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RECONSIDERING THE STATUS OF ANIMALS IN KANT'S ETHICS

By

Heather Marie Fieldhouse

A DISSERTATION

**Submitted to
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ABSTRACT

RECONSIDERING THE STATUS OF ANIMALS IN KANT'S ETHICS

By

Heather Marie Fieldhouse

Kant claims that we have a duty to avoid inflicting unnecessary suffering on animals because doing so damages our own humanity and hardens us to human suffering. I argue that this theory of indirect duties to animals is weak because it rests on an empirical claim that may not be true, and because it encourages us to exploit what Kant sees as a mistaken analogy between humans and animals, when it would be more consistent for Kant to advise us not to make this mistake at all. Since Kant's indirect-duty theory fails, Kant's followers must choose between accepting a theory which permits no duties with regard to animals at all (which, though consistent, violates common intuition) or constructing a new theory within the Kantian framework. I attempt to do the latter. First, I analyze Kant's doctrine of animal minds, showing that although Kant regards animals as possessing sensibility, he denies that they have understanding or reason. I suggest that the evidence points to animals having at

least understanding and possibly some prudential reason, but that they do not possess reason in the full sense required for moral agency. I argue that animals, although they do not set their own ends and thus cannot be regarded as ends-in-themselves, do have ends that are given to them by nature. As beings with ends, they stand between mere things that have no ends, and rational beings that are ends-in-themselves. I propose a broader version of Kant's kingdom of ends, in which rational beings respect the ends of all other beings that have them, including animals and other moral patients. The moral status of animals would still be dependent on the existence of rational beings (without moral agents, there would be no duties), but our duty to take their ends into account would be a direct duty to them, rather than being a covert duty to human beings.

In memory of the General

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1. INTRODUCTION AND LITERATURE REVIEW

1. Overview

Kant explicitly denies that we have any direct duties to animals, so any attempt to account for actual moral duties to animals (rather than indirect duties that are actually to humans) will not be completely faithful to Kant. Kantians who wish to incorporate animals more fully into their moral philosophy while still remaining mostly faithful to the spirit of Kant can take two different general approaches. First, and most strictly Kantian, they can try to defend Kant's own theory of indirect duties to animals, and perhaps show that it is applicable to some of the current concerns about human treatment of animals. This approach has the advantage that Kant's moral philosophy can be accepted more or less intact, but the disadvantage that certain common intuitions are violated. Second, they can attempt to show that animals do possess some qualifications which admit them into the moral domain, possibly as moral patients but not moral agents (whereas Kant held that only moral agents are moral patients). This approach has the advantage of giving animals some intrinsic moral worth (and

thus better accounting for common intuitions), but the disadvantage that it will require a greater revision of Kant's position.

2. Contemporary Discussion of the Indirect Duty View

Kant holds that we have no duties to animals, but we have indirect duties with regard to them. We ought not treat them cruelly, as it damages our natural sympathies and thus can harden us in our dealings with other human beings. Thus our duties with regard to animals are actually duties to human beings. We may kill animals if it is done humanely, and put them to work if it does not strain their capacities; in other words, we can use them as means to our ends, but we must avoid being cruel as we do it (6:443, 27:458-460).

A Kantian indirect-duty approach to the moral status of animals has enjoyed a recent revival. Dan Egonsson, for instance, tries to show that it can go beyond just the basic prohibition against wanton cruelty; Egonsson believes it can be used to defend ethical vegetarianism.

According to Kant, being cruel to animals tends to make a person also insensitive to his fellow man; that is why apparent duties to animals are actually indirect duties, since ultimately they are duties to mankind. This does not seem

to apply to meat-eating, since it is possible to eat meat without being involved oneself in the raising and slaughtering of the animal; in fact, most people are very distanced from this process. Egonsson, however, writes that we can plausibly extend Kant's remarks to also encompass accepting cruelty to animals (477).

Anyone who eats intensively-farmed meat is implicitly accepting cruelty to animals. (Egonsson uses the example of intensively-farmed meat presumably because humanely-raised animals which are killed painlessly would not be suffering; since animals are only means, there would be nothing wrong with killing them for food provided there is no cruelty involved with the raising and slaughtering. Nevertheless, since most of the meat which is readily available probably does not meet this ideal standard, Egonsson's extension of Kant's position would tend to lead to vegetarianism.)

Egonsson decides that if accepting cruelty to animals does have a desensitizing effect, then one cannot universalize the principle of eating meat. "People might become less sensitive to your suffering – a consequence that is probably undesired by you" (477). This is not a logical contradiction, but it does seem to be a contradiction in will. Vegetarianism is thus supported by the universal law formulation of the categorical imperative.

Egonsson then goes on to consider another formulation of the categorical imperative, the formula of humanity. He considers a claim made by Tom Regan that whereas the universal law formulation shows that vegetarianism is morally required, the formula of humanity provides no guidance on the issue of vegetarianism. Regan claims that this shows that the two formulations are not equivalent. Egonsson argues that, given the desensitizing effect of allowing animal suffering, both formulations equally promote vegetarianism: "Brutalization is also undesired if we have the ambition to treat humanity as an end, and therefore a moral case for vegetarianism will follow from both the formulations" (48).

Allen Wood defends what he calls Kant's logocentrism – the grounding of all duties in the value of rational nature – but takes issue with Kant's adoption of what he calls the "personification principle," which is the idea that to respect rational nature is to respect it in someone's person (196). Wood's response is that rational nature, including fragments of it and even preconditions of it, should be respected wherever it is found, for instance, in the proto-rational or semi-rational minds of animals (198). The problem with this position, as noted by Onora O'Neill, is that it is not obvious that all or even most animals participate in

any kind of rational nature at all, fragmented or otherwise ("Kant and Duties" 224).

Kant himself regarded animals as possessing neither reason nor even understanding. Even if some animals do have a degree of rationality (as I will argue in Chapter 2), they do not have the kind of rationality that is worthy of moral respect as an end in itself. Presumably the intelligence that animals have is one of the preconditions of rationality, as Wood suggests, but it is not clear why that gives it value. It is not as though the animal has the potential to develop these capacities into full moral rationality (unlike children, about whom it makes sense to say that we must respect their pre-rational nature).

Peter Carruthers has also defended a Kantian approach, although with a change in emphasis. Whereas Kant claims that cruelty to animals tends to *cause* people to become hard in their dealings with other human beings, Carruthers claims that cruelty to animals reveals an existing flaw in the agent: a general indifference to suffering, which will probably also express itself in the agent's dealings with human beings (153-154). Carruthers's approach is very much in the spirit of Kant's, but with one advantage and one disadvantage. The advantage is its empirical plausibility. Animal welfare organizations often

emphasize a link between violence against animals (especially in youth) and violence against humans. The implication is often that the former causes the latter; much has been made of the fact that many infamous murderers were previously caught abusing animals. It could just as easily be said, however, that some underlying character flaw (indifference to, or even enjoyment of, others' suffering) is responsible for both the animal and the human cruelty. Carruthers is therefore not faced with the difficulty of showing how the one type of cruelty causes the other; he only needs to show that there is a connection.

The disadvantage of Carruthers's view is that although it may show why we have a repugnance toward animal cruelty, it does not show that these actions are immoral. If, as Kant holds, being cruel to animals causes us to be cruel to humans, then we have a duty to refrain from being cruel to animals. If the animal cruelty is only a symptom of a character flaw, rather than the cause of it, then it would be deplorable but not evil. We would have no duty to refrain from it, though we would be justified in passing unfavorable judgment upon the moral character of those who engaged in it. By way of analogy, consider the mother who suspects that her son's style of dress indicates that he is involved with the drug culture. This seems to be good reason for her to be concerned about his

character and lifestyle, and perhaps even to find his style of dress unpleasant. However, it does not mean that his clothes are inherently harmful, and if she responds by forbidding him to wear them, most would think her prohibition is misguided. If the clothes caused the lifestyle, then the prohibition would make sense. Hence an indirect duty view, to successfully establish that we ought to refrain from being cruel to animals, must establish that such cruelty itself causes the character flaw that leads to cruel treatment of humans, as Kant maintains.

Two main criticisms have been levied against the Kantian indirect duty approach. The first is that it has certain consequences that are extremely counter to intuition. James Skidmore identifies a counterfactual claim (dubbed "CF") which is widely regarded as intuitively true:

Counterfactual (CF): Even if certain (e.g., cruel or brutal) treatment of animals had no effect on an agent's attitudes or behavior towards human beings, such treatment would still be morally objectionable. (8-9)¹

Kant (and other supporters of the indirect duty view) must deny CF.

Furthermore, if it happened that somehow torturing animals made us kinder to humans (for instance, by allowing us to release aggression), then we would be

¹ The page references for Skidmore refer to a copy of his presentation provided to me by the author.

obliged to do it (8).

Christina Hoff gives the example of a man who has always acted kindly towards his family and towards human beings in general, but who is in the habit of secretly burning stray dogs to death. According to Kant, he would not be wronging the dogs, since we have no duties to dogs. Instead, he would be guilty of wronging humanity, because such dealings with animals tend to make one hard towards human beings. The terrible suffering of the dogs is in itself of no importance. Indeed, before the arrival of mankind on the evolutionary scene, no animal suffering or happiness had any value whatsoever; and upon the awakening of rationality, it took on a merely indirect significance. Hoff regards this as implausible and counter to our moral intuitions (67).

In Hoff's view, this implausible claim belies a deep flaw in Kantian ethics. "If there are any moral truths," she writes, "this one is clearly among them: suffering is an evil, and gratuitously and deliberately to inflict pain and suffering is a moral evil. This needs qualification, but we must be wary of any moral theory [. . .] that loses sight of it" (68). Furthermore, Kant is unable to satisfactorily account for mentally impaired humans in his ethics: either they are simply means to an end, like animals, or else some sort of leeway must be

introduced to allow them moral recognition – but any such leeway is likely to make it even more difficult to exclude animals. “It is implausible that our duty to feed a hungry retarded child would turn out to be indirect and, in this respect, essentially distinct from our duty to feed a normal child” (68).

Hoff regards Kant's limitation of the moral realm to humans to be merely dogmatic, and says that in absence of any good argument for it, we should trust our intuitions. It is certainly true that the indirect duty view is unintuitive, at least for many people; however, it is uncharitable to simply discard Kant's exclusion of animals from the moral realm as dogmatic. He does indeed have an argument for his position based on the inability of an irrational being to be autonomous (set a law for itself), an argument not neatly excisable from his moral theory as a whole. The fact that his position runs into difficulties with regard to irrational human beings is, however, worth noting.

Are the counterintuitive consequences of Kant's view a problem for it? They certainly make it seem unpalatable. Alexander Broadie and Elizabeth Pybus point out that, since Kant believed his moral system to accord with the ordinary moral intuitions of the common person, it is legitimate to criticize his moral system if it does not in fact accord with these intuitions. Aside from this,

however, there is another strong criticism of Kant's theory which does not rest on intuitions.

The other main problem cited against Kant's theory is that he cannot successfully make the causal connection between cruel treatment of humans and cruel treatment of animals. Broadie and Pybus show that Kant believes this connection is founded on an analogy. Although animals are only things and not persons, Kant claimed that they have some qualities which are analogous to human qualities ("Kant's Treatment" 377). However, "His claim that animals are analogous to persons appears to mean no more than that they behave as if they have psychological states that we take to characterize people" ("Kant's Treatment" 378). There is no further claim being made; Kant certainly does not mean that they have anything like a faculty of reason.

Although they are things with features analogous to ours, they are nevertheless still things, and therefore we do not have direct duties to them. Kant refers to the mistaken notion that we have duties to beings other than men as an amphiboly of the concepts of reflection ("Kant's Treatment" 379). Broadie and Pybus note that an amphiboly is defined as "a confounding of an object of pure understanding with appearance." They interpret his remark as meaning that

the belief that we owe duties to beings other than men "is based on the false assumption that beings which do not have a noumenal self, do" ("Kant's Treatment" 379).

Although Kant holds that we do not have direct duties to animals, "[. . .] he holds that maltreatment of animals is wrong first because it leads us to be unsympathetic to [. . .] other people. In other words it leads us to treat other people merely as a means" ("Kant's Treatment" 382). Second, it is wrong because it does violence to our own humanity, i.e., it leads us to treat ourselves as a means.

Broadie and Pybus regard this position as inconsistent, because Kant is claiming that in using certain things (animals) as means, by analogy we are led to treat people as means. Kant cannot point to any morally relevant difference between an animal and any other sort of mere thing, since the only possible morally relevant difference would be the possession of rationality, which animals do not have. Therefore, the authors claim, Kant is forced to say that nothing may be used as a means; we have an indirect duty to any thing not to use it as a means. "This is not merely absurd, but contrary to his imperative of skill" ("Kant's Treatment" 382). They also claim that Kant cannot prove even an indirect duty to

animals, because Kant's position rests on a psychological claim about human nature – that cruel dealings with animals make people hard towards other people – which, even if he could prove it true, is irrelevant because it is “[. . .] a contingent matter of fact about human beings, and not a fact about rational beings” (“Kant's Treatment” 382).

The fact that it is a matter of fact about human beings and not about all rational beings should not be a problem for Kant. Lying is morally wrong according to the universal law formulation, but in order for there even to be such thing as lying, we have to be the sort of beings who can communicate with each other, and who can express themselves falsely, and so on. The specific fact in this case involves the psychology of human beings, but the maxim could be construed as “I will not perform actions which tend to harm my ability to behave morally.” In order to apply this maxim, we do of course have to look at the empirical facts about what does tend to harm this ability.

Tom Regan responds to the aforementioned article with the remark that, although Kant's position may go against intuition, it is not internally inconsistent. Kant never claims, Regan points out, that we ought not use animals as means (as beasts of burden, for example). He claims that we ought not maltreat them,

which is a narrower claim. "For we can, given Kant's views, use an animal as a means without at the same time necessarily maltreating it, as when, for example, a blind man uses a seeing eye dog but treats him with love and devotion" (471).

Regan's response is brief, and does not address the central problem: what does it mean to maltreat something? We cannot define it as "to use something in such a way that goes against rationality (or morality)" because that begs the question. Maltreating something cannot merely mean using it as a means, for the reasons that Regan gives.

There is a hint in the Lectures on Ethics where Kant is reported as saying, "Vivisectionists, who use living animals for their experiments, certainly act cruelly, although their aim is praiseworthy, and they can justify their cruelty, since animals must be regarded as man's instruments; but any such cruelty for sport cannot be justified" (27:460). So, maltreating an animal for Kant is treating it with unnecessary cruelty. Whether a given cruelty is necessary is probably dependent on whether it is required for fulfilling a direct duty (or possibly even an indirect duty) to human beings.

Broadie and Pybus's analysis of the belief that we have direct duties to animals as an amphiboly, or mistaken analogy, raises an interesting point. If it is

a mistake that leads us to connect human and animal suffering, and if it is this psychological connection that leads to the causal connection between the two kinds of cruelty, wouldn't the solution be to train ourselves not to make that mistake? Kant's theory seems to be aimed at damage control, rather than prevention. Rather than accept that we will make that mistake, and then try to make sure it doesn't harm our sensibilities, it seems better to learn not to make the mistake at all.

Skidmore makes a similar point. A weak or moderate connection between cruelty to animals and inappropriate attitudes or behavior toward humans (i.e., that the former occasionally or usually leads to the latter) is not enough to establish indirect duties to animals. If the weak or moderate connection were established, it would not show that all agents have such duties; only certain agents would be so obliged, and the others could treat animals however they pleased. In order for the indirect duties to be universally applicable, it must be true that cruel treatment of animals almost always, for almost all agents, results in inappropriate attitudes or behavior toward humans (Skidmore 6). There is a lack of empirical evidence for this connection, and some evidence that suggests it is false. Surely some cultures have existed in which animals were treated

brutally, without everyone in turn being brutal to each other. Consider Spain, for instance; blood sports such as bullfighting are traditional and popular, yet there is no evidence that the people of that country are any more brutal to each other than in countries where such events are frowned upon.

The strong connection required for the indirect duty view may not be true; but even if it is true, Skidmore argues, the connection would not be a necessary one. If, as the indirect duty theorist claims, there is a clear moral difference between humans and animals, then it should be possible for us to harm animals without harming our sympathy for fellow human beings (11). In fact, since sympathy for animals sometimes can distract our attention from our true duties, it is not morally ideal. Therefore, we ought to try to shape our sympathy “[. . .] to reflect better the clear and crucial moral distinction (on Kant’s view) between animals and persons” (13).

The indirect duty theorist must then claim that shaping our natural sympathy in this way is impossible. This claim is very implausible, given the variation among people and cultures. Skidmore uses the example of abortion. Some people have an acute sympathy even for embryos, whereas others see them as nothing more than inconsequential tissue. “It seems rather obvious that

many people can and do shape their sympathies to reflect more adequately the moral beliefs they come to hold" (14).

An additional point along these lines (though not raised by Skidmore) is that at least some agents will, in the course of fulfilling their duties to humans, have to inflict acute suffering on animals. The researcher who must injure, poison, and inflict diseases upon animals for the benefit of humankind knows that this is his duty. It seems that he has two choices: he can unlearn his natural sympathy for animals because of his understanding that it is not morally appropriate; or he can harm animals despite his sympathy, and therefore also damage his sympathy for human beings. The latter would be immoral for the indirect duty theorist, but if the former is possible then the strong connection does not hold. Either the indirect duty theory must be abandoned, or else it must become so strong that any use of animals which causes suffering – including medical research – is forbidden.

3. Other Kantian Views

Besides the largely unsuccessful defense of Kant's own position, the other main Kantian strand in contemporary thought about the moral status of animals

has been to try to establish that direct duties to animals are possible within a Kantian ethical framework. A first necessary step in any such project is to show that, contrary to Kant's stated position, it is possible for there to be moral patients which are not moral agents. Kant believed that only moral agents can be moral patients because the requirement for moral agency, and the criterion for moral consideration, are the same: rationality.

