**Health, Moral Status, and a Minimal Speciesism**

**Introduction**

It is not difficult to defend speciesism on the grounds that we human beings are divine artifacts, made in God’s image as knowers and moral agents, bestowed with a soul that provides us with powers shared by no other known species of animal. But without those assumptions, it becomes much more difficult. Nevertheless, we believe an appeal to an interest in healthy development found in all organisms can provide a naturalist account of speciesism.

According to the *Stanford Encyclopedia of Philosophy* entry on moral status “An entity has moral status if and only if it or its interests morally matter to some degree for the entity’s own sake, such that it can be wronged.”[[1]](#footnote-1) We will assume throughout this paper that any individual that has an interest in avoiding great harms and in receiving great benefits will have considerable moral status. Another one of our assumptions is that beings with interests in gaining or retaining extremely high levels of well-being have greater moral status that those beings who lack such interests.[[2]](#footnote-2)

We don’t think the preceding claims are controversial. What is more contentious is our thesis that health is the key to moral status of the mindless and minimally minded. We will maintain both that mindless organisms have interests in their health and that these are the only interests that they have when mindless.[[3]](#footnote-3) We will argue that an interest of mindless human beings in their healthy development can explain why they are harmed greatly by death or other events that retard such development. If such creatures undergo healthy development they will end up with mental lives of great value. So if a very young human being doesn’t so develop, that individual will lose out on a valuable future. Members of no other known species will lose out on such a valuable future by failing to develop in a healthy manner.[[4]](#footnote-4) It isn’t unhealthy for them to fail to become rational persons. If harm is understood as setback of interests and the only interests that the mindless have are in their healthy development, then mindless human beings can suffer harms to the extent that mindless members of other species cannot.[[5]](#footnote-5)

It shouldn’t be thought that we are defending a full-fledged speciesism that the interests of our species matter more than *identical* interests of any other species.[[6]](#footnote-6) In the end, it is only a moderate or minimal speciesism that we are defending. What we are defending is the claim that mindless and minimally minded members of our species will have different and more valuable interests than members of any other *known* species that are mindless or minimally minded. For example, our contention is that the congenitally cognitively impaired human being will have different interests and moral status than say the chimpanzee with the same IQ even though neither is capable then of any cognitive or affective activity that the other isn’t. Our minimal speciesism is limited to the claim that human beings with undeveloped or impaired minds have greater moral status than the members of other known species that are their mental equivalents. We are not claiming that any actual member of our species is more valuable than any *possible* member of any other species. In fact, we will hedge our speciesism even further at the end of the paper for it can only be maintained if a Plantinga-inspired possibility of the species’ mental devolution doesn’t occur.[[7]](#footnote-7) But as things stand now, our species has great moral status and its mentally impaired members have higher standing than other animals with similar mental states.

**Health and Interests**

We’re quite dubious of claims that newborn, unborn, and brain damaged humans lack the interests required for the moral standing that would offer them protections not bestowed upon mindless or minimally minded members of other species.[[8]](#footnote-8) Those maintaining such a position typically fail to recognize that *something can be in an individual’s interest* even if *that individual doesn’t take an interest in it*.[[9]](#footnote-9) For example, certain healthy foods like broccoli are in children’s interests although they are not interested in them as they are interested in chocolate. What is in the individual’s interest need not be conscious or even then accessible to consciousness. It is in the embryo and neonate’s interest to survive even though they have not taken an interest in and consciously desire to live on into the future - nor could they given their lack of conceptual apparatus. Our contention is that all living things have an interest in health which involves not just health at the moment but healthy development. And so every human being, even those who have never been conscious or are no longer conscious, has a prima facie interest to live and develop in a healthy fashion. Their healthy functioning is all there is to their well-being when mindless and their development will lay the foundation for their later conscious flourishing.[[10]](#footnote-10)

Some readers will be skeptical of the mindless having interests or well-being. They might want to reconsider given the costs. If they don’t accept that non-sentient beings can have welfare and interests then they wouldn’t be able to explain the harms and benefits of their losing or gaining consciousness. On the dominant counterfactual comparative account of harm, the well-being of a creature’s actual state is compared with the state of well-being if the event in question had not occurred.[[11]](#footnote-11) That individual is harmed if there is a drop in well-being from what would have been the case, benefitted if there is a rise in well-being in the actual world. If the mindless don’t have any level of well-being then we can’t explain why it is a harm for them to lapse into a coma. Nor can we explain why it would be beneficial for someone to come out of coma or, better yet, be in their interest to become conscious for the first time.[[12]](#footnote-12) In order for that change to be a benefit, the life of mindlessness must be compared with a life containing consciousness. So to make sense of harm and benefits, we must allow that the mindless have well-being. Their well-being can’t be measured by experiential states or desire satisfaction for they have none. Yet if something would be good for them, we can say it is in their interest.

Let’s turn to another unwelcome consequence of denying interests to the mindless. If one maintained that interests depend upon consciousness, then a minded being only has interests of which she is aware or could immediately access. Thus the conceptually limited newborn who is unaware that she needs some surgical procedure to avoid a painless death would not have an interest in that treatment. It seems very implausible to claim that the infant lacks an interest in her health being preserved because she isn’t consciously aware of that interest. But if awareness of that interest isn’t required for that interest to belong to the neonate, then that interest should exist earlier in the fetus before there was any consciousness at all.

Boonin offers an alternative account of the newborn having interests while denying that the fetus earlier possessed such interests (2003). He claims that the newborn should be accorded an *idealized* desire in staying alive. He argues that the newborn’s desires for warmth and food etc. give her an idealized desire to live so she can fulfill those conscious desires. He compares the newborn’s desire for more life to the idealized desire of a hiker to go left at a fork when he is unaware of a bomb planted on the path forking to the right. The hiker has desires in avoiding injury, pain etc. that would give her an idealized desire to avoid the bomb on the left fork even though she is unaware of its presence. We maintain that Boonin’s account is insufficient because the newborn has interests that can’t be explained by idealization. The newborn has a non-conceptualized interest in surgery that will ensure reproductive capacities or a certain kind of intellectual growth that doesn’t serve any of her present desires in warmth, food etc. We even hypothesize that the newborn can outgrow her existing desires but still retain an interest in future life that she doesn’t conceptualize. For example, the interest in food is really just a desire, at least before the first breastfeeding, to remove a feeling of discomfort. We take perhaps some liberties, but harmless ones, to make our point by imagining the baby’s qualia and desire for the first liquid meal is unlike the qualia and desire later for solids. The newborn surely has an interest in living and a right to life that she can’t conceptualize which is not captured by an idealization ensuring existing desires are satisfied. If not, infanticide is acceptable. So if an infant has interests that she is unaware of that are not idealizations from given existent desires, the same is true for the non-conscious fetus.

We even have some doubts whether the most minimally sentient neonatal human beings have desires. To desire an object would seem to involve concepts and beliefs that a newborn is unlikely to have. A neonate’s being uncomfortable due to the absence of food doesn’t mean that she desires food or even that the discomfort end.[[13]](#footnote-13) So that suggests that beliefs about objects, states, and the future that a newborn “living in the moment” may not be able to conceptualize. So an idealized desire can’t be formed in the absence of the more limited desires. To describe an idealized desire from discomforts without desires seems to stretch the hiker analogy too far and seems to be an unprincipled way to distinguish the moral status of the minimally conscious from fetuses approaching the onset of consciousness.

