

ARE WE ESSENTIALLY PERSONS? OLSON, BAKER, AND A REPLY

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In the literature on persons and their identity, it is customary to distinguish the issue of *the nature of personhood*—"What is a person?"—from the issue of *personal identity*—"What are the persistence conditions of a person over time?" In recent years, Eric Olson and Lynne Rudder Baker have brought to the forefront of discussion the related, but often neglected, issue of *our essence*: "What are we, most fundamentally (essentially)—human animals, persons, or something else?"¹

Attacking what he calls the Standard View of personal identity, according to which personal identity consists in some type of psychological continuity, Olson contends that this thesis has highly implausible implications. Attributing the claim that we are essentially persons to the Standard View, Olson defends the alternative thesis that we are essentially (living) human animals, members of the species *Homo sapiens*, and that our persistence conditions are biological, having nothing to do with psychology. At the heart of his critique is the contention that the Standard View lacks a plausible account of the relationship between a person and the human animal associated with her. Defending "person essentialism" and defining persons as beings with first-person perspectives, Lynne Rudder Baker responds to Olson's challenge with the Constitution View: We (human) persons are *constituted by*, but not identical to, human animals.

After reconstructing Olson's critique of the Standard View, I argue that Baker goes a long way toward meeting his challenge to account plausibly for

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¹ Eric T. Olson, "Was I Ever a Fetus?" *Philosophy and Phenomenological Research* 57 (1997): 95–109, and Eric T. Olson, *The Human Animal: Personal Identity without Psychology* (New York: Oxford University Press, 1997); Lynne Rudder Baker, "What Am I?" *Philosophy and Phenomenological Research* 59 (1999): 151–59, and Lynne Rudder Baker, *Persons and Bodies: A Constitution View* (Cambridge: Cambridge University Press, 2000).

the relationship between persons and human animals. Then I contend that her person-based Constitution View nevertheless has major difficulties: a “newborn problem”; a dubious ontology; and a problematic account of personal identity. I conclude with general reflections about this dialectic.

OLSON’S CHALLENGE TO THE STANDARD VIEW

What Olson calls the Standard View consists in a cluster of theories that agree on the general point that personal identity is to be analyzed (at least partly) in terms of psychological continuity.² Some of these theories understand psychological continuity in terms of particular *experiential connections*, such as having an experience and later remembering it, or forming an intention and later fulfilling it. Other theories focus on the continuation of basic psychological *capacities*. Typically, psychological-continuity theories state their major thesis in roughly this form: *A person* at one time and *a person* at another time are one and the same person if and only if there is [some specified type of psychological continuity] between them.³ This formulation assumes that at both times in question some person exists. But might someone who is a person at one time be identical to a nonperson at a different time? The above formulation leaves that open. Yet Olson attributes a stronger thesis to the Standard View: A person at one time and a being at another time are one and the same if and only if there is [some specified type of psychological continuity] between them. But since the specified types of psychological continuity are supposed to be those that characterize persons, this stronger thesis implies that the being to which any person is ever identical is a person. In other words, any being that is ever a person cannot exist at any time without being a person at that time—the *de re* thesis that I call “person essentialism.”⁴

Is the Standard View really committed to person essentialism? Baker thinks not, holding that this view can be understood as making a *de dicto* claim about what is necessary for one to persist *as a person* rather than making a *de re* claim about what is necessary for a person to persist *simpliciter*.⁵ While she is right, in prin-

² He has in mind such contributions as H. P. Grice, “Personal Identity,” *Mind* 50 (1941): 330–50; David Lewis, “Survival and Identity,” in *The Identities of Persons*, ed. Amelie Rorty (Berkeley: University of California Press, 1976), 17–40; John Perry, “Can the Self Divide?” *Journal of Philosophy* 69 (1972): 463–88; Robert Nozick, *Philosophical Explanations* (Cambridge, MA: Harvard University Press, 1981), ch. 1; Derek Parfit, *Reasons and Persons* (Oxford: Clarendon Press, 1984); Harold Noonan, *Personal Identity* (London: Routledge, 1989); Peter Unger, *Identity, Consciousness, and Value* (New York: Oxford University Press, 1990); and Raymond Martin, *Self-Concern: An Experiential Approach to What Matters in Survival* (Cambridge: Cambridge University Press, 1998).

³ Olson, “Was I Ever a Fetus?” 98.

⁴ Olson, *The Human Animal*, 22–24.

⁵ Baker, “What Am I?” 153.

ciple, that one could venture only the *de dicto* thesis in presenting a view of personal identity, I agree with Olson that at least most of the theories held by actual representatives of the Standard View strongly imply the *de re* thesis. (Occasionally, the thesis is stated explicitly.⁶) In discussing personal identity, these theorists do not distinguish that issue from that of *our* identity, implying that our identity is a matter of personal identity—which is true only if we are essentially persons. Moreover, as Olson points out, “everyone, or nearly everyone, who accepts a version of the psychological-continuity theory thinks that I should necessarily cease to exist if my psychological contents and capacities were completely and irrevocably destroyed. But the *de dicto* principle implies no such thing.”⁷

Let us consider, then, theories that define persons in terms of psychological capacities, unpack personal identity in terms of psychological continuity, and (explicitly or implicitly) embrace person essentialism—and let’s hereafter reserve the term “the Standard View” for such theories. What is wrong with the Standard View? Olson presents a complex array of criticisms, from which I will extricate four major objections.

First, there is “*the fetus problem*.”⁸ Since the Standard View holds that only beings with psychological capacities are persons and that we are essentially persons, and since (to take a conservative example) five-month-old fetuses lack psychological capacities, this view implies that we were never five-month-old fetuses. But that contradicts both common sense and embryology, according to which we human organisms develop as fetuses, are born, and continue to develop through infancy, childhood, and other stages of life.

