Abstract

Most critics of species egalitarianism point to its counter-intuitive implications in particular cases. But this argumentative strategy is vulnerable to the response that our intuitions should give way in the face of arguments showing that species egalitarianism is required by our deepest, most fundamental moral principles. In this article, I develop an argument against deontological versions of species egalitarianism on its own terms. Appealing to the fundamental moral ideal of proportionality, I show that deontological species egalitarianism is morally objectionable as a matter of principle: it is committed to treating two individuals who are extraordinarily similar in morally relevant respects drastically differently. I then illustrate how an inequalitarian account of moral standing might be incorporated into traditional moral theories in ways that make them far more promising as theories of our obligations to the non-human world.

A central debate within the philosophy of moral standing has reached an impasse. Several influential pioneers of extending the domain of moral standing to include non-humans – philosophers such as Tom Regan and Paul Taylor – argue that, as a matter of principle, any individual that possesses moral standing must possess it equally. Failing to recognize this, they claim, is to run afoul of principles at the very heart of morality itself. But many others have pointed out that their egalitarian theories have practical implications that are so radical as to be wildly implausible. David Schmidtz, for instance, objects to Paul Taylor’s egalitarianism in this way when he points out that, “Vegetarians typically think it is worse to kill a cow than a carrot. Are they wrong? Yes they are, according to species egalitarianism. In this respect, species egalitarianism cannot be right.” Similarly, Mary Anne Warren objects to Tom Regan’s egalitarianism in this vein when she notes that “it is difficult to deny the importance of not being forced to share one’s living quarters with large numbers of rodents” even though killing them is often the only way to be rid of them. For such objectors,
the implausible implications of Regan’s and Taylor’s extension of egalitarianism beyond the boundaries of our own species amount to a conclusive reductio ad absurdum of their positions.

These egalitarians, however, are apt to remind us that the ideals of racial and sexual equality had what appeared to be preposterous implications when they were first championed, despite their being, in retrospect, obviously correct. Indeed, what made these ideals correct was that they were a consequence of moral principles that had a far deeper claim to our allegiance than any intuitions that their implications in concrete situations were preposterous or overly demanding. And here, it seems, we have a philosophical standoff. Principles we are loathe to give up clash with strong intuitions concerning concrete situations in which they apply. These egalitarians trust the principles, and their objectors trust their gut responses to the implications in concrete cases. But continually calling attention to these gut responses will do little to unseat principles we hold dear; and in the short run anyway, continually pointing to the principles will do little to make the gut responses go away. The discussion thus grinds to a halt.

What is needed is for one side to engage the other on its own terms. This is what I propose to do here. For I will argue that it is Regan and Taylor, and not their objectors, who are guilty of contravening our deepest moral principles.

Making good on this claim will be the task of the next two sections. There I argue that the kind of species egalitarianism defended by Regan and Taylor is committed to violating what I call the ideal of proportionality. Given that these theorists claim that their egalitarianism derives from very deep aspects of morality, however, this argument gives us cause to worry that morality involves commitments to incompatible claims. In Section 3, I review the main arguments for their egalitarianism, and try to show that this concern can be set aside: none of these arguments succeeds in showing that morality commits us to holding that all who possess moral standing possess it equally. And finally, in Section 4, I suggest the broad outlines of an account of moral standing that honors the ideal of proportionality, and make some preliminary comments regarding how consequentialist and deontological moral theories might embrace such an account. The goal here is not to argue for any particular account of moral standing or any particular moral theory, but to show that there is hope that species egalitarianism can facilitate a rapprochement between, on the one hand, theories that have been developed to explain the moral obligations we have to other people, and, on the other, the issues that an adequate ethics of our relationship to the non-human natural world must address.
§1. Deontological Species Egalitarianism

Regan and Taylor have very different views concerning who possesses moral standing. Regan argues that we have moral obligations to all subjects-of-a-life, whereas Taylor argues that we have moral obligations to all living things. Despite this difference regarding the scope of moral standing, however, they share fundamental commitments regarding its structure and significance. Structurally, both philosophers believe that moral standing does not come in degrees; an individual either possesses moral standing or lacks it. Substantively, both hold that if two creatures have equal moral standing it follows that where these two creatures stand to lose (or gain) the same from an action, their interests generate equally strong moral reasons against (or in favor of) performing the action. To say that creatures possess equal moral standing is to say that the moral significance of comparably serious harms and benefits to these creatures is the same.

This characterization of egalitarianism highlights differences between it and theses that are sometimes confused with it. Contrary to what some philosophers have implied, for instance, egalitarianism is not a thesis about the comparative wrongness of killing. Those who believe that, ceteris paribus, it is more wrong to kill one kind of creature than another need not embrace an inegalitarian account of moral standing. To assume otherwise is to miss a distinction between the value to a creature of its continued life and the value of the creature itself. Notice that when we claim that it is more wrong to steal a poor person’s coat than it is to steal a rich person’s, we are typically not claiming that the poor person is more valuable than the rich person. The equal moral standing of the rich and poor tells us only that comparably harmful wrongs to them are equally wrong; but the theft of a coat does not typically cause comparably serious harms to the rich and poor, and so their equal standing does not imply that the thefts are equally wrong. The same holds true for killings. Since people generally stand to gain more from their continued lives than deer do, those who hold that it is generally worse to kill a person than a deer need not hold that people are more valuable than deer. The different degree of wrongness can be attributed to the different amounts of harm the killings cause the victims, rather than to a difference in the degree of standing the victims possess. Similar considerations show that egalitarianism is also not a claim about the moral importance of satisfying different levels of interests. For instance, those who hold that, ceteris paribus, it is justifiable to sacrifice an oyster’s basic interests for the sake of protecting a human’s non-basic interest need not hold that oysters possess a lesser moral standing than humans. Instead, the permissibility can be attributed to the fact that the oyster stands to gain
less from its continued life than the person stands to gain from, say, completing a project that gives meaning to her life. Again, since egalitarianism only commits one to the equal significance of comparably serious harms, egalitarianism is compatible with the preferential treatment of the human’s non-basic interest on the grounds that frustrating this interest would constitute a graver harm.