Tooley offers a different argument for why the mindless don’t have moral status in his later book (1983). He imagines a Frankenstein-like creature being made and frozen before it becomes conscious. Its brain is wired to have all sorts of beliefs and desires. So it has unexercised capacities. He asks is it wrong to destroy the frozen being before the onset of consciousness. He thinks not but admits others might hesitate. He is more confident that they won’t hesitate if the capacities were like those of Reverend Billy Graham and were turned into those of Bertrand Russell, destroying the Graham-like capacities. He thinks this is impermissible after consciousness. We think there is some problem with the creature being frozen and thus not alive for we maintain that only the living have interests, but we suspect that Tooley would have the same intuitions about the permissibility of the rewiring if the creature was not frozen but initially made alive but comatose. However, we wonder why if the capacities and dispositions to desire and value don’t matter, why they would start to matter right after the onset of consciousness. Imagine the first thought upon leaving the coma is “a craving for food.” If all of the other Graham-like dispositions were replaced before they ever entered consciousness with Russell-like capacities, where is the harm? We suspect those who accept the preconscious rewiring would also accept the immediate rewiring that left everything but the desire for food unchanged. But if people did think it was wrong to rewire the individual a moment after the onset of consciousness, we are left wondering why? If unconscious dispositions to value and desire don’t matter morally, why do they matter morally before they ever become conscious? It seems consciousness is doing no work and so we don’t see why the first moment of consciousness would be morally transformative.[[14]](#footnote-14)

We also suspect that some people are not taking to heart that the unconscious have the capacities and thus the dispositions to value and desire of a particular person. Or they believe the person doesn’t have interests in such *contingencies* until conscious. We say this because we suspect that readers would think an interest of the unconscious has been frustrated if the frozen or comatose Graham or Russell-like creations were made cognitively impaired moments before they became conscious. Imagine the degree of impairments ensures that they will never consciously regret or desire to be other than so impaired. We believe most readers will believe they have been harmed. So rewirings of the unconscious are harmful. That indicates a belief that there are some generic interests that those who have never yet been conscious would seem to have even if one doubts that they have more specific contingent interests without a certain conscious history.

Even an interest in avoiding pain that Tooley, Singer and McMahan will grant the sentient infant that they don’t believe has a right to life seems to us to be there in the newborn before it is in pain. Imagine that the newborn is unconscious at T1, conscious and pain-free at T2, and in pain the following day at T3. The interest doesn’t just emerge when the newborn is in pain at T3 but is surely there at T2 the day before the pain is suffered. It sounds quite odd to claim that newborns only have an interest in pain avoidance when they are in pain. It would seem that they have an interest at T2 in avoiding pain at T3. But while they are conscious at T2, they are not aware or capable of conceptualizing their interest in being pain free at T3. So the interest in pain relief need not be conscious and thus could exist at T1 before the organism became conscious. So consciousness of that interest in pain avoidance doesn’t require the onset of consciousness but merely the potentiality to suffer pain in the future.

Our contention is that all living entities are capable of well-being and have an interest in their good. We find it revealing to note the structural similarities between health and well-being. The diseased are described as doing poorly, those recovering as doing better, and the healthy as flourishing. We likewise describe those who undergo significant drops in well-being as doing poorly, increases as their doing better, and an abundance of well-being as their flourishing. It is not metaphorical to claim that the healthy are thriving. So are those with considerable well-being. It is good for a plant or fetus to thrive. The causes and constituents of their flourishing are in their interest.

Organisms thus differ from artifacts and non-living natural entities. Artifacts such as cars don’t have interests in oil except in the derivative sense that their operators want them lubricated. And inanimate mindless objects like rocks can’t undergo fluctuations in well-being like the mindless living for only the latter can be said to become healthier (better off) or sicker (worse off). Objects can’t be ascribed interests without something being good for them and without such goods there wouldn’t be well-being. Non-living mindless entities can’t maintain or undergo changes in their well-being and thus don’t have an intrinsic welfare.[[15]](#footnote-15) Mindless *living* entities, on the other hand, can undergo fluctuations in their well-being as their health improves or worsens. As living teleological systems they respond and make internally-driven adjustments to acquire and maintain health. As a result, we can state whether their lives are going well or not, whether they are flourishing or declining.

 It is admittedly difficult to defend the claim that mindless organisms have interests and well-being. It helps to understand well-being as flourishing for that provides continuity between the minded and mindless. Mindless plants, animals, and humans can all flourish. “Flourishing consists in the growth and development of the capacities of a living being” (Kraut, 2007: 148). Later in development, human beings flourish when they develop mental capacities. Once interests of the mindless are recognized, we don’t see what else other than health could be the basis of interests and well-being in the non-conscious. They don’t have experiential states, they don’t have desires, they are not instantiating objective list goods like knowledge, truth, friendship, love, meaning, morality and virtue.[[16]](#footnote-16) Their only accomplishments appear to be achieving health, i.e., survival and reproduction. The only functions we can ascribe as contributions to their own goals are those that promote survival and reproduction.

Even blades of grass can literally be said to thrive and thus have an intrinsic well-being and genuine interests in sunlight, moisture, and nutrient-rich soil. Despite having interests, such grass has a future that doesn’t contain much well-being. The interests are simple, few, short lived, and not considered very valuable on any plausible axiological account. So the grass’s interests are given far less *moral* weight than those of sentient animals or human beings. Assuming that the degree of the harm of an entity’s death depends, in part, upon the value and extent of the well-being that it loses out on, the grass is harmed very little by its death.Human fetuses and newborns, on the other hand, have the potential to realize mental capacities of immense value that will enable them to reach unrivaled heights of flourishing. Since a human being has an interest in developing into a creature of great value, the frustration of that interest allows humans at any stage of life to be harmed by their death or other deprivations to a degree that nonhuman organisms cannot.[[17]](#footnote-17) The human capacity for great harms and benefits is why we have greater moral status than any other known kind of living creature.

It strikes us as safe to assume that for any theory of value to be taken seriously it must acknowledge that creatures with minds like ours have greater moral status than living things that are not capable of such a range of thoughts and emotions.[[18]](#footnote-18) The only controversy should be over whether there is considerable moral status in human beings before they actualize such traits. This certainly doesn’t make us the most valuable creatures there could be. There could be creatures with more impressive mental abilities than ours - more rationality and creativity, unfailingly autonomous and prudent, greater range and depth of feelings, less self-destructive and violent, more compassionate and respectful etc. So we are not fixing the game to come out on top. If one still insists that such an axiological account is distorted because of self-serving biases, self-aggrandizing blindness, or other perspectival bias, we can assume that we possess no more intrinsic value than any other species and still end up with our welfare deserving to be prioritized. This is because we differ from other living things in that we have more interests that can be satisfied or frustrated and more pleasures enjoyed or pains suffered. We have minds that can be concerned with more distant pasts and futures and a greater variety of things, states, and emotions within those periods. So even on an egalitarian axiology that doesn’t make our particular interests or pleasures “higher” or more valuable than that of the other species, our possession of a richer inner life across a longer life span will make us susceptible to a greater diversity, number, intensity, and duration of harms and benefits.[[19]](#footnote-19)

**The Potential that Matters**

Our contention is that the morally relevant sense of potential is determined by what constitutes healthy development. We are assuming that the correct account of health will be an objective one that invokes notions of function and dysfunction. Health doesn’t depend upon our values so an interest in health won’t depend upon and fluctuate with societal value judgments.[[20]](#footnote-20) It doesn’t affect the notion of morally relevant potential that we are defending whether the correct notion of health depends upon evolutionary accounts of function like that favored by Jerry Wakefield or non-etiological accounts of function like that advocated by Christopher Boorse’s Biostatistical Theory of Disease.[[21]](#footnote-21) Perhaps as an adaptation or co-optation (exaptation) of existing forms, evolution has bestowed upon healthy human fetuses the potential to develop minds of great cognitive and affective abilities. These abilities will enable them to enter into various rewarding relationships and exercise a range of cognitive skills that enables them to think and act in valuable ways unlike any other kind of living being. So their potential means that they’ll be greatly harmed if deprived of that valuable future.