Second, there is *the problem of explaining the relationship between you, the person, and the early human organism*.⁹ If you are essentially a person, then you came into being when the relevant psychological capacities were acquired, either late in fetal development or (as seems more likely) during infancy. In that case, what happened to your fetal or fetal-cum-infantile predecessor? Did it die? This would be surprising, since we are not aware of any such death that regularly occurs early in human development. It’s also hard to believe it merely disappeared without dying, since it is a kind of organism and organisms die when they go out of existence. Another possibility is that you, the person, now overlap—share your matter with—the human organism that preceded you. Because the organism is numerically distinct from you (as nothing can precede

⁶ See, e.g., Nozick, *Philosophical Explanations*, 78–79, although he refers to “selves” rather than “persons.”

⁷ Eric T. Olson, “Reply to Lynne Rudder Baker,” *Philosophy and Phenomenological Research* 59 (1999), 162.

⁸ Olson, “Was I Ever a Fetus?” esp. 95–97; Olson, *The Human Animal*, 73–76.

⁹ Olson, “Was I Ever a Fetus?” 100–01; Olson, *The Human Animal*, 79–81.

itself), there are now two beings associated with your body. This odd notion is also very hard to believe.

Third, there is *the challenge of explaining the relationship between you and the permanently unconscious being that will succeed you if a persistent vegetative state (PVS) precedes biological death.*¹⁰ PVS is a medical condition in which the human animal can breathe spontaneously, maintain heartbeat, metabolize, and continue other major biological functions except for the capacity for consciousness. Because the latter capacity is gone, so is personhood. Thus, the Standard View provokes the question of how the living human organism in PVS, your successor, originated. It's very hard to believe it was conceived or otherwise biologically brought into being right when PVS set in. Might it have emerged without being conceived or otherwise biologically brought into being? But it is a human animal, a type of mammal, and mammals come into being biologically. Perhaps instead it came into being, long ago, as the fetus. But that would make it a numerically distinct being who currently overlaps you, sharing your matter. This is hard to fathom.

Fourth and finally, there is *the problem of implying that we are not animals.*¹¹ Consider, again, PVS. The person is gone, but a human animal continues to live, spontaneously breathing and so on. But, if a person and animal can come apart, the person cannot *be* the animal. (Nothing can outlast itself.) So you, the person, are not the animal surviving in PVS. But certainly there is no more than one animal life associated with every human life. Thus, the Standard View implies that we are not animals at all, apparently contradicting biological fact.¹²

In view of such problems as these, Olson suggests that we reject the Standard View's claim that we are essentially persons and, with it, the thesis that our persistence conditions are a function of psychological continuity. Rather, he argues, we are essentially (living) human animals, or organisms (members of some biological kind), and that our identity is a function of biological life: "For any organism x and any y , $x = y$ if and only if x 's life is y 's life."¹³ Whether or not one accepts his invitation to understand what we are and our persistence conditions in strictly biological terms, one may understand his critique of the Standard View as laying down a single monumental challenge: *to provide a plausible account of the relationship, in the case of any human person,*¹⁴ *between the person and the human animal.*

¹⁰ Olson, *The Human Animal*, 88–89.

¹¹ Olson, *The Human Animal*, 94; Olson, "Was I Ever a Fetus?" 101.

¹² The above discussion of the second, third, and fourth objections draws from my "Advance Directives, Dementia, and 'the Someone Else Problem'," *Bioethics* 13 (1999), 385–86.

¹³ Olson, *The Human Animal*, 138.

¹⁴ I specify *human* persons here to refer to persons like the ones we (uncontroversially) know. Other possible persons, such as God, devils, and the computer HAL in *2001*, would not be intimately related to human animals.

BAKER'S REPLY TO OLSON'S CHALLENGE

In defending a version of the Standard View, Baker addresses the challenge of plausibly explaining the relationship between persons and human animals by arguing that the latter *constitute* the former in the case of human persons. Before discussing constitution, let us confirm that Baker represents the Standard View. First, she defines persons in terms of psychological capacities: Persons are beings with the capacity for complex psychological properties that she calls “the first-person perspective.”¹⁵ She also unpacks personal identity (at least partly) in terms of psychological continuity: “Person P1 at time t1 is the same person P2 at t2 if and only if P1 and P2 have the same first-person perspective.”¹⁶ Finally, she explicitly embraces person essentialism: “That any person is essentially a person falls out of the idea of constitution.”¹⁷

The idea of constitution is perhaps most helpfully clarified through examples.¹⁸ A hunk of bronze may constitute a particular statue without being identical to it; destroying the shape by melting will destroy the statue, but not the hunk of bronze. A large number of threads arranged in a certain way constitute a flag, but aren't identical to the flag; taking the threads apart would destroy the flag, but not the threads. *Mutatis mutandis*, according to Baker, the human organism constitutes the person without being identical to her. The organism preceded the person because only when the former was sufficiently developed to sustain a first-person perspective did a person exist; and the organism might survive the person if the capacity for a first-person perspective is lost before biological death occurs. Conceivably, a person could outlast the organism if the replacement of organic with inorganic (say, bionic) body parts permitted the continuation of the relevant first-person perspective.¹⁹ In any case, if A constitutes B, A and B have different persistence conditions—and are therefore not identical—yet they are intimately related so long as A constitutes B. Thus, “constitution is a relation of genuine unity that stops short of identity.”²⁰

¹⁵ Baker, “What Am I?” 154; Baker, *Persons and Bodies*, 59.

¹⁶ Baker, *Persons and Bodies*, 132. Distinguishing her view from what *she* calls “psychological-continuity theories” and criticizing the latter (125–30), Baker might object to my saying that she unpacks personal identity in terms of psychological continuity. But recall that, like Olson, I include among psychological-continuity theories not only theories that understand person identity in terms of experiential connections over time (the target of Baker's critique) but also theories that understand identity in terms of the continuation of *basic psychological capacities*. Presumably, a first-person perspective involves one or more such psychological capacities.

¹⁷ Baker, “What Am I?” 158; see also Baker, *Persons and Bodies*, 5–6.

¹⁸ For an enormously technical definition, see Baker, *Persons and Bodies*, 43.

¹⁹ Baker, *Persons and Bodies*, 11, 109.