Regan and Taylor share more than a commitment to the claim that the moral significance of comparably serious harms and benefits to members of different species is the same, though. Both also hold that those with moral standing have a claim to be treated with respect, and that this claim generates a moral barrier to the creature’s being harmed for the sake of making an improvement in the state of the world. They are thus what I will call “deontological species egalitarians”: they believe that individuals from a number of different species possess moral standing, that moral standing is not a matter of degree, and that a creature’s possessing this standing constrains others from harming it even for the sake of making things better overall.

Ultimately, this combination of structural and substantive commitments proves untenable.

§2. Deontological Species Egalitarianism and the Ideal of Proportionality

The trouble with deontological species egalitarianism is that it is incompatible with a basic and familiar ideal of morality, and in particular, of justice. Indeed, the ideal is one that Regan explicitly endorses:

One condition of the ideal moral judgment is impartiality, understood as compliance with the formal principle of justice. That principle requires that all individuals are given their due, something we fail to do if similar individuals are treated dissimilarly.

Although this particular wording needs to be finessed, the basic idea is apparent. In demanding that similar individuals deserve to be treated similarly, this principle demands that whenever two individuals deserve different consideration, the difference in consideration must be proportional to the morally relevant differences between them. Individuals who are virtually, but not quite, identical in morally relevant respects cannot deserve to be shown drastically different concern. In what follows, I will refer to this as the ideal of proportionality.

Regan’s particular formulation of the ideal can be interpreted in a way that makes it overly demanding. If the ideal rules out ever treating
similar individuals dissimilarly, then it would rule out many actions that seem to be eminently permissible. For instance, imagine that one’s department has a fellowship that can only be awarded to one graduate student, and that neither of the two most qualified students has greater merit or need. If we must never treat relevantly similar individuals dissimilarly, then we must not award the fellowship at all. But surely it is permissible to give the fellowship to one of the students, agonizing though the decision may be. Thus, read as an ideal concerning how individuals must be treated, the ideal of proportionality is too strong. Instead, the ideal must be interpreted as an ideal concerning what treatment individuals deserve. This allows us to say that individuals deserve treatment that is proportional to the morally relevant differences between them, but, unfortunately, sometimes it is necessary to treat people in ways they do not deserve. The indivisible fellowship is a case in point. Since both candidates are roughly equally qualified, both are equally deserving of the award; but since the award cannot be shared, we must give it to one who does not fully deserve it, or withhold it from one who does. Indeed, it is the ideal of proportionality that explains why such decisions are so agonizing, as it implies that one of the students can validly complain that they do not deserve the treatment they receive.

The conflict between species egalitarianism and the ideal of proportionality arises partly because Regan and Taylor hold that moral standing is a very different sort of property than the descriptive properties upon which they say moral standing depends. Moral standing, they say, cannot be a matter of degree: it is an all-or-nothing property. On the other hand, they also hold that only those who satisfy a certain criterion possess moral standing, and satisfying the criterion is always a matter of possessing some descriptive properties to a certain degree. Hence the descriptive properties upon which the criterion of moral standing depends, let us call them the basis of moral standing, do admit of degrees.

Indeed, for Regan and Taylor the degrees to which one might possess the descriptive basis properties are very finely differentiated. For any individual who possesses a certain degree of their basis properties there is, or could be, an individual who possesses ever so slightly more or ever so slightly less. To begin with Regan’s criterion, being the subject-of-a-life is a matter of having “beliefs and desires, memory and a sense of the future, an emotional life, a kind of autonomy ..., intentionality and self-awareness.” Thus, the descriptive basis of moral standing is composed of various cognitive abilities, and these cognitive abilities come in very finely differentiated degrees. Take, for instance, the capacity to have an emotional life. Emotions are the product of a variety of representational and conative abilities, and these abilities can
be possessed to a wide range of degrees. The same is true for Taylor, for whom an individual has moral standing just in case it is the “teleological center of a life,” which is to say that “its internal functioning as well as its external activities are all goal-directed, having the constant tendency to maintain the organism’s existence through time and to enable it successfully to perform those biological operations whereby it reproduces its kind and continually adapts to changing environmental events and conditions.”\(^\text{10}\) Once again, goal-directedness, being self-regulating and being adaptive to external events are all capacities that are the result of a variety of, in this case, broadly biological characteristics, and each of these underlying characteristics admits of a spectrum of different degrees. Being self-regulating, for instance, depends on possessing abilities to monitor and respond to one’s own internal states, and these abilities can be possessed to greater or lesser degrees.