One author who tries to separate the two is S. F. Sapontzis. Sapontzis defines "moral being" as "any being which meets both of the following conditions: it is capable of acting morally, and it merits moral rights" (45). First he considers the issue of whether animals are capable of acting morally. Animals, he points out, perform many actions which would readily be regarded as moral actions if they were performed by human beings: dolphins risking their lives to save human beings, guard dogs acting courageously in the defense of their owners, and so on. Yet animals are usually regarded as incapable of moral action (by Kant and others). Sapontzis reconstructs this argument as follows:

- A-1 Only rational beings can be moral.
- A-2 Animals are not rational.
- A-3 Therefore, animals cannot be moral. (45)

In order to determine the soundness of this argument, Sapontzis discusses what is meant by "rationality," why it is necessary for morality, and whether animals indeed lack the required rationality.

According to Sapontzis, Kant and others who make rationality a requirement for morality tend to use examples that indicate that "rationality" refers to normal, adult, human intelligence. Animals, the insane, and the retarded are usually thought of as amoral. On the other hand, morality is supposed to be accessible to the common person, not just to geniuses. The standard of rationality is considered to be "normal (adult, human) intelligence" (45).

Why is reason considered necessary for morality? The argument as Sapontzis sees it is as follows:

- B-1 An action is moral only if the agent recognizes it is the moral thing to do and does it because it is the moral thing to do.
- B-2 Only rational beings are capable of such recognition and motivation.
- B-3 Therefore, only rational beings can act morally. (46)

He differentiates between two senses of "moral." "Moral_n" is the moral value that an action has in itself, regardless of the motivations of the agent. "Ordinarily, kindness and honesty are morally preferable to cruelty and dishonesty regardless of the agent's motives or understanding of the situation" (46). "Moral_a" is the

moral value of the agent's motivations for performing the action and his understanding of the action. So, "An action is moral_a only if the agent recognizes its moral_n value and does it because of its moral_n value" (46). This premise is based on the common sense notion that performing a moral action sincerely is superior to either accidentally performing it, or performing it for some ulterior motive.

Another type of argument for the necessity of reason for moral action is identified by Sapontzis as follows:

- C-1 Only beings which are free to choose what they will do can act morally_a .
- C-2 Only rational beings are free to choose what they will do.
- C-3 Therefore, only rational beings can act morally_a .

A bird which feeds its hatchlings only because they have a certain smell is not acting morally_a because it is blindly reacting to a stimulus, one which is not even morally relevant to the situation. It is like a change machine which dispenses coins not out of a sense of dutiful exchange but simply because it is mechanically constructed to do so.

Sapontzis argues that the moral_n actions of animals do sometimes meet the requirements of arguments B and C. "When a dog pulls a child from a fire, it

is not acting blindly, like an insect reacting to a chemical mating stimulus," thus satisfying the requirement in argument C, "nor does it seem to have ulterior motives," thus satisfying the requirement in argument B (47). What morality really requires is that the agent recognizes that a goal has some moral_n worth, and that the agent makes a sincere effort to accomplish that goal. Sapontzis backs this up with various examples of animals which act in ways that are apparently not merely instinct-driven, such as a dolphin rescuing a human (a member of a different species entirely).

Having given animals this foot in the door to morality, Sapontzis goes on to qualify it. What animals lack, morally speaking, is the big picture. True morality_a requires the commitment to a moral way of life:

- D-1 An action is moral only if the agent does it because he believes it will contribute to attaining an ideal way of life.
- D-2 Only rational beings can project and dedicate themselves to ideal ways of life.
- D-3 Therefore, only rational beings can be moral.

He claims that animals do not perform moral acts, but do perform virtuous acts, and introduces some new terminology:

[K]indness, courage, honesty, etc. are "virtues"; intentional, sincere acts of kindness, courage, etc. are "virtuous acts"; and "moral acts" are virtuous acts which are done as part of fulfilling an ideal way of life. Thus, many animals are virtuous, but none are moral. (50)

Sapontzis then returns to the two conditions for being a moral being. The first, as discussed, is the condition of being capable of moral action. The second is the condition of meriting moral rights. A moral being “must be both a moral agent and a moral recipient” (50). He notes that for Kant, these two conditions are closely related; “[. . .] it is because rational beings are capable of acting morally, which is an end in itself, that they must be treated as ends in themselves” (50).

Animals can act virtuously, according to Sapontzis, but not morally. This puts them in an odd position, because they are capable of doing good deeds but they lack any sense of striving to do better. Sapontzis claims that this is similar to Kant’s conception of the “holy will.” A holy will is a purely rational being which always acts virtuously (in Sapontzis’s terminology) out of its very nature. “God always acts virtuously, but He is not striving to fulfill an ideal way of life and, therefore, is not a moral being” (51). God, being unaffected by sensuous impulses, does not have to “strive” at all. Sapontzis claims that if God is considered worthy of respect, as a being who does good without being moral, then it must be acknowledged that there are beings who are not moral that are nevertheless worthy of respect. It is plausible that an animal, as another sort of

being which is capable of being virtuous but not moral, would also be worthy of respect.

Sapontzis's position is an interesting approach, although Kant would likely not accept that an animal could act virtuously (here using the term as defined by Sapontzis, not as defined by Kant), and would maintain that even a dog saving someone from a burning building is merely responding automatically to the situation. Granted, it is responding to a morally relevant feature of the situation (saving a life) as opposed to the birds who only feed their offspring because they smell right, who are responding to a morally irrelevant feature (the smell); nevertheless, for Kant the dog is not acting freely, and hence its actions have no moral worth. At best, such a dog might be like the person who does the right thing out of sentiment instead of out of regard for the moral law.

Sapontzis's attempt to show that the class of moral agents and the class of moral patients do not have to be identical for Kant is especially interesting, but may not be as Kantian as he claims. The conclusion that we have duties to God (who is a moral patient but not strictly speaking a moral agent) and so we may also have duties to animals, does not follow, because Kant does not believe us to have duties to God. According to Kant, such a duty cannot exist because it

"[. . .] would be a transcendent duty, that is, a duty for which no corresponding external subject imposing the obligation can be given [. . .]" (6:241).

Broadie and Pybus have a different approach to establishing Kantian duties. They believe we should entirely dispense with the very notion that a duty must be a duty *to* an object instead of a duty to perform an action. "If we see a man drowning we may judge that we have a duty to save him, without judging that we have a duty to him [. . .]" ("Kant and Direct" 64). The trouble with this strategy is that it requires us to discard the formula of humanity and its associated arguments. However, the formula of universal law will still hold, which is apparently what Broadie and Pybus consider more essential about Kant's doctrine.

Broadie and Pybus claim that Kant's position is counter to our moral intuitions because it denies that we have duties to animals, but reserves direct duties for humans. Their solution is to abolish all direct duties. This seems to be even less intuitive, not more. If it is counterintuitive to say that refraining from beating a dog is not actually a duty to the dog, it is just as counterintuitive to say that refraining from beating a human is not actually a duty to the human.

Finally, Christine Korsgaard has recently offered a Kantian view of duties to animals that makes use of the concept of passive citizenship in the Kingdom of Ends. Since her approach has some important similarities to the interpretation that I will offer in my final chapter, I will discuss it in detail there.

4. Looking Forward

If Kant's own view is untenable, then a Kantian has two options: either accept the counterintuitive result that we have no duties at all (indirect or direct) to animals, or try to find some other way to establish duties to animals within Kant's system. My goal will be not only to find a better way to ground duties to animals within Kant's framework, but also to show that these duties go beyond mere avoidance of wanton cruelty. I will spend the next two chapters explaining Kant's conception of rationality and the role it plays in his moral theory.

Chapter 2 is devoted to determining what mental capacities Kant believes animals to possess and evaluating his position. I will consider whether animals could be considered rational, but conclude that Kant's conception of rationality prohibits this. I will argue, however, that animals do have minds, including some of the same mental faculties possessed by humans. This will tie in to the

eventual claim, in Chapter 4, that animals should be accorded the status of moral patients.

In Chapter 3 I discuss the role of reason, will, and autonomy in Kant's ethics, showing how they come together in the concept of an end in itself. I will suggest that although this concept is adequate to describe moral agency, it cannot account for nonrational moral patients, including some human beings. I acknowledge that animals are not ends in themselves, but leave open the possibility that there may be another way to qualify as a moral patient.

Finally, the existence of non-agent moral patients will be defended in Chapter 4. I will show that, despite Kant's own position on animals, Kantian ethics can be expanded to include duties to them that are not merely indirect. In doing so I will show that rationality can still be central to morality, and rational beings can still be the center of the moral universe, even while we acknowledge our duty to incorporate nonrational animals into our moral legislation.

2. KANT AND ANIMAL MINDS

1. Introduction

Kant did not regard animals as objects of direct duties. In order for something to be an object of direct duties it must be an end in itself, and in order to be an end in itself it must be rational. Animals, for Kant, cannot be objects of direct duties because they are not rational. Thus, to fully understand the moral status of animals in Kant's ethics, we must first determine why he does not regard them as rational. It cannot simply be that they do not have minds at all, because it is clear that Kant does not regard animals as Cartesian machines. He specifically denies this in the Critique of the Power of Judgment, stating that we can infer from the similarity between animals' behavior and man's that animals also act according to representations (5:464n). Since animals have representations, and representations are not physical entities, animals must not be entirely physical, as noted by Steven Naragon ("Kant on Descartes" 14). The question, then, is not whether they have minds, but what kind of minds they have. In this chapter I will address this question in two different ways. First I will explicate Kant's discussion of animal minds in his written works, and thus

determine his stated doctrine on the subject. Second I will discuss whether Kant's conception of the intellectual faculties necessarily leads to his position on animal minds, or whether it is possible to hold Kant's view of reason without coming to the same conclusions about animals.

2. Animals, Sensibility, and Understanding

First let us consider the cognitive faculties, sensibility and the understanding. Kant describes the understanding as follows:

The understanding [. . .] [is] a nonsensible faculty of cognition. Now we cannot partake of intuition independently of sensibility. The understanding is therefore not a faculty of intuition. But besides intuition there is no other kind of cognition than through concepts. Thus the cognition of every, at least human, understanding is a cognition through concepts, not intuitive but discursive. (A 67-68/B 92-93)

The understanding is a faculty of cognition through concepts. The concepts of the understanding are what enable us to think of objects. Before the objects can be thought of, they must be given through sensibility, which is our capacity to be affected by objects. Sensibility gives rise to intuition through the forms of intuition, space and time. Cognition, then, requires both the faculty of sensibility in order for the objects to be given, as well as the faculty of understanding in order for the objects to be thought. Kant writes that "without

sensibility no object would be given to us, and without understanding none would be thought. Thoughts without content are empty, intuitions without concepts are blind" (A 51/B 75). The understanding, along with sensibility, makes it possible to cognize something as an object.

The understanding is made up both of empirical concepts (concepts derived from experience) and of pure concepts. Pure concepts are "strictly *a priori* conditions for a possible experience, as that alone on which its objective reality can rest" (A 95). They are the concepts of an object in general. For something to be an object for us, we must already have the concepts that allow us to cognize it as an object. We must, therefore, bring the pure concepts to experience instead of deriving them from experience; otherwise there is no comprehensible experience to draw from in the first place.

As in the case of sensibility, which requires the forms of intuition (space and time) in order to give rise to intuitions, so the understanding presupposes some kind of synthesis in order for the manifold of intuition to be transformed into unified objects by the understanding. Kant writes that "All unification of representations requires unity of consciousness in the synthesis of them. Consequently the unity of consciousness is that which alone constitutes the

relation of representations to an object [. . .] and consequently is that which makes them into cognitions and on which even the possibility of the understanding rests" (B 137). This unity of consciousness, pure apperception, is "that self-consciousness which [. . .] produced the representation I think" (B 132). The simple representation "I think" must accompany the manifold of intuition in order for cognition to be possible; that is, the representations that make up an intuition are always thought of as my representations, and in this way are united in one consciousness (B 132).

These, then, are the basic components of cognition: "first, the concept, through which an object is thought at all (the category), and second, the intuition, through which it is given" (B 146). All intuitions have space and time as their form, whereas the understanding requires pure apperception (self-consciousness) in order to unite the manifold of intuition into objects. These cognitive processes are the same in all human beings; it is this commonality that allows us all to recognize the same objects and to interact with each other as part of the same world. Because these faculties are an inextricable part of our minds, "The human understanding cannot even form for itself the least concept of another possible understanding, either one that would intuit itself [i.e. would have

a non-sensible intuition] or one that, while possessing a sensible intuition, would possess one of a different kind than one grounded in space and time" (B 139).

The fact that our understanding cannot form a concept of such an alien cognition, however, does not mean that it is not possible: "We are acquainted with nothing except our way of perceiving [objects], which is peculiar to us, and which therefore does not necessarily pertain to every being, though to be sure it pertains to every human being" (A 42).

Although a substantial part of the Critique of Pure Reason is devoted to the exploration of the cognitive faculties, it is mostly silent on the subject of whether animals possess those faculties. Since its purpose is to analyze human reason and understanding, it is unsurprising that animals are hardly mentioned. One passage does imply that animals possess sensibility, since Kant describes them as having an arbitrium sensitivum, or sensible power of choice (A 534/B 562). In other works we find further support for the claim that Kant attributed sensibility to animals. For instance, there is the above-mentioned passage from the Critique of the Power of Judgment, in which Kant asserts that animals act according to representations (5:464n). Kant refers to sensibility as "the receptivity of our mind to receive representations insofar as it is affected in some

way" (B 75/A 51). Animals receive representations, so they can be described as having a faculty of sensibility. In the Lectures on Metaphysics, Kant states explicitly that animals possess sensibility including "a faculty of sensation, reproductive imagination, etc." (28:277).

Sensibility is a low-level faculty, comprised only of the capacity to be affected by the world and receive representations. Animals do show every sign of reacting to the world, which implies that they are affected by it. On the other hand, it could be argued that if sensibility is no more than the ability to react to the environment, then plants also possess sensibility. Plants react to sunlight by growing toward it, and some plants (such as the Venus flytrap) can even make quick movements based on stimuli. But to carry this line of reasoning further, if any reaction to environmental change constitutes proof of sensibility, then litmus paper possesses sensibility. Textual evidence does suggest that Kant regards animals as having sensibility, but there is little evidence to suggest that he regarded plants or nonliving things as possessing it. Extending the faculty of sensibility to animals does not commit Kant to extending it further, because sensibility is involved with representations, which plants and nonliving things

presumably lack. An explanation of the phototropic movements of plants can readily be made without reference to any representations.²

The fact that animals have representations and, implicitly, a faculty of sensibility does not mean that they have cognition. Cognition requires both sensibility and understanding, so if animals do not possess understanding, they can have only "blind" intuitions. Kant does not regard the understanding and sensibility as inseparable; he writes, "The categories of the understanding [. . .] do not represent to us the conditions under which objects are given in intuition at all, hence objects can indeed appear to us without necessarily having to be related to functions of the understanding [. . .]" (A 89/B 122). Granting that animals have sensibility, then, does not lead to the conclusion that they must have concepts of the understanding; and, in fact, Kant states that they do not have understanding (28:276, 29:879). Since they have sensibility and representations, they do have minds; but since they lack cognition, their intuitions are "blind."

What does it mean for a being's intuitions to be blind? Kant writes that

² See also the Opus Postumum (22:418) in which Kant claims that animals have souls and plants don't, because plants can be grafted, and therefore are not unified organisms.

"Without sensibility no object would be given to us, and without understanding none would be thought" (A 51/B 75). A creature that had sensibility but not understanding would have objects given to it that could not be thought. In fact, since the understanding contains the concepts that make it possible for something to be an object for us, a being without understanding would not have any awareness of objects as such. At most it would have the raw matter of sense, completely unsorted and unsynthesized. It would not have an experience anything like ours, and since we are conceptual beings we cannot even imagine what its experience would be like.

Furthermore, the metaphor of blindness suggests the interpretation that intuitions without concepts could not be experienced at all. Indeed, Kant equates experience with empirical cognition (B 147), and cognition requires concepts of the understanding. Therefore, a creature with sensibility but not understanding would not have experience, for Kant.

Kant describes sensibility as "the capacity (receptivity) to acquire representations through the way in which we are affected by objects" (A 19/B 33). It seems strange to say that a creature has representations that it does not experience, as would be implied for a creature that had sensibility but not

understanding. Stranger yet, since Kant defines sensation as "the effect of an object on the capacity for representation" (A 20/B 34), it would even be possible for a creature to have sensation but not experience. However, the apparent strangeness is merely a result of Kant's technical language. In common parlance, "experience" and "sensation" are often taken to be synonyms, but Kant assigns a more robust meaning to "experience." For Kant, experience is necessarily an experience of *objects*, which is only possible through application of the concepts of an object as such.

3. Animal sensation and consciousness

I have argued in the previous section that animals, for Kant, possess sensibility, though not understanding. They have representations, but not experience. Do they have any sensation or consciousness at all?

Kant repeatedly denies that animals are conscious. Many of these passages appear in pre-critical works, and so they may not be representative of his mature doctrine, but as late as in the Pölitz lecture notes (dating to sometime within 1778-1780) Kant writes that animals have "a faculty of sensation, imagination, etc., but all only sensible as lower faculties, and not connected with

consciousness" (28:277). On the other hand, in a few passages Kant does attribute consciousness to animals (Naragon, "Kant on Descartes" 11).

Naragon argues that when Kant denies consciousness to animals, he is using the term in a specialized way that does not preclude the possibility that he may have regarded animals as conscious in some sense:

If by "consciousness" is meant responsiveness to representations, then Kant certainly allows that brutes are conscious. What he disallows is the brute's ability to represent to itself some representation that it has, or to bring several or all representations together, or to compare two separate representations [. . .]. This use of "consciousness" appears similar to that of 'inner sense.' ("Kant on Descartes" 12)

One possible interpretation is that when Kant denied consciousness to animals he really only meant to deny them self-consciousness. Since they lack self-consciousness, they naturally also lack understanding (which requires the unity of apperception). According to the Lectures on Metaphysics, "an animal has no apperception, and therefore it is also incapable of any moral principles, of the use of understanding and reason" (29:879). Lacking understanding, they would not be able to judge by means of concepts, which could be described as "bring[ing] several representations together" or "compar[ing] two separate representations." This interpretation is consistent with Kant's letter to Herz (May 26, 1789) in which he attributes consciousness, but not self-consciousness, to animals (11:52).