²⁰ *Ibid.*, 58.

Unlike Olson,²¹ I do not doubt that constitution is an intelligible relation. Moreover, I find that Baker's appeals to constitution genuinely illuminate the relationship between such pairs as a hunk of bronze and a particular statue, and a multiplicity of threads and a particular flag. Whether a human animal and a person are related in this way, however, is a separate question.

Equipped with her theory of constitution, Baker addresses Olson's arguments against the Standard View. First, she denies that her view *problematically* implies that she was never a five-month-old fetus. Strictly speaking—that is, using the “is” of identity—none of us ever *was* such a fetus. Rather, we are constituted by organisms that were fetuses. This assertion does not contradict common sense or embryology, she contends, because common sense is not fine-grained enough to distinguish between the relations of identity and constitution, while embryology neither includes the study of persons *per se* nor entails anything about the relationship between a fetus and a person.²² Moreover, because we can speak meaningfully of an “is” of constitution, there *is* a sense in which Baker, the person, was a five-month-old fetus: Again, she is constituted by something (a human organism) that once was such a fetus.²³

What about the relationship between the person and the early human organism? What happened to the latter when the person emerged? Baker answers that the organism simply continued to develop after it came to constitute a person. The reason Olson finds this problematic is that he thinks that if A and B aren't identical, then they are wholly separate things. Thus, he attributes to the Standard View the idea that an animal “accompanies you” (the person), “shares its matter with you,” or “is a perfect duplicate of you as you are now.”²⁴ But, if constitution is an intelligible relation, we may deny that the person and human animal are identical without implying that they are wholly separate things.

Similar reasoning explains the relationship between the person and the human organism that survives in PVS: The organism that constituted a person no longer does so in PVS even though it, the organism, continues to live. This assertion, Baker would argue, is no more problematic than asserting that the hunk of bronze that once constituted a statue no longer does (due to melting) although the hunk of bronze still exists.²⁵

²¹ Olson, “Reply to Lynne Rudder Baker,” 164.

²² Baker, “What Am I?” 156.

²³ Baker, *Persons and Bodies*, 115–16.

²⁴ *Ibid.*, 98.

²⁵ Olson reminded me that some philosophers find it problematic to say that the hunk of bronze can outlast the statue. Rather than trying to refute them here, I simply note that I find Baker's description of the relationship between the bronze and the statue entirely plausible and therefore won't challenge it.

Does Baker's view imply that we are not animals? Not according to Baker: "We are constituted by human animals, and when we say truly that we are human animals, we are using 'is' in the sense of constitution."²⁶ On the other hand, "what I am most fundamentally is a human person; and a human person is a [person] constituted (at least initially) by a human organism."²⁷ Since it is conceivable that we could transform into bionic (and therefore nonanimal) persons, we might persist without any longer being constituted by animals. It is quite clear, then, that on this view I am not *necessarily* an animal; my persistence conditions and those of human animals are different. Therefore, *strictly speaking*—that is, using the "is" of identity—I am not an animal. But, according to Baker, because in a sense—using the "is" of constitution—we human persons *are* animals, we steer clear of any absurdity.

In my estimation, Baker goes a long distance toward meeting Olson's challenge to the Standard View to account plausibly for the relationship between persons and human animals. Like Olson, I find it more commonsensical to hold that we were once five-month-old fetuses. But Baker presents a sense in which we were such fetuses, invoking the "is" of constitution, and she may be right that common sense is too coarse to distinguish the "is" of constitution from that of identity. While my intuitions still tend to favor Olson here, I note that quite a few philosophers and philosophy students have different intuitions. Baker's rejoinder makes it unclear whether there really is a fetus problem.

In a similar way, Baker's appeals to constitution strengthen what the Standard View can say about the relationship between the person on the one hand and the organismic "predecessor" and "successor" on the other. Even when the human organism constitutes a person, it seems fairly plausible to say that there is a single unified being—a human person—undercutting the sorts of *reductio* arguments favored by Olson (and me²⁸), which treat the person and animal as wholly separate beings. True, the two are always distinguishable, even as the animal constitutes the person, but that does not seem to entail that the two are wholly separate any more than the distinguishability of the bronze and the statue entails that the bronze statue is made up of two wholly separate entities. Although, intuitively, I remain inclined to believe that we *were* fetuses and may someday *be* human animals in PVS (strictly speaking!), I find Baker's alternative account of these relationships almost as congenial and do not claim any authority for intuitions that fall far short of universal assent.

Can appeals to constitution save Baker from the oddity of saying that, strictly speaking, we are not animals? I am more troubled by this implication of her view.

²⁶ Baker, "What Am I?" 157.

²⁷ *Ibid.*, 155.

²⁸ I, too, relied on such arguments in criticizing the Standard View. See especially "Advance Directives, Dementia, and 'the Someone Else Problem'."

I doubt that saying we are *constituted* by animals brings us close enough to our animal nature. We will return to this issue. In any case, it seems fair to say that Baker has done much to resuscitate the Standard View following Olson's powerful critique. But, even if her person-based Constitution View escapes most or all of Olson's specific criticisms, it has several serious difficulties, as explained in the next section.

