in their status. This line of reasoning could support either a two-tier model or a sliding-scale model of moral status.

An alternative line of reasoning stresses the claim that morally relevant properties come in degrees. Personhood, it may be argued, is a cluster concept that serves as a summary placeholder for other concepts such as moral agency, autonomy, the capacity for intentional action, rationality, self-awareness, sociability, and linguistic ability.<sup>21</sup> But most, and probably all, of these properties can be reasonably understood as coming in degrees; and many of them, perhaps all but language and autonomy, are found to some degree in many nonhuman animals.<sup>22</sup> Now, if these morally relevant properties come in degrees and cross species boundaries, it is natural to judge that the moral status based on these properties also comes in degrees while extending beyond our species—supporting the sliding-scale model of moral status. If one responds that these personhood-constituting properties are largely irrelevant to moral status, sentience being the fundamental criterion, one might agree while insisting that even sentience comes in degrees. Sentience, after all, is the capacity to experience feelings: sensations, emotions, and/or moods. And it seems natural to say that different sorts of sentient creatures have differing degrees of capacity to experience feelings, providing support once again for the sliding-scale model.

Let's now turn to several additional arguments that might be adduced in support of either UC model, providing further support (if successful) for the general UC approach and the thesis that moral status comes in degrees.

First, nearly everyone would agree that our general obligations of beneficence—our obligations to help those in need—are stronger in relation to humans than in relation to animals. Assume, for simplicity's sake, that those in need have no special relationship to us: the people aren't family or fellow citizens, the animals aren't our pets or animals to whom we have professional responsibilities (as, say, zookeepers have). That we ought to help human children who are starving or suffering from lack of medicine, even if they are complete strangers in another part of the globe, is clear. Moreover, it is plausible to hold that this 'ought' is one of obligation, not mere charity or supererogation. Yet we don't seem to have any obligation to help nonhuman animals in need in the wild. Or, if we do have some sort of *prima facie* obligation, its priority is low so that it seems perfectly acceptable to prioritize greatly the endeavor of helping humans in need. Although one might contend that that this priority of beneficence toward humans is compatible with equal consideration for animals—citing, say, the likely inefficiency of trying to help wild animals in distress—one might instead argue that such efforts at reconciliation fail and that the priority of beneficence toward humans reflects the appropriateness of unequal consideration for animals.

Consider, in a similar vein, pest control. If rats have encroached upon my property, invading my garage and yard or even entering my house, it seems reasonable to try to get rid of them. If getting rid of them requires killing them, this is regrettable but does not seem excessive—especially if this can be done in a way that minimizes suffering. Even if causing considerable suffering is required, because there is no effective alternative that won't, this *may* be acceptable as a last resort. Yet these judgments, one might argue, are clearly at odds with equal consideration for rats. If some children who carried a mildly infectious disease could not understand requests to stay off our property, no methods of solving the problem that involved killing *these* pests, or even causing them great suffering, would seem acceptable. In sum, our considered judgments about pest control arguably support unequal consideration.

Now consider our interactions with insects. My sense of available empirical evidence, interpreted carefully, is that we lack good grounds for asserting that insects are sentient; indeed, I would say there are pretty good grounds for *denying* that insects are sentient.<sup>23</sup> But suppose, as surely is conceivable, that evidence emerges that compellingly supports the assertion that insects are sentient. Would that oblige us to work very hard not to harm insects? Presumably not; any such obligation would seem excessively demanding. Yet if all sentient beings have equal moral status and insects are sentient, it would seem that we would be obliged to take insects quite seriously indeed. This is highly counterintuitive.<sup>24</sup> Moreover, if all who have moral

status have it equally, then *we should right now be very invested in the question of whether insects are sentient*. If they are, then we are routinely harming trillions of beings with full, equal moral status—a very serious matter. The commonsense reaction that we need not be so concerned with the question of whether insects are sentient suggests that, if they are, their moral status is less than ours, implying that not all who have moral status have it equally.