It might help readers appreciate the value and well-being resulting from the activities that healthy human mental development makes possible if they consider the absence of health in those mentally disordered individuals suffering impairments in love, empathy, conscience, desire, self-restraint, prudence, reason, learning, memory, or judgment. A look at the American Psychiatric Association’s Diagnostic and Statistical Manual (DSM) will reveal cognitive and emotional disorders involving dysfunction that will virtually guarantee lower well-being than that found in the mentally healthy. Wakefield writes “Very roughly, psychotic disorders involve failures of thought processes to work as designed, anxiety disorders involved failures of anxiety- and fear-generating mechanisms to work as designed, depressive disorders involve failures of sadness and loss-response regulating mechanisms, disruptive behavior disorders of children involve failures of socialization processes and processes underlying conscience and social cooperation, sleep disorders involve failure of sleep processes to function properly, sexual dysfunctions involve failures of various mechanism involved in sexual motivation and response, eating disorders involve failures of appetitive mechanisms, and so on.” [[22]](#footnote-22)

Our healthy development makes possible levels of well-being unmatched by other known creatures. So if there is an unhealthy cognitively impaired human fetus or infant and a healthy non-human animal with comparable manifested mental abilities (which includes the equal absence of mental life), they are not equally harmed because it isn’t unhealthy for the non-human to be so mentally limited. Only the human being is unhealthy when it is not a person or failing to develop into one. Since the interests of the mindless are just in health and the minimally minded have few other interests, it is only the human non-person that has an interest frustrated when it doesn’t develop a mind characteristic of a person (self-consciousness, rationality, moral agency etc.). This explains the widely shared intuition that if we have a scarce serum that can make a congenitally cognitively impaired human being into a person or a healthy cat (rabbit, dog etc.) into a person, the human being receives the serum. The human has an interest in such healthy development, the cat does not. This is not to deny that both will *later* enjoy the benefits of personhood. Our point is that when mindless or minimally minded, it is only the human that has an interest in developing the mind of a person.

Some readers may doubt that the human embryo and nonhuman embryo are intrinsically the same in regards to mentation. There is a sense in which newly created embryonic humans have the (second-order) capacity to reason in ways other animals do not. So if that capacity is eventually actualized, then it was there all along. But it would be misleading to say of embryos that they were not mindless or of infants that they are not minimally minded. There is a clear difference between creatures who have a “ready-at-hand” capacity to think (they may be normal adult humans who are asleep or under anesthesia) and those who don’t have that “ready-to-hand” capacity (human embryos).We can’t wake them or remove anything preventing them from thinking. We are trying to capture that difference in describing early embryos as mindless which also accords with commonsense which judges embryos to be mindless. And since our opponents think it is ready- to-hand or manifested traits that matter morally, we want to argue that there are moral differences despite no difference in manifest mental traits.

Moreover, our position is that there might not even be a difference in intrinsic capacities possessed from the start between humans and non-humans but nonetheless moral differences. Imagine, for the sake of simplicity, that the basis for the initial possession of a capacity that distinguishes human cognition from chimp thought lies in just a single gene that we possess and a chimp lack. It is not hard to conceive of the human child still existing without the initial genetic capacity. The gene is missing from the start or “knocked out” in the early embryo long before it is expressed in producing a certain type of brain. The human fetus would then be an intrinsic duplicate to the chimp in terms of lacking a genetic capacity for distinctively human thought. It would be a stretch to say the human being didn’t exist without that gene or ceased to exist when the gene was knocked out before its characteristic brain building functions were even expressed. So that human being lacked the intrinsic potential to be rational. But virtually all of us would use a scarce technology to genetically modify the human being and feel little compulsion to add a gene to the chimp. Our theory of healthy development can explain this.

It shouldn’t be thought that an interest in health is only an interest in *present* health. It doesn’t make much sense to speak of momentary health since one is presently disposed towards healthy development in the future and preparing one’s body for those future changes. Present health can’t be coherently described without understanding future healthy development. So readers shouldn’t admit our claim that the mindless now have interests in being healthy but resist recognizing that they have an interest in their future healthy mental development. The mindless human embryo has a present interest in the very future made possible by the exercise of their mature mental faculties. It other words it would now be unhealthy if its brain was being configured in a way that would leave it unable to later engage in typical adolescent and adult forms of reasoning and feeling.

For creatures like us, a healthy mind in our design environment is constitutive of a good deal of valuable well-being.[[23]](#footnote-23) But it’s not all there is to flourishing. Two humans can be equally healthy without thriving equally due to differences in their respective environments. They may both be equally capable of relationships involving love, empathy, delayed gratification, etc., but only one finds a soul-mate. Nevertheless, both possess great worth given the great value of their mental endowments. Those endowments enable them to partake in more varied and complex affective and cognitive states than any other kind of known living creature. They are both capable of great harms and benefit which gives the rest of us reasons to be concerned with them to an extent that we don’t share towards creatures of other species.

Since mindless organisms have interests only in healthy development and the flourishing that involves, a human embryo has an interest in growing a healthy proper functioning brain, but no interest then as an embryo in becoming a basketball player or a physicist, even if he will later be an adolescent dreaming of fame and victory in the NBA finals or winning a Nobel Prize in physics. These are contingent interests that will arise later only if the person is in certain environments. The child is not harmed if he is moved when very young to a society where basketball is not played and so doesn’t later develop a contingent interest in basketball.

Some of our interests are contingent, some are not. We understand human beings to *necessarily* havean interest in health which is a condition for their flourishing and when satisfied constitutive of a good deal of valuable well-being. We maintain that the living will *always* have an interest in health.[[24]](#footnote-24) All flourishing depends upon health being present to some degree; thus every living being has an interest in health at every stage of its life, including their mindless embryonic stages.

Even a necessary interest in health has a contingent aspect in its fulfillment. To appreciate the contingency of certain interests and their relationship to the necessary, universal interest in health, it might help to imagine someone disordered who can’t love, a claim that is frequently made of psychopaths. Their life doesn’t go as well as it would if they possessed the capability and did fall in love. But their life goes better than someone who has contingently acquired more interests such as an unrequited love for X that is frustrated their entire life. The relationship of many of our healthy developmental patterns to their realization may be of determinable to determinate kind.[[25]](#footnote-25) Until the interests are given determinate aims, the frustration of the determinable interest in healthy development won’t be as severe a harm. So the degree of a future harm isn’t just due to what future one is deprived of but the extent to which one is connected to that future. All other things being equal, the more interests in the future, the more “filled out” they are, the greater the harm in being deprived of that future.[[26]](#footnote-26)

It is important to point out that it isn’t enough for a mindless entity to be numerically identical to a later being to presently have an interest in that later being’s welfare. The future good must be in the mindless being’s interest when it is mindless. This distinguishes our account of potential from other accounts that just ascribe moral significance on the basis of future actualizations. But the potential to be a person on those accounts will thus be like the potential to be a president which makes it difficult to see why that future now matters for a being’s present moral status and privileges.[[27]](#footnote-27) We instead stress the continuing interest in health. The mindless presently have an interest in a healthy life. It isn’t that there is something good about the future (like being the president) that will become good for them in the future that they now have no interest in. Rather, it is the case that a healthy life is good for them now and their interest in health is an interest in ongoing health that includes their future healthy development. The basis for their future health is their present healthy development as structures and properties are prepared and sustained for their role in future healthy mental functioning.

