

Are Adults and Children One Another's Moral Equals?*

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(This is the final version of a journal article which will be published in *The Journal of Ethics*)

Abstract: The question of the basis of human equality has recently gained increasing attention. However, much of the literature has focused on whether persons – understood as fully competent adults – have equal moral status, while relatively less attention has been devoted to the analysis of what grounds the equal moral status of those human beings who are not fully competent adults. This paper contributes to this debate by addressing the question of the equality of moral status between adults and children. Specifically, this paper has three aims. First, it provides a conceptual map of this complex issue. Second, it argues that the challenges that have been raised against standard accounts of persons' equal moral status are even more forceful when applied to the question of adults and children's moral equality. Finally, it examines what a commitment to adults and children's moral *inequality* entails and what it does not, thereby showing that the justificatory role of the principle of moral equality is not as far-reaching as commonly assumed.

Key words: adults; children; moral equality; moral inequality; moral status.

* For helpful written comments on previous versions of this article, I would like to thank Matt Perry, Federico Zuolo and, in particular, Liam Shields. I am especially grateful to an anonymous reviewer for the *Journal of Ethics* whose comments greatly improved this paper.

1. Introduction

The question of the basis of human equality has recently gained increasing interest. On the one hand, great attention has been devoted to the question of *basic equality* – that is, the question of what grounds the *equal* moral status of *persons*, typically understood as fully competent adults who hold a wide range of sophisticated agential capacities (Carter 2011; Christiano 2015; Rawls 1971; Waldron, 2017). On the other hand, there is a growing literature on the question of the *moral status* of those human beings who are not fully competent adults, such as severely cognitively disabled human beings, human beings who have become irreversibly comatose, children and infants (Jaworska & Tannenbaum 2018; Kittay 2005; Nussbaum 2006). Surprisingly, however, these two literatures have so far interacted very little with one another.¹ As a result, relatively little attention has been paid to the question of whether those human beings who are not fully competent adults do not simply have moral status, but they also enjoy a status as *equals*.

This paper brings these two literatures together by analysing the question of the basis of adults and children's moral equality. Specifically, it aims to contribute to this debate in three ways. First, it provides a conceptual map of this complex issue. Second, it shows that the familiar objections that are raised against accounts of persons' equal moral status are even more pressing in the case of adults and children's moral equality. Finally, it clarifies what is entailed by denying adults and children's moral equality, thereby showing that while the principle of moral equality plays an important justificatory role for normative theories of justice, its role is not as far-reaching as commonly assumed.

This paper is structured as follows. Section 2 examines the child-adult distinction so as to sharpen the question that the paper addresses. Section 3 illustrates the distinction between moral status

¹ For some notable exceptions, see Jaworska and Tannenbaum (2019) and Waldron (2017: ch. 6).

and equal moral status: the former determines what *kind of* rights – if any – an entity has, whereas the latter is concerned with the *stringency* of an entity’s rights relative to the stringency of the rights of other entities.

Drawing on this analysis, section 4 distinguishes between two different accounts of adults and children’s moral equality: *intra-status* views and *inter-status* views. According to the former, adults and children have the *same* basis for moral status and their moral status is equal. According to the latter, instead, adults and children have equal moral status, despite holding a *different* basis for moral status. Second, it elucidates the distinct normative implications that these views entail.

Sections 5 and 6 outline the challenges that intra-status and inter-status views of adults and children’s moral equality run up against. Most importantly, these sections illustrate that, while standard accounts of persons’ moral equality have provided some convincing responses to these challenges, they retain special force when applied to the question of the equality of moral status between adults and children. Section 7 concludes by examining what denying adults and children’s moral equality would entail for theories of justice for adults and children.

Hardly anyone denies that all human beings are moral equals. Yet, recent contributions to the literature on basic equality have shown that justifying a commitment to moral equality is by no means an easy task. If the argument of this paper is correct, while much progress has been made towards accounting for the equal moral status of fully competent adults, more work needs to be done to provide a solid philosophical justification for the common-sense intuition that children, too, enjoy a status as equals.

2. Child-Adult Distinction

Human beings are commonly distinguished into “children” and “adults”, where the former – as opposed to the latter – refers to individuals who are “at a stage of development in human life where

they have not yet reached biological maturity” (Gheaus 2019: 2). Indeed, this distinction informs many of our interactions and relationships, and it is essential to the formulation of laws and public policies. Yet, the child-adult distinction raises several issues that any philosophical discussion of the appropriate treatment of adults and children must address.²

On the one hand, while “childhood” and “adulthood” are two different stages of human life, it is unclear where the former ends and the latter begins. Thus, for instance, the age of majority – that is, the threshold of legal adulthood – is eighteen in most countries. But why should we think that a seventeen-year-old individual is a child, while a an eighteen-year-old is an adult? Or, similarly, what is the reason to set the threshold of legal adulthood at eighteen, rather than at, say, twenty-one? To be sure, age is simply an empirical proxy which is meant to track the possession of a range of physical, emotional, and cognitive features to a degree deemed sufficient to be granted the status of a legal adult. However, one may still ask, what non-arbitrary reason do we have to maintain that the possession of these capacities at a degree X rather than X_{+n} is sufficient to mark the distinction between childhood and adulthood? In other words, then, the distinction between “children” and “adults” seems arbitrary, at least to some extent.³

On the other hand, it is also important to notice that there are significant variations within these two different stages of human life. In particular, children gradually develop during childhood. Thus, “an infant shares little in common with a seven- or eight-year-old and has even less in common with an eleven or twelve-year-old” (Noggle 2019: 91). In addition, some older and/or cognitively impaired adults may have more in common with some children than with middle-aged and unimpaired

² I am grateful to an anonymous reviewer for encouraging me to address these issues.