If Kant meant only to deny animals self-consciousness, why did he so often deny them consciousness? Naragon's interpretation is that consciousness and self-consciousness are separate concepts, so that when Kant denies animals consciousness he is not simply denying them self-consciousness. He is instead denying them inner sense, meaning "the ability to have representations of 'inner things' (namely, other representations)" ("Kant on Descartes" 12). Inner sense is contrasted with outer sense, the ability to have representations of outer things. Kant writes that "by means of outer sense we represent to ourselves objects as outside us"; inner sense, on the other hand, is the means by which "the mind intuitively itself, or its inner state" (A 22/B 37). Naragon's interpretation of "consciousness" in certain passages as meaning inner sense is plausible, and is strongly supported by the following passage in the Lectures on Metaphysics:

Accordingly we ascribe to these beings a faculty of sensation, reproductive imagination, etc., but all only sensible as a lower faculty, and not connected with consciousness. We can explain all phenomena of animals from this outer sensibility and from mechanical grounds of their bodies, without assuming consciousness or inner sense. (28:277)

Naragon concludes that Kant is denying animals inner sense while leaving them with outer sense. The former is a higher level of consciousness than the latter; we could think of them as a rich consciousness (inner sense, or the ability to have representations of representations) compared with a bare consciousness

(outer sense only). According to Naragon, Kant regards animals as having a bare consciousness, but lacking a rich consciousness; and since self-consciousness is an even higher level of consciousness, animals lack that also. Kant is clear that inner sense and the faculty of apperception should be distinguished from each other (B 154-155); hence, if Kant uses "consciousness" in some passages to denote the inner sense, it is consistent with Naragon's interpretation that consciousness and self-consciousness are not the same for Kant.

Karl Ameriks makes the claim that when Kant denies that animals are conscious, he is simply denying that they have the ability to judge (Ameriks 242n). It is clear that Kant does deny them this ability (Naragon, "Kant on Descartes" 13); however, it seems unlikely that Kant would use the term "consciousness" simply to mean judgment. Naragon suggests that the connection between animals' inability to judge and Kant's denial of their consciousness is less direct; according to Naragon, "a certain reflective ability such as we find in inner sense... seems to underlie the ability to judge" ("Kant on Descartes" 13). Naragon thus ties the ability to judge with consciousness (in the rich sense); since animals do not have rich consciousness, they cannot judge.

There is, however, a simpler explanation for why animals cannot judge; judgment is defined as "the way to bring given cognitions to the objective unity of apperception" (B 141). Judgment thus requires self-consciousness, not merely consciousness, and furthermore it involves the application of concepts of the understanding, which animals (for Kant) do not have.

Naragon makes a good case that Kant recognizes different levels of consciousness, which accounts for his inconsistent remarks about animal consciousness. Further evidence that animals must be considered conscious in some sense can be found in Kant's hierarchy of representation:

The genus is **representation** in general (repraesentatio). Under it stands the representation with consciousness (perceptio). A **perception** that refers to the subject as a modification of its state is a **sensation** (sensatio); an objective perception is a **cognition** (cognitio). (A 320/B 376).

Since sensation is there described as a kind of perception, and perception as being representation with consciousness, it follows that a creature with sensations must be conscious. Several passages show that Kant does attribute sensation to animals. In a passage from the Lectures on Metaphysics Kant specifically attributes "a faculty of sensation" to animals (28:277). Indirect evidence can also be found in passages where he attributes feelings such as enjoyment or misery to them. In asserting that we have indirect duties with

regard to animals, he cites the "shared feeling of their suffering" as the sentiment that is damaged by violating these duties; "suffering" would seem to describe a variety of sensations (6:443). In a passage from the Metaphysics of Morals Kant discusses the impulses of nature that human beings have in common with the animals, and he includes "the preservation of his capacity to enjoy life" (6:420). It would be absurd to attribute enjoyment to a being without sensation; unconscious representations surely cannot constitute enjoyment. Another example is in the Religion; there Kant remarks that "Malebranche chose to deny to non-rational animals a soul, and therefore feelings, rather than to admit that horses had to endure so much misery..." (6:74n), with the implication that Malebranche's claim is absurd. Finally, in a letter to Marcus Herz (May 26, 1789) Kant suggests that animals have feelings and desire (11:52).

If Kant's denials of consciousness are a denial of rich consciousness (inner sense), then they also imply that animals do not have the further quality of self-consciousness. Self consciousness is required for understanding, so this

reinforces Kant's contention that animals do not have understanding.³ According

to Mrongovius's notes:

Now [self-consciousness] belongs to the human soul alone, and distinguishes it from all animals. An animal has no apperception, and therefore it is also incapable of any moral principles, of the use of understanding and reason [. . .] (29:878-879)

Animals are aware of their surroundings, but do not have a conception of self – they do not distinguish between "I" and "other" or even between "inner" and "outer." They have sensation, but do not distinguish the world as objects. They have minds of a sort, but so rudimentary as to be incomprehensible to us. They are more than Cartesian machines, but much less than persons.

4. Reason in Kant

First let us turn our attention to a matter of terminology. Kant uses "reason" (Vernunft) in both a specific and a general sense. The general sense refers both to reason proper and to the understanding, and as such is a general description of a person's intellectual workings. Although Kant makes no formal announcement of these different uses, they can be seen in various passages. In

³ This is entailed even if Kant's denials of animal consciousness can be interpreted as simply a denial of animal self-consciousness.

the Critique of Pure Reason Kant usually uses "reason" or "understanding" as appropriate, but the general use of "reason" is evident in places: for instance, the preface to the second edition contains various observations about the relation between reason and nature, stating that "reason has insight only into what it itself produces according to its own design" (B xiii) and so "it has to seek in [nature] [. . .] in accordance with what reason itself puts into nature" (B xiv). It is true that reason in the specific sense does contribute guiding principles to the organization of the natural world, but in speaking of what reason "produces" and "puts into" nature, Kant is probably also referring to the contributions that the understanding makes to the world of appearances through pure concepts such as causality. Another use of the general sense can be found in the Prolegomena (in which Kant refers to the mathematical concepts associated with the understanding as products of reason [280-281]).

The Transcendental Logic, which is the section that makes up the largest part of the Critique of Pure Reason, is divided into the Transcendental Analytic and the Transcendental Dialectic. The Analytic deals with the understanding, and the Dialectic with reason proper. Why, in a work titled Critique of Pure Reason, is so much of the discussion devoted to the understanding, rather than

reason? Part of the answer is that the "reason" in the title refers to the general sense of the term explained above. The purpose of the critique, Kant writes, is to "supply the touchstone of the worth or worthlessness of all cognitions a priori" (A 12/B 26). Since the understanding is a cognitive faculty, it must surely be included in such a critique. A parallel passage in the Critique of the Power of Judgment makes the inclusion even more explicit (5:288).

Another part of the answer is that Kant is setting up the understanding in contrast to reason. The understanding plays the cognitive role in Kant's system that reason plays in many of his predecessors'. Instead, reason has a higher calling in the practical realm.

The idea that reason is a cognitive faculty is associated with dogmatism, "the presumption of getting on solely with pure cognition from (philosophical) concepts according to principles" (B xxxv). A typical dogmatist is Leibniz, who held that all truths are discoverable by reason. This is because the universe is ordered rationally; it was created by a rational God in accordance with universal truths (Discourse 414-415). Reason for Leibniz, therefore, is a cognitive faculty by which we acquire knowledge of all things, both sensible and non-sensible (Monadology 459-460).

Kant holds that cognition can arise only from the interaction of the understanding and intuition. Although the concepts of the understanding are a priori, those concepts must always relate to intuition to be meaningful. The only kind of intuition that human beings have is sensible, so all cognition is related to experience. Leibniz and the other dogmatists have overstepped the bounds of human cognition by claiming knowledge of ideas such as God. Kant agrees, however, that human reason poses questions greater than those answered by the mere cognition of sensible objects. Kant breaks with the dogmatists by concluding that reason is not a cognitive faculty.

Leibniz's concept of reason is that of deterministic process. Susan Neiman writes that "Leibniz holds that truth determines reason. That is, once we understand the truth, we cannot help but accept it [. . .]. Truth itself commands reason's assent" (31). Furthermore, deductive reason is mechanical: Neiman suggests that "The correct use of reason involves a simple procedure that can be followed without choice or embellishment to reach the truth that is reason's goal" (31). This model of reason led Leibniz to believe that all disagreement could be resolved by calculation, if only the correct procedure, the universal calculus, could be discovered. Neiman describes the process of reasoning as having an

"automatic character," since "reason has no choice in assenting to the truths that the universal calculus uncovers."

The understanding, for Kant, has a mechanical quality similar to what Leibniz attributes to reason. Although the understanding is spontaneous rather than merely receptive, Neiman points out that spontaneity should not be confused with autonomy: "the categories of the understanding are spontaneous in that they are applied to, rather than derived from, experience" (49). This distinguishes them from the entirely passive association of ideas posited by Hume, but their mode of application is still mechanical in nature, engaged in "merely spelling out appearances according to a synthetic unity in order to be able to read them as experience" (A 314/B 370-371).

Leibniz gives reason a cognitive role, but the price is that reason is turned into a mere instrument to be used in processing truths. Kant's separation of reason from the understanding liberates it from this routine process, but also acknowledges that its role is not a cognitive one. Whereas Leibniz saw reason as a passive discoverer of the world's truths, Kant sees reason as an active creator of ideas. This will prove significant because even if evidence shows that some animals are able to use conceptual tools to arrive at conclusions about reality,

such evidence will not be enough to prove that they possess reason in the Kantian sense.

Having shown the limits of the understanding (and hence of cognition) in the Transcendental Analytic, Kant turns to the role of reason in the Transcendental Dialectic. There he returns to the claim made in the preface, that human reason "is burdened by questions which it cannot dismiss, since they are given to it as problems by the nature of reason itself, but which it also cannot answer, since they transcend every capacity of human reason" (A vii). The understanding, since it is limited to objects given in (sensible) intuition, cannot provide answers to questions about ultimate reality, but it is the nature of reason to pose such questions.

Here again we can see a contrast between Kant and Leibniz. Richard L. Velkley paints a somewhat less antagonistic picture of their disagreement than does Neiman. He points out that both Kant and Leibniz acknowledge the "metaphysical demands of reason" and attempt to account for reason's striving toward the goal of complete knowledge (21). The contrast between Kant's and Leibniz's reason, according to Velkley, is in their relationship to this goal. Leibniz makes reason an inert instrument that can be set to work on achieving this goal,

which is external to it. But Kant, Vekley asserts, sees a contradiction between the Enlightenment project to emancipate reason, and its use as such an instrument. Instead, Kant has made reason the originator of its own goal: "In some way, reason prescribes its own object; it spontaneously originates the goal of wholeness" (22). Vekley's interpretation differs from Neiman's in that he emphasizes the difference in what reason is striving for, whereas Neiman emphasizes the difference in how reason functions. Both agree that Kant's view of reason empowers it, as it is now free to create its own ends.

The term "reason" often brings to mind logic, and indeed Kant regards logic, epitomized by the syllogism, to be a "formal [. . .] procedure of reason" (A 306/B 363). He is careful to point out that "the syllogism does not deal with intuitions [. . .] but rather deals with concepts and judgments" (A 306/B 363). Since logic does not deal with intuitions, it does not result in cognitions. Reason in its logical use serves to give order to the cognitions of the understanding by comparing its concepts and subordinating them to each other.

Reason, however, is more than just the housekeeper of the understanding. It also seeks "to find the unconditioned for the conditioned cognitions of the understanding, with which its unity will be completed" (A

307/B364). This is the supreme principle of reason, but "[. . .] no adequate empirical use can ever be made of that principle" (A 308/B365). Reason, in other words, always seeks an explanation for the things it encounters in nature (the realm of the understanding), but there is always a further explanation for the explanation – that is, there is always another condition behind each condition. Ultimately, reason seeks the unconditioned, the final explanation that would unify all observations. Leibniz and Kant are in agreement that reason is not satisfied by a merely intermediate explanation. The dogmatists' mistake, according to Kant, is that they assumed reason will be able to find the unconditioned that it seeks.

Reason has its own concepts, but unlike the concepts of the understanding, they are not limited to experience, nor can they be satisfied by experience: "If they contain the unconditioned, then they deal with something under which all experience belongs, but that is never itself an object of experience" (A 311/B 368). Kant identifies three primary concepts of reason, which he dubs the transcendental ideas: the soul, the world, and God. Each one is the idea of an unconditioned unity. The soul is the unity of the thinking subject,

the world is the unity of the series of conditions of appearance, and God is the unity of the condition of all objects of thought in general (A 334/B 391).

Kant devotes more space in the first Critique to showing what reason cannot do, than to discussing what it can do. When philosophers fail to correctly distinguish between concepts of the understanding (cognitive concepts) and ideas of reason, error ensues. All cognition is related to possible intuition, but the unconditioned is not a possible intuition, so the ideas are not cognitive concepts; they cannot be used speculatively (to gain knowledge). What, then, is the role of reason?

As mentioned previously, one role of reason is a merely logical one, in which it discovers the relations between the various concepts of the understanding. The ideas of reason, however, are its own contribution entirely apart from the understanding. They have two valid modes of employment: regulative, and practical.

The regulative purpose of the cosmological ideas (those pertaining to the world) is to "[. . .] prescribe a rule to the regressive synthesis in the series, a rule in accordance with which it proceeds from the conditioned [. . .] to the unconditioned, even though the latter will never be reached" (A 510/B 538). It

provides a guide for science by commanding us to forever seek the conditions behind everything in nature, but the journey will never be complete. The regulative use of the ideas is the greatest extent to which they can be used in a speculative (knowledge-gathering) context. They provide a program for scientific inquiry, but they cannot be used to extend the concept of the world beyond possible experience.

The ideas also have a practical employment:

Pure reason has a presentiment of objects of great interest to it. It takes the path of mere speculation in order to come closer to these; but they flee before it. Presumably it may hope for better luck on the only path that still remains to it, namely that of its practical use. (A 796/B 824).

Reason prescribes pure practical laws, known as the moral laws. They are in answer to the question of "[. . .] what is to be done if the will is free, if there is a God, and if there is a future world" (A 800/B 828). These are questions about the world, God, and the soul, respectively. The "better luck" Kant refers to when discussing the practical employment of reason, is the fact that the ideas are more robust in the practical sphere than in their regulative use; no longer limited to mere principles of empirical regress, they acquire more content in response to the demands of practical reason.

Kant emphasizes the primacy of reason's practical employment over its theoretical. What exactly is meant by that is a subject of some debate. Onora O'Neill takes Kant's claim about the primacy of practical reason, combines it with his claim that the Categorical Imperative is the supreme principle of practical reason, and concludes that Kant is committed to the claim that the Categorical Imperative is the supreme principle of reason. Her interpretation of the primacy of practical reason is that it is a temporal primacy: we must be able to cooperate if we are to engage in reasoning, and thus we must live by moral rules that make cooperation possible before we can begin to reason. O'Neill stresses Kant's references to the "tribunal" of reason in the first Critique. The purpose of the tribunal is to pass judgment on reason (and thus to vindicate it), but, O'Neill writes, "tribunals can pass judgment only when they have been constituted. The task of constituting a 'tribunal' must come earlier on the agenda" (Constructions 9). The metaphor of a tribunal also implies a community of people, in contrast to the Cartesian project of an individual reasoning in isolation. The categorical imperative makes such a community possible: "[. . .] we must, if we are to evade the threat of Babel, act only on that maxim through which we can at the same

time will that it be a universal law" (Constructions 20). It is only through practice that we are able to recognize the importance of the categorical imperative: "it is [. . .] in thinking, communicating and acting that we discover that we must discipline tendencies to rely on strategies of acting in ways that make others' adoption of like strategies impossible" (Constructions 27). O'Neill concludes that the self-critique of reason is possible only if we understand reason itself to be a construction of the tribunal that is critiquing it, and that the construction of reason is constrained only by the principle that makes construction possible – the categorical imperative (Constructions 27).

O'Neill's interpretation is that the primacy of practical reason means that it is logically, and perhaps even temporally, prior to the theoretical use of reason. The textual evidence suggests a more modest interpretation. Kant's claim about the primacy of practical reason can be found in several places, including a dedicated section of the second Critique. There he writes, "By primacy among two or more things connected by reason I understand the prerogative of one to be the first determining ground of the connection with all the rest. In a narrower practical sense it signifies the prerogative of the interest of one insofar as the

interest of the others is subordinated to it (and it cannot be inferior to any other)" (5:120).

Reason in its two employments has two corresponding interests. First, it has a speculative interest, which is an interest in the cognition of objects. Although the understanding and not reason provides cognition of objects, reason provides regulative principles to guide the understanding, and this is what Kant calls the theoretical employment of reason. Second, reason has a practical interest, which is an interest in the determination of the will. In claiming that practical reason has primacy over speculative or theoretical reason, Kant is claiming that speculative reason must be subordinate to practical reason. This does not mean that, in the face of conflict between the two, practical reason is declared the winner; instead, this relationship of primacy and subordination ensures that the two employments will not conflict, "[. . .] since if [pure speculative and pure practical reason] were merely juxtaposed (coordinate), the first would of itself close its boundaries strictly and admit nothing from the latter into its domain, while the latter would extend its boundaries over everything and, when its need required, would try to include the former within them" (5:121). A proposition that cannot be affirmed by speculative reason may be affirmed by

practical reason, as long as the practical interest is necessary (arising from reason itself) and not merely contingent on pathological conditions such as happiness . After all, Kant reminds us, "[. . .] it is still only one and the same reason [. . .]" (5:121).

Kant argues that it must be speculative reason that is subordinate, and it is impossible for practical reason to instead be subordinated, because "all interest is ultimately practical and even that of speculative reason is only conditional and is complete in practical use alone" (5:121). In stating that the interest of speculative reason is complete in practical use alone, Kant is pointing out that reason's striving toward the Leibnizian complete cognition cannot be fulfilled by its theoretical employment. The theoretical ideas of reason provide a direction for speculation, not an actual cognition. In its practical employment, however, reason can assume those ideas that are forever out of cognition's reach.

Kant's statement that "all interest is ultimately practical" suggests an additional point: that although reason has a theoretical employment, this employment would be impossible without practice. When reason provides theoretical ideas, what it is doing is providing a direction for speculation and

research. It is commanding a certain scientific endeavor. Thus, even in its theoretical employment, reason is ultimately a practical faculty.