There is a clear *prima facie* difficulty for deontological moral theories that combine a criterion of moral standing that is a matter of possessing a continuum property to a certain degree with the claim that moral standing is an all-or-nothing matter. To see it, let us use Regan’s theory as an example. Consider an elephant with precisely the minimum cognitive ability to satisfy the subject-of-a-life criterion. This elephant, according to Regan, possesses full moral standing, and thus deserves to be shown the same respect as you or I. But since cognitive abilities can be possessed to minutely different degrees, there is (or at least could be) some other elephant who possesses ever-so-slightly less cognitive ability.\(^\text{11}\) Imagine that this second elephant has exactly the same cognitive abilities as the first, except for the fact that its affective states fall just barely short of qualifying as emotions. Although this elephant is so close to the first in cognitive ability as to be virtually indistinguishable from it, it does not have the minimum degree required to qualify as being a subject-of-a-life, and hence has no moral standing at all.\(^\text{12}\)

Given Regan’s deontological commitments, this difference in standing implies that these two animals are owed drastically different concern and treatment.\(^\text{13}\) Nothing we can do to the elephant just below the threshold could possibly wrong it; it deserves no more concern than does a plastic shopping bag. By contrast, very strong moral barriers protect the interests of the elephant just at the threshold: this elephant’s interests may not be sacrificed even if we were to do so for the sake of making the world better overall. For instance, Regan thinks that even if giving this elephant a fatal disease were the only way to test the safety of a likely cure, this elephant’s moral standing categorically rules out doing so. Similarly, he thinks that even if killing this elephant were necessary in order to give people aesthetic or cultural experiences they
would benefit from, this elephant’s standing rules out such killing, no
matter how many people are thereby deprived of such benefits. So
whereas the slightest pleasure that a single human finds in playing
chess with ivory pieces could justify killing the elephant just below the
threshold, we are morally prohibited from causing even a risk of death
to the elephant just at the threshold, even if doing so would allow us to
prevent many human deaths or to improve many humans lives. There
is thus an enormous practical difference in what we may do to these
two elephants: no action is ruled out by appealing to the significance of
the elephant just below the threshold, while a wide range of actions,
including a wide range of actions that would make the world better, are
ruled out by the significance of the elephant just at the threshold. And
this is so despite the fact that these two elephants are so similar in
morally relevant respects that human observers would be hard pressed
to distinguish them.

Unless we can see that this prima facie problem is not a genuine one, it
is fair to say that this theory is deeply morally objectionable. And we
have a ready explanation of why this would be so. The theory would be
deepl morally objectionable because it violates the ideal of
proportionality: it implies that these two elephants, who are
extraordinarily similar in morally relevant respects, nonetheless
deserve to be shown drastically different concern.

The structure of this example is easily generalized: *any* deontological
theory that combines an all-or-nothing account of an individual’s moral
standing with a criterion that is a matter of possessing a continuum
property to a certain degree appears to be committed to the claim that
two individuals who are so similar in the morally relevant respects as
to be indistinguishable to humans nonetheless deserve to be shown
drastically different concern. In particular, it seems they will all have to
say this of the individuals who are just at and just below the threshold
their criteria set for moral standing. Consequently, it seems, they all
will run afoul of the ideal of proportionality.

§3. Proportionality and Vague Criteria

Can deontological species egalitarians argue that this apparent problem
is merely apparent? At the most general level, two possibilities come to
mind. The egalitarians could try to show that they are not, in fact,
committed to holding that very similar individuals deserve drastically
different treatment. Alternatively, they could argue that the differences
in treatment they are committed to recommending for different
individuals are never disproportionate to the descriptive differences
between those individuals. There are ways to give both of these options
some initial hope of success. In the end, however, we will see that
neither provides egalitarians with a means to square their theories with the ideal of proportionality.

Egalitarians could try to argue that they need not claim that very similar individuals deserve very different consideration because the lines their criteria draw are not sharp. This is because “subject-of-a-life” and “teleological center of a life” are all essentially vague terms. There are individuals about whom we can neither say that they are definitely subjects-of-a-life, sentient, or teleological centers of life nor that they definitely are not. There are, that is, borderline cases of each of these criteria. And the egalitarians might think this fact serves to block the argument I used to show that their theories violate the ideal of proportionality. For my argument appeals to the existence of an individual who has “precisely the minimum amount of the basis property necessary to qualify as deserving moral standing.” But, the egalitarians might protest, the vagueness of their criteria implies that there is no such individual, since vague criteria by definition do not set such precise thresholds. Thus it seems there can never be a case like the one I describe in which their theories are committed to treating two very similar individuals very differently.

That the criteria for moral standing are all vague is undeniable. There are indeed borderline cases of being a subject-of-a-life and of being a teleological center of a life. But this fact cannot help the egalitarian. The reason is that the egalitarians must, despite the vagueness of their criteria, draw a sharp line separating those who possess moral standing from those who do not somewhere. They must draw a sharp line somewhere because they hold that moral standing is an all-or-nothing matter, and hence must say of each borderline individual either that it has full moral standing or that it has none. Consequently, the egalitarians have three options. They may say that some borderline individuals have full moral standing and others have none, or that they all have moral standing, or that none do. Clearly the first option will be of no help: in order to say that some borderline individuals have full moral standing and all the others have none, the egalitarian must draw a sharp line in the borderline region separating the two groups. But then the theory will be committed to saying that the individuals just at this line deserve to be treated very differently than those just below, and thus will violate the ideal of proportionality.