³ For instructive discussions of what is commonly referred to as the “threshold problem”, see Archard (2015), Fowler (2014), and Franklin-Hall (2013).

adults. Therefore, comparisons between adults and children must be mindful to the fact that “children” and “adults” are not two homogeneous groups. Accordingly, some comparative judgements about “children” and “adults” as groups may have to be revised in certain specific cases (e.g., “child prodigies”), or they may not hold true for some relevant sub-groups (e.g., teenage children and cognitively impaired adults).

While the aim of this paper is not that of solving these issues, it is important to point out the complexities of the child-adult distinction because it allows us to sharpen the focus of the paper and elucidate the limits of its argument. Indeed, as several contributors to this debate observed, to make a comparative assessment between children and adults manageable, it is necessary to simplify by addressing a narrow range of cases within each category (Dwyer 2011: 6). Therefore, in this paper, I shall understand “children” as referring to infants and young children who are under four years of age, whereas “adults” will indicate non-cognitively impaired human beings who are older than thirty (cf. Tomlin 2018). Thus, the question that I will address is whether children and adults, so understood, are each other’s equals in some fundamental sense, and what this entails for what is owed to them as a matter of justice. Moreover, while an analysis of these paradigm cases may be unable to deliver a precise answer to the question of the basis of the equal moral status of those adults and children who do not fall within the scope of these definitions, it will bring to light the morally relevant considerations that need to be taken into account when assessing their moral status.

3. Moral Status and Equal Moral Status

To address the question of adults and children’s moral equality, it will be instructive first to gain a clearer understanding of the distinction between moral status and *equal* moral status. According to a deontological conception of moral status, entities that have moral status matter morally for their own sake. Specifically, an entity that has moral status is the object of *directed duties*, that is, moral obligations

that are *owed to* someone (or something), in particular and for its own sake, the violation of which does not merely entail wrongdoing, but it implies *wronging that* entity, in particular (Kamm 2007: 229). Accordingly, deontological moral and political philosophers maintain that if an entity has moral status, then it has at least some rights (Carter 2011; Christiano 2015; Sangiovanni 2017).⁴ Hence, the question of moral status determines the *scope* of the beings that are right-holders.

Now, since an entity that has moral status matters morally, there must be a reason as to why it matters morally in the first place, namely, that entity must hold a property – or set of properties – in virtue of which it has moral status. This is commonly referred to as the question of the *basis of moral status*. Two points are worth noting. First, only *some* properties can be plausible candidates for the basis of moral status. This is because if having moral status entails being a right-holder, then it presupposes the possession of a morally significant property which confers moral value, or worth, upon its holders (Anderson 2015; Christiano 2015; Waldron 2017). Put differently, it is because an entity holds a morally significant property that it has the moral standing to generate rights against others.

To appreciate this more clearly, consider the speciesist account of the basis of moral status. According to speciesism, all human beings have moral status – indeed they have equal moral status – simply in virtue of their membership in the species *Homo sapiens*. However, as several critics pointed out, the problem with speciesism is that a purely biological feature has no moral significance in and of itself. Why should A have any moral obligations *to* B simply because B has a specific DNA? Speciesism, then, should be rejected because it does not identify a morally significant property as the basis of moral status (Arneson, 1999, p. 103; Singer, 2011, pp. 48-53).⁵ Thus, a plausible account of moral status must

⁴ A consequentialist account of moral status, instead, maintains that if an entity has moral status, then its interests should be taken into account in the moral deliberation, the aim of which is to maximize the satisfaction of the interests of all those entities that have moral status (Singer 2011). In this article, I only focus on deontological accounts of moral status.

⁵ For a prominent defence of speciesism, see Williams (2006: ch. 13).

identify a property, or a set of properties, which is morally significant and therefore can confer moral status upon their holders.⁶

Second, as many pointed out, the basis of moral status does not simply explain why an entity has moral status, but it also determines, at least to some extent, the content of the fundamental rights that an entity has *qua* a moral status-holder. For instance, if an entity has moral status because it possesses the capacity to feel pain and pleasure, it is plausible to affirm that that entity has a fundamental right against being inflicted pain, for refraining from inflicting pain is an appropriate – or fitting – response to the source of value in question, namely, the capacity for sentience. As Raz puts it, “[t]he ground of an entitlement determines its nature” (Raz 1986: 223).⁷ To be sure, this is not to say that different status-conferring properties cannot give rise to the same fundamental right. Rather, more precisely, the point is that different bases of moral status generate distinct – but to some extent overlapping – set of fundamental rights. For example, while a fundamental right to life can be grounded both in the possession of the capacity for sentience as well as in the possession of the capacity for rational agency, typically only the latter – but not the former – justifies a (non-derivative) right against interference with one’s choices.

⁶ This raises the further and more fundamental question of how to determine what properties are morally significant. A fully worked-out analysis of this question, however, goes beyond the scope of this paper. For instructive discussion, see Dwyer (2011: chs. 2-3) and Floris (2021). For the purposes of this paper, I grant that the properties identified by some of the most prominent accounts of children’s moral status are indeed morally relevant. Our task is to understand whether they have succeeded in showing that children do not simply have moral status, but that their moral status is *equal* to that of adults.

⁷ The relationship between the basis of moral status and the content of fundamental rights has been widely defended in the literature. See, among others, Carter (2011: 542), Christiano (2015), Cupit (1996), Gilabert (2019), and Kagan (1998: 290).

All in all, then, the ascription of moral status entails being a right-holder and presupposes the possession of a morally valuable property. Thus, the question of moral status is *non-comparative*: it determines what, if anything, is owed to an entity *qua* a moral status-holder, independently of what is owed to other moral status-holders.