The only basis we can see for ascribing interests to the mindless is by appealing to the good realized by their proper functioning, i.e., healthy development for entities of that kind. It is wrong to think that identity of a mindless or minimally minded creature with a future person is a sufficient condition for it being wrong to destroy that mindless or minimally minded individual. The identity of a mindless entity and a human person is not a sufficient condition for that entity’s abortion/destruction being a great harm to that entity.[[28]](#footnote-28) Pro-lifers often claim abortion is wrong because we persons were identical to the once mindless embryos.[[29]](#footnote-29) But this opposition to abortion is being defended for the wrong reason. Mere identity to a creature with a valuable future like ours, to use Marquis’s famous phrase, isn’t sufficient for it to be harmed by the deprivation of that future can be seen by pondering the epistemic possibility of unrestricted composition, parthenogenesis, cloning, totipotent cells, or sci-fi environments that produce enhancements being identity preserving.[[30]](#footnote-30)

Consider unrestricted composition.[[31]](#footnote-31) Imagine that there is something such as the aggregate of atoms that composes you right now. It is distinct from you for it can’t change its parts but you can. However, if you can feel a momentary sharp pain, then that aggregate can as well since you and the aggregate are composed of physically identical parts in the same arrangement during the moment that you feel the pain. But that aggregate existed thousands of years before you did, perhaps spread out across the planet. It surely didn’t *then* have an interest in not later suffering the momentary pain. The only mindless creatures with interests are the living. The same point can also be made with the possibility of an intelligent robot that first exists without consciously thinking. Before that robot ever entertains a conscious moment, it doesn’t have an interest in thinking. If it is destroyed before consciousness is switched on or installed, no harm befalls it. So while the robot and aggregate are identical respectively to the later thinking robot and feeling aggregate, we can see that identity with a creature with a valuable future isn’t enough for harmful interest frustration.[[32]](#footnote-32)

Our claim that healthy development or proper function provides the morally relevant potential will not be troubled by the standard objections and reductios offered in response to claims of potential being morally significant. We don’t even have to rely upon problematic appeals to substantial change or the distinction between active/intrinsic and passive/extrinsic potential. A person’s somatic cells that could be cloned or induced to develop into a person through epigenetic factors reversing their potency from differentiated cells into induced pluripotent or totipotent cells (Steir and Schone-Siefert) aren’t unhealthy if they don’t do so. Since their interests and proper functions are just to do what such somatic cells are designed to do, they are not harmed when any potential to develop into persons is not tapped. Pace Singer, Sager, Devolder and Harris, a commitment to potential doesn’t commit our resources and efforts to such cells developing.[[33]](#footnote-33) The same is true for Tooley’s kitten, McMahan’s dogs, or Kriegel and Housain’s oysters.[[34]](#footnote-34) They can be turned into persons by respectively giving them a high-tech serum, intense linguistic training, or transportation to Mars. Since none of these creatures would be unhealthy if they didn’t so develop, they lack an interest that can be frustrated if they don’t become persons.[[35]](#footnote-35) Identity can be seen as an insufficient basis for harm and benefits, a consequence of which is that reductios of potentiality are avoided by a health-based account of potentiality.

**First Objection to a Health-Based Account of Moral Status: Care and Triage**

Readers might be concerned that our ascribing significant moral status to the mindless on the basis of their having interests in avoiding disease-borne harms commits us to keeping mindless human beings in any condition alive at virtually any cost, including rationing the care for conscious patients capable of recovery. They might claim that is a major drawback, if not a reductio of our position. But no such commitment follows from our contention that human organisms necessarily always have an interest in health, an interest in a cure, and great moral status in virtue of this. Triage considerations can come into play. Readers might then respond that we face the other horn of a dilemma: our appeal to triage considerations against saving the mindless reveals that they have less value than the minded beings that we would save. This is a false dilemma.

Our theory of moral status is not undermined by our accepting that we don’t have to make much effort in the actual world to keep alive the frozen embryo, anencephalic human being, or the demented elderly patient who has lapsed into a persistent vegetative state. This doesn’t indicate their lower moral status any more than when a MASH unit surgical team chooses to operate upon the soldier that can more likely be saved indicates anything about the difference in moral status between that soldier and the more gravely wounded soldier who does not undergo surgery because of the likely futility of the procedure. Both soldiers have the same moral status and are tragically harmed as much by their deaths. It is just that doctors can’t do as much for both of them. Readers can more clearly see their own commitment to the great and equal moral status of the soldiers by imagining instead a medic in the field without access to any MASH unit surgical equipment who has one dose of a magical serum. That potion could save either the gravely injured soldier for whom any other procedure is almost certain to fail or cure the wounded soldier who could have easily been saved if he was only in a typical MASH unit. It is surely a coin toss who gets the serum. That suggests the wounded soldiers have the same moral status. Death is equally tragic and equally a harm for both of them.

Since there is little in the actual world that we can do for the persistently comatose or anencephalic, great efforts and expenditures aimed at keeping them alive may not be warranted when those funds can be used to promote the healing of other patients. Even the frozen embryo in the typical embryo rescue hypothetical may be sacrificed to save the clinic guard without that decision reflecting a diminished moral status. These cases often involve a fire and the rescuer’s ability to save either the security guard who has passed out from smoke inhalation or a frozen embryo.[[36]](#footnote-36) The choice to save the guard over the embryo is often interpreted as revealing a belief in their different moral status.[[37]](#footnote-37) However, given the fact that the frozen embryo is unlikely to be implanted and ever leave its frozen limbo, triage considerations may rightfully come into play. It would be a mistake to base our action on considerable differences in moral status due to the guard solely having manifested mental abilities.

Readers can see the moral importance of potentiality when we compare saving mindless human beings or mindless non-human beings. Hypothetical scenarios involving a single dose of a magical healing serum can elicit our belief that the human anencephalic, frozen embryo, or comatose adult has far greater moral status than an anencephalic chimp, frozen chimp embryo, or comatose adult chimp. Imagine that this potion can cure the anencephalic or demented human, or enable the frozen human fetus to develop on its own without even needing a volunteer to gestate it. If we can use the one dose of magical serum to turn any of those mindless humans into a typical mentally healthy and rational person or do the same for either a mindless chimp or even healthy adult chimp, then surely the mindless human should be transformed into a person and any chimps left as they were. This is not only the intuitive reaction but is the theoretically satisfying one when interests in healthy development are considered.[[38]](#footnote-38) The minimally minded non-human creatures don’t have interests in becoming rational persons. They are not unhealthy when they don’t so develop. The human mentally disabled young each have an interest in their healthy development. The value that the unhealthy severely cognitively impaired human being would lose out upon is great. The deaths of the anencephalic and even brain damaged comatose human are tragic and they suffer great harms.[[39]](#footnote-39)

**Second Objection: Unequal Harms but Equal Wrongs**

A second worry is that some human beings could lose out on more years of health ahead of them than others, but their moral status doesn’t and shouldn’t reflect these differences in deprivations. The difference in harm to humans at different ages doesn’t entail that there is a difference in the wrongness of killing them. Just as the law separates the *wrongness* of a killing from the *harm* of a killing, so can we. The law doesn’t claim that it is less wrong to kill the geriatric than the adolescent. Although McMahan doesn’t extend the equal wrongness of killing to fetuses, he claims that all *persons* are protected equally against being killed regardless of the degree of harm that death brings.[[40]](#footnote-40) He believes the treatment of non-persons should be determined by a comparison that weighs their interests against the interests of others. We think that he is wrong about the interests of the young and mindless or minimally minded human being. Their loss is so great that they should be given the same or nearly the same respect McMahan gives persons. They always have an interest in becoming a person, unlike those creatures (e.g. Tooley’s kitten)[[41]](#footnote-41) that have such potential to become persons only in the looser sense of “potential.”[[42]](#footnote-42) The human young should have rights protecting them from such great harms.[[43]](#footnote-43) It is as wrong or nearly as wrong to kill them as it is persons because they are beyond the threshold where rights “kick in.”