Kant's discussion of the primacy of practical reason has to do with the relationship of subordination between the two interests of reason (which, we are reminded, stem from one and the same reason), rather than the relationship of logical priority suggested by O'Neill. He does not paint a picture of one part of reason constructing the other, but of one reason possessing two potentially conflicting interests. The primacy of practical reason is not that it comes first, but that it is supreme.

Whether providing regulative or practical principles, reason's defining activity is the setting of ends. Kant defines "end" as "what serves the will as the objective ground of its self-determination"; it is what the will points its actions toward. Kant describes this as self-determination because these ends are generated by a rational being's own reason. The understanding does not set ends; it just processes the world and discovers facts. Only reason can set goals and prescribe laws of action (including, in its theoretical employment, setting the goals of scientific programs). In giving this role to reason, Kant deprives it of cognitive authority but transforms it into an active faculty, as opposed to the

somewhat passive faculty of the understanding. It is not the mechanical, automatic reason of Leibniz, nor is it limited to the narrow scope of formal logic.

5. Animals and Reason

Since animals do not have understanding, they certainly do not have reason (in the specific sense and, therefore, in the general sense) (see 29:879). Kant's position on animals and reason is made clear in several passages. He claims that when a human being uses reason merely for the furtherance of his own happiness, "reason... serve[s] him only for the sake of what instinct accomplishes for animals; reason would in that case be only a particular mode nature had used to equip the human being for the same end to which it has destined animals [. . .]" (5:61). Kant also states that

[. . .] the ground of the artistic capacity in animals, designated as instinct, is in fact specifically different from reason, but yet has a similar relation to the effect (comparing, say, construction by beavers with that by humans). – Yet from the fact that the human uses **reason** in order to build, I cannot infer that the beaver must have the same sort of thing [. . .]. (5:464n)

Both passages indicate that although animals accomplish things that are the result of reason in human beings (construction and engineering, survival and the

fulfillment of desires), we must not infer that animals also use reason to achieve these results. Animals have instinct to guide their actions, instead of reason.

Instinct can account for a wide variety of animal behaviors, including such complex procedures as the construction of dams by beavers, or the cutting and curing of hay by pikas. It would be a stretch, however, to attribute all animal behaviors to instinct. Most animals are able to incorporate novel elements into their patterns of behavior – in other words, they exhibit learning. A dog will not instinctively know its friends from foes; nature cannot implant the knowledge of which humans are going to kick and throw stones at it, and which humans are going to give it food. Kant's model of animal minds can account for such basic learning by association. In a letter to Marcus Herz (May 26, 1789) he claims that if he had no understanding, his sense data

[. . .] could still (if I imagine myself to be an animal) carry on their play in an orderly fashion, as representations connected according to empirical laws of association, and thus even have an influence on my feeling and desire [. . .]. (11:52)

So, an animal is essentially a Humean learner. It does not have reason, but it has empirical laws of association that allow it to connect certain sense data (the satisfaction of being fed) with other sense data (the appearance of a certain person) through repeated conjunction.

Aside from the merely logical employment of reason, the primary function of reason is to set ends (as discussed in Section 4). Kant writes that only through our humanity, not our animality, are we capable of setting ends for ourselves (6:387). Animals do not set ends for themselves, but act according to the ends given to them by nature.⁴ Human beings, because they are rational, have the ability to choose ends instead of being moved by impulses. Both animals and humans have a sensible power of choice (meaning a power of choice that is pathologically affected), but the human power of choice is free, whereas the animal power of choice is pathologically necessitated (A 534/B 562). It seems strange to refer to a power of choice as necessitated. The word is Willkür, formerly often translated as "will," now commonly translated as "power of choice" to distinguish it from Wille. Animals have no will (Wille), as that term refers to the autonomous power of reason. Willkür is translated as "power of choice" because it deals with a lower-order capacity: the simple freedom to choose one action over another (hence the paradox of "choosing to be unfree," that is, of choosing the path of heteronomous impulses instead of the path of

⁴ Strictly speaking, Kant denies that animals have ends at all, since he defines "end" as "an object of the choice (of a rational being)" (6:381). I will argue in Section 5 that Kant should not have limited the term to rational beings.

autonomous reason). Animals are not free in any sense, because they do not have a faculty of reason to present them with any alternative to the heteronomous path. Their power of choice will always "choose" that path; hence they have a pathologically necessitated power of choice. In the case of animals, it might be better to think of it as a "power of decision," the capacity of an animal to commit to an action based on its desires. The animal may be unsure which course of action will best satisfy its desires (such as a dog that sees its favorite toy on one hand, and its favorite person on the other, might momentarily stand between them looking confused), but once one impulse or the other emerges as the stronger, the animal is committed to that action. A human being, on the other hand, can choose to satisfy his or her desires, to delay them, or to defy them entirely; hence the human Willkür is truly a power of choice.

Because of Kant's rich conception of reason, denying it to animals goes beyond the simple claim that animals lack logic. An irrational animal by necessity is unable to set ends for itself, and therefore unfree. Furthermore, since reason is the source of morality, animals cannot act morally. The link between reason and morality is deep and important, and will be explored further in the following chapter.

6. Expanded Kantian View

Before concluding this chapter, I will examine the question of whether it is possible to attribute greater mental faculties to animals than Kant did, while still remaining faithful to his general mental framework. Given contemporary understanding of animal abilities, we may arrive at different conclusions regarding animals' possession of understanding or reason. Thus even if we retain Kant's theoretical position that rationality is the criterion of moral considerability, we may differ from Kant in the empirical evaluation of whether some animals would qualify as rational.

First, let us consider the understanding. Evidence that Kant denies understanding to the animals has been presented in section 5. The reason for this denial is twofold: first, animals do not use concepts, which is the essence of the understanding; second, animals lack self-consciousness, which is a prerequisite for understanding. If evidence suggests that these claims are false, then understanding can be attributed to animals.

The belief that animals do not use concepts is common still. Since animals do not use language, an inherently conceptual activity, it is assumed that

they are unable to use concepts. (This belief actually has two different forms. Some hold the Cartesian belief that the inability to use language is symptomatic of the inability to use concepts; others regard the possession of language as a prerequisite for having concepts.) Recent attempts to teach languages to animals may call this belief into question. The most famous cases are those of apes that have been taught to use nonvocal symbols such as hand signs or pointing to glyphs. Whether these activities constitute language use is a matter of much controversy. Many of the most interesting uses of language attributed to such "talking apes" are only anecdotal. Perhaps the most famous among them is Koko the gorilla, but a transcript of Koko's "live chat" on the Internet (April 27, 1998) appears to show Koko making mostly random signs, with her trainer offering an ad hoc explanation for each non sequitur.

A striking instance of a talking animal is Alex, an African gray parrot who, according to researcher Irene Pepperberg, is able to understand some human language and to use language meaningfully. Pepperberg claims that Alex can, for instance, respond correctly to requests such as "give me the orange square" and other phrases containing familiar words in novel combinations, and can

correctly answer "what's same?" with high accuracy when presented with a variety of items with a particular repeated characteristic (such as color).

If Alex can indeed respond correctly to such commands and questions, then it would imply that he is able to recognize discrete concepts and combine those concepts in various ways. Pepperberg's research has even greater implications for our conception of animal minds than the previous experiments with apes, because rather than just acknowledging that our closest evolutionary relatives – those generally regarded as the "highest" of the nonhuman animals – might have some ability to use language, it suggests that such abilities are present in other areas of the animal kingdom.

A thorough analysis of Alex and other cases of "talking" animals is beyond my scope here. However, I believe that the phenomenon, though fascinating and worthy of further study, does not have much impact on my analysis of whether animals have understanding in Kant's sense. The claims made by Pepperberg and others have not yet received wide scientific acceptance, nor have they been adequately replicated by other laboratories; that aside, even assuming that a few animals have demonstrated the ability to use language, it would not prove that animals in general, or even a significant percentage of animals, are able to do so.

The use of language is evidence of the ability to use concepts. On the other hand, possessing concepts does not necessarily entail the ability to use language, in Kant's view. Kant distinguishes between empirical concepts and pure concepts. The former are "borrowed from" experience, and the latter are the concepts of the understanding that constitute "the form of the empirical cognition of objects" (A 220/B 267). Empirical concepts are those such as "orange" or "square" – the kinds of concepts that Alex the parrot is supposed to be able to use. The use of empirical concepts presupposes the existence of the pure concepts, because without the pure concepts nothing would be an object for us at all. We must first be able to identify something as an object before we can determine if it is red or a block. Using concepts in our language is a sure sign that we possess understanding. On the other hand, concepts are not inherently linguistic. The concepts of the understanding, for Kant, shape not just our language but our very world. Their role is very deep, in that they serve to constitute our experience, yet very basic, in that they merely provide the concept of an object as such. It is possible to imagine a creature with understanding but not language. It would experience a world of objects much as we do, but would not have the ability to describe the relations between the various objects. This

could be because it has difficulty forming empirical concepts from its experience; it is not contradictory, at least, for a creature to experience the world objectively through pure concepts, but lack the tools to create further concepts from its experience. Such a creature probably would not be able to use language, since most meaningful statements involve empirical concepts. Or, a creature might have pure and empirical concepts, but lack the logical skill to describe the relations between these concepts. The role of the understanding is to bring concepts to intuition and to make the experience of objects possible.

Discovering the relations between concepts, however, is left to reason in its logical employment. It is possible to imagine a creature that has a conceptual experience but completely lacks the ability to relate those concepts to each other logically. Such a creature would have a limited use of language at best because much of our language is devoted to logical relations.

The use of language is not, therefore, required for understanding, although it may be evidence of it. In any case, if the reports of language use by animals are accepted, it only means that a few exceptionally intelligent species of animals can use language; and perhaps only a few exceptionally intelligent members of those species, at that. A more pertinent question is whether the

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majority of animals (or perhaps some selected large group of animals such as the vertebrates, or the warm-blooded animals) could have understanding. I have argued that lack of language does not entail lack of understanding. What besides language, however, might provide evidence that animals do possess understanding?

Since our experience is constituted by, and hence saturated with, the categories of our understanding, it is fair to say that a being that did not have these categories would not really live in the same world as we do. Their world would not be made up of objects, so they would not perceive the objects that we perceived. If we assume that animals have sensibility but not understanding (as Kant asserts), then they do not join us in experiencing our world of objects. They share the same raw intuitions, but they are not processed as cognitions. When I throw a stick to a dog, we both watch the stick fly through the air and land. I see where the stick has landed, and so, apparently, has the dog; he runs to it, picks it up, and brings it back to me. If Kant is right, the dog does not perceive a stick as such. Yet somehow it still follows the same movement I follow, and is able to locate the stick just as I do. Because animals seem to recognize roughly the same set of objects in the world that we do, we may be inclined to assume that

they must have a similar understanding. Kant, however, cautions against this kind of argument: we cannot assume that because beaver dams are reminiscent of human constructions, beavers too must use reason in creating them. Rather, nature provides animals with instincts that achieves some of the same results that reason achieves in us. Kant might have extended this argument to the understanding. Our faculty of understanding allows us to process the world as objects, and so it makes our recognition of the stick possible. The dog behaves as though it recognizes the same object, but instead this parallel behavior is rooted only in the empirical laws of association that Kant attributes to beings with sensibility but not understanding (letter to M. Herz 11:52).

One might respond by pointing to Kant's claim that "in the natural constitution of an organized being... we assume as a principle that there will be found in it no instrument for some end other than what is also most appropriate to that end and best adapted to it" (4:395). Since the self-preservation of animals is always one of the ends that nature has given them, and since the ability to recognize features of the world (prey animals, water, places of shelter, and so on) is instrumental for self-preservation, one could argue that Kant should have recognized that animals must have a faculty of understanding because it is much

better suited for the recognition of such objects than is sensibility alone.

However, this line of argument once again fails to acknowledge that the same end could be equally well achieved by more than one faculty. Sensibility and the laws of association might serve animals just as well for recognizing and responding to relevant features of the world, as understanding serves us.

Examples of such parallel adaptation certainly exist in nature. The eyes of a squid serve roughly the same purpose as the eyes of a human being. Squid eyes are extremely complex for an invertebrate and they are able to focus, see colors, and generally perform most of the same functions as human eyes. But they are constructed completely differently; the function is the same, but the manner in which they function is completely different. Perhaps the same might be said for the human understanding and the animal laws of association.

Still, there is something suspect about this conclusion. First, although many animal behaviors can be adequately explained by laws of association, some behaviors are hard to fit into that mold. Consider the recent case of Betty, a crow at Oxford University that figured out how to bend a wire into a hook in order to retrieve a piece of food that was out of reach (Weir et al. 981). The bird had not been trained to do so, and had not observed anyone else using a piece

of wire in this way. It is difficult to imagine how this insight could have been accomplished by an animal that had no ability to conceive of the hook as an object. Such glimmers of insight are not well-explained by laws of association, and seem to require the ability to understand objects and how objects can relate to each other.

Furthermore, if an animal such as a dog can, through sensibility alone, respond to roughly the same features that a human being responds to, and if it behaves as though it is reacting to the same objects and events that we react to, then why assume that humans have understanding at all? The Transcendental Deduction rests on the claim that the categories of the understanding are necessary for the possibility of experience. If a dog has something very like our experience but does not have understanding, then the Deduction loses some of its power.

I conclude that, unfortunately, without a first-person perspective – or even a firsthand report – on what an animal's consciousness is like, we have no way of concluding either that an animal has understanding, or lacks it. Why does Kant conclude that the animal lacks understanding? His main argument, according to Naragon, is that "Since it is possible to think of the animal behavior as occurring

without the use of judgments, we will assume that it does. (With humans, on the other hand, we are directly aware of our own acts of judging, and so cannot proceed similarly with our own behavior)" (Reason 104). Such an approach makes good sense from the standpoint of reason. Reason demands that we always strive to find unity of principles in the natural world. Since the evidence strongly suggests that animals have sensibility, and since it is possible to attribute all of their behaviors to that faculty, then it is best to do so. Then science can obtain a more systematic understanding of animal behavior than if we suppose that perhaps some animals also have understanding.

Two considerations should be weighed against this argument, however. First, as I have suggested previously, as more complex animal behaviors are uncovered by science, it becomes harder to account for them adequately through mere association of representations. Rational inquiry may be better served by leaving open the possibility that animals possess understanding, even though it means sacrificing economy of principles. Second, in the context of ethics (rather than science), serious transgressions could be committed by making

unwarranted assumptions about the sort of mind that a creature has.⁵ Kant, for reasons that will be discussed in the following chapter, places animals outside the moral sphere, and so would not regard them as beings that can be transgressed against. He does, however, regard kindness toward them as an indirect duty. What constitutes cruelty and kindness to a creature may depend on what sort of mind it has, so the question of animal minds could still hold some moral importance in Kant's doctrine. For these reasons I think it is more appropriate to reserve judgment on the question of whether animals, or some animals, have understanding.

Note that if Kant had acknowledged that animals possess understanding, it would have entailed that they are self-conscious. However, the meaning of "self-conscious" is not the common usage which often includes a robust self-conception. The self-consciousness, or apperception, that Kant regards as a condition for understanding is a relatively bare concept, devoid of any content apart from the simple representation "I." It is the ability to recognize that all of the

⁵ Note that Kant does not dispute that animals have some kind of mind, and I have argued that he even attributes consciousness to them. And so, when I argue that we must be careful when assuming what faculties animals have or do not have, this does not entail also giving tables and chairs the benefit of the doubt. Once we have evidence, however, that a being is conscious and can therefore be affected by what is done to it, then we must temper our assumptions.

representations in the manifold of intuition belong to one subject, me. It does not require any greater self-understanding than that, and is therefore not implausible to attribute to animals (even though Kant specifically denied that they possess it).

Whether or not animals have understanding is not such a concern for Kant as whether or not they have reason, since reason is required for moral worth. It is important to recall what reason means for Kant. It is not a merely cognitive faculty like the understanding, and it also goes beyond logic. Therefore, showing that animals have conceptual abilities or even some logical abilities is not enough to establish that they have reason in Kant's sense.

Consider the story of Chrysippus's dog, which comes to us through Sextus Empiricus. Supposedly, the dog comes to a three-way fork in the road while chasing his prey. He sniffs down the first and second paths, and does not smell the game, so he immediately runs down the third without checking for the scent. Apparently, the dog has performed a disjunctive syllogism.

Does this anecdote have any truth? Perhaps not. But if it did, it would at most indicate that some animals have a weak faculty of reason that permits a logical employment. It would not show that animals possess reason in the full

sense. That would require animals to be capable of setting ends for themselves, rather than merely using reason as a tool to achieve externally-imposed goals.

It is unlikely that animals employ reason in the regulative sense, since they are not engaged in the business of scientific systematization. A more interesting question is whether animals show any signs of employing practical reason. Practical reason has two modes, for Kant: prudential, and moral. Prudential reason is the use of reason to generate hypothetical imperatives. These imperatives prescribe the best course of action to take to satisfy a desire: "If you desire x, then you should do y." Reason in this prudential mode is not determining the will directly, but only mediately through the feelings of pleasure and displeasure (5: 24-25).

It could be argued that some animals do show signs of using prudential reason. Betty the crow figured out how to bend a wire to retrieve a piece of food. This could be the result of some low-level prudential reasoning: she wanted that piece of food, and determined that bending the wire was one way to get it. My remarks about understanding also apply here: many animal behaviors are not well explained by either instinct or laws of association.