This, in turn, allows us to see that the possession of moral status is conceptually distinct and – at least to some extent – independent from the possession of equal moral status. On the one hand, they are distinct because the question of equal moral status is *comparative*: it assesses what is owed to an entity *in comparison with* what is owed to another entity. Specifically, it determines whether the rights of a moral status-holder are *as stringent as* the rights of other moral status-holders. Rescue-cases are a standard example. Assume that two persons are drowning and only one can be saved. From the fact that both persons have moral status, it simply follows that they both have a right to life and therefore to be rescued. But in cases of scarce resources and conflicting claims, we need to resort to an account of equal moral status to decide whom should be saved. Thus, if persons have equal moral status, then this means that the rights of the two persons to be rescued are equally stringent. Accordingly, the decision about who to save will depend on an independent fair decision-making procedure – such as a coin flip. If, on the contrary, persons' moral status is unequal, then priority should be given to the right of the person whose moral status is superior, other things being equal (cf. Taurek 1977).⁸

On the other hand, the question of equal moral status is independent from the question of moral status: from the fact that two entities have moral status, in fact, it simply does not follow that they also have equal moral status. As we will see more clearly in the next section, there is a conceptual gap between the former and the latter that needs to be bridged.

To conclude, in this section I have illustrated the distinction between moral status and equal

⁸ In the final section, I will return to this issue and explain when other things are exactly equal.

moral status: the former defines who is a right-holder and informs the content of the fundamental rights that an entity has *qua* moral status-holder, while the latter concerns the comparative stringency of moral status holders' rights.

4. Two kinds of moral equality

Drawing on the previous analysis, in this section I introduce an important distinction between two different kinds of moral equality – which have often been conflated in the literature – and explore its implications for the question of adults and children's moral equality.

As we saw earlier, the possession of moral status is grounded in the possession of a morally significant property. Accordingly, two entities, A and B, can have a moral status of the *same* kind or of a *different* kind, depending on whether they hold the same, or different, basis of moral status. Thus, for example, one may think that human beings and nonhuman animals have a moral status of the same kind because they share the same status-conferring property of being capable of feeling pain and pleasure (Singer 2011). Alternatively, one may hold that human beings and nonhuman animals have a moral status of a different kind, because they possess different status-conferring properties: (most) human beings hold the capacity for rational agency, whereas nonhuman animals possess the capacity for sentience (Arneson 1999, 2015).

This opens up the conceptual space for distinguishing between two different types of moral equality. On the one hand, it can be argued that A and B share the same status-conferring property X and have *equal* moral status. According to this view, then, A and B have a moral status that is of the *same* kind *and* equal. Call this, *intra-status moral equality*. On the other hand – perhaps more surprisingly – it is also conceptually coherent to maintain that A and B have equal moral status, despite not possessing the same status-conferring property. For instance, the fact that rational agency and sentience are two different status-conferring properties has no bearing on whether they are equally or

unequally valuable and, therefore, whether they confer an equal or unequal moral status upon their holders. A substantive argument is necessary to justify their (un)equal value.⁹ Hence, it is conceptually coherent to hold that, although A and B do not share the same status-conferring property, they have equal moral status, because their status-conferring properties – despite being different – are equally valuable. According to this view, then, A and B have a moral status that is of a *different* kind *but* equal. Call this, *inter-status moral equality*.

The distinction between intra-status moral equality and inter-status moral equality has significant implications for the question of adults and children’s equal moral status. First, we are now in a position to see that the equality of moral status between adults and children can be defended in two different ways. We can either adopt an intra-status view of adults and children’s moral equality, whereby adults and children share the same basis of moral status and, for this reason, they have a moral status of the same kind and equal. Or, alternatively, we can defend an inter-status view of adults and children’s moral equality which maintains that the moral status of adults and children is grounded in different – yet equally valuable – status-conferring properties and thus they have a moral status of a different kind but equal.

Second, drawing on the relationship between the basis of moral status and the content of fundamental rights examined in the previous section, we can also now see that these two views of adults and children’s moral equality have different normative implications for theories of justice: whilst intra-status views imply that adults and children have a coextensive set of equally stringent fundamental rights *qua* moral equals, inter-status views entail that adults and children have non-

⁹ To be sure, rational agency and sentience may also be incommensurable. I will return to the incommensurability view below (see fn. 16). For the time being, it is sufficient to note that, like the (in)equality, the incommensurability of two values is not entailed by their difference.

coextensive – yet to some extent overlapping – sets of equally stringent fundamental rights *qua* moral equals.

An example may help to illustrate this point. First, take a familiar intra-status view of adults and children's moral equality, according to which the equal moral status of adults and children is grounded in their capacity for sentience. This view entails that adults and children have the same – and equally stringent – fundamental right to have their welfare promoted, or maximised, because this is the appropriate response to the valuable feature that confers moral status upon them.¹⁰

Compare this with an inter-status view which holds that adults have moral status in virtue of their capacity for rational agency, whereas children have moral status because they are capable of feeling pain and pleasure. Unlike intra-status accounts, this view generates an overlapping – yet distinct – set of equally stringent fundamental rights. While children are entitled to have their welfare promoted, adults have a fundamental right to have their autonomy respected, regardless of whether this is conducive to their welfare.

Theories of justice for adults and children commonly rest on a commitment to adults and children's moral equality. The distinction between intra-status moral equality and inter-status moral equality reveals that what kind of justification for this commitment one endorses has significant implications for the content of the principles of justice that apply to adults and children.

¹⁰ Of course, this may generate different sets of specific rights because promoting the welfare of a child and promoting the welfare of an adult require different things, at least sometimes. However, the important point is that both adults and children have the same – and equally stringent – fundamental right to have their welfare promoted *qua* moral equals. What is not needed to promote their welfare is not required as a matter of justice, and what is incompatible with the promotion of their welfare is forbidden as a matter of justice.