Before we turn to those difficulties, it will be helpful to look more closely at Baker's view of the nature of persons: persons as beings with the capacity for first-person perspectives. Underlying all forms of self-consciousness, she claims, is a first-person perspective, which distinguishes persons from other sentient beings: "[This is] a perspective from which one thinks of oneself as an individual facing a world, a subject distinct from everything else. All sentient beings are subjects of experience (i.e., are conscious), but not all sentient beings have first-person concepts of themselves."²⁹ While Baker does not attribute first-person perspectives to nonhuman animals, she attributes beliefs, desires, and (apparently) intentional actions to many higher animals:

We attribute beliefs and desires (perhaps in the vocabulary of aversions, appetites, and learning states) to nonhuman animals, which seem to be reasoning from a certain perspective. For example, the dog digs there because he saw you bury the bone there, and he wants it. . . . Such explanations do not thereby attribute to the dog or the infant any concept of itself as itself.³⁰

Such means-ends reasoning from a perspective manifests what she calls *weak* first-person phenomena. But this is not enough for personhood: ". . . merely having a perspective, or a subjective point of view, is not enough for *strong* first-person phenomena. One must also be able to conceive of oneself as having a perspective. . . ."³¹

After acknowledging that some nonhuman primates (at least chimpanzees) have self-recognition that falls somewhere between weak and strong first-person phenomena, she reserves the term "first-person *perspective*" for subjects who manifest the strong type.³² And personhood, thus understood, proves enormously important, giving rise to moral agency, autonomy (which involves the ability to form attitudes about one's own desires), and a sense of the future.³³ Baker submits that this account of the nature of personhood, along with the thesis that we are essentially persons, explains the traditional assumption that we have special moral status in comparison with nonhuman animals.³⁴

²⁹ Baker, *Persons and Bodies*, 60.

³⁰ *Ibid.*, 61.

³¹ *Ibid.*, 64, emphasis added.

³² Baker, *Persons and Bodies*, 62–64, 67.

³³ *Ibid.*, ch. 6.

³⁴ Baker, "What Am I?" 159.

A CRITIQUE OF BAKER'S VIEW

While contributing substantially to the viability of the Standard View, Baker's position has, I argue, three major problems that put its adequacy into doubt.

The Newborn Problem

First, her view has a *newborn problem*, which is more serious than Olson's fetus problem. The newborn problem, which involves *making sense of our relationship to human newborns*, has both an ontological and a moral dimension. Concerning ontology, *Baker's thesis of person essentialism plus her view of the nature of personhood (persons as beings with the capacity for first-person perspectives) imply that you and I were never born.*³⁵ Earlier I noted that some students and teachers of philosophy allow that they were never presentient fetuses. Far fewer are willing to admit that they were never born. Yet that is what Baker's view implies.

That is because no newborn—let's reserve the term for humans in the first week of postnatal life—has the capacity for a first-person perspective. No newborn achieves strong first-person phenomena, which involve not just having a perspective but conceiving of oneself as having one. As suggested by their behavior and their relatively undeveloped brains, newborns, though clearly sentient, are not conceptually sophisticated. (Remember: Baker is talking about a kind of self-consciousness that she thinks dogs and even chimpanzees lack.)

Does it make a difference if we stress the *capacity* for first-person perspectives, claiming that the capacity precedes the manifestation of the relevant phenomena? Baker analyzes having the capacity for a first-person perspective as (1) having all the structural properties required for such a perspective and (2) either (a) having manifested such a perspective beforehand [which clearly doesn't apply to newborns] or (b) being in an environment "conducive to the development and maintenance of a first-person perspective."³⁶ Because temporarily comatose individuals maintain the needed structural properties and satisfy disjunct (a), they qualify as persons. Apparently thinking of disjunct (b), Baker also claims that normal human newborns are persons.

Here, I think, Baker is fudging up a storm. Newborns do not yet have the structural properties needed for first-person perspectives. It is well-known that their brains develop at a tremendous rate in infancy;³⁷ so, assuming they don't develop

³⁵ I discuss this implication of the Standard View in "Advance Directives, Dementia, and 'the Someone Else Problems'," 384–85; and "Persons, Organisms, and Death: A Philosophical Critique of the Higher-Brain Approach," *Southern Journal of Philosophy* 37 (1999) 424.

³⁶ Baker, *Persons and Bodies*, 92.

³⁷ See, e.g., Joseph J. Volpe, *Neurology of the Newborn*, 4th ed. (Philadelphia: Saunders, 2001), ch. 2.

a first-person perspective for at least several months (as suggested by their behavior and neurology³⁸), we must assume they are not born with the relevant neurological structures. In support of her rather implausible claim that newborns already have the relevant structures and capacities, Baker cites a single work before concluding that “from birth, development of a first-person perspective is underway.”³⁹

Is Baker claiming here that the newborn (1) already has a first-person perspective, or (2) is in a process of developing such a perspective? We have already dealt with claim (1). Claim (2) hints at *potential*. Well, of course, normal newborns have the potential to develop a first-person perspective (or, more precisely, the potential to constitute beings—persons—who have such a perspective). Then again, so do fetuses, even early-term fetuses, but Baker holds that because early-term fetuses lack psychological properties altogether, they are clearly not persons.⁴⁰ Moreover, the term “capacity” suggests some *current* capability and so must be distinguished from potential. I submit that Baker has done nothing to overturn the strong commonsensical—and scientific—presumption that newborns neither manifest, nor even yet have the capacity for, first-person perspectives, although they certainly have the potential to develop this capacity (or come to constitute beings who have this capacity) within a matter of months.

Thus, because newborns do not qualify as persons by her criteria, Baker’s person essentialism implies that, strictly speaking, none of us was ever born. She can, of course, allow that *in a sense* you were born: You are constituted by a human organism that was born. But this, I suggest, does not go far enough to accommodate the insistent conviction that each of us was quite literally born.

Even if *some* philosophers will accept the idea that, strictly speaking, they were never born, they should also consider the moral dimension of the newborn problem: *Baker’s view apparently implies that newborn humans have radically inferior moral status.* That is because, as just argued, newborns do not qualify as persons, and because, as noted earlier, Baker assumes that persons have exclu-

³⁸ Certainly a newborn’s behavior is not sophisticated enough to suggest possession of a first-person perspective. Indeed, in the first week (the time period specified to define “newborn” for our purposes), a normal infant’s behavior is not so different from that of an infant born with anencephaly, *a condition characterized by complete absence of the cerebral hemispheres and therefore (presumably) of consciousness!* On the instinctive, brainstem-controlled behavior of anencephalics, see Volpe, *Neurology of the Newborn*, 7; and Bruce O. Berg, “Developmental Disorders of the Nervous System,” in *Principles of Child Neurology*, ed. Berg (New York: McGraw-Hill, 1996), 666.

