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Offprint
ISSN 0153-8364

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journal of philosophical research

Vol. XXIV, 1999, Published January 1999

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ETHICS AND ONTOLOGY: PRESENT RIGHTS OF FUTURE INDIVIDUALS AND PROPERTY INSTANTIATION

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ABSTRACT: In this century technology, production, and their consequent environmental impact have advanced to the point where unrectifiable and uncontrollable global imbalances may emerge. Hence, decisions made by existing human beings are capable of dramatically affecting the welfare of future generations. Current controversy about environmental protection involves the question of whether our present obligations to future generations can be grounded in their present rights. Many philosophers would question the very intelligibility of the idea that future individuals might have present rights. They do not see how a non-existing object could be said to have anything, let alone rights. Others see no obstacle to attributing properties to such objects. Thus, the controversy about the rights of future individuals shifted to a different, that is, ontological level. What is the proper method for resolving conflicts on this "deeper" level? This essay has two inter-dependent goals: (1) to suggest and assess a testing procedure for ontological claims, through the use of an example of conflicting ontological theses; and (2) to illuminate the concept of a right, through a discussion of the most general features of the requirements for the possible possession of rights.

I

A

mong philosophical disciplines ontology has always enjoyed a special place. Whether conceived the same as metaphysics or as a subdivision of it, ontology has been thought to be primary with respect to other philosophical

disciplines. Its grand subject matter, Being as such, has indubitably secured a prominent standing to ontology. But how is this unquestioned primacy of ontology to be understood? Ontology is concerned with the most general aspects of the world, with those it shares with all or most conceivable worlds,¹ and thus its concerns will be contained in the more specific concerns of other philosophical disciplines. This is why we can evaluate philosophical theories, or proposed solutions to philosophical problems, with respect to their ontological commitments. If, for instance, a theory or proposed solution to a philosophical problem posits entities which our ontology forbids, this will count against that theory or proposal. This suggests a picture of the primacy of ontology according to which we approach philosophical problems with an adequate ontology already at our disposal. Hence, philosophers must decide ontological issues *before* they can ask other philosophical questions. That is precisely why ontology is *first* philosophy: philosophy which is done before any other philosophy. This way of construing the priority of ontology over the other philosophical disciplines is adequate for that period of the history of philosophy when the task of philosophers was to satisfy the demand to produce a philosophical system. They had first to decide ontological issues before constructing other parts of the system.

However, the last grand systems in philosophy were constructed more than a century ago, and with the birth of analytic philosophy their construction went out of fashion. But even after systematic philosophy lost its appeal ontology did not lose its privileged status. The old way of construing ontology, as *first* philosophy, seems inadequate for the new turn in the way philosophy is done. We would not say that all philosophical problems have to be approached with a correct ontology already in our hands. For how do we approach ontological problems themselves? Certainly not by presupposing that we already have a true ontological theory at our disposal. Instead, philosophers attempt to argue for ontological theses, and most often they do so by appeals to intuitions. These intuitions are for the most part philosopher's opinions about what we could or could not correctly say in a given situation. The intuitions, often called "linguistic intuitions," are the firmest basis upon which to build ontological theories—or theories about anything. The problem, though, is that they are fallible. Some method of appraisal of ontological proposals, whether they are based on intuitions or not, is required.

Given that our intuitions about even the most basic questions concerning the world itself, that is ontological questions, can differ, we may, and we often do, find ourselves in the position of having to choose between conflicting ontological theses. How do we decide between conflicting ontological claims? How are we to produce evidence that would strongly support only one of the theses? I address these questions here. A result of my answers is that they also help us to understand the way in which ontology is primary with respect to other philosophical disciplines.