5. *Intra-status* moral equality of adults and children

We can now turn to the question of the basis of moral equality: what grounds the equal moral status of adults and children? Many philosophers have attempted to answer this question by identifying a morally relevant property that is commonly held by adults and children and therefore provides the normative basis for their equal moral status. Thus, some argued that adults and children have equal moral status because they both share the emotional capacity to care (Jaworska 2007). Others contended that subjectivity is the basis of adults and children's equal moral status (Sher 2015). Still others argued that the equal moral status of adults and children is grounded in the property of "being-subject-of-a-life", which consists in the capacity to have desires and beliefs, memory and a sense of the future, and to act intentionally (Regan 1983: 243). Finally, it has also been suggested that the equality of moral status between adults and children is predicated in the possession of the capacity for sentience (Singer 2011).

In this section, I grant that all these accounts have identified morally relevant properties that are plausibly candidates for the basis of moral status. However, I show that they run up against two objections that have been raised against accounts of persons' moral equality, where "persons" are defined as fully competent adults. Most importantly, I argue that, while accounts of persons' moral equality have made some important progress towards rejecting these objections, they retain special force when applied to the question of the basis of adults and children's equal moral status. Hence, providing a convincing justification for the equal moral status of adults and children turns out to be a harder task than accounting for persons' status as equals.

To start with, recent contributions to the literature on basic equality have pointed out that it is not sufficient to identify a status-conferring property X that is commonly held by a range of beings to conclude that they have *equal* moral status in virtue of the possession of X. Rather, it must be shown

that X is held to an *equal degree*. This is because if a being's moral status is based on the possession of a valuable property, then it seems reasonable to maintain that the degree of that being's moral status should vary according to the degree to which it holds the valuable property. This, however, generates a problem for standard accounts of moral equality because when we turn to the most common candidates for the basis of moral status, we soon find out that these are all *scalar* properties – that is, they are possessed to different degrees. Thus, for example, some beings have a more developed capacity to care than others. Similarly, some beings have more sophisticated cognitive capacities than others. But if moral status is grounded in the possession of a scalar property X, then why do those beings who hold X to a higher, or lower, degree not have a superior, or inferior, moral status? In short, it is difficult to see how the possession of a *scalar* status-conferring property can account for *equal* moral status. This problem is known as the *variations objection*, or the *continuity argument* (Arneson 1999; Christiano 2015; Parr & Slavny 2019; Williams 1973: ch. 14).

Arguably, the most promising attempt to reject this objection is the so-called range property view.¹¹ This view, originally put forward by Rawls (1971: 504-12) and subsequently endorsed by several philosophers (Arneson 2015; Parr & Slavny 2019; Waldron 2017), maintains that *persons'* status as equals is grounded in a range property, which is the *binary* property of holding some subvenient scalar properties within a certain range. So, legal adulthood, for instance, is a range property: all those who attained the age of majority are considered legal adults, regardless of how old they are. Similarly, the proponents of the range property view argue that moral personality is the property of holding some subvenient agential capacities – the capacity for a conception of the good and the capacity for a sense

¹¹ Some have attempted to reject the variations objection by arguing that moral equality is not grounded in the equal possession of a status-conferring property, but in the rejection of treating others as inferiors. See Sangiovanni (2017). For a critique of this approach, see Floris (2019; 2020).

of justice – within a specific range. And, given that the range property is a binary property, it cannot be held to different degrees. Hence, all those human beings who are within the range of moral personhood have equal moral status.

Critics, however, pointed out that the range property view faces a pressing challenge. If the range property is grounded in the possession of some subvenient agential capacities, why should we focus on the range property rather than on the more fundamental subvenient *scalar* agential capacities (Carter 2011: 550; Waldron 2017: 121-2)? For example, in the case of legal adulthood, we have some *legal* reasons to focus on adulthood as a range property, rather than on the specific length of time that a person has lived beyond the age of maturity. But what independent *moral* reason do we have in the case of persons' moral status to focus on the range property of moral personality rather than on the more fundamental subvenient scalar agential capacities? Unless an answer to this question is provided, the range property view seems to simply state its allegiance to moral equality rather than offering an independent justification for it.

In recent years, advocates of persons' moral equality have attempted to rescue the range property view from this objection. One of the most worked-out attempts has been put forward by Ian Carter: in brief, Carter argues that persons are owed a particular form of respect – what he calls *opacity respect* – which is a duty of “*evaluative abstinence* – that is, a refusal to evaluate persons' varying capacities” (Carter 2011, p. 550; emphasis in the original). Respect for persons, then, requires abstaining from looking at the degree to which the subvenient scalar agential capacities are held above the threshold of moral personality. Thus, opacity respect is an independent moral requirement that explains why the range property of moral personality is morally salient, whereas the subvenient agential capacities should be ignored when assessing persons' moral status (Carter 2011).

But while Carter's view is a promising attempt to account for persons' status as equals,¹² it is unable to justify the equality of moral status between adults and children. This is because, as Carter himself maintains, opacity respect is the appropriate – or fitting – response to the possession of “dignity as agential capacity”, namely, the dignity that one has in virtue of the possession of the capacity for a conception of the good and the capacity for a sense of justice up to a sufficient degree (Carter 2011: 554). Clearly, however, very young children and infants do not have these agential capacities – or, at least, they do not hold them up to the relevant threshold. And, morally significant properties that are held by children – such as, the capacity for sentience or the capacity to care – cannot generate a duty of opacity respect. Therefore, an appeal to opacity respect is unable to explain why the relevant status-conferring property, which is possessed by both adults and children, is a range property, thereby providing the normative basis for their equal moral status.

