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Animals, Anthropocentrism, and Morality
Analysing the Discourse of the Animal Issue

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Abstract

This dissertation identifies and criticises a fundamental characteristic of the philosophical discourse surrounding the animal issue: the underlying anthropocentric reasoning that informs the accounts of both philosophy of mind and moral philosophy. Such reasoning works from human paradigms as the only possible starting point of the analysis.

Accordingly, the aim of my dissertation is to show how anthropocentric reasoning and its implications distort the inquiry of the animal debate. In extracting the erroneous biases from the debate, my project enables an important shift in the starting line of the philosophical inquiry of the animal issue.

In chapters one and two, I focus on philosophy of mind. I show how philosophical accounts that are based on anthropocentric a priori reasoning are inattentive to the relevant empirical findings regarding animals' mental capacities. Employing a conceptual line of argument, I demonstrate that starting the analysis from a human paradigm creates a rigid conceptual framework that unjustifiably excludes the possibility of associating the relevant empirical findings in the research. Furthermore, I show how the common approaches to the issue of animals' belief and intentions deny that animals can have these capacities, and I demonstrate how such denials can be avoided.

The philosophical discourse that I examine denies intentional mental capacities to animals. Such denials take place, I maintain, because the analysis is anthropocentric: it uses humans' most sophisticated capacities as the only possible benchmark for evaluating animals' mental abilities. A central example of such anthropocentric reasoning is the oft-mentioned view that there is a necessary link between language and intentionality. Such a link indeed characterises humans. Yet the claim that there is no intentionality without language is a problematic framework for analysing the supposed intentionality of non-linguistic and pre-linguistic creatures. Employing a standard that applies to normal, adult humans excludes the possibility of animals' intentionality from the outset. It seems, however, that intentionality is a capacity that evolves in stages, and that simple intentional mental states do not require language. At the same time, such an analysis ignores, to a large extent, cases of attributing intentionality to pre-linguistic humans and even normal, adult humans. Thus, I show how the denial that animals may have intentional mental capacities results in a double standard.

In chapters three to six, I critically examine the anthropocentric nature of the debate concerning animals' moral status. The anthropocentric reasoning relates to the conditions of moral status in an oversimplified manner. I show that human prototypes, e.g., rational agency and autonomy, have mistakenly served as conditions for either moral status in general or of a particular type. Seemingly, using such conditions excludes from the proffered moral domain not only animals, but also human moral patients. Yet eventually only animals are excluded from the proffered moral domain. I identify and criticise the manoeuvre that enables this outcome. That is, although the proffered conditions are based on individual characteristics of moral agents, they are applied in a collective manner in order to include human moral patients in the moral domain under examination. I also show that when animals are granted moral status, this status appears to be subjugated by human needs and interests, and therefore the very potential to substantiate animal moral status becomes problematic.

Significantly, I also criticise arguments *in favour* of animals' moral status, claiming that they sustain the oversimplified nature of the inquiry, hence reproducing the major problems of the arguments they were originally designed to refute. As part of my critique towards both such arguments and anthropocentric reasoning, I suggest a non-anthropocentric framework that avoids oversimplification with regard to the conditions of moral status. The aspiration of anthropocentric reasoning as well as of pro-animals philosophers is to find a common denominator that is allegedly shared by all members of the moral community as the single foundation of moral status, which consists of individual characteristics. My framework challenges this aspiration by showing that this common denominator cannot account for all cases. The framework that I suggest enables establishing moral statuses upon distinctive foundations, and at the same time, my proposal avoids falling into the trap of speciesism.

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Preface

de Beauvoir: You've never liked animals.

*Sartre: Oh, but I have, to some extent.
Dogs and cats.*

de Beauvoir: Not much.

*Sartre: Animals. As I see it they are
a philosophical problem. Basically.¹*

My primary aim in this dissertation is to identify and criticise a central narrative in the philosophical discourse about animals. The central narrative is established upon anthropocentric reasoning, i.e., reasoning that considers human paradigms as the only standard for attributing either mental capacity or moral status to animals. Using such standards, anthropocentric reasoning segregates humans from animals by focusing *only* on the differences between them. For instance, anthropocentric reasoning maintains that a common property supposedly shared by all humans and only humans is a necessary condition for moral status (either moral status in general or moral status of a particular kind). Consequently, animals, in addition to many human moral patients, do not satisfy the required condition and thus cannot be included in the relevant moral domain. In fact, as we shall see, this situation affects mostly animals.

The common reply to anthropocentric reasoning maintains that animals should be endowed with moral status. The methodology of this counter-reasoning is to connect the human case with the animal case by concentrating *only* on the similarities between them. Both positions, I argue, oversimplify the issue of moral status. Additionally, the counter-reasoning is distorted as a result of the original anthropocentric view. Thus, one of this project's central aims is to identify the implicit connection between anthropocentric moral reasoning and its counter-reasoning, and to critically examine the common reply to anthropocentric reasoning with regard to animals' moral status.

¹ Simone de Beauvoir, from *Adieux: A Farewell to Sartre* (1981, 316).