If some animals, however, do have some small faculty of reason that they can employ prudentially, this does not show that they are able to use reason in the full sense. The most important and highest use of reason is to set ends. In creating a tool to retrieve food, Betty the crow may show admirable insight, but the end she obtains is not one that she set for herself. Nature has already chosen for her. It is the destiny of crows to scavenge food. It may at times be up to them how to scavenge food, but they cannot choose not to do it at all. Rather than "if you desire x, then you should do y," Betty's imperative is "you desire x, so do y." Her ends are not autonomous, but imposed by her nature.⁶

Applying the language of "ends" to animals even in this limited sense is partly at variance with Kant's stated position. In the Groundwork, after defining the will (Wille) as "a capacity to determine itself to acting in conformity with the representation of certain laws," Kant defines "end" as "what serves the will as the objective ground of its self-determination" (4:427). This would exclude animals from having ends, since animals do not have a will of that kind. However, he

⁶ Kant does hold that there is one end that is imposed upon human beings by their nature: their own happiness (5:25). He points out, however, that happiness is an end only in a very general sense; what constitutes happiness varies from person to person, and so do the particular ends that each person adopts in furtherance of his or her happiness (5:25). In any case, the important thing is that we can adopt ends besides our own happiness, moral ends, and that is the important difference between us and the animals.

then goes on to distinguish between "subjective ends, which rest on incentives" from "objective ends, which depend on motives" (4:428). Incentives, in Kant, are sensuous, whereas motives are rational. Nonrational beings could not have motives, and hence objective ends, but there does not seem to be any reason to deny that nonrational beings have subjective ends. This is especially true in light of the different definition of "end" given in the Metaphysics of Morals. There Kant defines it as "an object of the choice (of a rational being), through the representation of which choice is determined to an action to bring this object about" (6:381). It is not clear whether the parenthetical restriction to rational beings is meant to imply that only rational beings have ends, or whether he is just limiting the current discussion to the ends of rational beings (since the rest of the passage deals with matters of moral obligation that would not apply to nonrational beings). The interesting difference between the Groundwork passage and this one is that the former relates ends to the will (Wille), and the latter to choice (Willkür). Animals do not have a will in the true sense, but they do have a power of choice; despite Kant's apparent denial, it would make sense to regard the objects of the animal power of choice as "ends" in analogy with the objects of the human power of choice. The animal power of choice impels

animals toward some goal, and the animal is determined to do what it can to achieve that goal. The only difference between that and how it works in rational beings, is that our power of choice is free and our ends are self-selected: "I can never be constrained by others to have an end: only I myself can make something my end" (6:381). Animals, on the other hand, are constrained by nature to have certain ends, and their power of choice is always directed at those ends.

Animals are consequently incapable of adopting moral ends. They cannot act according to the moral law, and thus cannot use reason in its highest practical employment. Even the highest animals show little sign of true morality: they may have social restrictions on their behavior; they may sympathize with those who are hurt, or protect those that they have affection for. All of these behaviors are explainable by instinct; and even if they weren't, they are still based on desires, which makes them nonmoral for Kant. The kindness that one animal has for another, as Kant says in a different (but related context), "however amiable it may be, has nevertheless no true moral worth" (4:398).⁷ And, of

⁷ Kant is describing persons who are "so sympathetically attuned that [. . .] they find an inner satisfaction in spreading joy around them [. . .]". Such a person would be similar to an animal that is kind to its peers because it gets pleasure out of such behavior.

course, many animals are capable of inflicting great suffering on those of other species and even of their own species. We do not blame them for this because we recognize that it is not an end that they adopted for themselves, but is rather the result of the ends that nature has given them. It is not a moral matter at all, however unpleasant it may be.

What would it mean for animals to have some ability to use logical and prudential reason, but no ability to use moral reason? These are not separate faculties, for Kant, but different ways that we employ the faculty of reason. Furthermore, as noted by O'Neill, the Categorical Imperative is the supreme principle of practical reason, and practical reason has primacy over theoretical reason. If animals do not act according to the Categorical Imperative, does it follow that they must not have reason? On O'Neill's interpretation, it seems that it would, since she holds that the primacy of practical reason (and the Categorical Imperative) means that a species would have to be able to act according to the moral law before it could begin to develop any other aspects of reason. On my own, more conservative interpretation of the text, a deficiency in practical employment does not rule out the possibility of theoretical or prudential employment. The primacy of practical reason means that if a being has the

ability to make moral judgments then its theoretical or prudential judgments must be subordinate to them, but it is neutral on the subject of whether a being could in fact be limited to theoretical or prudential judgments. Perhaps animals could be said to have an immature or deficient reason that admits of only some limited employment. However, the most important component of human reason, and what makes moral reasoning possible, is the ability to set ends for oneself, which animals lack.

I conclude that it is possible, and largely consistent with Kant's theory of mind, to ascribe understanding to animals, and furthermore that it is consistent with current data on animal behavior. Furthermore, I conclude that it is at least possible that animals may possess some ability to employ reason, but only in a lower sense. Since Kant does not regard reason as the cognitive or merely logical faculty that his rationalist predecessors did, no matter how many amazing and intelligent things animals are capable of, and no matter what logical or conceptual abilities they may have, it will not be enough to show that they have reason in the full sense.

7. Conclusion

Kant did not regard animals as being self-conscious or possessing understanding, and therefore also did not regard them as rational. I have argued, with Naragon, that he does regard them as conscious and therefore as possessing minds. Although I believe that he could have ascribed understanding and even some low-level reason to them, and given current information about animal behavior it would be more plausible to do so, I agree with the most important point, that animals are not capable of setting ends for themselves. In the next chapter, I will explain why Kant regards this capability as being a requirement for moral consideration.

3. RATIONALITY AND MORAL AGENCY

1. Introduction

In the previous chapter, I discussed Kant's position on animal minds: animals, according to Kant, have sensibility but lack both understanding and reason. I argued that Kant was too quick to deny these faculties to animals, as the evidence suggests that many animals possess understanding and even a limited prudential reason. However, even if animals can reason to some degree (as I have claimed), it would not be enough to make them moral agents for Kant. Moral agency in Kant's philosophy requires a specific kind of rationality that animals lack. Thus while disputing some of Kant's empirical findings about animal minds, I ultimately concluded that he is correct to deny that they are fully rational.

In this chapter I turn from the empirical question of whether Kant was right about the nonrationality of animals, to the theoretical question of whether he should have excluded nonrational beings from moral consideration. Since Kant links moral agency with moral considerability (i.e., moral patienthood), he denies that any direct duties are owed to animals. In this chapter I will explore this link

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by discussing the relation between rationality, moral agency, and being an end in oneself. I will show that animals, since they lack the ability to reason morally, cannot be ends in themselves, but I will question whether being an end in oneself should be required for moral consideration. Kant's strict correlation between moral agency and moral patienthood would exclude even some human beings from moral consideration, a result that most would find unacceptable.

2. Reason and Morality

When one thinks of Kant's ethics, one thinks of the categorical imperative, and rightly so: all our duties are derived from it. Kant argues for it as follows in the Groundwork. The only thing that is good in itself is a good will (Wille).

Anything else that is considered good – for instance, talents of mind, qualities of temperament, and happiness – are only judged to be good when they correspond with a good will. Mental talents can be evil and harmful if employed wickedly, and happiness itself seems like an abomination when it is being enjoyed by an evil person (4:393). The good will is thus the highest good. Further, "A good will is not good because of what it effects or accomplishes [. . .] but only because of its volition" (4:394).

A will that is not subject to selfish temptations would be a holy will, such as God would presumably have; but as human beings we have a strong natural instinct to promote our own happiness. The human will must be commanded to do good; this command is called "duty." (In contrast, a holy will is not subject to duty, because it always does the good automatically and does not need to be commanded.) (4:397; 4:414) Kant defines duty as "the necessity of an action from respect for law" (4:400). Since only the will is good in itself, the moral worth of an action cannot lie in the expected effects of an action, but only in the will behind an action. The law that duty commands us to follow, therefore, cannot be derived from empirical effects (such as happiness). For principle to have the binding force of law, it must be necessary and not contingent, but all empirical conditions are contingent. If we strip away all the empirical effects, the only thing left that could determine the good will is "the conformity of actions as such with universal law, which alone is to serve the will as its principle" (4:402). In other words, it is not the (empirical) matter of the law that determines us, but its form; we judge our maxims by their correspondence with this form.. Thus, "Act only in accordance with that maxim through which you can at the same time will that it

become a universal law"; this, along with its various formulae, is what Kant calls "the categorical imperative," and all particular duties are derived from it (4:421).

According to Kant, this "[. . .] representation of the law in itself [. . .] can of course occur only in a rational being" (4:401). This is because "Only a rational being has the capacity to act in accordance with the representation of laws, that is, in accordance with principles, or has a will" (4:412). Rationality and morality are thus linked in Kant's ethics. Not only is rationality necessary for morality, but to be immoral is to be irrational, since violating the categorical imperative involves committing a contradiction. This can be either a contradiction in thought (universalizing the maxim is impossible), or a contradiction in will (universalizing the maxim results in a situation in which one's own ends are frustrated) (4:424). Thus, one must be rational to be moral, but one must also be moral to be fully rational.

3. Reason and the Will

In light of the link between morality and rationality in Kant, it seems natural to refer to reason as the source of the categorical imperative and thus of morality. Kant does do this at times (for instance, 5:31), but more often he refers to the will

as giving the moral law to itself (for instance, 4:431-433). This is no inconsistency, but a product of the relationship between reason and the will. The will (Wille) turns out to be a guise of reason: "Only a rational being has the capacity to act in accordance with the representation of laws, that is, in accordance with principles, or has a will. Since reason is required for the derivation of actions from laws, the will is nothing other than practical reason" (4:412). Kant also defines will as "a kind of causality of living beings insofar as they are rational" (4:446). Essentially, "will" is what Kant calls reason in its role as the source of actions.

If will is identical with one kind of reason, and reason is linked with morality, then we are left with a puzzle. What is the source of evil? It cannot be the will, since the will is practical reason and should therefore always do what is moral. A possible solution to this puzzle is found in Kant's distinction between Wille and Willkür. Both can be translated as "will," but more recently the former is usually rendered as "will," and the latter as "choice" or "power of choice." Wille can be seen as the legislating will, whereas Willkür can be interpreted as the choosing or deciding will. This interpretation is appealing because it fits well with Kant's claim that the Wille is identical with practical reason. It is also well

supported by passages in the Metaphysics of Morals. There Kant contrasts the Willkür as the faculty of desire considered in relation to action, with the Wille as the faculty of desire considered in relation to the determining grounds of choice. "The will (Wille) itself, strictly speaking, has no determining ground; insofar as it can determine choice (Willkür), it is instead practical reason itself" (6:213). The picture he gives there is one in which the Wille, through the categorical imperative, legislates moral action, and thus can (and should) serve as the determining ground of the Willkür of a rational being. Unfortunately, the human Willkür can also be affected by nonmoral sensible impulses. Thus, although the Willkür can choose evil, the Wille is the voice of reason and so inherently good. Separating will from choice in this way does make it more difficult to understand the claim that the Wille gives the law to itself, since in this model it instead gives the law to a separate faculty, the Willkür. It may be better to interpret Kant's remarks about the will giving the law to itself as being a shorthand for the idea that rational beings give the law to themselves (since both faculties are united in the mind of one individual) through the legislation of the Wille.

Although this doctrine is explicit in the Metaphysics of Morals, it is not clearly in place in earlier works. Sometimes Kant seems to use Wille to refer to

what he later termed Willkür, while also using it in the legislating sense at other times. In the Groundwork, for instance, the entire discussion of the worth of a good Wille seems to presuppose a contrast with an evil, or bad, Wille. The contrast is even explicit in some places: for instance, Kant states that certain talents of mind "are undoubtedly good and desirable for many purposes, but they can also be extremely evil or harmful if the will [Wille] which is to make use of those gifts of nature [. . .] is not good" (4:393). Yet in the same work Kant identifies the Wille with practical reason (4:412), implying that it is inherently rational and moral. Since the Wille/Willkür distinction resolves this tension, and since it is present explicitly in a later (and thus more mature) work, I believe it should be regarded as Kant's true doctrine.

The will (Wille), then, is practical reason; the will gives the law of morality to itself; therefore, reason is the legislator of morality. The ability of the rational will to govern itself through the legislation of morality gives rise to the concept of autonomy.

4. Autonomy

Autonomy is a very important concept in Kant's ethics, and once again it is linked to reason, since it is linked to the legislating will. Kant writes, "autonomy of the will is the property of the will by which it is a law to itself (independently of any property of the objects of volition)" (4:440). As discussed in Section 2, reason (as Wille) is the source of the categorical imperative. Maxims are judged to be good if they have the correct form according to the categorical imperative, abstracted from their content. Since our own will is giving the laws, we are considered autonomous when we adhere to those laws. On the other hand, when our choices are determined by empirical matter – i.e., sensible impulses – we are heteronomous. Kant regards empirical matter as being external to us, so in allowing ourselves to be determined by inclination (which always has some empirical matter as its object), we are not autonomous.

Kant has two conceptions of freedom, negative and positive. The negative conception is that of the freedom of the Willkür. The animal Willkür (arbitrium brutum) is always determined by sensible inclination. The human Willkür has the potential to be determined either by inclination or by reason (through the Wille) (6:213-214; cf. 4:446-447). Therefore, the animal power of

choice is unfree, and the human power of choice is (negatively) free. It is a negative conception because it only refers to the fact that the power of choice is not determined.

The positive conception is that of autonomy, which is expressed when a rational being's choice is determined by the legislating will rather than by sensible inclinations. In choosing the dictates of the will, the agent has chosen to be governed by his or her own will. By choosing autonomy, the agent becomes truly free through self-determination. Note that this view is compatible with the idea that an agent can freely choose unfreedom, since the freedom would be that of choice-freedom, but the unfreedom would refer to autonomy-freedom.

Autonomy is only possible through the categorical imperative, which is given by reason: "A free will and a will under moral laws are one and the same" (4:447). Reason, morality, and autonomy are linked. The set of moral agents and the set of rational beings are the same. Only rational beings can have duties to others; so far, however, it is still unclear why Kant believed that no duties can be owed to nonrational beings. The answer lies in Kant's conception of an end in itself, a status that is linked to autonomy.

5. Rational Nature as an End in Itself

Kant writes that "The human being and in general every rational being exists as an end in itself" (4:428). He defines an end in itself as "something the existence of which in itself has an absolute worth" (4:428). This is contrasted with the ordinary kind of ends based on inclination.. Those kinds of ends cannot furnish moral principles, since they are subjective and contingent. On the other hand, rational beings, as ends in themselves, are necessarily ends for everyone and thus are objective ends. Beings without reason "have only a relative worth, as means, and are therefore called things" (4:428). The rational being's quality of being an end in itself is related to the legislative will: "It is [. . .] this fitness of his maxims for giving universal law that marks him out as an end in itself" (4:438). Kant links this with the concept of autonomy, implying that it is the autonomous quality of our will that makes us ends in ourselves:

[. . .] a human being alone, and with him every rational creature, is an *end in itself*: by virtue of the autonomy of his freedom he is the subject of the moral law, which is holy. Just because of this every will, even every person's own will direct to himself, is restricted to the condition of agreement with the autonomy of the rational being [. . .] hence this subject is to be used never as a means but as at the same time an end. (5:87)

We are, as rational beings, the source of the moral law, and we each possess a will. The good will is the only thing that is good in itself rather than as a means

for something else. Therefore, insofar as we are beings with wills, we are ends in ourselves, with an infinite, rather than relative, worth. The term "dignity" is used to describe this infinite worth, as it is contrasted with price (i.e., relative worth).

Kant relates the idea of an end in itself to the categorical imperative. The basic form of the categorical imperative is "Act only in accordance with that maxim through which you can at the same time will that it become a universal law" (4:421). Kant derives several formulae from this, which he claims are all equivalent. One of these is what I will call "the formula of humanity": "So act that you use humanity, whether in your own person or in the person of any other, always at the same time as an end, never merely as a means" (4:429). (The fact that he formulates it in terms of humanity rather than rational nature in general is puzzling, but I will not deal with that issue here. It will suffice to point out that Kant does not limit the quality of being an end in itself to human beings; see 4:428, for example.)

Although Kant regards the formula of humanity as equivalent to the formula of universal law, it is my belief that it does add something that is missing from the formula of universal law: it provides guidance in the proper description

of maxims. It is not my intention here to delve too deeply into the problem of maxim description, although it would be a fascinatingly perilous endeavor. The problem to which I refer is this: how the maxim of one's action is described affects whether it is judged permissible according to the formula of universal law. The same action can be described in various ways, and there is no defined procedure for determining which is the correct description to use when judging the maxim. For instance, if I lie to a potential murderer to save my friend's life, is my maxim "I will lie," or "I will lie when necessary to save a life"? (Kant, infamously, chooses the first, when intuition seems to recommend the second.) The first is not universalizable, but the second probably is. Overly general maxims tend to forbid too much, overly specific maxims are usually too permissive (e.g., "I will kill people with red hair" – which I cannot will to be a universal law because my hair is brown).

One particular area of ambiguity is the question of which beings to take into account when formulating one's maxim. If I go into the woods and shoot a deer, have I violated a stricture against killing? Kant would say no, but the formula of universal law does not readily provide this response. My maxim could be, "I will kill other living things," which I cannot will to be universal law, since I

too am a living thing and would be killed. Kant must bring in a concept of personhood in order to show why that maxim is badly framed. Kant equates personhood with being an end in itself. Our maxims should make reference to persons as such. This explains both why "I will kill others" is a too-general description of hunting and "I will kill people with red hair" is a too-specific description of a murder (since it makes a mere empirical attribute the focus, rather than the victim's personhood). Once the concept of personhood is used to guide what counts as well-formed maxim, then the formula of universal law comes into line with the formula of humanity.

Through the concept of an end in itself, it becomes clear that not only are rational beings the only possible moral agents in Kant's philosophy, they are also the only beings worthy of moral consideration. Without will and thus without autonomy, nonrational beings can only have a relative value. Rational beings, as ends in themselves whose value is absolute, are permitted to use nonrational beings as means.

6. Animals, Reason, and Morality

Kant claims that animals lack reason and even understanding. Therefore, it is obvious that he believed animals could not be moral agents. Without reason, they cannot act according to principle or have a will (4:412). Thus they are things, not persons; they have no moral worth and deserve no consideration in our moral judgments, except insofar as our treatment of them indirectly harms rational beings. Kant's official position on this subject is cut and dried, and explication seems unnecessary. Instead, I will turn to considering how animals would fare in Kant's moral theory given the expanded view of their mental abilities that I have suggested in the previous chapter.

I have argued that the evidence favors animals having understanding at least, and some amount of reasoning (less than what is possessed by human beings) at most. Since Kant makes rationality the center of the moral universe, the possession of mere understanding does not gain animals any further ground than if they only had sensibility (as in Kant's official position). But what if animals do have some reasoning powers? I have claimed that, insofar as some animals display reasoning ability, it is of the problem-solving, means-ends variety. In other words, given some desire that an animal has, it can use its limited

reasoning powers to discover how to satisfy this desire. New Caledonian crows, for instance, have been known to make and use tools in the wild. During a laboratory experiment at Oxford University, Betty the crow spontaneously bent a piece of wire to use in retrieving a food item (Weir et al. 1987). She had not used or been shown how to use wire before. Her behavior is strong evidence of problem-solving abilities. This is a type of practical reason that Kant calls "prudential reason."