The idea of a threshold is that where a certain level of interests or capacities is reached entitling their possessors to particular rights, there are no further gains in rights or their stringency with increases in interests or capacities. For example, once an individual has reached a threshold for a right to life, those with more of the morally relevant feature that is the basis for the entitlement do not have a right that outweighs that of others when they conflict.[[44]](#footnote-44) Those further above the threshold do not have a right that others take on more burdens to keep them alive than those not as far above the threshold. Such differences above the threshold become irrelevant to rights even if they are relevant to the extent of value or degree of harm that will accompany some deaths but not others above the threshold.[[45]](#footnote-45)

Someone might claim that we have shown no more than that fetuses and infants have greater moral status than has been recognized in the past by those who deny that they have interests believe it to be, but have not shown that fetuses and infants should not be killed to protect the interests of many such lesser beings, or of two other infants or fetuses. A finding that infants and fetuses are persons would do that, but we have accepted that fetuses and infants are not yet persons. So we face a dilemma of sorts: if fetuses and infants are not persons, then again it seems only that their interests must be given appropriate weight, not that they have inviolable rights; on the other hand, if they do have such rights but are not yet persons, then “person” seems an irrelevant concept, at least morally.[[46]](#footnote-46)

Our thought is that “person” is not so much irrelevant morally as it is ambiguous. On one disambiguation (a person is presently able to manifest self-consciousness or presently able to act rationally or presently a moral agency etc.) it will strike all as very valuable; On another disambiguation (a person need only be capable in the future after further development of one’s brain and mind to be self-conscious, rational, moral agent etc.), it will strike many as not very valuable. There are neo-Lockeans who think that the infant is just a potential person and not a person with potential. Our view is that regardless of the label, the fetus and newborn can suffer great harms, more than can beings who have manifested similar capacities, and these harms are nearly as great as those you and I can suffer; thus they should be placed beyond the threshold that protects valuable creatures from being killed for the sake of the interests of others. If readers want to define a “person” as a being with capacity to lose out on great value that places them beyond a deontological threshold, then fetuses and infants are indeed persons. We aren’t opposed to using “person” to demarcate creatures beyond the threshold. But we think it is a good dialectical strategy to concede as much as we can to our opponents and to use as much as their vocabulary as we can. “Person” is a morally loaded label and the real work lies in arguing about the moral significance of the traits which makes someone a person. Some folks will resist labeling fetuses and infants as persons because of their neo-Lockean sympathies. So to avoid talking past our neo-Lockean opponents, we accept their use of the term “person” in this paper. But we contend that moral status may be found where those personhood conferring traits are not. We are trying to convince neo-Lockeans that those who haven’t manifested self-consciousness have an interest in doing so and are greatly harmed and greatly wronged if they don’t.

Even if readers reject the threshold account and opt for a scalar account that correlates the degree of wrongness with the degree of harm, the wrongness of killing a mindless fetus is still quite great.[[47]](#footnote-47) The killing of a fetus is as nearly harmful as the death of a minimally sentient newborn.[[48]](#footnote-48) It may be that infants and fetuses can’t be harmed and wronged to the degree that adults can but they can still be greatly harmed and wronged. So even on such a scalar rather than a threshold account, the mindless or minimally minded have considerable moral status.

Keep in mind that our concern here in this section is not to provide a complete theory of moral status but rather to show why human beings that are mindless or minimally minded have a moral status that is greater than other creatures that have manifested comparable mental states. On either a scalar or threshold model of moral status, we believe that we have captured people’s intuitions about the young and incapacitated elderly and done so in a theoretically defensible manner.

**Third Objection: No Moral Differences in the Absence of Intrinsic Differences**

Many readers will find it extremely counterintuitive that the moral status of one being can be greater than that of another even when there are presently (and in the future) no mental differences distinguishing them. Responding to them will be the main concern in this section. Our appeal to healthy development commits us to rejecting McMahan and Rachel’s defense of *moral individualism* whichis the doctrine that the treatment of an individual ought to be determined not by any group membership but by responding to his own particular characteristics.[[49]](#footnote-49)

If we understand McMahan correctly, his complaint about linking moral status and potential to species norms of healthy development is that there is nothing intrinsic and morally relevant about appealing to normal members of the species when evaluating the moral status of those who lack many species-typical features.[[50]](#footnote-50) However, our health-based account of interests can make sense of the mindless having an interest. Although health and species membership is significantly determined by extrinsic relations, the harm is to the unhealthy member of the species, not to others who care about her. We don’t think that this extrinsic determination of someone’s interests is in principle different from how the contents of one’s interests are determined according to semantic externalism. Semantic externalism is a theory that shows the “meaning isn’t in one’s head.[[51]](#footnote-51) Two physically indistinguishable creatures could mean different things by “water” if they lived on different planets where what is called “water” and behaves like water is made of different compounds. “Water” picks out entities composed of H20 on Earth but those made of XYZ on the alien planet. The person on earth means H20 by “water”; the denizen of the other planet means by “water” the liquid that is XYZ. The person on earth says something true when he states that “Water is H20” while his psychological duplicate on the other planet says something false when he asserts “Water is H20.” So the propositions must be different and that means the propositions are not composed of the same concepts. Thus “water” expresses different concepts for the two men even though they would utter the same words as the other if they switched planets. This shows that the contents of one’s beliefs about water are not intrinsic. The lesson is the same if we replace beliefs about water with desires for water. Since beliefs and desires play a crucial role in determining whether one is harmed or benefitted, then such states are extrinsically determined. Therefore, if one’s well-being can have an extrinsic basis due to the contents of one’s preferences, then we don’t see why health couldn’t be determined by extrinsic features.

We suspect that the really counterintuitive problem for our appeal to health comes from its treatment of physically similar members of distinct species who end up in the same environment. Consider the following scenario that we call [NAME REMOVED]’s *Strange Egg.*[[52]](#footnote-52) There could be an environment on another planet where duplicates of Earth’s unfertilized chicken eggs evolved to parthenogenetically develop into persons in the very odd gaseous atmosphere of that planet.[[53]](#footnote-53) Assume that this planet is near enough to Earth that travel between them is feasible. To make matters more difficult for our position, imagine an egg from the other planet somehow ended up on Earth. So on our account, the alien egg’s failure to develop parthenogenetically would be malfunctioning and diseased or, at least, not functioning properly in our environment. We are committed to recognizing that alien eggs have interests in being helped to return to their environment while our unfertilized Earth eggs don’t have similar interests in being transferred to the planet where they will parthenogenetically develop and thrive. We admit that it seems initially counterintuitive to claim that we have reason to help the alien egg that ends up in our environment realize its potential to become a person while lacking the same reason to cultivate the potential of physically identical eggs.