³⁹ Baker, *Persons and Bodies*, 92, note 1. Baker cites Daniel N. Stern, *The Interpersonal World of the Infant: A View from Psychoanalysis and Developmental Psychology* (New York: Basic Books, 1985), 10.

⁴⁰ Baker, *Persons and Bodies*, 132, note 27. This point is consistent with her assertion that, strictly speaking, we were not early-term fetuses.

sive or radically superior moral status. Thus, in response to the proposal to equate persons with human organisms, she states: “In that case, it is difficult to see why being a person should have any special moral status; for considered as purely biological beings, human organisms have no greater claim to respect than any other kinds of organisms.”⁴¹

One might respond that newborns are at least *on their way* to becoming persons and are thereby distinguished from nonhuman animals, who will never develop the capacities characteristic of persons. This, one might argue, justifies attributing to newborn humans full moral status even if they are not yet persons. Indeed, Baker concludes her article with these words: “the Constitution View gives a reason to regard human animals as morally significant in ways that other kinds of things are not: The moral significance of human animals is rooted in their ontological role of constituting persons.”⁴² One might take the last sentence to imply that pre-personal humans, including newborns, have full moral status because they are human organisms that will later constitute persons. But this interpretation depends on the assumption that *potential* personhood (or potential to constitute a person) confers the moral status associated with personhood, implying that even early fetuses have full moral status. Nothing in Baker’s book confirms this view of fetuses’ moral status. Then again, she does not explicitly deny this view, and some find it plausible to hold that all human fetuses have full moral status—and much greater moral status than nonhuman animals. For those who, like me, do not find this plausible, the potential (to constitute) personhood does not suffice for moral status—in which case the newborn problem has a moral dimension.

This moral problem is intensified in the case of newborns who, although sentient, lack even the potential to constitute persons, given their extreme mental incapacity. True, these humans will never have moral responsibilities. But I am troubled by the idea that they have little or no moral status, as implied by the thesis that significant moral status is grounded in the capacity for a first-person perspective.

A Dubious Ontology

There are, I argue, three specific problems with Baker’s placing so much weight on the person/nonperson divide and claiming that it coincides almost perfectly with the human/nonhuman divide.

First, *it is arbitrary to claim that the person/nonperson divide (taking persons as beings with first-person perspectives) is ontologically more fundamental than any other way of dividing up beings*. Baker tends to think that everything ontologically (and morally) important comes together on the person side of this

⁴¹ Baker, *Persons and Bodies*, 121.

⁴² Baker, “What Am I?” 159.

line—a tendency notable in her assumption that all forms of self-consciousness are excluded from beings lacking a first-person perspective.⁴³ Now she is right that beings with first-person perspectives can do some important things that other beings cannot, such as take responsibility for their actions and evaluate their motives. But some of the mental capacities possessed by many nonpersons motivate ontological divisions that are, I suggest, no less important than the person/nonperson divide.

One such capacity is sentience, the capacity to have feelings—at a minimum, conscious sensations. Sentience enables a being to have a mental life; it also suffices for having a welfare. Thus, the fact that a being is sentient means that it can be harmed in a way that matters morally; nowadays, even moral traditionalists who think persons or human beings have radically superior moral status acknowledge that *gratuitously* harming sentient beings is wrong. So, in addition to making possible a mental life and welfare, sentience can cause in others sympathetic reactions and other forms of moral response.⁴⁴

Identifying another important ontological distinction requires a stipulative definition: Let us understand a *self* to be *any being that has at least some awareness of itself as having a past and future*. “But, aren’t all selves persons?” Baker will ask, since she tends to think the most interesting mental properties group together in the same beings. No. Conceptually, selfhood is insufficient for personhood, as Baker defines the latter. A being might have minimal temporal self-awareness—some self-locating memories and some self-locating intentions or anticipations of the future—without *conceptualizing* itself as having a perspective, or grasping that it has a mind.⁴⁵ Empirically, do there appear to be such creatures? Yes. As I have argued elsewhere—citing relevant empirical literature to an extent that, unfortunately, is rare for philosophers—*many* species of animals display such minimal temporal self-awareness as well as the capacity for intentional action (which requires appropriately related beliefs and desires but not autonomy as Baker and I understand the latter).⁴⁶ Moreover, Baker presents no arguments that cast doubt on my present assertion (which I briefly defend below). Rather, she carries on a regrettable philosophical tradition of making sweeping claims about what animals can and cannot do with little or no supporting empirical evidence. Anyway, the self/nonself divide, I claim, is quite important because it separates

⁴³ Baker, *Persons and Bodies*, 60. For the sake of argument, I accept her claim that ontological significance is a function of causal powers (*ibid.*, 25).

⁴⁴ In discussing causal powers in relation to ontology, Baker, too, cites some that involve effects on other individuals, such as a flag’s power to cause someone to well up with tears (*ibid.*, 20–21).

⁴⁵ As Baker states, such self-conceptualization “is not just to have thoughts expressible by means of ‘I,’ but also to conceive of oneself as the bearer of those thoughts” (*ibid.*, 64).

⁴⁶ *Taking Animals Seriously: Mental Life and Moral Status* (Cambridge: Cambridge University Press, 1996), 129–83.

beings capable of intentional action and temporal self-awareness from beings lacking these capacities.

In sum, I do not find the person/nonperson divide any more ontologically interesting than either the sentient being/nonsentient being divide or the self/nonself divide. Nor do I think I should. If I accepted person essentialism, I might find the person/nonperson distinction somewhat more interesting in a narcissistic sort of way, but I would not find it *ontologically*—that is, from the standpoint of ontology in general—more interesting than the other two distinctions I have drawn. And, as someone who rejects person essentialism, I think of myself not only as a person, but also as a self, a sentient being, an animal, a living thing, and so on, without giving pride of place to personhood.

