

PHL 310

Environmental Ethics

Week Seven

Dr. Jeff Johnson

Moral Standing

- ❖ Does a decision about moral standing beg-the-question?
- ❖ Regan's story
- ❖ Carruthers' story
- ❖ Jeff's story about standing
- ❖ Provisional standing
- ❖ Partial standing?
- ❖ The moral standing of animals?

Jeff's Very Tentative Story

- ❖ Biological human nature
- ❖ Social history of humans
- ❖ Status of animals in all of this
- ❖ Dangers in this approach
- ❖ Still it can't be ignored
- ❖ Provisional standing
- ❖ Cruelty toward animals in the court of moral judgment
- ❖ Vegetarianism in the court of moral judgment

Obligations to Future Generations

- ❖ Population control
- ❖ Controlling pollution
- ❖ Curbing global warming
- ❖ Preserving natural beauty
- ❖ Lots of other things
- ❖ What if we don't
- ❖ Have we harmed them?
- ❖ Have we denied them their rights?
- ❖ Common sense
- ❖ A troubling philosophical argument

Personal Identity

- ❖ What make me the same person over time?
- ❖ Bodily continuity
- ❖ Psychological continuity
- ❖ DNA
- ❖ Birds and the bees

Paradox of Future Generations

- ❖ Just the slightest change changes who exists
- ❖ Cumulative affect over long periods of time
- ❖ Those negatively affected would not even have existed had things been different
- ❖ Is it better to have been born into such a world?
 - ❖ No — Wrongful birth
 - ❖ Yes — They have no complaint since they would have never existed in an environmentally better world

Do Future Generations Have Standing?

- ❖ Normal human beings in the future
- ❖ They will have moral standing
- ❖ Do they have standing now?
- ❖ Have they been harmed?
- ❖ Does it matter that had what they are complaining about been addressed, they never would have existed?

Other Problems Regarding Future Generations

- ❖ Paradox of future generations
- ❖ Reciprocity
 - ❖ Duties and rights
 - ❖ Moral community
- ❖ Knowledge of future individuals
- ❖ Category mistake?
- ❖ Lawyers' tricks?

Torts

- ❖ Strict liability
- ❖ Negligence
 - ❖ Example
 - ❖ Duty — Judge, trespassing
 - ❖ Breach of duty — Jury, reasonable care
 - ❖ Cause in fact — But for
 - ❖ Proximate cause — bicycle
 - ❖ Damages — Suffered harm

My Strategy

- ❖ Grant provisional standing to future generations
- ❖ What are the details of their complaint?
- ❖ What defense is mounted by the current generation?
- ❖ Inference to the best legal narrative — what story makes the most sense of the facts and the law?

Moral Torts and Future Generations

- ❖ The court of moral judgment
- ❖ Future generations have provisional standing
- ❖ Did the current generation behave negligently?
- ❖ Elements of a “moral tort”?
 - ❖ Environmental duty to future generations? — Judge!
 - ❖ Breach of duty? — Jury!
 - ❖ Cause in fact — But for?
 - ❖ Proximate cause — Other causes?
 - ❖ Damages — Pretty tangible

Possible Defenses

- ❖ We didn't know — breach of duty
- ❖ There was nothing we could have done — proximate cause
- ❖ It would have been too expensive — breach of duty
- ❖ You have no standing
 - ❖ Paradox of future generations
 - ❖ Not in a reciprocal relationship

The Car Accident

- ❖ I drive without due care
- ❖ My driving causes a “fender bender”
- ❖ We exchange insurance information
- ❖ You are rushing to catch a ferry
- ❖ You are late because of the accident
- ❖ The ferry sinks killing everyone on board
- ❖ Can I claim a defense to my negligent driving because if hadn't behaved so you would have died?
- ❖ I don't think so!

The Environmental Moral Tort

- ❖ We have a duty to future generations
- ❖ Our actions and inactions cause harm
- ❖ This seems to have all the elements of a tort
- ❖ Our actions and inactions cause the precise future generation to exist, and they would not have existed but for those actions and inactions
- ❖ True but irrelevant
- ❖ Other defenses
 - ❖ Reciprocity — children?
 - ❖ Category mistake — backward looking nature of torts?

Back to the Beginning

- ❖ Trees and legal standing
- ❖ Moral standing
- ❖ Moral status
- ❖ Full Moral Standing
 - ❖ Persons
 - ❖ Babies, demented, handicapped
- ❖ Necessary conditions
- ❖ Sufficient conditions

Agnieszka Jaworska

- ❖ Princeton
- ❖ Harvard
- ❖ Stanford
- ❖ University of California,
Riverside
- ❖ *Stanford Encyclopedia of Philosophy*
- ❖ “Advanced Directives and
Substitute Decision-Making”
- ❖ “The Grounds of Moral Status”
- ❖ “Caring and Full Moral Status”

Jaworska's Strategy

- ❖ Thesis — “emotional capacity to care is a sufficient condition of an individual's having FMS as a person”
- ❖ FMS in the philosophical literature
- ❖ Infants, demented, etc.
- ❖ Other criteria?
- ❖ Capacity, potential, to care is simpler
- ❖ Intra-agential FMS
- ❖ FMS in environmental ethics
 - ❖ Trees?
 - ❖ Animals?
 - ❖ Humans?

In a Different Voice

- ❖ Carol Gilligan
- ❖ Lawrence Kohlberg
- ❖ Heinz Dilemma
- ❖ Jake's response
- ❖ Amy's response
- ❖ Kohlberg's scale
- ❖ Different voices
 - ❖ Masculine voice
 - ❖ Feminine voice

Ethics of Care

- ❖ Rights based ethics
 - ❖ Western ethical theory
 - ❖ Analogies to the law
 - ❖ Winner take all
- ❖ Ethics of care
 - ❖ Deemphasizes rights
 - ❖ Relationships matter
 - ❖ Virtues

Environmental Ethics

- ❖ Rights based
 - ❖ Do trees have rights?
 - ❖ Do animals have rights?
 - ❖ Do future generations have rights?
 - ❖ Do are actions violate these rights
- ❖ Ethics of care
 - ❖ Lots of complicated relationships
 - ❖ Among ourselves
 - ❖ With the environment
 - ❖ With animals
 - ❖ “Relationship with future generations
 - ❖ Virtues
 - ❖ Caring
 - ❖ Caring for the environment
- ❖ Does standing become moot?