This dissertation consists of six chapters. Each chapter delves into a particular problematic element of the animal debate.

The first chapter examines the gap between anthropocentric a priori reasoning and empirical findings concerning animals' mental capacities. On the one hand, it is commonly argued that only language users can have intentional mental capacities (such as beliefs). On the other hand, empirical findings, although they might still be deficient and subject to multiple interpretations, suggest that despite the fact that animals are languageless, they may have intentional mental capacities that underlie abilities such as hiding, waylaying, and calling for attention. Pointing at this gap enables me to highlight a problematic strand in the animal mind discourse—a strand that enables the inattention to empirical findings and the dismissal of seemingly sophisticated behaviour of animals from the research. My aim, however, is not to find the 'correct' interpretation of empirical findings, but rather, through conceptual analysis, to identify the mistakes of anthropocentric reasoning. I argue that anthropocentric reasoning denies that animals are capable of having mental capacities such as beliefs, relying on a standard that is based on a human paradigm and is thus suitable only for normal, adult humans. In this chapter, I also illuminate the low explanatory value of this reasoning.

The second chapter explores conceptual and epistemological aspects of the animal mind debate. In contrast to the common view, I argue that in the relevant aspects, there is no categorical difference between humans and animals in terms of the way in which we justify the attribution of intentional mental states. The chapter is framed by a comparison between the human case and the animal case, through which I systematically examine the different kinds of doubts employed in each case, focusing on the issue of indeterminacy of content. In this context, the epistemological problem of other minds and the conceptual problem concerning the conditions of intentional states represent two sides of the same coin: the latter concerns the conditions for having mental states that consist of determinate content and the former concerns the observer's ability to ascribe determinate content to mental states. I

demonstrate that the problem of indeterminacy of content in cases that are not based on human paradigms is as applicable to normal, adult humans as it is to animals.

In chapter three, I demonstrate that the issue of moral status—whether in general or of a particular type—is also obscured by anthropocentric reasoning. Significant to my argument is the distinction between moral agents and moral patients. My aim in using this distinction is very specific: I wish to show that although the distinction is well-established, anthropocentric reasoning fails to address it properly. This failure renders a shift in the spotlight of the debate: it brings the argument away from focusing on the differences between moral agents and moral patients to focusing on the differences between human beings and animals. A crucial consequence of this shift is that although anthropocentric reasoning aims to segregate the case of humans' moral status from that of animals, this segregation is done using the standard of adult, normal human beings. In other words, applying the first chapter's line of argument to the debate over animals' moral status, I argue that human paradigmatic characteristics (e.g., rational agency or autonomy) have been mistakenly employed as the *only* conditions of either moral status in general or of specific types of moral status (e.g., the status of rights-holders). Such reasoning oversimplifies the nature of the inquiry by not sufficiently addressing the complexity of morality. Additionally, such reasoning converges into the idea of denying moral status (either in general or of a particular type) to animals because they are not moral agents. I also argue that anthropocentric reasoning does not manage to show that animals are not moral patients. The surprising consequences of this insight to human moral patients are elucidated in this chapter as well.

Chapter four examines cases in which animals are excluded from a particular moral domain, but not from the moral community, and thus are still considered moral patients who are entitled to well-being. The accounts that I examine in that respect are problematic in that they acknowledge animals' moral considerability, while apparently not grounding it in any securing status. Moreover, it appears that according to these accounts, animal needs and interests are subjugated to human needs and interests. Thus, it is unclear how animal needs and interests can be taken into account and how we can substantiate their moral status. Once

again, I trace the source of these problems to anthropocentric reasoning. My aim in this project is not to justify animal moral status. However, I demonstrate that the recognition within the accounts I examine, that animals are morally considerable, entails that humans have direct duties to animals. Even if animal moral status is limited, it still regulates minimal standards that are meant to protect the basic needs and interests of animals from being frustrated. Direct duties towards animals substantiate the moral status with which they are endowed.

Chapter five focuses on *the argument from marginal cases* (i.e., the argument referring to humans such as the mentally handicapped or the senile). This argument emphasises the similarities between individual characteristics of humans—characteristics that are said to form the criterion for moral status—and individual characteristics of animals, via marginal cases. The idea is that for every proffered condition that supposedly separates the human case from the animal case with regard to moral status, it is possible to show that there are some humans (i.e., marginal cases) who do not satisfy this condition. Accordingly, the attempt is to establish a broad criterion for moral status—such as sentience—that can be applied to all humans and to the relevant animals. My in-depth analysis of this argument recognises its advantages. However, it also leads to the conclusion that this argument reconstructs the oversimplified nature of the inquiry of moral status that I traced with regard to anthropocentric reasoning in the preceding chapters. Whereas anthropocentric reasoning focuses only on the differences between humans and animals, the argument from marginal cases focuses only on their similarities. This rationale of the argument from marginal cases, I argue, can be identified in the conditional that *if all human beings deserve moral status, then so do some animals*. Both attitudes, however, are one-dimensional in that they attempt to base moral status upon a single criterion, and to base this criterion for moral status on individual characteristics. As with anthropocentric reasoning, I demonstrate that this argument oversimplifies the complexity of morality and is thus exposed to exceptions for which it does not account, and hence cannot single-handedly provide a satisfying foundation for moral

status. By this stage, it would be clear that the distorted reasoning plaguing the issue of animals' moral status has affected both sides of the debate.