Finally, consider the plausible idea that in some circumstances it would be justified to kill animals for food. In ordinary cases of hunting, the victim's death is preceded by some amount of pain and distress, and perhaps suffering, yet such experiential harms, assuming they are not inflicted gratuitously, are generally thought acceptable in cases in which a person's survival depends on procuring meat. Suppose, though, that a person does not need to eat meat in order to survive; he could *survive* without doing so, but his health would be substantially compromised through insufficient nutrition. Many people, probably including quite a few animal protectionists, would judge it acceptable to kill and cause some (nongratuitous) experiential harm to animals if truly necessary for someone's *health*. Yet we would not judge that it's permissible to cause experiential harm to, and kill, a person in order to maintain another person's *health*; if cannibalism is ever justified, it is only as a last resort to avoid starvation. To sacrifice a person just for someone else's health would be incompatible with the equal consideration we believe persons are owed. Those who think such a sacrifice of an animal would be acceptable may well embrace unequal consideration.

Thus, the strongest overall argument in favor of UC is that our judgments about justified patterns of preferential treatment to humans, about morally relevant properties being unequally shared by beings with moral status, about obligatory beneficence, pest control, the lesser significance of insects, and meat-eating in desperate circumstances together cohere better with some sort of UC model of moral status than with any EC model. If this cumulative argument for UC is persuasive—an issue I leave open—then there are degrees of moral status.

### 3. Conclusion

Our sketch of conceptual and normative options regarding moral status leaves many issues open. This portrayal of uncertainty seems faithful to contemporary, well-informed discussions about moral status with regard to animals, human fetuses, and other hard cases; room remains, at this point anyway, for reasonable disagreement. In view of these uncertainties, we must reject dogmatic assumptions to the effect that moral status is all-or-nothing. While dogmatic assertions that moral

status comes in degrees may be uncommon, such dogmatism is no more warranted. Moreover, as we continue the discussion, we need to work harder than we typically have to discipline our employment of key concepts and assumptions. In particular, if we assert degrees of moral status, we need to be explicit about what model we have in mind and cognizant of the challenges confronting it; if we deny degrees of moral status, we need to be aware of the theoretical options available to our opponent and the substantial arguments she can adduce. Only then can we hope to achieve a defensible position on the issue of whether moral status admits of degrees.

## Notes

<sup>1</sup> See, e.g., D. Callahan, *Abortion* (New York: Simon & Schuster, 1970); J. English, "Abortion and the Concept of a Person," *Canadian Journal of Philosophy* 5 (1975): 233–43; E. Langerak, "Abortion: Listening to the Middle," *Hastings Center Report* 9 (October 1979): 24–28; M. A. Warren, *Moral Status* (Oxford: Oxford University Press, 1997), ch. 9; J. McMahan, *The Ethics of Killing* (Oxford: Oxford University Press, 2002); and M. O. Little, *Intimate Duties* (Oxford: Clarendon, forthcoming).

<sup>2</sup> This cultural change is reflected in A. Taylor, *Animals and Ethics* (Peterborough, Ontario: Broadview, 2003).

<sup>3</sup> This section borrows several ideas from a section entitled "What Does It Mean to Speak of Higher and Lower Moral Status?" in D. DeGrazia, "Human–Animal Chimeras: Human Dignity, Moral Status, and Species Prejudice," *Metaphilosophy* 38 (2007): 315–18.

<sup>4</sup> For a notable exception, see E. Harman, "The Potentiality Problem," *Philosophical Studies* 114 (2003): 173–98.

<sup>5</sup> For a sampling, see the articles in S. Armstrong and R. Botzler, eds., *The Animal Ethics Reader* (London: Routledge, 2003). See also Taylor, *Animals and Ethics*. For my argument that the only plausible analysis of the wrongness of cruelty to animals implies that they have moral status (and other arguments for this conclusion), see D. DeGrazia, *Taking Animals Seriously: Mental Life and Moral Status* (Cambridge: Cambridge University Press, 1996), ch. 3.

<sup>6</sup> Cf. Nuffield Council on Bioethics, *The Ethics of Research Involving Animals* (London: NCB, 2005), 57, and J. Rachels, "Drawing Lines," in *Animal Rights*, ed. C. Sunstein and M. Nussbaum (Oxford: Oxford University Press, 2004), 162–74.

<sup>7</sup> The obligation not to harm cats gratuitously might also be grounded in considerations of virtue and/or considerations of respect. But the possession of interests, which makes it possible for one to be harmed, is the least controversial basis.

<sup>8</sup> Thanks to Christine Korsgaard for advancing this challenge (in connection with another paper).