Prudential reason cannot be the basis of morality, since it incorporates empirical matter in the form of sensible impulses. It can provide hypothetical imperatives (if you want X, then do Y) but not a categorical imperative. Its imperatives are based on contingent desires, and so they can never have the necessity required for a categorical imperative. Betty may be able to learn rules for the best ways to satisfy her desires, but she cannot act on principle.

The limited reason that animals have cannot be called a will (Wille), since they cannot formulate principles and are not in the business of legislating morality. There is a possible problem here. Kant equates the will with practical reason. If animals such as Betty have prudential reason, which is a kind of practical reason, then how is it possible that they don't have a will? This no

greater (or less) a problem than the existence of a similar state of affairs in children. A young child might be able to figure out how to open the cupboard in which there are cookies, but not how to determine whether or not stealing a cookie is wrong. (She might fear punishment, but that is not the same as understanding why something is wrong.) Although the child will someday have a will, it is not yet developed. Animals can be thought of as evolutionary children. Their reason has reached only a certain stage of development; it is immature reason. The difference is that theirs is fixed at that point; a child and a crow might be at the same stage of rational development, but the child will soon leave the crow behind. The point, however, is that such a state of partial rational development is possible.

Some animals might also seem to have a partial morality. Capuchin monkeys, for instance, have exhibited a sense of fairness in laboratory studies: if a monkey knows that it has been given a lesser reward for the same work as another monkey, it will react with anger, even if the reward is one it would normally be happy to accept (Brosnan and de Waal 297-299). Monkeys who saw their neighbor getting a grape (a favorite treat) when they got only a cucumber would sometimes even throw the cucumber out of their cage in

protest. Cucumbers are a food they normally like, although not as much as grapes; so their behavior seems counter to their own happiness, since a small reward is better than none. It is important to note, however, that the monkey that got the better reward did not also protest. The monkeys' evaluation of fairness shows some degree of rationality, but not morality. Ultimately their motivation is self-interest: if I am going to be cheated, it is not in my interest to play along. In the short term, they lose out, but presumably their intention is to win out in the long run by showing they won't tolerate being shorted. They consider the unfairness only as it relates to themselves, not in terms of whether it is suitable for universal law.

Although animals do not have a will (Wille), they do have a power of choice (Willkür). Kant writes, "a faculty of choice [. . .] is merely animal (arbitrium brutum) which cannot be determined other than through sensible impulses, i.e. **pathologically**" (A 801/B 830). Whereas the human power of choice can choose either morality or self-interest, the animal power of choice will always follow the perceived self-interest. (As I noted earlier, the term choice is somewhat misleading when applied to animals, since it is usually thought of as selecting between options. The animal power of choice – perhaps better termed

a "power of decision" – is what enables animals to take action based on their perception of what will bring them the most satisfaction, but they will always choose whichever action they think that is.) Since Kant believed that animals respond only to representations and not concepts or rational calculations, he presumably envisioned animals as always attracted to whatever representation appears to be the most desirable at that moment. I do not believe that it is quite so automatic, since animals seem to be able to take delayed effects into account, and to employ problem-solving abilities. I concur with Kant, however, that their power of choice will always follow what either mere inclination or prudence (which is based on inclination) recommends.

Animals are unfree in both senses. In the negative sense, they are unfree because their power of choice has no alternative but to choose inclination. In the positive sense, they are unfree because they are governed by forces that are not self-legislated. They are never autonomous, but always heteronomous. They can, in some cases, use prudential reasoning to achieve their ends, but those ends are not freely assumed; they are dictated by nature. Kant writes, "Rational nature is distinguished from the rest of nature by this, that it sets itself an end" (4:437). This is the essential way in which even the most advanced

animals fall short of full rationality. They do not set their own ends, but only do their best to achieve those that are assigned to them. Because are not free, we also do not hold them accountable for their actions. They cannot do good, but neither can they do evil. They are what they are.

Animals, as heteronomous, therefore cannot be regarded as ends in themselves. They lack dignity, instead having only a price. Hence rational beings may use them as means to fulfill our ends (as food or beasts of burden, for instance). They have ends, but are not ends in themselves. Kant concludes that we can have no duties directly to them.

7. Other Nonrational Beings

Although Kant believes that his system merely codifies what most people know by intuition, the trouble is that intuition is notoriously variable. Many believe that some minimal duties, ones that are not merely duties to human beings in disguise, are owed to animals. Others have no such intuition. Animals, however, are not the only group that is excluded in Kant's moral theory. A much more challenging case is that of nonrational human beings. The intuition that duties are owed to such human beings is much more widely held, to the point that the

case could be (and has been) used as a counterexample against the claim that rationality or moral agency is required for moral considerability. There are several cases in which a being could be human but lack the necessary level of rationality for moral agency. The human being could be nonrational currently, but with the potential to be rational in the future (a child); it could be formerly rational, but now nonrational (someone with permanent mental debilitation); or it could be permanently nonrational and have always been nonrational (someone with developmental disabilities). All are cases in which moral agency is not present, but most believe we still have some duties, if not exactly the same ones. Usually such human beings are thought of as moral patients. But Kant does not recognize the possibility of moral patients that are not also agents.

One way that they could be admitted into the moral circle is to say that being a member of the human species is sufficient to gain moral status, that although rationality is what makes the human species in general valuable, once we recognize that value we also extend it to nonrational members of the species. This seems more like a description of our moral intuitions than a justification. If rationality is the essential element, why do we extend our respect for humanity to nonrational individuals? Isn't it just a mistaken analogy (of the kind that Kant

thinks we make when we think we have duties to animals)? Admittedly, Kant seems at times to hold the position that being human is sufficient for moral worth (e.g., "Humanity itself is a dignity; for a human being cannot be used merely as a means by any human being" [6:462]). Yet this does not seem consistent with his claim that it is the rational will that makes us ends in ourselves. Species membership is merely an accident of birth, not chosen by us; it does not have a necessary relation to autonomy. Kant is clear that non-human rational beings can be autonomous, but he seems reluctant to admit that nonrational human beings cannot be autonomous, although it is clearly implied by his theory. In any case, the moral status of nonrational humans is problem that must be dealt with, either by abandoning intuition or by explicating Kant's doctrine.

First let us look at the case of not-yet-rational beings, specifically children. One plausible way to deal with this case is by pointing out that rational nature is infinitely valuable and necessarily exists as an end for all other rational beings. Although a young child is not yet rational, we are sensitive to the fact that he or she is developing that way. Although our specific duties to children will be different from our duties to adults, we still must have duties to treat them well on the grounds that doing otherwise may interfere with the development of reason.

Our actions toward children must always be aiming toward the end of helping them develop rationality. This is consistent with Kant's remarks on the education of children. The remaining problem with this is the same as with any argument based on potentiality: how early on must we begin to regard something as a potential reasoner? At birth, before birth, as sperm and egg? Taking a cue from Kant, I will leave such details for others to solve.

A harder case is that of the formerly-rational being. Someone who was once rational has sustained an illness or injury that renders him or her permanently incapable of moral reasoning. Is there any grounds for continuing to regard such beings as persons rather than things? Unlike children, they are not going to become rational in the future, so their moral status cannot be based on potentiality. A possible solution is to take a metaphysical turn. Kant claims that the will of a rational being is outside time, which is how it can be free even in a deterministic world. He also claims we must assume that the rational being survives after death. So, it would seem that the rational part of a person cannot pass out of existence. For Kant, although the phenomenal aspect of a person is all we can know and interact with, it is really the noumenal reason that our moral respect is directed toward. In a sense, then, the body is just serving as the

phenomenal sign of the real person. Since the rational part of the now-disabled person is eternal and must still exist, we should continue treating the phenomenal aspect as its temporal sign and pay it moral respect accordingly, even though the rational part is no longer being expressed through it. This is an interesting approach, although it emphasizes the metaphysical aspects of Kant in a way that some would find unpalatable.

Although formerly-rational beings and children can get a foot in the door because of what they were or will be, permanently nonrational beings lack such credentials. Such a being would never be autonomous, and so would not be an end in itself. A human being born with defective or missing reason would seem to have the same status as an animal in Kant's ethical theory. Would Kant or his followers be willing to bite the bullet and say that we may kill mentally disabled humans as long as it is done painlessly (to avoid damaging the killer's sensitivities), or experiment on them as long as it benefits rational beings? Is our repugnance at this idea based only on a mistaken analogy with rational human beings?

Of course, Kant can take the same route he took with animals: he can claim that harming such human beings damages our humanity by hardening us

to human beings that *are* rational. Since the similarity between a rational human being and a nonrational human being is even closer than the similarity between a human being and an animal, harming nonrational human beings is probably even more likely to result in the hardening of our sympathy. However, the problems that exist in the theory of indirect duties to animals (discussed in my first chapter) also exist in a theory of indirect duties to nonrational humans. For instance, it seems to permit us to do whatever we want to them to further our ends, as long as it is done carefully and out of sight.

Kant's failure to make room for non-agent moral patients in his philosophy results in the exclusion of at least some human beings from moral consideration. Although my primary concern is with the moral status of animals, I believe I have shown that some human beings are affected by this aspect of Kant's moral theory. Unless we are willing to accept some unintuitive and disturbing conclusions, we must find some elbow room for moral patients in Kant's ethics, if we are not to discard it entirely.

8. Conclusion

In this chapter I have shown how reason, will, and autonomy are the central concepts in Kant's ethical theory, and how they come together in the concept of an end in itself. This is an interesting and fruitful concept, but Kant uses it to equate moral agency with moral considerability. The result is that not only animals, but even some human beings are excluded from moral consideration, and thus must be regarded as things. In my next chapter, I will propose a way for Kant to better account for animals and other moral patients by suggesting that being an end in itself should be regarded as sufficient, but not necessary, for moral considerability.

4. ANIMALS AS SUBJECTS IN THE KINGDOM OF ENDS

1. Introduction

In Chapter 1, I argued that Kant's position on the moral standing of animals is weak and not consistent with his own ethical theory. First, it does not accord with common intuitions (as Kant claimed was a strength of his ethical theory), since it claims that the duty not to inflict cruelty on animals is not a duty to the animals, but rather a duty to humanity in oneself and others. This entails the very unintuitive claim that no wrong is done to the animals themselves when we mistreat them. Second, the indirect duties to animals proposed by Kant rest on a contingent claim about psychology – that cruelty to animals damages our sensitivities and makes us more likely to be cruel to humans – that may not actually be true at all, or may be highly variable from person to person. Third, since this psychological phenomenon is, on Kant's view, based on a mistaken analogy between humans and animals, it would seem that it would be more consistent for him to recommend that we learn not to make this mistake, instead of accommodating it. For these reasons I rejected Kant's theory as unsatisfactory, both in general and in terms of internal coherence.

In Chapters 2 and 3 I analyzed why it is that Kant holds animals to be undeserving of true moral consideration by looking at Kant's theory of rationality and its role in his moral theory. In Chapter 2 I reviewed Kant's doctrine regarding animal minds, determining that he regards them as having sensibility but not understanding or reason. I argued that contemporary knowledge of animal behavior makes it more likely that they have at least understanding and possibly some reasoning abilities, but that they still must lack the power of moral legislation that is the hallmark of full rationality in Kant's system. In Chapter 3, I showed that Kant regards moral agency as the requirement for moral consideration. Moral agency for Kant is tied to the ability to set ends for oneself, which is what makes a rational being an end in itself rather than a means. Animals are not ends in themselves and thus they are mere things.

In this chapter I will propose a replacement for Kant's indirect duties theory that will allow human beings (and other as-yet undiscovered rational agents) to retain their unique status as ends in themselves and the special consideration that attaches to this status, while also showing that we have duties to animals that are not merely covert duties to human beings. My theory will make use of Kant's idea of the Kingdom of Ends.

2. Korsgaard on Animals

The obvious approach to forming a Kantian theory of duties to animals would be to claim that Kant should have recognized animals as ends in themselves. This is essentially the route taken by Tom Regan in his broadly Kantian approach to animal ethics, but insofar as he was successful it was by reconstructing the end in itself into a new concept of moral personhood that he calls "subject-of-a-life." Whatever the merits of this position, it makes no claim of being a truly Kantian position. Tampering with Kant's conception of the end in itself would require extensive revision of his ethical theory as a whole.

On the other hand, Christine Korsgaard claims that "end in itself" as described by Kant would include animals. She argues that the aspect of ourselves that we value, when we regard ourselves as ends in ourselves, is not only our rational nature, but also our animal nature. What differentiates the good for an animal from the good for an object such as a car, is that an animal has a natural good that matters to it, just as a human-qua-animal has a natural good that also matters to him or her. Korsgaard holds that a good "matters" to a being when that being "welcomes, desires, enjoys, and pursues its good" (30). Thus she implies (as I will also claim later) that for a being to have a good that matters

to it, that being must be conscious.⁸ As legislating moral agents, we legislate for that natural good by promoting things that preserve our bodily lives, and forbidding things that harm, terrify, or destroy us; thus as moral arbiters of the universe we have declared our animal nature to be valuable (Korsgaard 32-33). "In taking ourselves to be ends in ourselves we legislate that the natural good of a creature who matters to itself is the source of normative claims. Animal nature is an end in itself, because our own legislation makes it so" (Korsgaard 33).

Having attempted to establish that animals are ends in themselves, Korsgaard then uses the idea Kingdom of Ends to show how animals fit into a Kantian moral universe. She holds that animals are "passive citizens" of the Kingdom, and that the other members can, and ought to, legislate on their behalf (21-22). Korsgaard claims that because of the shared animality of human beings and animals, when we legislate for our own protection from such things as bodily

⁸ In a footnote, Korsgaard considers the argument that plants also have a "natural good" that is "good for" them. If, then, we endorse our own natural good, why does that not include endorsing the natural good of any functional entity? She acknowledges and accepts the possibility that her theory would entail this (33n). My own interpretation will emphasize happiness (as the state resulting from the fulfillment of ends) rather than natural good, and will claim that consciousness is required for this; thus I will not include plants in the scope of moral concern, except insofar as we have a duty to appreciate and preserve nature (see 6:443).

harm and terror (things that also matter to animals), we legislate these protections for animals, too.

Although I am in agreement with the general theme of Korsgaard's interpretation, I believe she has erred in elevating animals to the status of ends in themselves. She equates the quality of being an end in itself with the status that rational agents accord themselves through their moral legislation. This, however, is only part of the story. Being an end in itself has two facets, which are closely related. The first is, as Korsgaard notes, that an end in itself is never a mere means, and cannot be used like a tool to achieve other ends (4:428). The second, which Korsgaard does not here note, is that an end in itself is a itself source of ends, an autonomous legislator (4:435). These are not independent ways of being an end in itself; the first is dependent on the second, as it is our status as moral legislators that makes it impossible for us to ever be merely a means and thus forbids others from treating us as such: "morality is the condition under which alone a rational being can be an end in itself, since only through this is it possible to be a lawgiving member in the kingdom of ends. Hence morality, and humanity insofar as it is capable of morality, is that which alone has dignity" (4:435). The law determines the worth of various things,

relative to each other, but the lawgiving itself has infinite worth; thus it is our moral dimension that makes us ends in ourselves (4:435-436; cf. 4:437-438). Kant regards autonomous legislation as both necessary and sufficient for a being to have a dignity rather than a price, that is, to be an end in itself rather than a means. Kant's intention is not to show that autonomy is one possible criterion, but that it is the only possible criterion; this is evidenced when Kant claims that "[. . .] morality is the condition under which alone a rational being can be an end in itself [. . .]" and that "[. . .] humanity insofar as it is capable of morality is that which alone has dignity [. . .]" (4:435). Everything else can be used merely as a means (5:87).

Korsgaard's claim that animals are ends in themselves does not, therefore, sit well with Kant's theory. If we confine ourselves to just the first sense of "end in itself" (something that is not a mere means) then we might include animals in it, but we would need a whole new explanation of what justifies declaring anything, human or animal, an end in itself. The fact that we both have a natural good that matters to us isn't enough to show that this forbids our use as means. More work would need to be done there and it would entail a wide divergence from Kant (probably ending somewhere near Regan's "subject-of-a-

life" criterion). Kant has an internally coherent justification for according humans this status, but it is one that cannot be extended to animals. In the interest of showing that Kant can accommodate a more robust theory of duties to animals while doing as little violence to the rest of his ethical theory as possible, I must reject Korsgaard's claim that animals are ends in themselves.

My argument will also make use of the Kingdom of Ends; the idea of the "subject," as explicated in the next section, is essentially identical with Korsgaard's concept of the "passive citizen," although I think my terminology more accurately reflects the subordinate status of animals. Like Korsgaard, I will argue that the assignment of value by rational beings is what gives rise to our obligation to take nonrational beings into account in our moral legislation. My starting place will not be our shared animality, however. I find two weaknesses in that approach. First, as Korsgaard herself acknowledges (27n), when Kant discusses our duties to ourselves with respect to our animal nature, all the examples ultimately demonstrate that abusing our animal nature is bad because in doing so we also abuse our rational nature. Thus Kant is showing that it is our rational nature, not our animal nature, that exists as an end in itself. Korsgaard is willing to diverge from Kant on this point. I would be, too, but her argument

has not provided a compelling reason to do so. Second, Korsgaard has not successfully shown that in legislating for the protection of our animal needs, that it is the animality we are valuing. Instead, one could argue that what is being valued is the autonomy of rational beings, first by preserving our lives (a necessary precondition for preserving our autonomy), and second by protecting our right to pursue private ends related to our animal nature, as long as they do not interfere with others' right to do the same. In Section 5, I will try a different approach – one that is also based on the creation of value by rational beings, but focuses on the value of happiness rather than animal nature. Sections 3 and 4 will argue, first, for the addition of the category of "subjects" to the Kingdom of Ends, and second, for the claim that animals would fall into that category.

3. Members, Subjects, and Things in the Kingdom of Ends

In rejecting the claim that animals are ends in themselves, it may seem that I have eliminated any possibility of anything more than indirect duties with respect to animals. The end in itself is the center of Kant's ethics and the source of all value. How can there be any room left for animals? Since I believe that the

answer lies in Kant's idea of the Kingdom of Ends, I will first explicate this idea before showing where I think animals should fit into it.

Kant formulates the Categorical Imperative in at least three distinct ways.