` An appeal to health-based interests can justify differential treatment of duplicates. Blind moles living underground today are standardly thought to be healthy and we would add without an interest in developing sight. But millennia ago, their blind physical duplicates would have been considered unhealthy as they dwelled above ground in the light. They would be pathological, their eyes malfunctioning, their interests in healthy development frustrated by their blindness. Animal lovers would not be benefiting contemporary moles by providing them with eyesight-restoring operations, but such procedures would have benefitted their distant ancestors who were blind but dwelled above ground. And if omissions can be harms, veterinarians would be harming those ancient moles by not operating. So against the theoretical background of a health-based account of interests, physical duplicates could plausibly be seen to have different interests.

Another way to take some of the counterintuitive sting off duplicates having different moral status is to consider a *Zombie world*.[[54]](#footnote-54)Imagine at the other end of the universe, there are beings who appear genetically to be like the typical human being but these distant human-like creatures don’t have what philosophers call qualia because the laws of science are different in that part of the universe. That is, they never undergo any subjective experiences such as of being awed by the vibrant pinks and reds of a sunset or the shimmering greens in the forest after a rainfall. We doubt readers would think it so tragic or bad for the zombies to lack experience because they weren’t designed to so function when healthy. We suspect that if you were a theist, you wouldn’t feel a strong need to pray to God to change the laws or to miraculously intervene so the zombies at the far end of the universe could develop minds in their distant part of the universe. Even if you judged that it would be a better overall world from an impersonal point of view if they were conscious, we suspect that you wouldn’t feel *they* were harmed by their zombie status. So even though the zombies could be physical duplicates of human beings, we human beings aren’t inclined to view them as deprived and that is because it is not their proper function or healthy development to have conscious experiences.

Perhaps different laws at the far ends of the universe are too fantastic and farfetched to elicit informative reactions. So consider instead the example of McMahan’s hypothetical dogs that could learn language if given intensive training similar to what human parents bestow upon their young children.[[55]](#footnote-55) The dogs on earth are not malfunctioning when they can’t speak or read for they did not evolve nor ever had a history in which such training conferred upon them linguistic abilities that promoted their survival or reproduction. So they would not be harmed by our omitting to expose them to such rigorous schooling. Imagine now another planet or an alternative history of our planet where such dogs evolved as they did because they were given that training. Assuming selection is a plausible criterion for healthy functioning,[[56]](#footnote-56) language learning is part of these animals’ healthy development regimen just as human parental interaction with their young children is necessary for their healthy language development. Such dogs would be harmed if they didn’t receive such language training.

Functions can be extrinsically determined. It is not controversial amongst those who theorize about the functions of artifacts that two physically indistinguishable different machines could have different functions because of their creator’s intentions. One could be a malfunctioning X while its qualitative duplicate could be a functioning Y. We suggest that readers likewise understand [NAME REMOVED]’s two eggs similarly, one is healthy (i.e., functioning appropriately) while the other is disordered (malfunctioning) despite their lack of physical differences. Just as we typically believe that we have a greater obligation to cure the diseased before enhancing the healthy, such prioritism should be retained when the diseased and healthy are duplicates. The greater concern for the unhealthy egg entity that should be a person can be explained by our theory that the mindless have an interest in their healthy development.

If readers agreed with our earlier claim that the scarce person-making serum should be given to the unconscious brain damaged human being instead of the healthy cat, they should extend that attitude to favoring an unhealthy congenitally cognitively impaired human being that has a mentally healthy perfect duplicate in another species. If mental duplicates should be treated differently when one is healthy and the other unhealthy, adding duplication of non-mental attributes making them complete doppelgangers shouldn’t matter and we should treat the duplicates differently. The same should be true for the two eggs.

**A Minimal Speciesism**

We want to emphasize that we don’t believe that members of our species are more valuable than members of any *possible* species. If there are Martians with minds like healthy human adults, their moral status is the same as ours. We don’t advocate a full-blooded speciesism that would deny equal moral status to the members of other species who were mental equivalents of our normal adults. We are only committed to the healthy members of *known* species having less moral status than undeveloped or unhealthy human beings who likewise are mindless or minimally minded.

We believe contingently acquired interests and a time-relative interests account of harm means that McMahan’s enhanced Superchimp would have our moral status.[[57]](#footnote-57) After Superchimp is enhanced and comes to have a mind like ours, he would be horrified at the prospect of losing such a mind and greatly harmed if his capacities were reduced back to those of a normal chimp. This all follows from the counterfactual comparative account of harm. We insist that only before the chimp’s enhancement when mindless or minimally minded that it was not in his interest to be so enhanced. A time-relative-interests account of harms focuses not just upon future deprivations but how tied one presently is to that future. Superchimp (when super) is as closely tied to his future as the readers are to their futures. Death or reversal of enhancements would be as great a harm to the Superchimp as our deaths or mental decline would be to us.[[58]](#footnote-58)

Our minimal speciesism is just concerned with maintaining that *normal* chimps (and members of other known non-human species) lack the moral status of the human toddler that their their mental equivalent or even the fetus that is not yet their cognitive equal. It is likewise for demented humans. They have interests in a valuable future that cognitively equivalent chimps lack and thus a greater moral standing. This is because they have an interest in health and are greatly harmed by their deaths or their mentally in capacitated states. The normal chimp is not harmed as much by its death as is the young human or the demented or comatose. The unhealthy, cognitively impaired human being is harmed to a great extent by not being given the person-creating serum, the healthy chimp is not so harmed.

We want to end by first hedging our minimal speciesism and then secondly admitting we might be defending a minimal “taxonism” rather than speciesism. Regarding the first, the applicability of our speciesist claims may be limited to the actual world and worlds like it. Readers must admit, to keep their naturalist bona fides, that human beings could evolve cognitive changes that affect their value but not their species membership. Plantinga invites his readers to imagine that Aryans inject non-Aryans with a serum that renders them much less intelligent.[[59]](#footnote-59) They kill all the non-Aryans without the injection. So over time the non-Aryans that are alive are so because of their lower intelligence. This keeps them alive just like camouflage from predators enables other animals to stay alive. Those animals would be diseased if they didn’t have such coloring. So the resistance doctors are not *curing* non-Aryans if they reverse the loss after it has spread through the species for sufficient time. They are instead *enhancing* the non-Aryans. Boorse’s response to Plantinga is to bite this bullet and accept that this is healthy functioning for the species.[[60]](#footnote-60) Our naturalistically inclined readers should do the same. So the value of human beings would become lower as their health changes and cognitive and emotion range becomes limited. Thus we are not committed by our naturalist reading to it always being true that immature human beings have greater value than other species of equivalent moral status. But we don’t live in a Plantinga world. Our world is one in which our minimal speciesism does obtain.[[61]](#footnote-61)

Let’s turn now to our admission that we might not be speciesists. It is really not much of a concession and will leave our main moral implications intact – minimally minded human beings have greater moral status than their mental equivalents in other taxa. There are biologists and philosophers who doubt that species concepts carve nature at its joints. Darwin himself thought the species/variety distinction rather forced. He wrote “It is really laughable to see what different ideas are prominent in various naturalists’ minds when they speak of species… it all comes, I believe, from trying to define the undefinable.”[[62]](#footnote-62) Darwin thought “species” was undefinable because he was skeptical of the distinction between species and varieties. “I look at the term “species” as one arbitrarily given for the sake of convenience to a set of individuals closely resembling each other, and that it does not essentially differ from the term variety.”[[63]](#footnote-63)A concern might be that if we can’t appeal to species, we lose a reference class for health. Nevertheless, if the problem is just the species/variety distinction, we can still help ourselves to a reference class, even if it can’t properly be called a species or a variety. So there is no real problem here for health determinations. As Ereshefsky explains “… the case here is merely against the existence of the species category, not against the reality of those taxa we call ‘species.’ None of the arguments given thus far should cause us to doubt the existence of such taxa as *Homo Sapiens* or *Drosophilia Melanogaster.”* [[64]](#footnote-64)