My proposal is consistent with the idea that the primacy of ontology consists in its relevance to all philosophical problems, without committing us to the problematic, if not absurd, claim that the primacy of ontology means that ontological questions must be answered first in a temporal sense. Instead, my thesis is that ontological matters come first in the order of logic. Every answer to a philosophical question (from whatever philosophical discipline) unavoidably makes some ontological commitments. The relation between a proposed solution to a philosophical problem and its ontological commitments, with respect to our ability to evaluate such proposals, does not go only one way. We can judge the acceptability of a proposed solution on the basis of the acceptability of its ontological commitments, but we can also have a certain ontological thesis strengthened or weakened on the basis of some, that is the best, solution to a philosophical problem from whatever philosophical discipline. Depending on what we take to be on a more solid footing, the solution to a philosophical problem or its ontological commitments, we can take one or the other as the basis for evaluating the entire situation. If primacy of ontology amounts to the fact that any solution to a philosophical problem will imply some ontological commitment, then the methodology is obvious for deciding between conflicting ontological claims. In general, that ontological theory which squares best with considered (accepted) solutions to selected philosophical problems outside ontology is to be given preference over the other ontological theory or theories.

Rather than discuss this proposal in general terms, I use an example to show how it works. The conflict we shall examine is between the following claims:

- 1) Necessarily everything is such that necessarily if it has a present property, then it presently exists.
- 2) Present existence is not a prerequisite for presently having properties.

As a test case for deciding between ontological claims (1) and (2) I discuss an instance of the general question: What sorts of beings can have rights? Specifically, we will concern ourselves with the question of whether future individuals can have present rights. I argue that (2) is favored by the best answer to this question.

II

Suppose that we succeed in passing on to future generations a reasonably clean environment, a world which is not "a used up garbage heap." How should they feel about this? What response is the appropriate one: gratitude, or the simple recognition that they have received their due? Is the appropriate response for them to look upon us as charitable, merciful ancestors or should they see us as morally enlightened and dutiful agents?

This suggests a problem: Can future individuals have present rights? If future individuals could not have rights, *gratitude* would be the sole fitting response; if, however, what we have done in the above circumstance is to be described as proceeding according to the rights of future individuals gratitude would be out place, and an expression of it would suggest that they were not simply given their due.² I establish that this latter response is the correct one. The claim I defend is that future individuals are among the sorts of beings of which possession of rights can be meaningfully predicated. The rationale for this is that, on the assumption that future generations will exist, whatever the reasons for assigning rights to existing human beings, those reasons (or sufficiently similar ones) apply to future individuals as well.

We cannot easily think of any ground for ascribing rights to future individuals (or even deliberating about this question) other than on the assumption that they *will* exist in the actual world. This is a commitment held by anyone willing to argue for the rights of future individuals. To take this assumption seriously is (a) not to assert or by any means subscribe to the view that the human race could not conceivably disappear from the face of Earth in the present generation; instead, it is (b) deliberately to refrain from relying on this (clearly possible) state of affairs in formulating arguments to the effect that future generations cannot correctly be said to have present rights. (a) and (b) taken together constitute the very constraints that make possible the philosophical question of whether the ascription of rights to future individuals is meaningful. By the very act of asking the question—Are future individuals among the possible possessors of (present) rights?—we are bracketing the possibility that in the future no human life exists on Earth. In this sense most participants in the debate about the rights of future individuals can be said to have taken seriously the assumption that future individuals will exist. That is, whatever their view of the matter, they realize that their discussion must proceed in accordance with (a) and (b).³ What has not been realized, however, is that these constraints point to the solution of the philosophical problem that they make possible. Once the assumption that future individuals will exist is taken seriously, and thus modal considerations set aside, we can see that whatever is used to ground the rights of present humans cannot fail to apply to future individuals as well.

Although the history of ethics reveals that showing that moral rights exist is not an easy task, I shall make an *existential assumption* to this effect. And all who admit that such things as rights exist grant normal adult human beings the status of rights-holders.⁴ Let us then consider the question of why we have the rights we do. A variety of answers have been suggested. Reviewing them, we discover that they all share the same form: some nonmoral property (or set of properties) attributable to us is offered as the basis which guarantees us rights. Thus, some have claimed that only beings that can have interests can have rights,⁵ that only those who can have needs of a specified sort are among the rights-holders⁶ or that rights are reserved only for beings that belong to the

species of *homo sapiens* (Singer attributes this view, which he labels speciesism, to many⁷). The possession of rationality, language, free will, choice, and culture; the ability to experience pain, to recognize and discharge moral obligations: the acceptance of and participation within societal and communal relationships; these have at one time or another had their advocates. Hence, the general form of any answer to the above question may be represented in the following way:

- A) There is some nonmoral property (or set of properties) Q such that for any object x , x has some (unspecified) right R, iff x has Q.