Neither of the other two options fare any better. Suppose, for instance, that the egalitarian responds to the existence of borderline individuals by granting them all moral standing. In effect, this would be to shift the criterion of moral standing from being the subject-of-a-life (or being the teleological center of a life) to being at least a borderline subject-of-a-life (or being at least a borderline teleological center of a life). Neither
of these new criteria, however, are any less vague than the originals. For instance, there is no sharp line separating those who are borderline subjects-of-a-life from those who are clearly not subjects-of-a-life: there are borderline cases of borderline subject-of-a-life-hood. The same is true with respect to the teleological-center-of-a-life criterion. So, again, the egalitarians must say of each new borderline case whether it has full moral standing or no standing at all. And again, the egalitarians have three options: they must say that some of the new borderline cases have moral standing and some do not, that all do or that none do. The first option will not help: it leads directly to a violation of the ideal of proportionality. Alternatively the egalitarians might again respond to borderline cases by granting them all moral standing. In so doing they would change the criteria of moral standing to being at least a borderline case of being a borderline case of their original criterion. But this new criterion will be vague as well. There is no sharp line separating those who are borderline cases being a borderline subject-of-a-life from those who are definitely clearly not subjects-of-a-life: there are borderline cases of borderline borderline subject-of-a-life-hood. The same is true with respect to the teleological-center-of-a-life criterion. By now the pattern should be clear. Either the egalitarians continue giving borderline individuals moral standing, in which case they will extend the criterion of moral standing – and hence the range of individuals who possess it – indefinitely. This is clearly unacceptable. Or they can, at some point, draw a sharp line separating those who possess full moral standing from those who do not, in which case they will violate the ideal of proportionality.

The other strategy for bringing these egalitarian theories into line with the ideal of proportionality is to argue that whenever they recommend that two individuals be shown different moral concern, this difference is proportionate to the morally relevant differences between them. True enough, they might say, we do sometimes recommend that one individual deserves full moral standing while another who differs to only a very slight degree deserves none. But it is not always the case that such small differences in degree are also differences of little significance. Some such small differences in degree also constitute differences in kind. To take a mundane example, the small difference between two wires that are very, very close and two wires that are connected can constitute the very significant difference between a car that starts and one that does not. If the small difference in degree between individuals just at and those just below the threshold for moral standing similarly constitutes a difference in kind, then there is hope that this difference can justify showing them the drastically different concern we egalitarians recommend.
The trouble with this response is that, for the egalitarians, the qualitative difference that must hold between individuals just at and those just below the threshold for moral standing must be the difference between possessing the criterion for moral standing and failing to possess it. As we just saw, however, the criteria that these egalitarians propose are all vague, and for vague predicates, there simply is no precise difference in degree that constitutes this difference in kind. The difference between those who are self-aware or alive and those who are not emerges gradually over an interval of the basis rather than at any precise point. Consequently, no matter where along their preferred basis an egalitarian theorist sets the boundary for moral standing, it will not be a boundary that divides all those who possess the criterion from all those who do not.\textsuperscript{21}

\section*{§4. Diagnosing Egalitarian Arguments}

So far, I have argued that the deontological species egalitarianism advanced by Regan and Taylor is committed to treating two individuals who are very similar drastically differently, and that we consequently have principled grounds for rejecting it. This leaves us asking where in their reasoning these egalitarians have gone wrong. The question is of more than just exegetical interest. For it is not immediately obvious even that they have gone wrong. It could be, for instance, that the principles from which the egalitarians cogently argue conflict with the ideal of proportionality from which I have argued. If that were the case, there would be a contradiction deep within morality. Therefore, in order to be confident that no such contradiction threatens moral theory construction, we must hope that we can identify a gap somewhere in each of their arguments.

Thankfully, from our current vantage point, I think the gaps can be found. And thankfully for Let us begin with Regan. Regan’s strategy is to argue for egalitarianism by arguing that its denial is objectionable. He does this in two stages: he begins by arguing against the claim that moral agents (i.e. those who can choose to act morally) have varying degrees of moral standing. He then extends this argument to cover moral patients (i.e. those who might be affected by the choices of moral agents). The structure of the argument is as follows.\textsuperscript{22}

\begin{enumerate}
\item If moral agents have moral standing, either they have it to varying degrees or equally.
\item If moral agents have moral standing to varying degrees, then there would have to be some basis for determining how much moral standing a given agent has.
\item Most likely, the basis will be the possession of certain virtues or excellences.
\end{enumerate}
If moral standing varies with the possession of virtues or excellences, then those moral agents who are less excellent or virtuous could be required to serve the interests of those who are more excellent or virtuous.

Such a requirement would be unjust.

Therefore, if moral agents have moral standing, they must have it equally.

There is no morally relevant difference between moral agents and moral patients that could justify allowing differences in virtuosity or excellence among moral patients to generate degrees of moral standing while refusing to allow such differences among moral agents to generate degrees of moral standing.

Therefore, if moral agents or moral patients have moral standing, they must have it equally.