So if skepticism about the species category is warranted, then we may be *taxonists* rather than *speciesists*, i.e., people who believes that whatever taxa we belong to has greater moral status than the members of other known non-overlapping taxa. More precisely, whatever is the function-determining taxonomical kind that we belong to, it can be ascribed the moral status that we have assigned species when we were assuming that the species concept was ontologically informative. Merely being a member of such a kind will determine one’s moral status to a significant degree. It isn’t the full story of the moral status of every member of the kind (or “individual” if the species or taxa in question are best considered individuals rather than kinds), but it will be able to account for the greater moral status of the mindless and minimally minded members of the relevant taxa over mindless and minimally minded creatures of taxa lacking a healthy developmental plan ending with minds of great rational abilities and emotional range.

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1. Agnieszka and Tannenbaum (2013: 1). [↑](#footnote-ref-1)
2. This is not to say that the greater the well-being one is capable of obtaining, the greater the moral status will be discussed below. There may be a threshold where beings with at least x amount of well-being or the relevant potential to possess at least x amount of well-being don’t differ in their moral status, or at least not in the rights they possess. [↑](#footnote-ref-2)
3. “Interests” is ambiguous. Kids have interests) in (i.e. desires for) candy but vegetables are in their interest, (i.e., good for them). It is the latter sense of “interests” that is relevant in our discussion of the mindless. More about this below. [↑](#footnote-ref-3)
4. Our claim is restricted to *known* species. If there is a species just like ours (or superior) in mental faculties, then human beings with impaired minds will not have greater moral status than members of the hypothesized species. Why this is so will become clearer later. [↑](#footnote-ref-4)
5. The minimally minded, on the other hand, may have some additional interests but their conceptual limitations prevent them from having considerably more interests than the mindless. Since being deprived of healthy mental development means losses of great value, it will be prima facie morally wrong to inflict such losses upon mentally immature human beings. [↑](#footnote-ref-5)
6. This is how Singer understands speciesism in his *Animal Liberation* (1975: 9). [↑](#footnote-ref-6)
7. Plantinga (1993: 194-215).Given the possibility that our species could persevere while evolving in a way that would cause it to lose its elevated moral status, we are what Travis Timmerman (2016) classifies as *coextensive speciesists* rather than *genuine speciesists*. He observes “coextensive speciesists locate the status-conferring properties not in species membership itself, but instead with some other property coextensive only with the human species and not possessed by any non-humans animals in the actual world.” [↑](#footnote-ref-7)
8. Tooley, 1972; Singer (1993); Devolder and Harris (2007); McMahan (2002); Giublini and Minerva (2013). This is not to say that they have rights to life that entail others must do everything in their power to keep them alive. We will return below to the claim that individuals’ considerable moral status is compatible with doing little to save them. [↑](#footnote-ref-8)
9. Regan (1982). The idea of interests in the mindless might be more popular with those scholars working in environmental ethics than the other branches of applied ethics. See Taylor (1986). There are Aristotelian-influenced accounts of well-being that ascribe interests and a good to mindless plants and animals. See Kraut (2007: 5-7, 88-91). [↑](#footnote-ref-9)
10. Kraut seems to share our belief that flourishing in the mindless consists just of healthy functions (2007: 5). [↑](#footnote-ref-10)
11. Bradley (2012: 396) writes “A harmful event is an event that makes things go worse for someone, on the whole, than they would have gone if the event had not happened. The worse an event makes things go for someone, the more harmful it is.” See also Feinberg (1984: 33-34) and Parfit (1984: 69). [↑](#footnote-ref-11)
12. We include the second disjunct because some philosophers might be tempted to accept that those who were once conscious have an interest in becoming conscious again while those who were never conscious have no interest in becoming so. We don’t see any reason to hold this view given that those in the former condition are physically no different from those who have never been conscious. We’re assuming that the injury or stroke that causes the comas leaves brains in states similar to those who have yet to become conscious. That is, the person who lapses into a coma doesn’t retain the cognitive machinery akin to someone sleeping who is disposed upon awakening to immediately recall and value what he did before his slumber. Instead, any return to consciousness will be initially akin to the initial emergence of consciousness, simple infant or fetal-like capacities and interests. [↑](#footnote-ref-12)
13. See Kaczor for a discussion that a newborn’s preferring food to its absence involves making comparative judgements about value which would seem to be beyond the abilities of newborns (2008). [↑](#footnote-ref-13)
14. We believe Elizabeth Harman (2003) makes a similar error when she allows that the yet not conscious fetus can have interests and being harmed, but insists it just doesn’t morally matter until there is consciousness that those interests are frustrated. But if a conscious beings has interests frustrated that she is not conscious of, why wasn’t morally suspect for the same interests to have been frustrated before she was became consciousness. The moral transformation of consciousness is being left unexplained. [↑](#footnote-ref-14)
15. It makes no sense to say a mountain or a hill is doing well or poorly. [↑](#footnote-ref-15)
16. See Parfit for a list of objective goods (1983: 499). [↑](#footnote-ref-16)
17. Even unhealthy fetuses and demented adults have a potential that accounts for their moral status. It may be that the harm is preempted or overdetermined by disease, but then the harm should be considered the combination of the disease and death, what McMahan (2002, 127-36) calls “Total Losses,” and Neil Feit (2013) labels “Plural Harm.” Killing the cognitively incapacitated contributes to the total or plural harm that the patient suffers. [↑](#footnote-ref-17)
18. Kraut seems to agree (2007: 137-38, nt. 8) [↑](#footnote-ref-18)
19. See Harman on all animals beings equal in value but differing in harm. (2003:180). [↑](#footnote-ref-19)
20. Plants could be diseased in a world without human beings or any other valuers. [↑](#footnote-ref-20)
21. Wakefield (1992, 2005, 2011); Boorse (1977, 1997, 2002, 2014). [↑](#footnote-ref-21)
22. (2005:894). [↑](#footnote-ref-22)
23. The design environment is the environment for which humans beings were made or selected. For example, humans are not unhealthy if they can't breathe at high altitudes or underwater because they weren't designed to breathe in such environments. Nor are our planet’s non-human animals unhealthy because they are not in the type of alien possible world imagined by philosophers in which they will be transformed into persons. [↑](#footnote-ref-23)
24. This interest in health may be overridden by the later acquisition of conscious desires. Our reason for seeing it as an override rather than an absence is that considerable health will likely still be needed for the organism to benefit from a disease. We discuss why beneficial diseases are not a problem for our claim about necessarily possessing a prima facie interest in healthy in our \_\_ and \_\_(citations withheld for purpose of blind refereeing.) [↑](#footnote-ref-24)
25. The determinable/determinate relationship is typically illustrated with colors like red which can be scarlet or crimson.. [↑](#footnote-ref-25)