Proponents of intra-status views have attempted to account for the equality of moral status between adults and children by identifying a morally relevant property that is held by both adults and children, and conclude, on that basis, that they have equal moral status. This, however, is only sufficient to show that both adults and children have the *same* moral status. To conclude that they hold an *equal* moral status, it is necessary to demonstrate that this property is held to an *equal degree*. As recent accounts of persons' moral equality have shown, the most promising strategy to respond to the variations objection is to appeal to the range property view, whereby what matters is that morally relevant properties are held within a specific range. However, to be successful, the range property view needs to explain – rather than simply affirm – why the range property is morally relevant. And, while important progress in this direction has been made in the case of persons' equal moral status, advocates of intra-status views have so far been unable to put forward an independent plausible moral

¹² For some criticisms of Carter's view, see Arneson (2015), Christiano (2015), Husi (2017) and Sher (2015).

requirement which can explain why the morally relevant property that is possessed by both adults and children should be considered as a range property, thus being an appropriate basis of adults and children's *equal* moral status.

The variations objection, however, is neither the only – nor the most pressing – challenge that intra-status accounts of adults and children's moral equality encounter. As it has been observed, in fact, it is not sufficient to identify a status-conferring property X that a range of beings hold to an equal degree to conclude that they have equal moral status, because this leaves open the possibility that there is a further status-conferring property Y that is possessed only by some – or that is held by all but to an unequal degree – which then upsets the equality of moral status among the beings in question (Husi 2017; Pojman 1997). Call this the *differentiation objection*.

To see why the differentiation objection needs to be taken seriously, consider a common argument against the equality of moral status between human beings and nonhuman animals. It is often pointed out that even if it is true that nonhuman animals and human beings share a morally relevant property – e.g., the capacity to feel pleasure and pain – this only entails that the former also have moral status. However, it does not follow from this that nonhuman animals and human beings have *equal* moral status. This is because, so the argument goes, not only do human beings hold the capacity for sentience – as nonhuman animals do – but they also possess further morally relevant properties – such as, the capacity to care, the capacity for a sense of self, or moral personality – that nonhuman animals either lack or hold to a lower degree. Hence, this provides us with a non-speciesist reason to maintain that human beings have a moral status that is superior to that of nonhuman animals (Arneson 2015; Waldron 2017).

But if the possession of a further status-conferring property is a compelling reason to establish the inequality of moral status amongst human beings and nonhuman animals, then it may similarly undermine the equality of moral status amongst human beings themselves.

Now, many advocates of persons' moral equality have rejected the differentiation objection by arguing that moral personality is either the *only* morally relevant property that confers moral status (Christiano, 2015; Kant, 2002), or by suggesting that moral personality is a very complex and rich property, which – suitably defined – encompasses most of the other morally significant properties that are usually considered to ground moral status (Waldron 2017). Thus, for example, it seems reasonable to maintain that moral personality presupposes the possession of the capacity to care, given that this is crucial to the possession of a sense of justice. And, it clearly supervenes upon the ability to have desires and beliefs, and a sense of future, as these are necessary features to hold the capacity for a conception of the good. Hence, differences of degrees to which these subvenient properties are held do not generate differences in degrees of moral status because what matters is that moral personality *as a whole* is held to an equal degree.

However, not only is this line of argument unavailable to intra-status views of adults and children's moral equality, but it also reveals that the differentiation objection presents an especially serious challenge to the justification of adults and children's equal moral status. To illustrate this, consider Jaworska's prominent account of moral status. In brief, Jaworska argues that the possession of the capacity to care is *sufficient* to have equal moral status (Jaworska 2007: 460), while the possession of moral personality is *unnecessary* (Jaworska 2007: 478-9). This argument allows us to widen the scope of moral status, thereby affirming that not only adults but also children have moral status. However, to justify the equality of moral status between adults and children, it is not sufficient to argue that the possession of moral personality is unnecessary to have moral status; rather, it must be shown that it is *not sufficient*. This is because if, as it is often maintained, holding moral personality is sufficient – albeit unnecessary – to have moral status, then the equality of moral status between adults and children is undermined, for the former do not only possess the capacity to care – like children do – but they also have the capacity for moral personality, which children either lack or possess to a lower degree. Hence,

this seems to offer at least a *prima facie* non-arbitrary reason to confer on adults a moral status that is superior to that of children.

Proponents of intra-status views typically maintain that the equality of moral status between adults and children is grounded in a morally significant property that is commonly held by adults and children. But they have so far failed to see that this is not enough to account for adults and children's equal moral status. There is a further step that needs justification: it must also be shown that adults do not possess a further status-conferring property that may upset the equality of moral status between them and children. This, however, is a pressing challenge to meet, for adults are typically considered to possess morally significant properties – such as, the capacity for a conception of the good and the capacity for a sense of justice – that children either lack or hold to a lower degree.

Let me now conclude by addressing an objection that can be pressed against the argument made so far. A critic may concede that this section has identified some pressing challenges that any intra-status account of adults and children's equal moral status must face. However, they may observe that if adults and children's moral equality cannot be justified, it does not follow that children – rather than adults – have an inferior moral status. Thus, for example, adults and children's moral status may be grounded in the same status-conferring property, which however is held by children to a higher degree. Or, adults and children may share a status-conferring property, but the latter may also possess a further status-conferring property that the former either lack or hold to a lower degree. In short, children – not adults – may have a superior moral status.¹³

In response to this objection, it should first be noticed that it is certainly true that if adults and children do not have equal moral status, this does not entail that the latter – rather than the former – have an inferior moral status. However, there are at least two reasons to maintain that showing that

¹³ I am grateful to an anonymous reviewer for prompting me to address this objection.