There are several things worth noticing about this argument. The first is that (4) makes a claim about what could be required by an inegalitarian theory according to which moral agents differ in their degrees of moral standing, rather than what such a theory must require. Regan makes this claim, I suspect, because he realizes that moral-agent-inegalitarianism does not imply the justified subjugation of some moral agents by others: there are many different ways that such an inegalitarianism about moral standing might be incorporated into a broader moral or political theory, and many of these theories will not sanction subjugation of any kind. To take just one example, many (if not most) moral theorists believe that if indeed there are rights or constraints that protect moral agents from being harmed in order to achieve the best outcome, then these rights or constraints have thresholds. That is, there are some cases in which these rights or constraints can be permissibly overridden provided that the utility to be gained by overriding them is great enough. (E.g. Most hold that it is permissible to lie to a person in order to save a whole village from death and destruction.) A moral-agent-inegalitarian might argue that how much good must be gained in order to justify overriding a right or constraint varies in proportion to the degree of moral standing the person protected by the right or constraint possesses. The more moral standing the agent possesses, the more good must be gained in order to justify violating their rights. Such a theory would hardly require that those with less moral standing serve the interests of those with more. Indeed, in so far as the well-being of those with less moral standing will be an integral component of the goodness of outcomes, the theory will sometimes demand violating the rights of those with high moral standing to benefit those with less. Thus, this inegalitarian theory would be untouched by Regan’s argument. In short, because (4) does not apply to every inegalitarian theory, (6) simply does not follow.
Perhaps even more importantly, (7) requires a defense that Regan never provides for it. For there are all sorts of differences between, say, a normal adult human and a normal adult mouse that are morally relevant, even according to Regan’s own theory. Normal adults possess greater, and sometimes qualitatively different capacities for memory, emotions, autonomy, intentionality, and self-awareness than mice do. Regan, however, gives no compelling argument for the claim that the enormous differences between normal adult humans and mice in these morally relevant capacities cannot generate differences in moral standing. In particular, the fact that differences among normal adult humans might fail to do so is not sufficient. First, the scale of the differences in the two cases is hardly comparable – the minute differences in morally relevant respects that exist among normal adult humans may not be sufficient to generate differences in moral standing, but great differences such as those that exist between those humans and mice might well be. Secondly, there are plausible versions of inequalitarianism according to which even small differences among animals are sufficient to generate differences in what degree of concern is owed to them, while small differences among normal adult humans are not. One such theory holds that, as above, differences in the degree to which a thing possesses some morally relevant capacity generate differences in moral standing, and that these differences in standing translate into differences in the thresholds for permissible infringement of rights or constraints. But the theory adds the claim that normal adult humans all possess capacities sufficient to warrant protecting them with absolute rights or constraints. The theory can then explain why the small differences between humans fail to generate any differences in concern that they are owed – since one cannot deserve more than absolute protection by constraints or rights – and also reasonably hold that small differences among other animals do. Since the upper limit of protection has not yet been reached, the small morally relevant differences in capacities between, say, a cat and a mouse can warrant small differences in the amount of good that must be achieved before it is permissible to infringe the rights or constraints protecting them. As it stands, therefore, (7) cannot simply be assumed and may well be false.24

Regan’s argument thus gives us little reason to fear that deep principles of morality imply inequalitarianism about moral standing and hence conflict with the ideal of proportionality. On inspection, Taylor’s argument is no more troubling on this score. Taylor argues that all living things are due moral concern because, being teleological centers of a life, they all have a good of their own and, consequently, possess inherent worth. As Taylor makes clear, his argument for this claim, and the additional claim that the inherent worth living things possess is equal, is not a strict deduction from more basic moral principles and
descriptive facts. Instead, he argues that these are views that would be held by someone who has the “attitude of respect for nature” in virtue of having adopted “the biocentric outlook on nature.” But since Taylor does not aspire to show that the biocentric outlook on nature and the attitude appropriate to it are uniquely rational, there is little reason to fear that, in so far as the attitude of respect for nature seems incompatible with the ideal of proportionality, there is a deep conflict within morality. For this would be so only if we were rationally required to adopt the attitude of respect for nature, whereas, by his own lights, Taylor has only provided reasons for thinking that doing so would not be irrational. Even granting that his argument is successful, it leaves open the possibility that something closer to our ordinary outlook, in which priority is given to the interests of those who can appreciate when their interests are satisfied or not, is rational to adopt as well.

In addition, inegalitarianism may be reasonable even for one who adopts the biocentric outlook on nature.25 Taylor, however, argues that this is not so. Most relevant to our purposes is the objection he raises against holding that moral standing varies in proportion to the range of capacities an individual possesses. Taylor responds that such a view: … overlooks what it is about all living things that serves as the ground of their inherent worth …. It is not their capacities taken by themselves. Rather, it is the fact that those capacities are organized in a certain way. They are interrelated functionally so that the organism can be said to have a good of its own, which it is seeking to realize.26 That is, from the biocentric perspective, an important part of what makes it morally significant that the functional capacities of living things succeed in realizing their functional ends is that those capacities are integrated in such a way that their end is a shared one – namely, the protection and maintenance of the organism’s existence. But if part of what makes the achievement of this end worthy of concern is the integration of the capacities that are aimed towards it, then there is an obvious basis on which to say that some such ends are more worthy of concern than others: we can say that the protection and maintenance of an organism is worthy of a degree of concern that is proportionate to the degree to which the capacities aimed at this end are functionally integrated. Now, this is not the place to develop and defend a measure of functional organization appropriate for the purposes of ascribing degrees of inherent worth. Provided, however, that this measure takes into account such things as complexity, adaptability, and efficiency of the system of functional capacities, there is good reason to suppose not only that some species will possess a higher degree of functional integration than others, but that humans will emerge somewhere near the top of the scale, and protozoa somewhere near the bottom.27
§5. Inegalitarianism and Theoretical Environmental Ethics

Defending a particular account of moral standing, and a moral theory in which to embed it, is well beyond the scope of this essay. I would like to end, though, by giving some indication of the possibilities that are open to us if we abandon species egalitarianism.