The first is the familiar criterion of universalizability, known as the formula of universal law: "I ought never to act except in such a way that I could also will that my maxim should become universal law" (4:402). Kant describes this as "mere conformity to law as such," as it involves the defining characteristic of laws – their universality – abstracted from any particular content (4:402). The second main formulation rests on the concept of humanity as an end in itself: "So act that you use humanity [. . .] always at the same time as an end, never merely as a means" (4:429). As discussed in the previous section, it is the power of moral legislation that justifies rational beings' status as ends in themselves.

The third main formulation makes use of the idea of a Kingdom of Ends, which Kant describes as "a whole of all ends in systematic connection (a whole both of rational beings as ends in themselves and of the ends of his own that each may set himself)" (4:433). In other words, it is the idea of a world in which all the ends of rational beings are respected and none are in conflict. In such a world, all rational beings are both legislators and subjects of the law. We should

judge our own actions by whether they would accord with this harmonious kingdom of ends. Kant formulates this as "act in accordance with the maxims of a member giving universal laws for a merely possible kingdom of ends" (4:439).

Although it is not entirely clear that the three formulations are equivalent as Kant claims, they are certainly interrelated. The formula of universalizability uses the form of the law as a measuring stick and the formula of humanity uses the matter of the law. The Kingdom of Ends synthesizes the two into one concept in which form and matter unite, resulting in a world of universal laws that respect and protect the ends of all rational beings.

It is not hard to see why the Kingdom of Ends has appealed to many recent commentators. Its incorporation of the previous two formulations makes it the richest conception of the categorical imperative that Kant offers. Although Kant assures us that all the formulations express a single categorical imperative, the formula of the Kingdom of Ends makes it easier to see how the formula of universal law and the formula of humanity work together.

In accordance with Kant's remarks in the lectures, the *Groundwork* implies that animals have no place in the Kingdom of Ends apart from their usefulness to rational beings. Beings without reason "have only a relative worth, as means,

and are therefore called *things*" (4:428). Animals, then, must be things. (This would hold even if Kant were to acknowledge my claim that some animals have degrees of rationality, because the rational capacity that concerns Kant in these passages is the ability to act according to principle, a capacity which even the most intelligent animals lack.) Kant sharply divides the Kingdom of Ends into persons and things; the former have dignity, the latter merely a price. Because animals cannot participate in the Kingdom as legislators, they are not members and their ends are not taken into account in the systematic unity. In dividing the world into persons and things, Kant places animals into the latter category. I believe that dividing the moral universe in this way is a mistake, because it does not recognize an important distinction between animals and other nonrational "things."

Kant identifies two roles for persons in the Kingdom of Ends. Every rational being is either a member or a sovereign. Members both legislate, and are subject to universal laws; this is the category that we as human beings fall into. A sovereign, on the other hand, would be a rational being who legislates without being subjected to anyone else's will; this is possible "only in case he is a completely independent being, without needs and with unlimited resources

adequate to his will" (4:434). God would presumably be such a being; elsewhere Kant explains that the concept of duty does not apply to a holy will, a claim that he also makes for the sovereign of the Kingdom of Ends (4:434). Everything that is not a member or a sovereign is merely a thing, to be used as a means for rational beings to achieve their ends.

Kant's political analogy lacks an obvious group that can exist in a natural kingdom – that of the subject, who is governed (and, ideally, protected) by laws but cannot legislate them. Kant may have seen this role as being filled by things, but I hold that subjects are distinct from things. Subjects are beings whose interests⁹ are taken account of in the laws that members and sovereigns enact, even though they do not participate in legislating those laws; typically this would include children, aliens, and so on. Laws can be enforced on their behalf. This is the legal equivalent of moral patienthood. Things, on the other hand, have no interests of their own (although we may have an interest in them) so it would not make sense to legislate on their behalf. In accordance with the political metaphor that Kant uses in discussing the Kingdom of Ends, I will use the term

⁹ See section 4 for a discussion of what it means to have interests.

"subject" to describe those who would have the status of moral patients in the Kingdom of Ends.

Kant does not acknowledge the existence of subjects in the Kingdom of Ends. He does, however, make reference to the idea of a subject when discussing why human beings must be subject only to laws that we give ourselves. Human beings are autonomous, and thus in the Kingdom of Ends cannot be mere subjects. If we were subject to the law without being its originators, then the law must compel us by some external means, that is, heteronomously (4:433). Thus the law must be one that we give ourselves. Being both subject to and legislator of the law is what gives us the status of member in the Kingdom of Ends.

Animals cannot be moral legislators because they are incapable of acting according to self-originated principles; thus they cannot be members in the Kingdom of Ends. They also are not subject to the law. We no longer put animals on trial or execute them for crimes; we may kill a dog that has injured people, but we do so for reasons of safety, not justice. We consider it appropriate to constrain an animal's behavior according to relevant laws, but it is the animal's guardian that is truly subject to the law. A dog does not understand

that it is not permitted to foul the sidewalk, but we still have laws against that behavior and we expect the dog's guardian to compel it to act in a certain way. This can be carried over by analogy into the ideal Kingdom of Ends. Since animals are not internally motivated to follow the law by reason, they may be externally compelled in certain ways by the members of the Kingdom. The law would be addressed to the moral agents responsible for them, not to the animals themselves. In a way animals are subject to the law, in that we can legislate certain restraints on their behavior. But this is not really the same sense in which a moral agent is subject to the law, because the agent can understand the law and act accordingly. An animal can be compelled physically or psychologically to act a certain way, but will be responding to something unrelated to the law. The agent, on the other hand, can be motivated by the law itself. Animals are a subject of the law, rather than being subject to the law.

Animals, I argue, should be regarded as subjects in the Kingdom of Ends, and we must legislate on behalf of them and in their best interests. In order to make this argument, I will need to establish two main claims. First, that animals have interests in a way that things do not; and second, that those interests should be considered by the legislators of the Kingdom of Ends.

4. Animals Have Interests

A being with interests, as I use the term, is one that has ends that matter to it.¹⁰ I argued in Chapter 2 that animals have ends, although those ends are not freely chosen like ours, and are dictated by their nature rather than given by reason. Having ends is a quality that they share with human beings (and by extension other rational beings), and that they do not share with anything else. This is because having ends implies at least a power of choice, if not a will. Things like tables and cars have ends only metaphorically or by extrapolation of the human ends involved with them. Plants are a harder case, because they would seem to have ends implanted by nature the way animals do, that compel them to grow toward a light source and other basic movements. But Kant does not attribute a power of choice to plants, and I see no reason to disagree. The power of choice is a mental faculty, and it is implausible to attribute mind to plants as we do to animals.

¹⁰ Kant defines "interest" as "the dependence of a contingently determinable will on principles of reason" (4:413n). There are two kinds of interest, practical interest in the action itself, and pathological interest in the object of the action. The latter refers to the use of reason to obtain an object of inclination – in other words, the prudential use of reason. I have previously argued that some animals may employ prudential reason, so such animals could have "interests" in Kant's sense; most, however, would not. However, I am diverging from Kant's technical use of "interest" in order to use the term in the more familiar sense of "acting in someone's interests." As I am using the term, any creature with ends that matter to it will have interests.

It is possible that one could argue that plants possess a low-level calculating function that governs their heliotropic behavior, and which is different only in (albeit large) degree from the basic weighing of inclinations that is involved in the animal power of choice. Or, one could argue that it is possible to build a machine that mimics the animal power of choice in terms of working toward externally-imposed goals (which we would then perhaps be justified in calling "ends"). If machines and plants also have ends, then the apparently special status of animals and the importance of ends is diminished.

Even if I did acknowledge such similarities between animals, plants, and machines, animals' ends would still be of a different kind, because their ends *matter* to them – that is, it matters to them whether those ends are achieved or frustrated. An animal is, as Korsgaard puts it, "an organic system to whom its own good matters" (30). Things can go well or badly for it in a way that things cannot go well or badly for a table or a car, or even a tree.

Of course, there is a sense in which things are "good for" a table or car. It is good for a wooden table to be oiled periodically, and bad for it to be sat upon by a heavy person; it is good for a car to have proper oil pressure, and bad for it to be exposed to a lot of salt. In a biological sense, various things are good or

bad for trees. But these things do not capture what I mean for something to "go well or badly" for a being.

Kant's argument for indirect duties to animals itself rests on an intuition that animals' ends matter to them. Why is it that he identifies mistreatment of animals as something that damages our humanity, but not mistreatment of carriages or tables? (Likewise for plants; although he does argue that it is a duty to avoid wanton destruction of natural beauty, his reasons for this are separate from his reasons for avoiding cruelty to animals, and he regards the latter as "far more intimately opposed" to our duty [6:443].) Kicking the wheels of a carriage or taking a hatchet to a table might be foolish, but it does not damage our humanity as would kicking a horse's legs or taking a hatchet to a dog. Why not? It cannot be just that the objects do not resemble human beings enough to produce the amphiboly, because on the surface an animatronic pirate at Disneyland resembles a human being a lot more than a dog does, yet no one would suggest we have duties with respect to animatronics.

The answer lies in Kant's own remark about why we have duties with respect to animals: because cruelty "dulls his shared feeling of their suffering" (6:443). Tables and animatronics do not suffer; that is, they do not *experience*

suffering. There is no feeling there for us to share. But when one kicks a dog, the dog suffers; kicking it is not just bad for it, it is bad for it in a way that matters to it. Thus, for a being's ends to matter to it, that being must be conscious. Our intuition that animals are conscious is implicitly acknowledged by Kant in his theory of indirect duties. Furthermore, I have argued, in Chapter 2, that Kant's theory of animal minds implies that he believed animals to be conscious. Thus, animals have ends that matter to them, a characteristic they share with human beings but that sets them apart from things; I term this "having interests."

Showing that animals have interests at least gives a possible criterion that allows them to be separated from mere things in the Kingdom of Ends. However, it is not sufficient to establish that these interests must be taken into account by the members of the Kingdom.

5. Animals and Happiness

In the second Critique, Kant defines "happiness" as "the state of a rational being in the world in the whole of whose existence everything goes according to his wish and will" (5:124). By limiting this to rational beings, he seems to exclude the possibility that animals can be happy at all.

Why would rationality be required for happiness? It might simply be due to context, since he is discussing rational beings in the passage. Or, it could be that somehow happiness is dependent on the possession of a will (Wille). It is true that animals do not have a will (Wille) as this is limited to fully rational beings; however, animals do have a power of choice (Willkür). Insofar as an animal is able to obtain the objects of its power of choice (which might be described as having things "go according to its wishes"), this would seem to fit Kant's definition of happiness. Happiness for a human being would be different from happiness for an animal, since the former would involve the rational will and the latter a merely animal power of choice, but both could fall under the general term "happiness."

Perhaps it is not the fulfillment of every individual desire that constitutes happiness, but the satisfaction of knowing that all one's desires have been fulfilled; this would require a higher-order ability of reflection than most, if any, animals possess. It would seem to require reason, although not necessarily the moral component of reason. As I argued in Chapter 2, it is moral reasoning that animals conspicuously lack, whereas some other aspects of reason are apparently present. So it is possible that some of the most intelligent animals

have the ability to conceptualize that their desires have been satisfied – or not, as in the case of Brosnan and de Waal's slighted monkeys. Still, the requirement that a creature be able to reflect on its own satisfaction would exclude almost all, if not all, animals from being capable of happiness.

The more general definitions of happiness that Kant gives in the Groundwork – "that complete well-being and satisfaction with one's condition" - (4:393), and "the entire satisfaction of [needs and inclinations]" (4:405) – do not make reference to rationality as a requirement for happiness, although they do not rule out that claim either. If Kant does incorporate a requirement for rational reflection into his concept of happiness at times, he does not do so consistently: when discussing the use of practical reason to further one's happiness, Kant states that a person's reason "[. . .] does not at all raise him in worth above mere animality if reason is to serve him only for the sake of what instinct accomplishes for animals [. . .]" (5:51-62). Given the context, it is plausible to take "what instinct accomplishes in animals" to be the attainment of happiness.

The solution, I believe, is in the following passage:

[. . .] as far as our nature as sensible beings is concerned, all that counts is our happiness if this is appraised, as reason especially requires, not in terms of transitory feeling but of the influence this contingency has on our whole existence and our satisfaction with it [. . .] (5:61)

Two important points can be gleaned from this passage. First, that Kant acknowledged a broader definition of happiness under which it is possible to evaluate it in terms of transitory feeling (which animals certainly possess). Second, that rational beings always evaluate their own happiness by seeing how the satisfaction of particular desires fits into their well being as a whole. I take this to mean that for beings that are capable of reflecting on the fact that their needs have been met, this reflection is part of their happiness, but that this ability to reflect is not required for beings that do not reflect in this way. This would explain why it is more difficult for humans to be happy than for animals; our happiness has an additional requirement that animals' does not.

According to Kant, happiness is not in itself good, but only in combination with a good will, which "seems to constitute the indispensable condition even of worthiness to be happy" (4:393). Kant thus defines virtue as worthiness to be happy, and states that the highest good of a possible world is for happiness to be distributed in proportion to virtue (5:110). This is similar to the idea of the Kingdom of Ends, with the addition that we must postulate God in order to ensure that happiness actually is distributed in proportion to virtue, which does not necessarily happen in nature.

Since happiness in proportion to virtue is the highest good, we must make the happiness of others our end. This would apparently not include animals, because animals, as moral agents, lack virtue. They cannot, therefore, be worthy to be happy, as Kant has described it. On the other hand, they are not deserving of unhappiness, either. Their happiness is simply irrelevant, except insofar as our indirect duties require us to preserve it for our own ends.

Kant argues that happiness is not good in itself because, without the influence of a good will, it can give rise to boldness and arrogance (4:393), and because we dislike seeing immoral people enjoying happiness, and only approve of it when it is had by virtuous people (4:393). Thus only when paired with the one thing that is good in itself – a good will, which animals cannot have – does it have value.

Kant's argument suffers from a flaw: if happiness cannot be judged on its own merits, apart from the presence of a good will, then why is it that we take pleasure in a virtuous person being miserable, and displeasure in an evil person being happy? We base this evaluation on the belief that a good person deserves happiness, and a bad person does not. How do we know what a good person deserves? The concept of desert involves some sort of equivalence between the

character of the agent and the quality of the thing that is deserved. Good people deserve good things. So in order to declare that good people deserve happiness, we must already have judged happiness to be a good (not necessarily the highest good, but a good nonetheless). There must be some sense in which happiness is a good independent of the presence of a good will.

If happiness is a good, then why is it that in some situations, such as those Kant mentions, we don't judge it to be good? Doesn't the fact that we dislike seeing evil people happy suggest that it achieves its goodness only when combined with virtue? I admit that there is a relationship between virtue and worthiness to be happy, but it is complex. If our intuitions reveal that there is something wrong with virtuous people being unhappy or evil people being happy, they also reveal further wrinkles. A small child happy at play is a sight that meets with almost universal approval; conversely, nothing is more upsetting than the sight of a child in distress. Yet a child, prior to the age of reason, is incapable of morality. Our judgment that children should be happy is not based on the child's moral character.

Whenever children are raised as an example in moral philosophy, the first inclination is to treat them as *de facto* moral agents because of their potential to

become moral agents. One could argue that children have the potential to become virtuous, and thus are worthy to be happy. Potentiality, however, does not solve the current problem. Children have the same potential to become evil as to become good.¹¹ This would seem to imply either that the two cancel either other out, and children should be neither happy nor unhappy, or else that both are entailed, and the child should be made both happy and unhappy (perhaps alternately). We have no justification to assume that a child is going to become good (nor, of course, that it is going to become evil).

What is it, then, that is behind our intuitions about the happiness of children? Why is the happiness of a child so cherished, and the misery of a child so disdained? The answer, I believe, lies in the concept of innocence. As pre-moral beings, young children can do no evil. It is the lack of evil that we regard as the prerequisite for happiness, not the presence of moral goodness. In a rational adult, the lack of evil entails the presence of moral goodness; in a nonrational or pre-rational being, neither is present.

¹¹ Fred Rauscher points out that, given Kant's belief in the radical innate evil of humankind as expressed in the Religion, we have reason to expect that all children are destined to become evil! They may also manage to fight against the innate evil and become good, but that is not guaranteed. Extrapolating from the Religion, it is merely possible that a given child will become good, but certain that he or she will become evil.

This also applies to our evaluation of happiness in animals. We take pleasure in animals' happiness, just as we have a shared sense of their suffering. The sight of happy animals at play does not produce as strong a reaction as the sight of happy children (no doubt for natural reasons related to the propagation of the species), but we do approve of it. We have a sense that animals are innocent, that they do nothing (morally) wrong, and although we may resent their presence at times, when we are thoughtful and objective we do not blame them when their actions have a negative impact on us.

I believe that it is not virtue that makes one worthy of happiness, but the lack of vice. Rather than the presence of virtue making happiness good, it is the presence of evil that ruins it, robbing it of its prima facie goodness. But what grounds this goodness? As moral agents, we necessarily confer value upon it. Kant states that happiness is the "[. . .] one end that can be presupposed as actual in the case of all rational beings [. . .] and therefore one purpose that they not merely could have but that we can safely presuppose that they all actually do have by a natural necessity" (4:415; cf. 5:25). As finite, rational beings – i.e. human beings – we necessarily regard happiness as valuable. Although it is our own happiness that nature instructs us to cherish, as rational beings and

members of the Kingdom of Ends, our adoption of happiness as an end confers value upon it and thus we legislate for its general promotion. Korsgaard points out that Kant is not a value realist. That is, he does not believe there are intrinsically valuable things or qualities, which we then discover and arrange our morality around. Instead, as moral legislators we are the source of value (Korsgaard 18).

Since happiness is a natural end of all finite, rational beings, it has a value that we confer upon it. We see it as a *prima facie* good, and thus we seek to promote it wherever it appears, except when it is tainted by evil. It is not, for the reasons Kant shows, absolutely good, and it is not the source of value (rather, rationality is the source of value, but we place this value on happiness).