children – rather than adults – have an equal, not inferior, moral status has so far been proven more difficult. First, as we saw in this section and will see in the next, most of the prominent accounts of moral status in the literature have appealed to status-conferring properties that are commonly held by children and adults – and, arguably, at least some are possessed by the latter to a higher degree. Thus, for example, adults are commonly considered to hold more sophisticated agential capacities which allow them to display a higher capacity to have a sense of self, a superior capacity to flourish and to care, and a more developed subjective perspective into the world.¹⁴ Second, and most importantly, there have been few attempts to show that there is a morally significant property which is *exclusively* held by children and that is more valuable than the status-conferring properties possessed by adults,¹⁵ whereas many have argued that adults hold some morally relevant properties, which children either lack or hold to a lower degree. Most prominently, as we have seen above, moral personality – that is, the possession of the capacity for a conception of the good and the capacity for a sense of justice – is

¹⁴ Of course, not everyone agrees. For an interesting attempt to argue that children and adults have the same status-conferring properties, but that these are held by children to a higher degree, see Dwyer (2011: ch. 5).

¹⁵ To be sure, there have been several attempts to demonstrate that *childhood* is equally – if not more – valuable than adulthood. Thus, several philosophers have suggested that children have exclusive or privileged access to a range of goods – such as, “sexual innocence”, “carefree approach to life”, and “aimlessness and openness to future possibilities”. For instructive discussions, see Gheaus (2015) and Hannan (2018). But, as Tomlin pointed out, the question of the value of childhood and adulthood is distinct and, at least to some extent, independent from the question of the moral status of children and adults. Specifically, the former concerns whether childhood or adulthood is a valuable state for the individual who experiences them, whereas the latter is about whether children or adults hold any morally significant property and, therefore, have moral status (Tomlin 2018: 30-1). Therefore, views about the value of childhood have no straightforward implications for the question of adults and children’s moral status. For instance, the fact that children experience a “carefree approach to life” may entail that childhood is good but need not imply that having a “carefree approach to life” is a valuable property that confers (a superior) moral status upon them.

widely recognised to be a very significant status-conferring property typically held by adults, but that children do not have or possess to a lower degree. For this reason, then, it seems reasonable to conclude that if adults and children are not each other's equals, the burden of proof is heavier for the justification that the latter – rather than the former – do not have an inferior moral status.

6. *Inter-status* moral equality of adults and children

Intra-status accounts of adults and children's moral equality face serious challenges. But, as we saw in section 4, this is not the only way in which the equal moral status of adults and children can be justified. Another possibility is to adopt an *inter-status* view of adults and children's moral equality, whereby adults and children have equal moral status, despite having a different basis of moral status.

This approach has also been widely defended in the literature. For example, several philosophers argued that adults' moral status is grounded in the possession of moral personality, whereas children's moral status is grounded in the possession of the *potential* for moral personality (Locke 2016; Rawls, 1971; Schapiro 1999; Waldron 2017). Others – more reluctant to appeal to the notion of potentiality – contended that children's moral status is based on other morally relevant properties – such as, self-awareness, the capacity to flourish, or the capacity for sentience (Brighouse 2002; Sangiovanni 2017). According to these inter-status views, while the possession of different bases of moral status justifies a difference in the kind of fundamental rights that adults and children respectively have – for example, being autonomous agents, adults have a basic right against being treated paternalistically, which children do not have – it does not entail that adults and children have *unequal* moral status.

In this section, I examine whether inter-status views fare better with regards to the objections that intra-status accounts encounter. To begin with, it should be clear that there is no reason to believe that the former fare better than the latter with respect to the variations objection. Inter-status views

must select two different bases of moral status that ground the moral status of adults and children, respectively. As observed above, however, the most plausible candidates for the basis of moral status are *scalar* properties; hence, to avoid the variations objection, it must be explained why what matters is holding a status-conferring property up to a relevant threshold, whereas the variations in the degree to which this property is possessed above the threshold are morally irrelevant. Accordingly, proponents of inter-status must provide an independent plausible moral reason that explains why the two morally relevant properties upon which the equality of moral status between adults and children is ultimately meant to supervene are range properties. In this respect, then, inter-status views do not have any clear advantage over intra-status views.

Let us turn to the differentiation objection. First of all, it should be noticed that inter-status views must identify two status-conferring properties that are *exclusively* possessed by either adults or children. To appreciate this, consider a prominent inter-status view, whereby the moral statuses of adults and children are respectively grounded in the possession of moral personality and the capacity for sentience. It is unclear how such a view can justify adults and children's moral equality, given that the latter only possess the capacity for sentience, whereas the former hold both the capacity for sentience *and* moral personality. What reason do we have to maintain that the possession of a further status-conferring property does not undermine the equality of moral status between adults and children?

But this is not the only challenge that inter-status views encounter when addressing the differentiation objection. In fact, it is not enough to identify two status-conferring properties, X and Y, that are exclusively possessed by adults and children, respectively. Rather, it is necessary to show that these status-conferring properties are *equally* valuable. This is because if the moral status of adults is grounded in a status-conferring property X and the moral status of children is grounded in a status-conferring property Y, then if X and Y are not equally valuable, it follows that adults and children do

not have equal moral status.

To illustrate this, consider how the differentiation objection puts pressure on an important inter-status view, according to which fully competent adults have moral status *qua actual* moral persons, whereas children have moral status *qua potential* moral persons. Critics have often pointed out that this account should be rejected because potentiality is not a morally relevant property which can plausibly ground moral status (Warren, 1977). But our analysis helps us to see that this is not the only problem that this inter-status view may be vulnerable to. Even if we concede that the potential for moral personality is a morally significant property, from this it simply follows that children have moral status. However, it is more difficult to see why from this we should conclude that children's moral status is *equal* to that of adults. The reason for this is that it is not clear why the possession of the potential for moral personality should be considered *as valuable as* the actual possession of moral personality. On the contrary, it seems plausible to maintain that the value of the potential for acquiring a property is derivative from – and therefore less valuable than – the actual possession of the property itself, other things being equal (Burgess 2010; Floris 2021). In other words, the potential for moral personality is valuable only because – and to the extent that – actual moral personality itself is a morally relevant property. But if this is true then the former derives its value from the latter, thereby being less valuable than it. Accordingly, so the objection concludes, two *unequally* valuable status-conferring properties cannot confer *equal* moral status upon their holders.