The most elegant way to honor the ideal of proportionality is to allow that moral standing is as finely differentiated as what I earlier called its “basis.” The basis property, recall, is a descriptive property that is related to the criterion of moral standing as follows: individuals who possess the criterion do so in virtue of possessing the basis property to a certain degree. For instance, if the criterion of moral standing is being the subject-of-a-life the basis property would be a complex of mental abilities; and if the criterion is life, the basis property would be (if Taylor is right) natural functional integration. Once we allow that an individual’s moral standing is correlated with its possession of the basis property, then whenever two individuals differ only minutely with respect to the basis property, they will only differ minutely in their moral standing. And as long as the concern or respect individuals deserve is proportionate to their moral standing, as it will be on any plausible moral theory, then a theory that incorporates such a correlative account of moral standing will always recommend that two individuals who are similar in morally relevant descriptive respects are due similar moral respect or concern.

How the many degrees of moral standing that will be a feature of any such correlative account affect the treatment individuals deserve depends, obviously enough, on what sort of moral theory it is coupled with. For consequentialists concerned with welfare and its distribution, a natural suggestion would be to say that the degree of moral standing an individual possesses determines how much weight its welfare carries in determinations of the goodness of outcomes. That a given outcome would promote the welfare of an individual with a higher degree of moral standing would increase the goodness of that outcome more so than would the outcome’s equal promotion of the welfare of an individual with a lower degree of moral standing. Or, to put the same point more formulaically, suppose we represent how well a given outcome satisfies an individual’s interests with a numerical score. In order to determine the contribution the satisfaction of an individual’s interests makes to the overall value of an outcome, we would multiply that score by a factor that represents the degree of moral standing the individual possesses. These adjusted scores could then be used to determine the how equally or justly welfare is distributed in the outcome, and/or how well the outcome promotes welfare overall.28
Deontological theories, on the other hand, might incorporate degrees of moral standing in at least two different ways. Consider, for instance, deontological theories that recognize the possibility that the agent-centered constraints protecting individuals from being treated in certain ways might sometimes be overridden by considerations of the greater good. Such moderate deontological theories hold, for instance, that once the good to be gained by intending harm, say, is great enough, the constraint against intending harm is overridden and harming as a means can be justifiable. For example, as Regan suggests, it might be permissible to kill one innocent person if doing so was necessary in order to save twenty-six innocent hostages from a crazed terrorist.\(^2\) As I mentioned in our discussion of Regan above, one way such theories might countenance degrees of moral standing is to hold that the strength of a given constraint or option depends on the degree of moral standing the individual whom it protects possesses. In particular, the amount of good that is necessary to override the constraint or option would be a function of the protected individual's moral standing. Thus, while it might not be permissible to kill one individual of high moral standing in order to save five others, it could still be permissible to kill an individual of lower moral standing for the same reason. Additionally, when determining how much goodness a constraint-infringing action produces in order to determine whether the constraint is overridden, moderate deontological theories might adopt the previous suggestion of assigning a weight to each individual's interests for the purposes of evaluating outcomes that is commensurate with that individual's degree of standing.

It is also worth noticing that deontological theories incorporating a correlative account of moral standing need not give absolute priority to the interests or rights of those with higher moral standing when those interests or rights directly conflict with those of individuals with lower moral standing.\(^3\) Imagine, for instance, that a theory gives an individual with moral standing a prima facie right to be saved from peril if the costs of doing so are not too great for the agent who could save it. It might be thought that a moral theory that included such a right and a correlative account of standing would be committed to recommending that whenever an agent can save one of two individuals from peril, the agent must always save the individual with higher moral standing. This, however, is neither the only, nor the most plausible, option. Instead of giving absolute priority to the rights of those with only relatively higher standing, a deontological theory could give them proportionally higher priority. To take just one particularly clear, though admittedly artificial, solution, the theory might say that in cases where two individuals' right to be rescued conflict, the agent should decide which to save by using a procedure according to which the relative chance of being saved that each individual has mirrors the
individuals’ relative moral standing. So, for instance, if the standing of one individual is twice as high as the standing of the other, an agent should not simply choose to save the one with higher standing, but instead use a procedure in which the one with higher standing has twice as good a chance of being saved as the one with lower standing.

Correlative accounts of moral standing, then, seem perfectly compatible with both consequentialism and moderate deontology. This, perhaps, was to be expected; on reflection, the way these theories express concern for individuals seems independent of the claim that all who are due any level concern are due the same level of concern. Nonetheless, there are some for whom this may come as a surprise. Bryan Norton, for instance, has argued that any theory that posits that there is a single kind of moral standing, and a single set of valid moral principles that expresses the appropriate treatment of those with that standing, will be “haunted” with the following problem:

If a monistic theory is to account for all environmental obligations, it must account for the differences, as well as the similarities, in treatment that should be accorded differing elements in nature. … But to accept differential treatment of different elements of nature and to account for these differences under a monistic theory, there will have to be gradations of the ontological currency, whether this currency be stated as rights, intrinsic values, or inherent values. … [But] a theory of variable ontological intrinsic value in nature can only be achieved by sacrificing all of the advantages – universalism and closure – that motivated the original search for the Holy Grail of monistic environmental ethics.\(^{31}\)

As we have just seen, however, there are straightforward ways that both consequentialism and deontology can accommodate “gradations in ontological currency” in the form of correlative accounts of moral standing. And while the problems that have been raised for these theories are many, neither theory is silent concerning some actions that call for evaluation in terms of rightness, and neither theory fails to yield an evaluative verdict in cases that admit of one. Contra Norton, then, there seems to be no tension in abandoning egalitarianism and retaining a moral theory that is both universal and closed.