26. We agree with McMahan that harm depends, in part, upon the degree of connections to the future that can be frustrated. So we accept what could be considered a version of a time-relative-interest account of harm. It is just that we include the interests of the mindless that tie organisms to their own future while McMahan limits interests to those that are conscious. McMahan claims that the interests of the minimally minded in their future are so few it is as if their future person is a different person. McMahan’s restriction of interests to conscious ones leads him to admit that it could be permissible for people to cause healthy embryos to become *so*extremely cognitively impaired that they won’t develop to where they have the psychological capability to regret their condition (2002: 323-24). Moreover, McMahan can’t account for the harm of what he calls “adaptation” where those who acquire handicaps such as deafness due to events after they originate don’t regret it for they come to identify with the deaf community (2002: 301). His theory of interests can’t explain how the handicapped can be earlier harmed by a deafness they don’t later want remedied. Our health-based account can explain the harm to the cognitively impaired. The continuous interests in healthy development link the mindless to the future in more ways than McMahan realizes, making it a mistake so see this person’s future as like the future of a different person. [↑](#footnote-ref-26)
27. Benn (1973). [↑](#footnote-ref-27)
28. We are assuming a neo-Lockean conception of the person because our opponents do. We are just claiming that even if we were identical to an embryo, more than mere identity is needed to have earlier given that embryo an interest in its future as a person. This can be seen most clearly if we imagine the cloning of skin cells or the removal of totipotent cells (blastomeres) of the early four celled embryo that are transplanted and grow into normal adults. The identity of each with a later rational being is not enough to claim they have an interest in growing into that person when they were just skin cells or blastomeres in the early embryo. We can agree with a referee who claims that if the mindless fetus was a hylomorphic person with a rational soul then it was already a person with potential. That is because we think that on a hylomorphic view the early embryo is a living human animal with an interest in developing its rational soul. But our point holds even if we weren’t assuming, as the author notes, a Lockean notion of a person. If we assume unrestricted composition, we can imagine a gerrymandered creature that would be a person at all moments of her existence and yet that identity wouldn’t be enough for an interest at the earliest time of her existence in her well-being at much later times in her existence. See note 32 for the details. [↑](#footnote-ref-28)
29. The revealing title of Pruss (2011) is “I was once a Fetus: That is Why Abortion is Wrong.” [↑](#footnote-ref-29)
30. Marquis (1989). [↑](#footnote-ref-30)
31. For a further discussion of unrestricted composition and the interests of the mindless see \_\_ (removed for purposes of blind refereeing.) [↑](#footnote-ref-31)
32. Even if there is an entity consisting of you and a 22nd century person, such an entity doesn’t now have any special/prudential reason now to avoid a 22nd century harm. That gerrymandered entity’s interests are now none other than your interests and you don’t have any more particular concern about its 22nd pain that you have for any other 22nd century future person. [↑](#footnote-ref-32)
33. Devolder and Harris (2007). Singer and Sagan (2007) [↑](#footnote-ref-33)
34. Tooley, (1972, 60-1); McMahan (2002, 316); Kriegel and Houssain (2008). [↑](#footnote-ref-34)
35. We suspect that Marquis’s future-like-ours account cannot avoid the reductios of the totipotency, cloning, parthenogenesis mentioned in the previous section assuming they involve identity preserving development. We also believe that Marquis’s approach doesn’t deal as well as ours with the possibility that unrestricted composition is true. [↑](#footnote-ref-35)
36. Sandel (2005, 241-47). [↑](#footnote-ref-36)
37. We actually do believe that the harm of death can be worse for the guard than the embryo because of the former’s contingent and determinate interests. Nevertheless, we think the harm to the fetus is roughly comparable to that which an infant could suffer and they are considerable. [↑](#footnote-ref-37)
38. Of course, as a referee points out, there will be some perhaps Singer-inspired anti-speciesists who will insist that our intuitions are the result of speciesism. We hope to have put a minimal speciesism on more solid ground so we can accept this charge without embarrassment. [↑](#footnote-ref-38)
39. The harms may be plural harms, that is overdetermined by their mind destroying disease and death. [↑](#footnote-ref-39)
40. McMahan (2002: 249-251, 260-265). [↑](#footnote-ref-40)
41. Tooley (1972). [↑](#footnote-ref-41)
42. The “promiscuous” sense of potential amounts to physical or metaphysical possibility. [↑](#footnote-ref-42)
43. This is more complicated with fetuses than infants for the rights of the former might be thought to be outweighed by the rights of the mother when they conflict. But the fetus could still have rights against others who would harm it contrary to the mother’s wishes. [↑](#footnote-ref-43)
44. The threshold may be rationality, autonomy, personhood or rationality or moral agency. But more inductive, abductive and deductive abilities, more self-determination, superior moral judgments, greater ability to reflect upon one’s past and future self or upon higher orders or iterations of one’s thought about one’s thought won’t mean more rights. [↑](#footnote-ref-44)
45. See McMahan for various accounts of thresholds and responses to the charge of arbitrariness in treating those differently right below the threshold with those just at it. McMahan also addresses the concern that those way above the threshold should have greater moral status than those just or or just above the threshold. See a challenge to this claim due to the possible development of "post-persons" utilizing human enhancement technology in Agar (2014). [↑](#footnote-ref-45)
46. A referee put this challenge to us. [↑](#footnote-ref-46)
47. See McMahan (2002, 262-263) and Tannenbaum and Jaworska (2013) discussion of scalar accounts. [↑](#footnote-ref-47)
48. Killing an embryo may not be as wrong as killing an infant since the latter can usually be avoided without having to take on great physical impositions. [↑](#footnote-ref-48)
49. McMahan (2005: 354); Rachels (1990: 173). [↑](#footnote-ref-49)
50. McMahan. (2005) [↑](#footnote-ref-50)
51. Putnam, (1975); Burge (1979) [↑](#footnote-ref-51)
52. \_\_\_\_is the source of this puzzle. \_\_\_provided a similar example \_\_\_\_at the \_\_\_\_\_. [↑](#footnote-ref-52)
53. Healthy functions are related to design environments. We are not unhealthy because we can’t breathe underwater or in extremely high altitudes. And we are still unhealthy if our hemophilia never harms us for we reside our entire life in an artificial environment without anything that could cause a bleed. [↑](#footnote-ref-53)
54. We mean Chalmers’s zombies (1995) - not the popular culture’s brain eating apocalyptic hordes. [↑](#footnote-ref-54)
55. McMahan (2002, 316). [↑](#footnote-ref-55)
56. Wakefield (2005, 2011). [↑](#footnote-ref-56)
57. McMahan (2002, 147-153, 324-325) [↑](#footnote-ref-57)
58. There is something admittedly problematic about our claiming a normal chimp has a mind like our demented person. The latter couldn’t thrive in the environment where a normal chimp could and so their mental lives aren’t really equivalent. Our point is just that the chimp and demented would be intellectual equals in the problem solving experiences or tests given to human beings. [↑](#footnote-ref-58)
59. Plantinga (1993:194-215) [↑](#footnote-ref-59)
60. Boorse (2002, 103) [↑](#footnote-ref-60)
61. If readers instead prefer a species-centric, less naturalist view, there are hylomorphic metaphysics that will render the non-Aryans to be malfunctioning. We are essentially rational on the hylomorphic approach. The Aryan intervention have submerged our rational potential. The resistance doctors that reverse the Aryan mischief will be curing us, not enhancing us. [↑](#footnote-ref-61)
62. Darwin. (1877: 88) [↑](#footnote-ref-62)
63. Darwin. Op. cit. And as Kohn (2008) notes, Darwin did not use the word “speciation” in the *Origins.* [↑](#footnote-ref-63)
64. Ereshefsky (1999: 295) [↑](#footnote-ref-64)