I do not wish to suggest that I have some argument which would show that this is the way the above question *must* be answered. All I want to say is that all answers have had this form. Any attempt at answering it could be rewritten to fit the formula (A).⁸ So if future individuals are to be rights-holders they also must have the property Q which is such that if x has Q, then x has rights.

But precisely at this point we face the most serious challenge—the ontological obstacle. Namely, some philosophers claim that future individuals cannot in the present be bearers or subjects of anything, and thus cannot have present rights either.⁹ What is in the background of this view is an application of an ontological position, the most prominent advocate of which is Alvin Plantinga. I refer to this position as P-ontology. Plantinga calls it “serious actualism” and defines it as the view that necessarily everything is such that necessarily if it has a property, then it exists.¹⁰ But if we accept as necessarily true that every individual is such that it must (presently) exist if it is to have any properties at all, then future individuals cannot have any present rights.

However, P-ontology is not the only ontological proposal we find in the literature. Nathan Salmon has recently argued that for any possible (and even impossible) object “having properties is metaphysically utterly unavoidable.”¹¹ According to this position, which I call S-ontology, present existence is not a prerequisite for presently having properties. Salmon gives the example of a merely possible individual he names ‘Noman,’ who would have developed had particular gametes of his father’s and mother’s—which are such that neither ever unites with any other to develop into a human zygote—united in a normal manner. Then he argues that all sorts of present properties may legitimately be attributed to this merely possible object—for instance, the property of nonexistence and its entailments which include such negative properties as that of not being a philosopher, modal properties such as that of possibly existing and its entailments, the dispositional property that he would be male if he existed, as well as non-negative nonmodal properties such as that of being mentioned and discussed in a passage of Salmon’s paper “Existence,” and so on.¹² To decide the issue between P-ontology and S-ontology in favor of S-ontology is to overcome the ontological obstacle to attributing rights to future individuals.¹³ This need not be done independently of and

prior to answering the question of whether future individuals can have present rights. For, although the truth of P-ontology implies that no present rights of future individuals could exist, the contrary is also the case: if the most intuitive solution of the problem about the present rights of future individuals is that such rights exist, this would be a strong reason to favor S-ontology over P-ontology and thus eliminate the ontological obstacle (as well as decide the conflict between these two ontological positions). The latter is the route I take. But before we deal directly with the ontological obstacle a few methodological points are in order.

III

I employ in what follows a methodology inspired by Feinberg's way for deciding whether future individuals are conceptually suitable subjects for the attribution of rights.¹⁴ He considers future generations a borderline case (along with dead ancestors, individual animals, whole species of animals, plants, idiots and madmen). Next he suggests that we turn our attention to the careful examination of the most salient characteristics of those entities to which the ascription of rights is most familiar and unproblematic. To these cases, I would add cases of objects which dearly cannot be rights-holders. Borderline cases would then be compared both to (i) objects which clearly do have rights and (ii) objects to which we cannot meaningfully ascribe rights. Depending on whether we are more impressed with the similarities or the differences between them and the appropriate cases we shall decide whether objects in a given borderline case can have rights. That is, should it become clear that, for example, future individuals are similar to group (i) objects, and importantly different from group (ii) objects (which I suspect is the case) this would show that they can correctly be said to have present rights. If, on the other hand, they bear resemblance to group (ii) objects, then this will show that they could not have present rights.