This is not to say that in honoring the ideal of proportionality we are committed to there being only a single kind of moral standing. What the ideal of proportionality rules out are drastic differences in treatment owed arising from only minute differences in morally relevant descriptive respects. And it is far from obvious that a moral theory that embraced a pluralistic account of moral standing must recommend any such disproportionate treatment – provided, that is, that the degree to
which individuals possessed each kind of moral standing varied with
the degree to which they possessed that moral standing’s basis
property. We can imagine, for instance, a deontological moral theory
that allowed that all things that have a good of their own possess one
kind of moral standing, and that all individuals who were self-aware
possess another. Such a theory might hold that (a) when none of the
alternative actions open to us involve intending to harm an individual
who is self-aware, we ought to do what promotes the most good
overall; (b) if an alternative would involve intentionally harming a self-
aware individual, we should not choose it unless the good to be gained
by doing so is sufficient to override this constraint; and (c) if all of our
available options involve intentionally harming individuals, we should
determine which option to choose using a procedure that fairly reflects
the size of the differences in moral standing between the individuals in
question. The theory could then say that the moral standing individuals
possess in virtue of, and in proportion to, their maintenance and
protection being the end of integrated functional systems requires that
their interests be taken into account in the evaluation of outcomes that
figure in clauses (a) and (b); and the moral standing that individuals
possess in virtue of, and in proportion to, their self-awareness requires
that the constraints against harming them in clauses (b) and (c) be
observed.

The obvious concern that a pluralistic theory like this raises vis-à-vis
the ideal of proportionality will be that the treatment individuals
deserve in virtue of possessing these different kinds of moral standing
will be drastically different, for there can be no morally relevant
descriptive difference in kind that separates those who deserve only
one kind of standing from those who deserve both. But in the kind of
theory just sketched, this concern can be allayed. The theory need only
specify that the constraints protecting those with the least amount of
the higher kind of moral standing are very, very weak. This way, it will
be the case that nearly any amount of additional good that could be
achieved by harming these individuals will be sufficient to warrant
doing so. And when harming individuals with the higher kind of moral
standing is unavoidable, the chances that those with the least amount of
this standing will not be the ones harmed would be very, very slim.
Since the additional concern that such a theory recommends for
individuals who possess the least amount of the higher standing is so
slight, these individuals would deserve treatment that is very similar to
the treatment deserved by those individuals who are descriptively
similar to them that may be harmed whenever doing so in necessary to
achieve the greatest good.

Let me hasten to acknowledge that the theoretical sketches I have just
offered are drawn with very broad strokes. Both consequentialism and
deontology admit of subtle refinements along many dimensions, and
the addition of degrees of moral standing only serves to multiply the
number of theoretical choices to be made before a complete theory has
even been described, let alone defended. The rough sketches do suffice,
however, to give an indication of the additional power and flexibility
that these traditional theories possess in the environmental domain
once the commitment to species egalitarianism has been dropped. No
longer will such theories be committed to treating all mammals, or all
living things, on a moral par. And thus there is hope that they might be
developed in ways that simultaneously move beyond their traditionally
anthropocentric biases, have a firm, principled foundation, and have
implications in the environmental domain that match many of our
considered intuitions.
ENDNOTES

* For very helpful comments on earlier versions of this paper, I would like to thank Larry Temkin, Bill Throop, and an anonymous referee for this journal.


3 For Regan, an individual possesses moral standing in virtue of having inherent worth, and inherent worth is a “categorical concept.” That is, “One either has it, or one does not. … It does not come in degrees.” (Tom Regan, *The Case for Animal Rights* (Berkeley, University of California Press, 1983), pp. 240-1.) Taylor also ties moral standing to inherent worth, and he too believes that such worth in an all-or-nothing matter: his “principle of species impartiality,” requires “regarding every entity that has a good of its own as possessing inherent worth – the same inherent worth, since none is superior to another.” (Paul W. Taylor, *Respect for Nature: A Theory of Environmental Ethics* (Princeton, Princeton University Press, 1986), p. 155, emphasis in the original.)

4 The quotation in the first paragraph of this paper suggests that David Schmidtz is among those who think otherwise.


6 A failure to recognize this point may explain a concern Peter Singer raises about Regan’s claim that, since dogs typically lose less from dying than humans, there can be situations in which it is permissible to kill dogs in order to prevent the deaths of humans. Singer wonders, “How can Regan [base his position on a principle of equal moral standing] while still allowing us to add up the opportunities for satisfaction a life contains, and on the basis of this addition, judge a normal human life to be more valuable than a normal canine life? How can this be reconciled with the notion of equal inherent value as something distinct from the value of the experiences or satisfactions a being may have?” There is little cause for concern, however, once we see that egalitarians can defend the unequal wrongness of certain killings by appealing to the distinction being drawn here between the value to an individual of its continued life and the value of the individual in virtue of which it possesses moral standing. See Peter Singer, ‘Ten Years of Animal Liberation,’ *New York Review of Books* 31, 21&22 (1985).
Both Donald VanDeVeer and Robin Attfield are sensitive to these points since both defend what they take to be egalitarian accounts of moral standing that nonetheless prioritize some lives and some creature’s less fundamental interests. (See Donald Van De Veer, ‘Interspecific Justice’ Inquiry 22 (1979): 55-79; and Robin Attfield, Value, Obligation, and Meta-ethics (Amsterdam, Rodopoi, 1995), pp. 8-9 and 93-94.) I am grateful to an anonymous referee for pressing me to make these points explicit.