Let's turn to the second difficulty created by placing so much weight on the person/nonperson divide. As suggested by preceding remarks, *the person/nonperson divide is not uniquely important from a moral standpoint*. Even if personhood is necessary for moral agency—a first-person perspective being necessary for bearing responsibility for one's conduct—personhood does not seem necessary for moral status. Admittedly, this is controversial territory. Still, all I need is the claim that some property short of personhood, such as sentience, suffices for at least *some degree* of moral status. If this were not the case, then it would be hard to vindicate the judgment that there is something wrong about gratuitously harming sentient beings.⁴⁷ Moreover, the moral status of sentient human beings who are not persons (even potentially) would be, quite problematically, thrown into doubt. While the person/nonperson divide may be important for some moral purposes, it is not the only morally important distinction and seems unable to bear the full moral weight that Baker's view places on it.

Third, *Baker tends to underestimate the mental capacities of animals in a way that provides false support for her ontology*. Let's begin with this statement: "Nonhuman animals can attempt to survive and reproduce, but only beings with first-person perspectives can have conceptions of their own futures. Only persons can have hopes and fears about the future. . . ."⁴⁸ The thesis that nonhuman animals have no sense of their own futures, I suggest, flies in the face of empirical facts.

As mentioned earlier, I have elsewhere argued with extensive empirical support that many animals can perform intentional actions and have some temporal self-awareness. If my arguments are sound, then Baker's portrayal of the mental lives of animals is distorted. But even some of *her* assertions about animals will support my present claim. Recall her statement that we attribute (presumably she means, correctly) desires and beliefs to animals, and this example: The dog sees you bury

⁴⁷ For a fuller defense of the claim that sentience suffices for moral status, see my *Taking Animals Seriously*, ch. 3.

⁴⁸ Baker, *Persons and Bodies*, p. 147.

a bone, wants the bone, and therefore digs for it. That is, the dog believes that the bone is underground (there) and that digging for it is a way to get it; the dog desires to have the bone, and so intentionally digs for it. Note that this intentional behavior would not make sense unless the dog had at least some sense of her own future; one can't make a plan, even a very simple plan, without in some way grasping that one will persist long enough to carry it out. Moreover, desire, which Baker attributes to animals, is also future-oriented. One desires some state of affairs (typically involving oneself) that may or may not occur in the future, such as getting a bone, continuing to relax, or seeing someone. A final quick argument appeals to fear, a mental state that is almost universally ascribed to many animals. (When Baker says animals lack fear *about the future*, does she intend to deny that animals can fear at all? Any skeptics about animal fear are encouraged to review the abundant behavioral and physiological evidence along with supporting functional-evolutionary considerations.⁴⁹) An emotional state that involves a perception of danger or a threat to oneself, fear is paradigmatically future-oriented: One fears what might happen to one *in the future*. Fear would therefore seem impossible for beings entirely lacking in temporal self-awareness.⁵⁰ In sum, rather than being mentally stuck in the present, as Baker suggests, many animals have some temporal self-awareness, including some sense of their own futures.

As noted earlier, Baker also claims that nonhuman animals lack self-consciousness, period. (All forms of self-consciousness, she holds, require a first-person perspective.) Even if ninety-five percent of professional philosophers would accept this assertion, I suggest that it is indefensible. For present purposes, a few quick points will suffice to cast doubt on it.⁵¹ Many animals, like the dog described in the preceding paragraph, apparently perform intentional actions, evincing some temporal self-awareness. It is plausible that intentional action also implicates some *bodily* self-awareness, a sense of one's own body as distinct from the rest of the world. (This is also suggested by some feats of imitation and various other specific animal behaviors.) Further, as demonstrated in studies in cognitive ethology, animals in highly social species display a keen awareness of how they fit into social groups, the expectations for individuals in their social positions, who has behaved toward them as allies and who as enemies, what they "owe" to particular individuals based on past interactions, and the like.⁵² All of

⁴⁹ For a discussion of this evidence, see *Taking Animals Seriously*, 117–23.

⁵⁰ Even in cases where we fear what might happen to someone else, our concern about that individual means that we, too, are threatened to some extent. And even if this were wrong and there could be fear that was purely other-regarding, any real-world animal sophisticated enough to have such concern for others would surely have some temporal self-awareness.

⁵¹ For detailed arguments, see *Taking Animals Seriously*, 166–83.

⁵² See, for example, Dorothy L. Cheney and Robert M. Seyfarth, *How Monkeys See the World* (Chicago: University of Chicago Press, 1990), chaps. 2, 3, 6; Dorothy L. Cheney and Robert M.

this requires a type of *social* self-awareness. Now I certainly don't claim that all interesting forms of self-awareness can be found in nonhuman animals; maybe, for example, introspective awareness is uniquely human. But I do claim, and available evidence strongly suggests, that many animals have one or more types of self-awareness—contrary to the philosophical tradition of precluding animal self-awareness virtually a priori.

A more realistic appraisal of animals' capacities than that offered by Baker reveals greater similarities between humans and animals than she acknowledges. These similarities and the overall richness of higher animals' mental lives cast further doubt on Baker's project of placing great ontological weight not only on the person/nonperson divide but also on the human/nonhuman divide.

A Problematic View of Personal Identity

A third major difficulty with Baker's person-based Constitution View is *a problematic view of personal identity*. For Baker, person A at one time is identical to person B at another time if and only if A and B have the same first-person perspective.⁵³ The only material constraint on personal identity is that human persons must at all times be embodied: “. . . although human persons are not essentially human (they may [come to] have inorganic bodies), anything that begins existence as a human person is essentially embodied. . . .”⁵⁴ But the criterion of sameness of first-person perspective (in the absence of material constraints other than embodiment) does not square well with several of her theses about personal identity. Let me explain.