But when we take happiness as a value, why do we make an exception for immoral persons? All human beings have their own happiness as an end. As rational beings, we are supposed to evaluate all our actions as though we were legislators in the Kingdom of Ends, in which everyone's ends are in harmony. Thus, our own actions must promote, and not interfere with, the happiness of others. When rational beings interfere with others' ends, they are trying to make an exception of themselves. They will for their own ends to be met while others'

are frustrated, but no consistent law can be made from this in the Kingdom of Ends. Thus in the real world, when we see such people being happy, we recognize the inconsistency between their willing unhappiness for others but receiving happiness for themselves, and this offends our rationality. In the case of children and animals (as well as those with a good will), happiness entails no inconsistency in will, and thus the value we confer upon it is not forfeited.

As rational but finite beings, we confer value upon happiness. Although the origin of this value is our own desire for happiness, as rational beings we bestow a value upon it that goes beyond its humble origins. The value of happiness is not absolute, since the presence of an evil will can override our approval of it. Its value, however, is not entirely dependent on being linked with a good will. This argument diverges from Kant, but not as severely as it may seem on first impression. It leaves intact Kant's definition of virtue as "worthiness to be happy," if it is understood that this definition is limited to rational beings. Since rational beings are the only ones that can participate in the moral realm, this limitation is not a serious hindrance for the definition. Worthiness to be happy, in my theory, entails not being evil; in moral beings, this is the same as being good. Hence within the scope of rational beings, worthiness to be happy would still

correspond with morality. Children, animals, and other nonrational beings, on the other hand, would be naturally worthy of happiness due to their innocence.

Further, this argument does not contradict Kant's claim that the only thing good in itself is a good will. I have argued that happiness can be evaluated as a *prima facie* good independent of whether it is attached to a good will, but its value still comes ultimately from its endorsement by the human will, and so its good is still derivative rather than inherent.

Kant's own remarks about the good will fit well with my claim about the *prima facie* value of happiness:

Understanding, wit, judgment and the like [. . .] are undoubtedly good and desirable for many purposes, but they can also be extremely evil and harmful if the will which is to make use of these gifts of nature [. . .] is not good. It is the same with gifts of fortune. Power, riches, honor, even health and that complete well-being and satisfaction with one's condition called happiness, produce boldness and thereby often arrogance as well unless a good will is present which corrects the influence of these on the mind [. . .] (4:393)

Note that Kant claims that it is the presence of an evil will that renders some talents of mind and qualities of temperament harmful, and then remarks that the same is true of happiness. Furthermore, he says that the reason a good will must be present in conjunction with happiness is that it will correct its influence on the mind. In an animal, no evil will can be present, and thus no correction is

required. Kant's remarks in this passage support my claim that it is the absence of an evil will, rather than the presence of a good will, that is the important factor in judging worthiness to be happy.

It may be objected that in claiming that being good and not being evil are the same for a rational being, I have obscured the range of goodness that can exist in human beings. Not being evil seems to require only the fulfillment of perfect duties, which does make a person good to some extent. There is quite a range, however, in the fulfillment of imperfect duties; a person who gives a small amount of money every month to charity is following an imperfect duty, but not to the extent that a person who puts in several hours a week of volunteer charity work, and so on up to a person who devotes his or her life to serving humanity. That Kant recognized such a range is implicit in the idea of happiness in proportion to virtue.

This is a valid point, but it can be incorporated without abandoning the claim that good, for a rational being, is entailed by not being evil. First, although imperfect duties are wide in their application and thus we are allowed to exercise judgment in when and how we fulfill them, making it one's principle never to fulfill them at all would be a conflict of will and therefore immoral. Thus acknowledging

and discharging imperfect duties is a requirement for not being, to some extent, evil. The question remains how to account for the difference between the merely good and the saintly. This can be accomplished by regarding the absence of evil as a minimum requirement for us to approve of happiness at all, while allowing that greater degrees of goodness are worthy of even greater degrees of happiness. I will return to this in the next section.

Human beings can, and in fact must, have ends other than their own happiness. Animals, as nonmoral, are always concerned ultimately with satisfying their own needs, and thus with happiness. Taking account of animals' interests in the Kingdom of Ends would mean providing for their happiness. Since we have acknowledged happiness as valuable provided it is not accompanied by a bad will, we should legislate on behalf of animals in the Kingdom of Ends. Their status would be that of subjects, protected by the laws but not participating in their creation. This expanded view of the Kingdom of Ends allows us to see where Kant should have placed moral patients in his ethical theory.

6. The Moral Status of Animals as Subjects

Animals, as discussed previously, cannot be regarded as ends in themselves because they are not a source of ends. Whereas Korsgaard has termed them "passive citizens" of the Kingdom of Ends, I prefer the term "subjects." "Citizen" implies an equality that they do not have with ends in themselves; even with the modifier "passive," the implication is that they are different from true citizens in degree, not kind. On the contrary, the fact that they are not ends in themselves does put them in a subordinate moral position.

Rational beings are the creators of the moral universe. Without rational beings to impose a moral order, everything that happens – in the words of a cynical determinist acquaintance – is just "the universe doing stuff." Animals would exist, and would still be happy at times and suffer intensely at others, but this would not be right or wrong; it would simply be. This is difficult for us to acknowledge. The temptation is to insist that pain and suffering are evil, and happiness good, regardless of our presence. But that is only because we are looking at it as rational beings. We cannot truly imagine ourselves out of the picture, because our mind's eye is still there to judge what we envision. Thus we assign value to these things through time, before and after our existence, and

even across possible worlds. Nevertheless, that value is dependent on us.

Animals' status in the moral realm is not just different or inferior to ours, it is in fact dependent on ours.

Korsgaard holds that although animals cannot assign moral value, they still have a natural good that matters to them; thus it would not be true to say that without rational beings, nothing in the universe would matter (36). Things would still matter to animals. Unhappiness (such as pain) would still be bad from their perspective, and happiness good. I have also argued that animals have ends that matter to them, and thus I agree that things would still matter to animals if rational beings did not exist. There would, however, be no moral value attached to their likes and dislikes. It is only rational beings who can say that animals should be happy and should not suffer. The moral status of animals is dependent on our existence as rational beings.

Since our own moral status is the precondition for animals to have any status, the preservation of rational beings must take precedence over animals' interests. This would include not just the preservation of the lives of rational beings, but also the preservation of rationality in those beings. In a situation where harming an animal is required to save the life of a rational being, there

would be conflicting grounds of obligation¹², one pointing toward protecting the animal's interests as a subject of the Kingdom of Ends, the other based on the rational being's status as an end in itself. Since rationality is a prerequisite for an animal's status as a subject, it is a stronger ground of obligation and thus in this conflict its preservation must be upheld as a duty at the expense of the animal's interests.

This account of animals' status has an advantage over Korsgaard's because, in holding animals to be ends in themselves, she seriously complicates the issue of conflicting obligations. It is true that conflicting grounds of obligation exist even without considering animals, but the problem takes on a decidedly expanded scope under her interpretation. Her response is to take the tragic view that it is impossible for us to uphold all our duties because we do not live in the Kingdom of Ends; we try to shape the actual world into the ideal Kingdom as much as we can, but we cannot expect nature to behave in accordance with our ends. We must simply do our best to treat all creatures as ends in themselves, even if we must fail (34-35).

¹² For Kant's discussion on conflicting duties, see 6:224-225, 27:508, and 27:537. Briefly, he holds that there are no conflicting duties, only conflicting grounds of obligation. The weaker ground gives way before it reaches the status of a duty, and thus there is only one actual duty.

How acceptable one finds this argument in a Kantian framework will depend on how one interprets Kant's claim that ought implies can (alluded to at 5:30) and whether one believes it is dispensable. Even so, the trouble with Korsgaard's position is that it gives no guidance in how to choose among conflicting obligations. "Do your best" is not a useful command without some way to determine what the best thing is. Recognizing the subordinate position of animals – based not on mere fiat, but on their dependent moral status – will help arbitrate at least some of the moral difficulties that we will encounter upon admitting them as subjects in our Kingdom.

The dependent status of animals does not mean that their interests will always be overridden by our own ends in the case of a conflict. The moral status of animals is dependent on our existence as rational beings, but not, for example, on our personal comfort or desires. There will be times when various personal ends will conflict with animals' happiness, just as our various personal ends can conflict with other rational beings'. We will at times have to forgo our desires in order to care for our subjects. This is not a problem, but simply the nature of our obligations as members of the Kingdom of Ends. It is, after all, also true of our relationship with other rational beings. We should pursue our private ends in

such a way that they can harmonize with the ends of the subjects of the Kingdom of Ends, as well as with the other members.

7. Objections and Replies

There are still some objections that one might raise with regard to the view that animals have the status of subjects in the Kingdom of Ends. In this section I will address three lingering concerns: first, that my scheme poses a problem for the allotment of happiness in proportion to virtue; second, that my theory offers few real protections for animals; and third, that ultimately I have offered another indirect-duty theory, with all the attendant difficulties.

If animals are worthy of happiness insofar as they are not unworthy of happiness, as I have proposed, then in the ideal moral universe, animals and virtuous human beings would be equally happy. Something about this does not seem to fit with the ideal of happiness in proportion to virtue. We would want to say that the greater attention a person pays to his or her duties, the worthier that person is of happiness. Animals do not forfeit the value of their happiness through evil action, but they also are not capable of the amazing heights of moral goodness to which human beings can strive, through devoting themselves to the

fulfillment of imperfect as well as perfect duties. It bothers our sense of fairness to think that a dog should be as happy as a hardworking philanthropist. Has the latter not earned a greater degree of happiness than the human being who at least avoids evil (if not strives to fulfill imperfect duties to quite the same degree), and does that moral-but-not-saintly person not in turn deserve more credit than a nonmoral animal? If we strive to keep animals happy, will they get more than their fair share?

First, if this is a problem, it is one for Kant's stated view as well as for my theory. After all, Kant believed that we should try to provide for animals' happiness as much as possible; although his rationale was that sensitivity to animals contributes to our own moral abilities, the result would still be that animals would be made happy as much as possible.

Second, it is plausible that animals, due to their lesser intellectual faculties, are naturally incapable of appreciating happiness to the extent that human beings do. Admittedly, since their desires tend to be simple, it may be easier for them to achieve happiness, but surely the kind of simple bodily satisfaction that comprises animals' happiness cannot be compared with the higher happiness felt by a fully rational being. The latter not only can appreciate

having his or her ends met, but also can reflect on the fact that those ends have been met. It is still possible, then, that the proportion of happiness allotted to the philanthropist will be greater than that allotted to the dog, even if the dog is as happy as it can be.

The other two objections deal with how well I met my own goals in undertaking this project. My first goal was to show that the reason Kant gives for treating animals well is inadequate, and to suggest that a better reason can be offered within Kant's framework. It might be objected that what I have proposed is simply an indirect duty view under another guise, and thus that it is subject to all the same problems that I criticized Kant's view for in Chapter 1. Since animals' moral status is dependent on the value that rational beings place on happiness, it might seem that our duties to animals are really only covert duties to ourselves, to respect our own values.¹³ I objected to Kant's indirect duty view for several reasons, one of which is that animals' moral status is entirely dependent on human psychology; thus, if it turned out that we could learn to separate our sympathy for animals from our sympathy for rational beings, there would be nothing wrong with torturing animals. My own view would seem to be

equally contingent and thus equally problematic. We must provide for animals' happiness because we happen to value happiness in ourselves; thus if we did not value happiness, we could harm animals as we wished.

Although it is true that my view maintains Kant's claim that only rational beings are ends in themselves, and thus the moral status of other beings is dependent on ours, it is not contingent in the same way Kant's is. Kant claims that happiness is "necessarily the demand of every rational but finite being" (5:25). Although it is contingent in the sense that what constitutes happiness varies from person to person (and presumably would vary even more if we knew of any other rational but finite beings), it is subjectively necessary in the sense that as finite beings we have needs and these needs are necessarily incorporated into our desires (5:25). Furthermore, happiness is such an important value for us as finite rational beings, that its presence (in proportion to virtue) is necessary for the attainment of the supreme good. Linking animals' status to the value we place on happiness does not put them in the precarious position that linking their status to the promotion of sympathy does. My position

¹³ Note that this criticism would apply equally to Korsgaard, since she makes animals' status as ends in themselves dependent on the value that rational beings place on their animal nature.

does not violate the intuitive claim identified by James Skidmore and which he dubs "CF" ("counterfactual"): "Even if certain (e.g., cruel or brutal) treatment of animals had no effect on an agent's attitudes or behavior towards human beings, such treatment would still be morally objectionable"(8-9). My own position does not make the wrongness of cruel treatment of animals dependent on any effect that the treatment would have on the agent or on other human beings.

Is the view I am proposing still an indirect duty view? That is an interesting question. Since animals are not ends in themselves, it would seem that their ends, insofar as we are obliged to take them into account, are really ends for us. The duties that we have to promote their ends are not, however, merely covert duties to human beings. We must promote animals' happiness because happiness is valuable; and it is the happiness of that animal that we are obliged to promote, not some indirect effect on the happiness of human beings. Therefore my view is not an indirect-duty view as Kant's is. Animals, however, do have a status that is contingent on our own, and so our duties to them are not duties to them in quite the same way that our duties to human beings are. This is because it is not the animals that bind us in a relation of obligation; the source of

the obligation is ourselves as rational beings. Our duties to other rational beings, on the other hand, are duties that originate in them as well as in ourselves.

My second hope was that whatever replacement I found for Kant's theory would entail a larger set of duties to animals than the one that he offers. The problem is that in declaring that animals have a subordinate status as subjects, I may have left them in nearly the same position that Kant did: the object of some weak and easily-overridden duties that amount to little more than "use animals as you wish, but avoid being cruel when possible." This is not, however, an accurate characterization of my position. It is true that I regard the preservation of rational beings as necessarily taking priority over the interests of animals. As previously noted, however, this does not mean that all human interests take priority; far from it. Only in the narrow case of preserving a rational being's life (or preserving his or her rationality) do rational beings' interests automatically take precedence. This would seemingly allow animal experimentation under certain circumstances¹⁴, but would not permit eating animals (at least for

¹⁴ Korsgaard rightly points out that what, exactly, counts as "saving a life" is a matter of some ambiguity, especially in the realm of research (36n). Allowing animals to be sacrificed when doing so would save a life might allow less research than one might initially assume.

members of first-world nations at this point in history),¹⁵ hunting, and other uses of animals for mere gratification.

An important consideration is that as we strive to create the Kingdom of Ends, we are attempting to set up a world in which everyone's ends are in harmony. This entails not just specifically carrying out or refraining from certain narrow actions, but trying to bring about various institutions and practices that will bring us closer to the possibility of such a kingdom. Thus although we are permitted to harm animals for the preservation of rational life, we have an obligation to try to prevent such necessities from arising in the future. For instance, we must not be content to use animals for scientific experiments on the grounds that doing so preserves rational life; we must also be working as hard as we can to discover ways to reach the same ends in the future without animal experimentation.

¹⁵ It may be that killing animals does not in itself violate their interests. If true, this would presumably make it permissible for us to kill them provided that it is done painlessly (this would be true not just in the theory that I am proposing, but in many theories that involve obligations to animals). The usual argument for this is that animals do not have plans for the future, and so we are not frustrating their plans by ending their lives. We could raise them for food and thus use them as means so long as we also made their happiness our end while they were alive. I am not entirely convinced that survival is not an interest for animals, but even if the point is conceded, we would have to radically reevaluate how we currently raise food animals, probably to the point at which it would no longer be economically or practically viable. The constraints on our behavior toward animals would still be much stronger than we currently acknowledge.

Those are the main objections to my theory as I see them, and I believe my responses are adequate to meet the challenges. Some questions about my theory remain unexplored, and I will discuss these in the next section.

8. Future Directions and Conclusion

My intention has been to carve out a space for animals in Kant's moral theory by discarding his unsatisfactory account of indirect duties and replacing it with a theory that provides for a more robust conception of animals' place in the moral sphere. Although I have focused on animals, I believe that my conclusions will also help account for permanently nonrational human beings, such as severely mentally retarded persons. In striving toward the Kingdom of Ends, we should take into account all beings with ends that matter to them. Although it may be equally consistent with the rest of his moral theory to simply deny that there is anything wrong with treating animals as cruelly as we wish, I believe that this violates Kant's attempt to create a moral system that accords with common intuition. In proposing the doctrine of indirect duties to animals, Kant seems to be trying to get them in through the back door; it is as though he wants to acknowledge the common intuition that we have duties to them, but has been

trapped by his belief (which I do not dispute) that moral agency is the source of all moral worth. His mistake, I believe, is in not recognizing that we can locate moral worth in things other than ourselves. Its source need not be the same as its location.

My goal has been only to show that there is room for a better account of duties to animals in Kant's framework, rather than to show what exactly those duties would be. As it stands, I have offered only a small sketch of what would be entailed by taking animals' interests into account. Various projects for future study are immediately apparent, including how to resolve conflicting grounds of obligation between animals and human beings in cases other than the narrow one that I have described (saving a human life or preserving human rationality), how to resolve conflicting grounds of duty that involve two animals, and to what extent we are obliged to interfere or refrain from interfering in the affairs of wild animals. Another important question is how to decide what creatures count as "animals" under this theory. I have used the term loosely to refer not to the whole biological category of animals, but only to those animals that count as beings with ends that matter to them; which beings those are is a controversial matter deserving of further consideration.

I will conclude by noting that the incorporation of animals into the Kingdom of Ends has one further benefit for Kant's theory: it allows for a satisfying parallel to Scripture. Kant was fond of alluding to Biblical passages, and endeavored to bring his moral theory into line with a religious worldview, so I shall offer an allusion of my own; I think Kant would have appreciated it.

In the Garden of Eden, Adam was given the task of ruling over the animals, but there is no indication that he used them; at that time, all creatures apparently ate plants (New American Standard, Gen. 1:26-30). Human beings did not need to use animals, because all creatures' needs were provided for. But the world we live in now is not the Garden of Eden; animals kill and eat each other, and sometimes to survive we too have to act against their interests. Someday, the Bible promises, we will once again live in harmony in God's kingdom. When that day comes, all the animals will once again be in harmony with each other and with us:

And the wolf will dwell with the lamb,
And the leopard will lie down with the young goat,
And the calf and the young lion and the fatling together;
And a little boy will lead them. (Is. 11:6)

This is impossible in the natural world, of course. But our role is to strive to bring about a moral world, a Kingdom of Ends, like the kingdom of God on earth. We

cannot make the wolf dwell with the lamb, but we can and should lead them all toward the greatest fulfillment of ends that we can achieve within the cruel world of nature.

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