Regan, op. cit., p. 232.

Regan, op. cit., p. 243. Regan is coy about whether this is truly a necessary condition. In some places he allows that individuals who are not subjects-of-a-life might possess moral standing (see, e.g., pp. 245-246). In others, however, he argues as if they couldn’t, as when he claims that in so far as mammals in the early stages of fetal development are not subjects-of-a-life, “we do not owe a duty of justice to these fetuses.” (p. 391) But even if some level of cognitive ability short of being a subject-of-a-life marks the necessary and sufficient criterion of moral standing, it is very hard to see what criterion he could choose that wouldn’t be a matter of possessing lower level descriptive properties to a certain degree.

Taylor, op. cit., pp. 121-122.

Since the properties Regan takes to be relevant are all developmental properties, we can be sure that there have been many such elephants: for any elephant who achieves the minimum degree of cognitive ability required for qualifying as a subject-of-a-life surely had just ever-so-slightly less cognitive ability at some prior point in its developmental history.

Mary Anne Warren notes the implausibility of this aspect of Regan’s theory in her ‘Difficulties with the Strong Animal Rights Position,’ Between the Species, 2 (1986): 163-173. The argument I develop in the remainder of this section and in §3 shows that this implausibility is due, at least in part, to the fact that Regan’s deontological species inegalitarianism contravenes the ideal of proportionality.

Regan acknowledges this when he recommends our treating those who are of those creatures who are so close to the threshold that we cannot tell whether they are subjects-of-a-life as if they are subjects-of-a-life because “the possible moral price [of mistaking a being with moral standing for a being without it is] so large.” Regan, op. cit., p. 367.

See Regan, op. cit., Chapter 9.1 and 9.4.

Regan’s and Taylor’s deontological commitments guarantee that all of those who have moral standing will deserve to be shown drastically different concern than those who lack it. In this paper, I leave open the question of whether the differences in concern consequentialist egalitarian theories recommend for those just at or just above the threshold for standing are also disproportionate to the morally relevant differences between them.
At one point, Regan acknowledges that his criterion is vague: “where one draws the line regarding the presence of consciousness is in some ways analogous to where one draws the line in other cases (e.g., how tall one has to be to be tall, or how old one has to be to be old).” op. cit., p. 366.

It is important to keep this claim about the moral standing of borderline individuals distinct from any claims regarding how we ought to handle uncertainty regarding whether an particular animal possess the capacities that are necessary for being a subject-of-a-life. When faced with limited knowledge concerning the mental life of fish, for instance, Regan suggests that “it is not unreasonable to advocate a policy that bespeaks moral caution. Such a policy would have us act as if nonmammalian animals are conscious and are capable of experiencing pain unless a convincing case can be made to the contrary.” (op. cit., p. 366, emphasis added). This precautionary strategy does not address the issue being considered here, for it tells us nothing about what moral standing borderline individuals actually have.

The existence of such higher-order vagueness is widely accepted in the philosophical literature on vagueness. One particularly helpful resource is Timothy Williamson, Vagueness (New York, Routledge, 1994).


Parallel reasoning applies if, instead of extending the domain of moral standing to accommodate borderline cases, the theorist adopts a conservative stance and claims that only beings that definitely satisfy the criterion possess moral standing. For the threshold between definitely satisfying the criterion and being a borderline case is no more precise than that between being a borderline case and definitely failing to satisfy the criterion. Thus the theorist must draw a sharp line somewhere, or continue restricting the range of moral standing indefinitely, and thereby deny it to some individuals whom we are sure possess it.

This would be denied by those who hold an epistemic account of vagueness. For an explanation of why epistemicism will not help justify an all-or-nothing account of moral standing, see my ‘Equality and Proportionality,’ Canadian Journal of Philosophy (forthcoming): §3.


Regan agrees that rights can be overridden to prevent harm to others. See, for instance, op. cit., Chapter 8.7.

This is not to say that the claim that humans have maximal moral standing is not without its problems. For a discussion of some of these, see my [reference omitted].

More precisely, inegalitarianism may be reasonable for one who adopts the first three of the four tenets of the biocentric outlook, for the fourth
tenet strongly suggests that inegalitarianism is false. See Taylor, op. cit., p. 99-100.


27 Notice that this strategy for defending the superior worth of humans does not presuppose that a human’s good is more worth achieving than an algae’s. Instead, it arrives at this conclusion as the consequence of taking seriously the claim that the functional interrelation of capacities contributes to the moral significance of those capacities successfully fulfilling their purposes.

28 This is importantly different from other ways in which consequentialism might reflect descriptive differences between individuals. It is widely acknowledged, for instance, that if the interests of one individual are a proper subset of the interests of another, then, ceteris paribus, the life of the individual with more interests is more valuable in the sense that there is more to be gained by saving it than the life of the individual with fewer interests. Similarly, if two individuals have competing interests in the same good, then most consequentialists will recommend, ceteris paribus, satisfying the interest of the individual whose interest is stronger (i.e. the satisfaction of the interest would contribute more to the quality of the individual’s life). See, for instance, Varner, op. cit., Chapter 4. In order to have an inegalitarian account of moral standing, however, the consequentialist would have to go beyond these claims and allow that when two individuals have competing and equally strong interests in the same good, the interest of the individual with higher moral standing should, ceteris paribus, be satisfied rather than that of the individual with lower standing, since this would produce a better outcome.

29 Regan, op. cit., p. 291-293.