To be sure, this is not meant to be a conclusive objection against this inter-status account of adults and children's moral equality. Rather, this is simply to illustrate that it is not enough to identify two morally relevant properties that adults and children exclusively possess to conclude that they have equal moral status. From the fact that both adults and children hold a status-conferring property, it only follows that they have moral status. However, to account for their *equal* moral status, it is necessary to show that their different bases of moral status are *equally* valuable.

To avoid the differentiation objection, then, inter-status views must identify two status-conferring properties (i) which are exclusively possessed by adults and children respectively, and (ii) that are equally valuable. Therefore, inter-status accounts of adults and children's moral equality score worse than intra-status accounts with regards to the differentiation objection. Not only do the former, like the latter, have to rule out the possession of further status-conferring properties that can upset adults and children's moral equality, but they also have to account for the equal value of the two morally significant properties that ground adults and children's moral status.

It is sometimes suggested that, although adults and children have a different kind of moral status, they still have equal moral status. In this section, we have seen that while this is a conceptually coherent view, it does run up against some daunting challenges. Specifically, like intra-status accounts, inter-status accounts have so far failed to provide convincing responses to the variations and the differentiation objections.

7. What if adults and children do *not* have equal moral status?

Standard attempts to justify a more inclusive account of *equal* moral status have either identified a status-conferring property that is shared by both adults and children or, alternatively, have argued that children possess a different morally relevant property, which grounds their moral status. In the previous sections, I argued that, if we take seriously the challenges that have been raised against accounts of persons' moral equality, we have strong reason to maintain that while these views have been successful in widening the scope of moral status, they have so far been unable to justify the *equality* of moral status between adults and children. In brief, this is because neither identifying a status-conferring property that adults and children share, nor singling out two different status-conferring properties that adults and children respectively possess, is sufficient to conclude that adults and

children are one another's moral equals.¹⁶

This then invites us to at least consider what denying the equality of moral status between adults and children would exactly entail. In other words, what would it follow if adults and children did not have equal moral status? Denying moral equality is considered to be deeply implausible. Indeed, it is often affirmed that the commitment to moral equality is the most fundamental premise of any reasonable theory of justice (Kymlicka, 2002: 3-4; Sen, 2006: 4), as it provides a philosophical justification against any form of hierarchical society that regards some of its members as morally inferiors, deprived of any right. As Christiano observes, “[t]he idea of such equality has played a central role in defeating the evils of slavery, racism, sexism, genocide, and colonialism” (Christiano, 2015: 53; Waldron 2017: 149-55). Drawing on the previous analysis, however, in this section I show that denying moral equality is compatible with condemning several of the evils referred to by Christiano. In other words, then, while moral equality plays an important justificatory role, its role is not as far-reaching as generally assumed. To be clear, the aim of this section is not that of explaining why we do not need to worry about not having conclusive reasons to maintain that adults and children have equal moral status. On the contrary, the aim of this section is to explain exactly how worried we need to be.

To begin with, the analysis of the distinction between moral status and equal moral status allows us to see that from the fact that children do not have *equal* moral status, it follows neither (i)

¹⁶ It may be suggested that a promising way to overcome these challenges is to maintain that adults' moral status and children's moral status are *incommensurable*. This, however, is a mistake because adults and children's moral equality cannot be derived from the incommensurability of their moral statuses. If adults' and children's moral status are not commensurable, then it is simply impossible to establish whether adults and children have equal or unequal moral status. But the incommensurability view, a critic may note, can at least ground a *presumption* in favor of their equal moral status. Whether incommensurability justifies a presumption in favor of equality is debatable. However, the important point here is that incommensurability is insufficient to ground a *definitive* justification for adults and children's equal moral status.

that children do not have moral status, nor (ii) that they have a *weak* moral status. As noted in section 3, in fact, the possession of moral status does not amount to the possession of equal moral status: whilst the former is about the *kind of* rights, if any, that a being has, the latter concerns the *stringency* of a moral status-holder's rights. Hence, saying that children do not have *equal* moral status – and, therefore, do not have *equal* rights – does not imply that children do not have moral status and, thus, do not have *any* rights.¹⁷ In addition, this also reveals that denying that children have equal moral status has no bearing on the kind of rights that children have *qua* moral status-holders. Thus, maintaining that children do not have equal moral status is compatible with holding that children have a *strong* moral status which grounds a wide range of rights, such as the rights to life, to not be severely harmed or ill-treated, to not be exploited, and so on and so forth.