<sup>9</sup> I recently reviewed for a top publishing house a book manuscript—ultimately accepted—in which the author argued that we should do away with references to "moral status." But the author demonstrated the great convenience of the term by using it repeatedly even after arguing that it should be done away with.

<sup>10</sup> Peter Singer used the language of equal consideration very influentially in *Animal Liberation* (New York: Avon, 1975). Many other authors have since used the phrase in roughly the same way. I try to make the meaning of equal consideration more explicit in my *Taking Animals Seriously*, ch. 3.

<sup>11</sup> Animals also have interests in liberty of movement and functioning, but it's debatable whether these interests are independent of experiential well-being or just aspects of it. See my *Taking Animals Seriously*, ch. 8. The present usage of the term *interests* is fairly broad: That A has an interest in B does not entail that A is ever *interested* in B, which would require a mental grasp of B, but merely that B is a component of A's well-being.

<sup>12</sup> See, e.g., D. DeGrazia, *Animal Rights: A Very Short Introduction* (Oxford: Oxford University Press, 2002), ch. 7.

<sup>13</sup> See the works cited in note 5. See also, e.g., Singer, *Animal Liberation*; B. Rollin, *Animal Rights and Human Morality* (Buffalo, NY: Prometheus, 1981); T. Regan, *The Case for Animal Rights* (Berkeley: University of California Press, 1983); M. Midgley, *Animals and Why They Matter* (Athens: University of Georgia Press, 1983); S. F. Sapontzis, *Morals, Reason, and Animals* (Philadelphia: Temple University Press, 1987); R. Rodd, *Biology, Ethics, and Animals* (Oxford: Clarendon, 1990); E. Pluhar, *Beyond Prejudice* (Durham, NC: Duke University Press, 1995); Warren, *Moral Status*; F. B. Orlans, et al., *The Human Use of Animals* (New York: Oxford University Press, 1998); and most of the selections in Sunstein and Nussbaum, eds., *Animal Rights*.

<sup>14</sup> See, e.g., R. G. Frey, *Interests and Rights* (Oxford: Clarendon, 1980).

<sup>15</sup> See the works cited in notes 5 and 13.

<sup>16</sup> I defended this thesis in "Equal Consideration and Unequal Moral Status," *Southern Journal of Philosophy* 31 (1993): 17–31. Now I am less confident that the language of unequal moral status will illuminate more than distort—if we are correct in asserting equal consideration.

<sup>17</sup> Harman, "The Potentiality Problem," 183.

<sup>18</sup> *Ibid.*

<sup>19</sup> See, e.g., Warren, *Moral Status*. It may also be what McMahan has in mind in *The Ethics of Killing*.

<sup>20</sup> I describe without endorsing this model in *Taking Animals Seriously*, ch. 3, and *Animal Rights*, ch. 2.

<sup>21</sup> See my "Great Apes, Dolphins, and the Concept of Personhood," *Southern Journal of Philosophy* 35 (1997): 301–20.

<sup>22</sup> See, e.g., "Great Apes, Dolphins, and the Concept of Personhood"; DeGrazia, *Taking Animals Seriously*, chs. 5–7; D. Reiss and L. Marino, "Mirror Self-Recognition in the Bottlenose Dolphin: A Case of Cognitive Convergence," *Proceedings of the National Academy of Sciences* 98 (May 2001): 5937–42; L. Marino, "Convergence of Complex Cognitive Abilities in Cetaceans and Primates," *Brain, Behavior, and Evolution* 59 (2002): 21–32; W. E. Shields et al., "Confidence Judgments by Humans and Rhesus Monkeys," *Journal of General Psychology* 132 (2005): 165–86; J. Plotnik, F. de Waal, and D. Reiss, "Self-Recognition in an Asian Elephant," *Proceedings of the National Academy of Sciences* 103 (2006): 17053–17057; H. Phillips, "Known Unknowns," *New Scientist* (16 December 2006): 28–31, which discusses key recent findings; and M. Hauser, *Moral Minds* (New York: HarperCollins,

2006), pt. 3, which cites many relevant studies.

<sup>23</sup> See DeGrazia, *Taking Animals Seriously*, 110–12.

<sup>24</sup> See Warren, *Moral Status*, 79–86.

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