Consider, first, certain thought-experiments. Baker is convinced by Locke and others that two people could switch bodies, going where their mental lives apparently go:

I find the traditional thought experiments about bodily transfer—for example, the Prince and the Cobbler—utterly convincing when considered from a first-person point of view. Suppose that I wake up and look in the mirror and see a strange new body. What makes this person me, no matter what body constitutes her (or him!), is that she has my first-person perspective.⁵⁵

Seyfarth, “The Representation of Social Relations by Monkeys,” in *Animal Cognition*, ed. C. R. Gallistel (Amsterdam: Elsevier, 1990); Jane Goodall, *The Chimpanzees of Gombe* (Cambridge, MA: Harvard University Press, 1986), chaps. 7, 8, 19; Holger Preuschoft et al., eds., *The Lesser Apes: Evolutionary and Behavioral Biology* (Edinburgh: Edinburgh University Press, 1984), part 4; Iain Douglas-Hamilton and Oria Douglas-Hamilton, *Among the Elephants* (New York: Viking, 1975); and Kenneth S. Norris and Thomas P. Dohl, “The Structure and Function of Cetacean Schools,” in *Cetacean Behavior: Mechanisms and Functions*, ed. Louis M. Herman (New York: Wiley & Sons, 1980).

⁵³ Baker, *Persons and Bodies*, 132.

⁵⁴ *Ibid.*, 214.

⁵⁵ *Ibid.*, 141.

She also finds intelligible these scenarios: (1) being teletransported, as one's original body is destroyed, to a new body in another location; and (2) being transformed (Kafka-like) such that one ends up with a cockroach's body.⁵⁶ In each case, a persisting first-person perspective plus embodiment enables the person to continue.

If personal identity is determined by sameness of first-person perspective, *in what does a particular first-person perspective consist?* Baker cannot appeal to sameness of soul or immaterial substance, because she disavows substance dualism. According to Baker, personal identity cannot be analyzed reductively into nonpersonal terms; sameness of first-person perspective is as far as the analysis can go.⁵⁷ But, then, how can we distinguish *conceptually* between these distinct scenarios: (i) the prince and cobbler switch bodies, following their mental lives (assuming, with Baker, that this description is intelligible); and (ii) the prince and cobbler stay with their bodies but suddenly become massively deluded, the prince acquiring the same mental contents and dispositions as the cobbler used to have, and vice versa? Presumably, Baker would respond as follows: All we can say is that, in the first scenario, the two first-person perspectives switch bodies whereas, in the second, the first-person perspectives remain with the same bodies but suddenly undergo a massive change of contents and dispositions. As indicated below, I doubt that this response will prove adequate.

Consider now her response to *the duplication problem*. This is the problem of how to understand a situation of apparent "fission" or "branching," the apparent division of one mental life into two. A hypothetical case of duplication involves transferring the mental contents of person A into the previously "blank slate" bodies B and C, as body A is destroyed. In either of these two cases, what happens to the original person?

Perhaps the most common contemporary response is the following: "B and C, who have different bodies and can go on to lead very different lives, cannot be identical. So A cannot be identical to *both* B and C (assuming transitivity of identity); otherwise $A = B$ and $A = C$, implying that $B = C$, contrary to our supposition. Nor can A equal *either* B (but not C) or C (but not B), because B and C are both psychologically continuous with A (and there's no reason to suppose the mental states of only one of B or C bear the right sort of causal relation to the

⁵⁶ *Ibid.*, 123.

⁵⁷ Baker's thesis that personal identity cannot be analyzed into nonpersonal terms opposes Parfit's influential reductionism; see Parfit, *Reasons and Persons*, part 3. Here Baker enjoys support from Marya Schechtman, who argues that psychological-continuity theories such as Parfit's are inherently circular, failing to provide a reductive analysis of personal identity; see Marya Schechtman, "Personhood and Personal Identity," *Journal of Philosophy* 87 (1990): 71–93.

mental states of A⁵⁸). Therefore, fission causes A to go out of existence, despite her mental life continuing in two people.”

While accepting that A cannot be both B and C, Baker rejects the conclusion that A necessarily goes out of existence.⁵⁹ For she rejects the reduction of personal identity to psychological continuity understood in terms of experiential connections (even with the right kind of cause in nonbranching cases), a reduction that implies that B and C have equally good “claims” to being A. Rather, A continues only if either B or C has the same first-person perspective as A, in which case A is identical to whoever has that perspective. It does not matter that, from a *third*-person perspective, we could not tell which of B and C was A; it would be clear enough, Baker thinks, to A herself. But couldn’t *both* B and C have A’s first-person perspective? Baker answers negatively, holding that a particular first-person perspective is necessarily unique, underscoring the idea that such a perspective cannot be identified by its contents alone (since contents can be duplicated).⁶⁰

Baker’s response to the duplication problem returns us to this question: In what does a particular first-person perspective consist? How can we distinguish, *conceptually*, between (i) A’s continuing as B and (ii) A’s continuing as C? Baker, of course, would reply that in one case A’s first-person perspective continues in B and in the other case it continues in C. But what, precisely, *is* a particular first-person perspective? Again, she can’t say it’s a soul. Nor does she think it’s a particular living body, brain, or brain part, because she rejects all biological and bodily-continuity views of our identity.⁶¹ It seems to me that a particular first-person perspective, on Baker’s view, must turn out to be either (1) some sort of “container” of experiences, or (2) a mental life defined by its contents. But (2) is the sort of thing that can divide, because mental contents can be duplicated. Later we will return to the idea of a container.

For reasons similar to her grounds for rejecting common interpretations of fission cases, Baker rejects the thesis that personal identity is indeterminate. Parfit famously argued that reductionism—the claim that persons are nothing more than material beings with certain kinds of mental properties—implies that identity is indeterminate. After all, he argued, continuity (whether psychological or physical) is a matter of degree and therefore admits of borderline cases in which it would be arbitrary to insist that identity either is or is not maintained; just as it

⁵⁸ Following Parfit, psychological-continuity theorists often require that for persons A and B to be identical, psychological continuity between them must have the right kind of cause (e.g., its normal cause, any reliable cause).

⁵⁹ For reasons that I won’t explore here, Baker also rejects a commonly associated thesis: that identity is not what matters in survival (*Persons and Bodies*, 128–30).

⁶⁰ Baker, *Persons and Bodies*, 133.