According to our existential assumption the obvious representatives of group (i) objects are normal adults. Normal human beings, hence, possess the nonmoral property Q which is such that if x has Q, then x has rights. This follows from the existential assumption and the fact that any answer to the question "Why does x have the rights it does?" apparently must be of the form (A). My argument does not depend on our knowing what property Q in fact is nor does it depend on any interpretation of the property Q, but let us recall some of the more popular proposals of what Q is supposed to be. The following list of properties will be referred to as Q_i: (a₁) "... is capable of having needs (of some specified sort)," (b₁) "... can have interests," (c₁) "... is capable of feeling pain" (d₁) "... is capable to act on the basis of reasons" (e₁) belongs to the species of *homo sapiens*."

As a paradigmatic instance of group (ii) objects, that is objects that cannot have rights, we shall take merely possible objects such as Noman. The reason

why rights cannot be correctly attributed to Noman is *not* because we can immediately see that Noman does not possess the required property Q (whatever Q may be); for according to S-ontology merely possible objects can have actual properties and, for all we know, Q may be one of those properties attributable to Noman. Furthermore, for every Q_1 -property we can construct a corresponding property that can be predicated of Noman. Such properties are obtained if, for instance "is" in (a_1) is replaced with "would have been," or "has" in (b_1) with "would have had." The list of properties obtained in this way will be referred to as Q_3 : (a_3) "would have been capable of having needs (of some specified sort)," (b_3) "... would have had interest," (c_3) "... would have been capable of feeling pain," (d_3) "... would have been capable of acting according to reasons," (e_3) "... would have belonged to the species of *homo sapiens*." Instead, the reason why rights cannot meaningfully be attributed to merely possible objects such as Noman is that the notion of *acting* in such a way as to harm Noman is defective. No sense can be attached to the talk about Noman's right to be protected from harmful behavior of others, for such behavior is impossible. Thus, no matter how similar the Q_3 -properties may be to Q_1 -properties they are insufficient to justify ascription of rights to objects that possess them. This, furthermore, implies that the property Q required for attributing rights to us as clear instances of rights-holders cannot be some dispositional property of the sort found on the list Q_3 .

IV

Now that we have selected the paradigmatic instances of rights-holders and objects without rights we turn to the borderline case of future individuals. Are they sufficiently similar to actual humans and at the same time importantly different from merely possible objects to possess rights?

When we look at the world that contains us, future individuals and forever merely possible individuals are on a par: they are now equally unreal.¹⁵ This is the most important point of similarity between those two kinds of possible objects. We are, however, capable of expressing legitimate concern for future individuals, because they *will be* real, and what we do *now* determines what *will be*, that is it affects future individuals. On the other hand there is nothing we could do to Noman that could be either right or wrong, for no matter what we do it will not count as doing anything *to* Noman and others of his (its?) kind; consequently, no sense can be attached to a concern about, for example, the *well being* of those objects. Noman and others do not matter. The fact that we can care about future generations has led some philosophers to raise the issue of their present rights. If we could show that future individuals belong to the class of possible possessors of rights, this would be of enormous practical and moral importance. For in a situation involving a conflict of duties, the duty to respect the rights of others always overrides duties that are not correlative to rights.

Thus we have come to see that those characteristics which mark the most important difference between future individuals and merely possible objects are the ones which make them significantly like us. What follows from this is that future individuals are more like us than they are like merely possible objects. But are they sufficiently like us? This question is best approached in terms of S-ontology.¹⁶ We have rights because we actually possess some property Q, but are actual properties of future individuals sufficiently like this property Q? Let us first have a look at the list of such properties, call it Q₂: (a₂) "... will be capable of having needs," (b₂) "... will have interests," (c₂) "... will be capable of feeling pain" (d₂) "... will be capable of acting according to reasons," (e₂) "... will belong to the species *homo sapiens*." If we are to answer our original question as to whether rights can meaningfully be attributed to future individuals, we must now answer the following question: if Q₁-properties are sufficient to confer rights to their bearers are Q₂-properties also sufficient? That we have just established that future individuals are more like us than like merely possible objects because our actions (will) *affect* them is seemingly of no help here. For all we can say on the basis of this fact is that it is more likely that it makes sense to speak of the rights of future individuals than not. But, strictly speaking, the original question does not allow for a partial answer: something either makes sense or it does not. Nevertheless, some may believe that in this instance "more likely" is as good an answer as a definitive "yes." Although I am reluctant to endorse this attitude it captures an important intuition which will soon be confirmed.