Second, the fact that children have a moral status that is inferior to that of adults does not even entail that *every* right of the latter should outweigh *every* right of the former. This is because when determining whose right should be prioritized in cases of conflicting claims and scarce resources, we should not only look at the degree of moral status of the beings in question, but we should also take into account the seriousness of the interests at stake. Thus, for example, even if we believe that human beings have a moral status that is superior to that of monkeys, this does not entail that we should conclude that killing a monkey is morally preferable to pinching the arm of a human being. In this case, it seems undeniable that the inequality in the seriousness of the interests at stake outweighs the inequality of degree of moral status between human beings and monkeys. Similarly, then, even if we maintain that children have a moral status that is inferior to that of adults, it does not follow that inflicting a great amount of pain on a child is morally preferable than inflicting a very small amount of pain on an adult. In this case, too, it is implausible to deny that the inequality of the seriousness of the

¹⁷ For a defense of the view that children lack rights *qua* moral status-holders, see Griffin (2002).

interests outweighs the inequality of moral status between children and adults.¹⁸

Thus, *contra* what is often assumed in the literature on basic equality, holding that adults and children do not have equal moral status is compatible with maintaining that children do have a wide range of rights *qua* moral status-holders, and that some of their rights even trump some of the rights that adults have.¹⁹

Let us now examine what instead is entailed by denying the equality of moral status between adults and children. To do this, it will be instructive to consider Colin Macleod's analysis of the priority of children's rights over *comparable* rights of adults. Macleod observes that children and adults have a similar interest in avoiding suffering severe pain, which grounds a comparably strong right to access to pain medication. But, in circumstances in which it is impossible to provide pain-relieving medication to both a child and an adult who suffer from the *same* pain, the right of the former should be prioritized over the right of the latter, because children generally suffer more and are less able to recover (Macleod 2002: 224). In other words, the same pain to children and adults is more *harmful* to the former than to the latter; hence, it is morally more urgent to satisfy children's right to avoid severe pain than the same right of adults. For this reason, Macleod concludes, "moral ties go to children" (Macleod 2002: 224).

Macleod's analysis helps us to capture exactly what is at stake when denying that adults and children have equal moral status: a commitment to adults and children's moral inequality entails that moral ties *do not* go to children.

¹⁸ More needs to be said about when the less fundamental interests of beings whose moral status is superior are outweighed by the more fundamental interests of those beings who have an inferior moral status. However, the important point here is that denying moral equality does not imply that *all* the rights of the beings whose moral status is superior should have priority over *all* the rights of the beings whose moral status is inferior.

¹⁹ Interestingly, while this point has often been overlooked in the literature on basic equality, it has been captured in the literature on children's rights. See, for example, Hannan (2018).

To start with, however, it should be noted that Macleod's case is not an instance of a moral tie between two comparable rights. Indeed, as Macleod himself observes, while both adults and children have an interest in avoiding suffering from severe pain – which, in turn, grounds a strong right to be relieved from severe pain – the *same* pain is *more* harmful to children than to adults. But if this is true, then it follows that in a case in which children and adults suffer from the same pain, children have a stronger claim than adults to be relieved from pain, because the same pain is *worse* for them. Hence, Macleod's case is an example of two *unequally weighty* interests.

Now, if the pain that adults and children suffer is comparable, then there must be levels of pain for adults and children that are *equally harmful*, all things considered. And, it is in cases of this sort that adults and children have an equally weighty interest to avoid suffering from pain. However, as we saw above, when equally weighty interests are at stake, the degree of one's moral status is the only relevant factor to determine whose right should be prioritized is. Therefore, a commitment to adults and children's moral inequality entails the moral impermissibility of resorting to an independent fair decision-making procedure to work out whose right to equally weighty interests should be prioritized. On the contrary, moral inequality implies that priority should be granted to the right of those beings whose moral status is superior in cases of scarce resources and conflicting *equally weighty* interests. Accordingly, in a revised version of Macleod's case in which (i) it is impossible to provide both children and adults with pain-relieving medication, and (ii) the pain that children and adults suffer is *equally harmful*, all things considered, a commitment to the inequality of moral status between adults and children implies that pain-relieving medication should be given to adults, other things being equal.

We are now then in a position to see that a commitment to adults and children's moral inequality does have a very disturbing implication as to what is owed to them, as a matter of justice: if adults and children do not have equal moral status, it follows that, in conditions of scarce resources and conflicting rights to *equally valuable* goods (all things considered), the rights of the latter should be

trumped by the rights of the former, other things being equal.

To conclude, in this section I examined the implications that rejecting adults and children's moral equality has – and those that it does not – for theories of justice for adults and children. I argued that denying adults and children's moral equality is compatible with maintaining that children have a wide range of rights, and that some of the rights that they have even trump some of the rights that adults have. However, giving up on the commitment to moral equality does have a very troubling implication: it requires prioritizing the rights of adults in cases of scarce resources and conflicting claims to equally weighty interests, other things being equal.

8. Conclusion

Much of the literature on basic equality has focused on the question of what grounds the equal moral status of persons, understood as fully competent adults, thereby failing to address the question of the equal moral status of other human beings who do not hold a range of sophisticated cognitive capacities. On the other hand, most contributions to the question of the moral status of those human beings that are not fully competent adults have so far not engaged with some serious challenges that have been raised against standard accounts of persons' moral equality. In this paper, I brought these two literatures together by analysing the question of the equality of moral status between adults and children. First, I provided a conceptual map of this complex issue by distinguishing between two possible views of adults and children's moral equality – intra-status views and inter-status views – which have distinct implications for theories of justice.

Second, I argued that when applied to the question of adults and children's moral equality the challenges raised against standard accounts of persons' equal moral status are even more forceful. In other words, justifying the equality of moral status between adults and children turns out to be more difficult than justifying the equality of moral status among persons themselves.

Finally, I showed that the justificatory role of the principle of moral equality is not as far-reaching as commonly assumed. Denying adults and children's moral equality does yield disturbing implications – i.e., prioritising adults' rights in cases of scarce resources and equally weighty interests, other things being equal – but it is also consistent with several common-sense moral beliefs, such as maintaining that children have a wide range of rights *qua* moral status holders, and that some of their rights even outweigh some of the rights that adults have.

Recent contributions to the literature on basic equality have made important progress towards accounting for persons' status as equals. Not enough, however, has been done to provide a convincing justification for the common-sense intuition that children do not simply have moral status but they, too, enjoy a status as equals. This paper has clarified what exactly is at stake, elucidated the challenges that lie ahead, and illustrated how they can be overcome.

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