⁶¹ *Ibid.*, 119–25.

is implausible that one grain of sand could make the difference between there being a pile or not, it is implausible that one more surviving cell or psychological connection could make the difference between a person continuing or not. The only way to avoid the conclusion of indeterminacy, Parfit argues, is to hold that we are “separately existing entities” like souls.⁶² Baker claims that her theory can avoid indeterminacy without positing “separately existing entities.”⁶³ I’m not so sure.

In defense of the claim that personal identity is determinate, Baker states that “either I will experience waking up after the operation [in which various physical and/or psychological changes occur] or I will not. From my own first-person point of view, there can be no indeterminacy.”⁶⁴ Well, maybe it cannot *seem* to whoever wakes up that there is indeterminacy (although I’m unsure even about this claim), but why can’t there *be* indeterminacy? In response to the fission problem, the indeterminacy thesis, and “the closest-continuer view” (which we need not discuss), Baker says this:

The following seem to me to be incontrovertible facts, easily discernible from a first-person perspective: Every morning when I wake up, I know that I am still existing—without consulting my mirror, my memory, or anything else. I can tell. . . . If it is I, then I know without being told that I am the subject of that experience. If I have such an experience after fissioning, then I survive, constituted by whatever body I find myself related to via a first-person relation.⁶⁵

Surely, at any moment I know that I am I, where both occurrences of the pronoun refer to the *present* subject. The assertion is safe because it is trivial. But Baker is interested in the nontrivial assertion that I (the presently existing subject) am identical to some “I” from the past. She is right that, *in the actual world as we currently know it*, every morning I know that I am identical to a particular person who went to sleep several hours earlier. But it does not seem *necessarily* discernible from a first-person perspective that I am identical to some person from the past; massive delusion about identity is possible. For, again, these two scenarios are distinguishable: (i) I correctly remember the experiences of someone from the past (myself) and identify myself with that person; and (ii) I incorrectly think I remember the experiences of someone from the past (a deceased relative, say) and incorrectly identify myself with that person.

Note that Baker is really making two claims: (1) Personal identity consists in sameness of first-person perspective; and (2) Any person can know that she is identical to some person from the recent past. The possibility of massive delusion seems to knock down the epistemological second claim, assuming it is under-

⁶² Parfit, *Reasons and Persons*, ch. 11.

⁶³ Baker, *Persons and Bodies*, 134, note 28.

⁶⁴ *Ibid.*, 135.

⁶⁵ *Ibid.*, 136.

stood to apply to all possible contexts. The possibility of massive delusion also raises doubts about the conceptual-metaphysical first claim. For the only difference between the two scenarios is that, in (i), I correctly identify whose first-person perspective I continue to have, whereas, in (ii), I don't. The problem is that it remains mysterious what a particular first-person perspective is. Baker will not identify such a perspective with any physical substance, yet she also claims it is determinate and indivisible, precluding its being definable purely by its contents. All I can think of is that a particular first-person perspective is something like a container of experiences, or, if that metaphor is too crude (for suggesting that experiences are things that can be put into something else), a subject that cannot be identified with any physical object. That sounds like what Parfit calls a "separately existing entity," despite Baker's insistence to the contrary—and that sounds an awful lot like a soul.

In conclusion, Baker's theory of personal identity, when examined closely, either embraces substance dualism or remains shrouded in mystery. If the former, that would defeat her ambition of providing an alternative to standard views of identity without embracing dualism. If the latter, much more needs to be said to explain the view and display its coherence. Either way, Baker has not (yet) presented a viable alternative to leading theories of personal identity.

CONCLUDING REFLECTIONS

In their discussions of animals, persons, and identity over time, Eric Olson and Lynne Rudder Baker have brought to the forefront of theoretical discussion the issue of what we human persons most fundamentally are. As discussed earlier, Olson has presented a formidable challenge to the Standard View, which understands personal identity in terms of psychological continuity while embracing person essentialism: to provide a plausible account of the relationship between persons and the human animals associated with them. Baker has responded to this challenge with some success, in my view. By clarifying the relation of constitution—a form of unity that falls short of identity—and advancing her thesis that human persons are constituted by human animals, Baker takes some of the sting out of Olson's critique of the Standard View, a critique that leans heavily on the idea that a person and a numerically distinct animal must be wholly separate entities. A major motivation behind the present paper is to highlight this emerging dialectic featuring the Standard View, Olson's critique, and Baker's reply.

Although I think Baker's book is a brilliant contribution,⁶⁶ I also believe it is mistaken. While Baker is somewhat successful in responding to Olson's

⁶⁶ Baker's book contains many valuable contributions that I have not discussed, such as her defense of the thesis that essential properties can be relational (*Persons and Bodies*, 38–39, 44).

challenge, I doubt that her theory adequately handles the *prima facie* oddity of asserting that, strictly speaking, we are not animals. Maybe it's enough to say that we are constituted by animals, but I continue to have doubts on this score. Moving beyond Olson's critique, I have argued that Baker's view is threatened by three further difficulties: the newborn problem (with its ontological and moral dimensions); a dubious ontology; and a problematic view of personal identity, which steers uncomfortably close to substance dualism.

If my critique is on target, Baker's Constitution View is not an adequate view of our identity and essence. Might some version of the Constitution View—some theory that maintains that we are essentially persons and only constituted by human animals—prove adequate? One possibility would be to abandon the claim that significant moral status requires personhood and therefore the capacity for a first-person perspective; one could allow that sentience confers significant moral status while personhood is required for certain moral purposes, such as bearing responsibility for one's behavior.⁶⁷ Such a revised view would avoid the newborn problem in its moral dimension and might gain ontological plausibility by reducing the weight placed on the person/nonperson divide. I will leave as an open question whether these consequences would cohere well with person essentialism: If personhood is less morally and ontologically important, maybe there is less reason to hold that it defines what we are. In any case, the inadequacy of sameness of first-person perspective as the criterion of personal identity would remain—unless further details clarify the view in a way that displays both its coherence and its avoidance of substance dualism. My bet is that, assuming we understand persons in psychological terms, no theory that embraces person essentialism will prove adequate. May the dialectic continue.

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⁶⁷ Marya Schechtman suggested this possibility to me.