The above passage suggests that the question of whether future individuals can be correctly said to have present rights takes the following form: "Can Q₂-properties justify ascription of rights to their bearers?" But to put the question this way is to assume that S-ontology is correct and thus beg the question against P-ontology. Thus, we apparently need an independent argument in favor of S-ontology before this question may even be asked. The interest in answering this question is its connection with the formula (A), above. At issue at this point is whether we can legitimately rewrite formula (A) in such a way so that it incorporates Q₂-properties (as a sufficient condition for the possession of rights). (A) is so formulated that it is meant to express the sufficient and necessary conditions for possible possession of rights. So the question really is can (A) be redefined as follows: Some non-moral property (or set of properties) Q exists (which can be either a Q₁- or a Q₂-property) such that for any object *x*, *x* has some (unspecified) right R, iff *x* has Q (which can be either a Q₁- or a Q₂-property). To understand the meaning of incorporating a Q₂-property in the formula that specifies the necessary and sufficient conditions for the possession of rights, let us take as an example the property (c₂), that is "will be capable of feeling pain." This means that (A) will end with "... iff *x* is capable of feeling pain or has the property that it will be capable of feeling pain." If we choose this way of writing the formula we have automatically prejudged the issue in favor of S-ontology, for we would allow

for the higher order properties: if we will be capable of feeling pain then we already have the property that we will be capable of feeling pain. P-ontologists are not so liberal with respect to properties, and would claim that we have not chosen the right way of speaking here: they may allow us to say that x will have the property "being capable of feeling pain" but would insist that the fact that x will have this property does not mean that x has the property that it will have the property "being capable of feeling pain," for this alleged property, according to the P-ontologist, is not a property at all. Thus, if we are to contest this claim, we need independent reasons for the alternative claim that the way of incorporating Q_2 -properties in (A) on the part of the S-ontologist is correct—that is we must not simply assert that Q_2 -properties be directly incorporated in (A). I propose next to provide such a reason, in the form of a thought experiment, which will both show that the proper form of the question about the present rights of future individuals is "Can Q_2 -properties justify ascription of rights to their bearers?" as well as provide reasons for an affirmative answer to this question.

V

We are now prepared to resolve the conflict between P-ontology and S-ontology. In order to deal with the ontological obstacle let us consider the following thought-experiment. Suppose humans were in possession of a machine which enables them to travel at a fantastically high speed. Suppose further that some individual, Oscar, has been transported from Earth to a distant planet by means of this device. This was accomplished in the following way: after he entered the machine on Earth, Oscar's body was disassembled into subatomic particles which were projected in the form of a beam in the direction of the distant planet. Upon arrival, a similar machine was used to transform the beam back into Oscar.

On the basis of this thought experiment we can formulate what I will call "The Intuition-Based Argument" for present rights of future individuals and S-ontology. Regarding Oscar's rights, in this story, one thing is certain: we would not want to say that by choosing this way of traveling Oscar has temporarily lost the status of a rights-holder. We would surely object to someone who says that talk about Oscar's rights loses all meaning for the duration of the journey, but becomes meaningful once again when he walks out of the machine on the distant planet. For just as we would account for the wrongness of an action which involves interfering with the flight-trajectory of a plane (say, shooting down of the plane) in terms of the rights of people on board, we would similarly want to account for the wrongness of any interference with the beam in terms of Oscar's rights. But if Oscar retains the status of a rights-holder during the trip, this fact stands in need of explanation. For, interests, needs, ability to feel pain or act according to reasons cannot meaningfully be attributed to a beam of particles; and we certainly would not attribute membership in the species *homo sapiens* to the beam. So, if Q_1 -type-properties cannot be behind

the intuition that Oscar remains a rights-holder during the journey, where do we look for an explanation? Is this intuition to be accounted for in terms of Q_2 -type-properties? If so this would clearly provide support for S-ontology.

Before we begin exploring this suggestion let us get clear on what exactly this thought experiment tells us about Oscar that could be important for the two issues I focus on this paper: (a) construction of a method for choosing between rival ontological claims, and (b) illumination of the concept of rights. Our consideration of this thought experiment provides us with a tool for examining whether it is true that rights are grounded solely in terms of Q_1 -type-properties, as P-ontology must have it, or not. Whatever the answer to this question turns out to be we learn something about both the nature of rights and which of the two competing ontological claims is right.¹⁷

Our examination of the Intuition-Based argument must take the form of separation of cases. For Eli Hirsh has argued (and I am not necessarily agreeing with this, but he might be right) that spatiotemporal continuity is not necessary for an object's persistence.¹⁸ Since the kind of case he thinks shows this is similar to what happens to Oscar in our example we need to consider (1) the case that Oscar exists during the trip and (2) the case that Oscar went out of existence, and then later came back into existence. In the first case Oscar's existence during the journey would be an important part of an explanation of why he remains a rights-holder. The second case looks more puzzling. If Oscar does not exist during the journey, how is this to be reconciled with our intuition that it makes no sense to talk about the interruption in Oscar's career as rights-holder? For as we have seen, the simple choice of a means of transportation cannot be morally relevant.

Before I examine these cases and propose a solution, I want to emphasize the problem this thought experiment poses for the P-ontologist; the only way the P-ontologist could deal with the consequences of the thought experiment is to allow the discourse about the present rights of a future, yet non-existent individual x . P-ontologists must be careful not to commit themselves to any present nonmoral property Q of x , which would require that we take as a sufficient condition for the possession of rights, not some actual property of x , but that x will have the property Q . However, although this can be a way of interpreting that segment of formula (A) which talks about the property Q , it only means new problems for P-ontologists. In addition to the segment about the property Q , formula (A) also includes the segment about the (unspecified) right R ; I see no way for P-ontologists to successfully interpret this segment, the one which reads " x has some (unspecified) right R ." For in the case when x is a member of some future generation this phrase, according to P-ontology, must not be taken as an assertion to the effect that x possesses some present property.¹⁹

My argument is, then, that the observation that Oscar remains a rights-holder during the beaming sets up an abductive argument. The conclusion is that the best explanation of the observed phenomenon in our thought experiment is to treat Oscar, during the time when the beam is between Earth and the distant

planet, as a future individual (that is the individual which will walk out of the machine on the distant planet). In this period, since Oscar is a future individual and has rights, Q_2 type properties can be seen as the only basis of those rights. For, how else is the question "Why does Oscar have the rights he does?" to be answered? Perhaps I ought to mention here that Oscar is *also a past* individual, and hence has Q_4 -properties of *having been* capable of having needs, feeling pain, etc. The above question cannot be answered in terms of these properties, however. For if Q_4 -properties were the justifying reason for regarding Oscar during the beaming as a rights-holder, we could not block the inference that *all* past individuals have present rights. I find it counterintuitive, however, that, for example, cave-people have present rights. A different and more important reason why past individuals fail to have rights is the very same one that holds for merely possible objects: we can do nothing to past individuals that could be either right or wrong, for no matter what we do it would not count as doing anything to them.

This shows that Q_2 -type properties are sufficient to justify ascription of rights to their bearers. Just like in the second case, in the first case Q_1 -properties cannot be meaningfully ascribed to Oscar. We may doubt that Oscar is (identical with) the beam of particles. (We may also find it doubtful that Oscar's *body* is the beam, though *maybe* it is.) We can say, therefore, that during the beaming, there is nothing more to Oscar than the beam; either he temporarily does not exist, or he is temporarily constituted by the beam. In either case, he temporarily lacks Q_1 -properties. This means that the same answer holds for both cases. In case (1) Oscar is a rights-holder as an actual (presently existing) being, in case (2) he is a rights-holder as a future individual, but in *both cases* the reason is to be given in terms of Q_2 -properties. Consequently, we not only can legitimately ascribe rights to objects on the basis of Q_2 -type properties, but in some cases of *actual* objects those properties are the sole basis for otherwise unproblematic ascriptions of rights (such is case [1]).

This example shows that S-ontology captures certain intuitions embedded in the ways we think about (possible) objects that P-ontology cannot explain. Thus, what seems to be the most intuitive answer to a question in ethics may be an important step toward the correct ontology. We may then conclude by drawing the following two lessons from all this: first, the adequate methodology for resolving conflicts between competing ontological claims is to adopt the practice of comparing ontological commitments of the best solutions to philosophical problems, regardless of which branch of philosophy they come from, and see which ontological claim they tend to favor, and, second, we must include future individuals among possible possessors of rights.

ENDNOTES

I am grateful to Milos Arsenijevic, Nathan Salmon, and the anonymous referee for their comments on an earlier draft of this essay.

¹Cf. Panayot Butchvarov, "On the Ontology of Philosophical Analysis," *Noûs* 15 (1981), p. 6.

²Joel Feinberg, "Duties, Rights, and Claims," *American Philosophical Quarterly* 3 (1966), pp. 143-4.

³Thus the opponent of present rights of future individuals, Ruth Macklin, in "Can Future Generations Correctly Be Said to Have Rights," in R. Partridge, ed., *Responsibilities to Future Generations* (Buffalo, 1981), p. 152, writes that her argument does not rest "on the possibility that the human race might be eliminated in the present generation (however one individuates generations) by thermonuclear war or accident, universally fatal plague, the 'green house effect,' or some other such catastrophe."

⁴A plausible analysis exists of the concept of a right such that this concept does not by itself prevent the attribution of rights to future individuals. Joel Feinberg ("The Rights of Animals and Unborn Generations," in *Rights, Justice, and the Bounds of Liberty* [Princeton, 1980]; pp. 159-84.) has argued convincingly that his conception of rights as valid claims does not rule out future individuals as possible possessors of (present) rights. Thus, Feinberg's proposal will be my working analysis of the concept of a right.

⁵Cf. J. Feinberg, "The Rights of Animals and Unborn Generations."

⁶Cf. Hugo Adam Bedau, "Rights as Claims, Reasons and Needs," in *Proceedings of XIVth International Congress of Philosophy* (Vienna, 1970), p. 136.

⁷See, for instance, Peter Singer, "The Fable of the Fox and the Unliberated Animals," *Ethics* 88 (1977-78), 119-125.

⁸Compare Alan White, *Rights* (Oxford: Oxford University Press, 1984); p. 75: "This question [of what sorts of beings can have rights] is usually approached by enquiring whether there are certain characteristics or a family of such characteristics which are either necessary or sufficient for the possible possession of a right."

⁹Compare Richard De George, "The Environment, Rights, and Future Generations," in K. E. Goodpaster and K. M. Sayre, eds., *Ethics and Problems of the 21st Century*, (Notre Dame, Ind.: University of Notre Dame Press, 1979), p. 94: "Future generations by definition do not now exist. They cannot now, therefore, be the present bearer or subject of anything, including rights. . . . This follows from the briefest analysis of the present tense form of the verb 'to have'."

¹⁰Alvin Plantinga, "De Essentia," *Grazer Philosophische Studien* 7/8 (1979): 101-22; "On Existentialism," *Philosophical Studies* 44 (1983): 1-20; and "Replies to my Colleagues," in J. Tomberlin and P. van Inwagen, eds. *Alvin Plantinga*, (Dordrecht and Boston: Reidel, 1985).

¹¹Nathan Salmon, "Existence," in J. Tomberlin, ed., *Philosophical Perspectives I. Metaphysics* (Atascadero, California, 1987), p. 92.

¹²*Ibid.* p. 94.

¹³*Ibid.* p. 92.

¹⁴This method is explained in more detail, and applied to the puzzling case of fetal rights in my "Why Potentiality Cannot Matter," *Journal of Social Philosophy* 24 (1993): pp. 177-193.

¹⁵The views labelled “P-ontology” and “S-ontology” correspond to the two ontological claims mentioned in section I. Also the reader should be aware that these views can hardly represent complete ontological theories. Each of the views entails a lot of things, but we would have to do more investigation to decide what all these things are.

¹⁶Until the final part of the essay, where I directly deal with the issue of the ontological obstacle, I shall often put questions in terms of the S-ontology. This will not, however, make the argument circular, as I shall explain, for nothing I say before this final part is assumed in the argument itself.

¹⁷ It is readily apparent that the whole argument, described above, hinges on the intuition, hence the name, that whatever Oscar’s ontological status during the trip may be, Oscar retains the status of a rights-holder. Why base the whole argument on such an intuition, particularly since my intuition is not necessarily everyone’s? The alternative would be to claim that, if this type of travel were a reality, I (and everyone else contemplating such a journey) would want to make clear *before the trip* that I continue to have rights, and that it would be wrong of anyone to deliberately prevent me from being reassembled. But I would *demand* this, on practical or prudential grounds, not because of some insight into the nature of rights. Even philosophers who are not so friendly to intuitions, I think, would want to say this much about the thought experiment. (I thank the anonymous referee for this suggestion.) Now, as with any demand, the issue of its justification may be raised. That is, why should I be justified in demanding a particular kind of behaviour of others toward the beam of my subatomic particles. Simply claiming that a restricted behaviour of others towards the beam of my particles is good for me represents no sufficient guarantee that others should take it seriously and that the beam will be given the requested treatment. If I had rights, on the other hand, it would be easy to see why my demand was justified. But rights cannot be used as justification for this demand since the reason for responding to the thought experiment in terms of the demand, rather than rights, was precisely the fact that we were uncertain whether rights were conceptually suitable in this situation. Whatever the correct justification for this demand, it seems clear that it would have to consist of citing some property of the beam. And, in principle, this could be a Q_1 or a Q_2 property. My suspicion is that there is no adequate Q_1 property. And if Q_2 property is chosen (e.g., that the beam will be reassembled into me) we have the same result as far as the conflict between P-ontology and S-ontology is concerned as if we construed the argument in terms of the explanation of the intuition that Oscar continues his career as rights-holder. So in response to the thought experiment there are two ways the argument for S-ontology can be construed: (i) in terms of looking for the best explanation of the intuition that Oscar remains a rights-holder during the trip or, if we don’t like to base arguments on intuition, (ii) in terms of providing a justification for the demand everyone would want to make before the trip that during the beaming one continues to have rights. The two options have different consequences regarding the argument for the rights of future individuals: the latter option, that the foes of intuition would prefer, simply removes what I have called the ontological obstacle (by establishing S-ontology) and would require a separate argument in favor of the present rights of future individuals, while the former establishes at once both that future individuals are possible possessors of rights and the correctness of S-ontology. However, I believe that these two approaches are just the two sides of the same coin (for what are rights than valid claims, or in this case a justified demand), they both establish that S-ontology is right, and that future individuals have rights (approach [ii] needing an extra argument for this second claim, but you are almost there once the ontological obstacle is removed). In what follows I chose to follow strategy (i), not only

because I am a friend of relying on intuition in philosophical argumentation, but because this approach will allow me to explore the relationship between the two branches of philosophy, ontology and ethics, and provide an example of my favorite methodology for making choices between competing ontological claims.

¹⁸Eli Hirsh, *The Concept of Identity* (Oxford: Oxford University Press, 1982), 25.

¹⁹This fact motivates my considering the story of Oscar, rather than accusing P-ontology that it provides no way of handling even the more mundane case of my present right not to be harmed tomorrow, since my "tomorrow's self" does not yet exist. In this latter case, however, I definitely presently exist and this might be why I have this present right. In the case of Oscar, in the face of Hirshian arguments, this might not be so.

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