Chapter six argues that although the proponent of the argument from marginal cases maintains that refuting the conditional *if all human beings deserve moral status, then so do some animals* represents speciesism, this is not necessarily true. I suggest a balanced position whose seed I sow earlier: I propose that both humans and relevant animals can have moral status, while separating the human case from the animal case, arguing that usually humans and animal moral status are embedded in different foundations. The salient exception to this separation is the case of pets. I argue that the moral status of pets can indeed be established on the same foundation of human moral status. Separating the cases of humans and pets from the case of other animals is possible because my account enables establishing moral status on more than a single condition. Yet I carry out this separation without employing an anthropocentric approach or speciesist reasoning. I maintain that different background theories underlie the issue of humans' and animals' moral status. These theories affect our moral practice in a way that should be taken into consideration in formulating the criteria for moral status. For instance, I show that our background theory in the human case has already granted moral status to all humans, even if they are incompetent, and that this can be justified on non-speciesist grounds. I argue that the bond-forming inclination of human beings is the element that underlies this background theory, and that it cannot be reduced to one's individual characteristics since it relates to society as a whole. I suggest that this element is the relevant criterion for moral status both in the case of humans and in the case of pets, and demonstrate its explanatory value. Although the criterion of bond-forming is usually irrelevant to non-pet animals, I nonetheless contend that other criteria are available for their case. In addition to avoiding blatant exceptions with regard to moral patients, the main advantage of my proposal is that it provides a case for humans' and animals' moral status in a manner that on the one hand is not detached from our social reality, and on the other hand is not speciesist.

This project does not deal with applied ethics, and in accordance with its purpose, it does not aim to provide particular normative standards concerning the interrelationships between humans and animals or to provide a list of do's and don'ts with regard to animals. It is significant to note that this project aims to identify basic faults in the ways we approach the animal issue, faults that influence our arguments and shape the debate over animal mind and moral status. In this sense, this project aims to 'clear the ground' in order to enable further developments in the research, aspiring to facilitate the creation of new ways of approaching the animal debate. As long as the ways of thinking that I expose and criticise throughout this dissertation dominate the research, there is little prospect for non-anthropocentric theories to be taken seriously.

Chapter 1

One Strand in the Animal Mind Discourse

It is extremely difficult for a sophisticated member of a sophisticated society to grasp a very simple and primitive form of life: in a way he must jettison his sophistication, a process which is itself perhaps the ultimate in sophistication.¹

I. Introduction

It is not uncommon to find positions in philosophical literature that deny that animals are capable of having mental capacities such as beliefs, intentionality, or consciousness. Even in 20th-century literature, one can still find doubts regarding the existence of pain in animals (Harrison, 1991). These positions are occasionally based on the accusation that pro-animal philosophers are highly emotional and intuitive,² or anthropomorphic (Davidson, 1975, 155).³ In most cases, however, positions denying animals' mental capacities are based on the claim that animals lack language.⁴ Some have denied these mental capacities by rejecting behavioural resemblance between humans and animals as well as the similarity between the nervous systems of humans and animals on the grounds that such empirical findings are insufficient as evidence. Others dispute evolutionary theory (Harrison, 1991), projective imagination, simulation (Stich and Nichols, 1995), and the argument from analogy by arguing that these methodologies are conceptually flawed. Whether or not charges against arguments ascribing mental capacities to animals are justified, the immediate result is a great rift between the suggested a priori reasoning on the one hand and empirical findings on the other.

My aim in this chapter is not to defend the claim that animals possess mental capacities such as beliefs and thoughts. Rather, my aim is to uncover a strand that plays a major role in the animal mind discourse: the rift between anthropocentric a priori reasoning

¹ Peter Winch, from "Understanding a Primitive Society" (1972, 37).

² Fox (1986, 13); Frey (1880, 84); Carruthers (2000, 199).

³ The charge of anthropomorphism that appears in the literature might also imply that testing analgesics on animals might be considered anthropomorphic as well. However, this charge usually appears without any consideration that anthropomorphism might be useful. For the usefulness of anthropomorphism in science, see Rollin (1997).

⁴ Hampshire (1959, 97- 98); Davidson (1975, 1982 and 1999); Frey (1980, ch.7); Kenny (1989, ch.3); Leahy (1991).

on the one hand, and the empirical findings on the other. I will argue that an anthropocentric analysis—that is, an analysis that relates to mental capacities according to the paradigmatic standard of the language user—makes itself immune to empirical findings concerning, for instance, alleged sophisticated behaviour of animals. Deciphering this manoeuvre is at the heart of this chapter.

By 'empirical findings' I refer to data from cognitive ethology, comparative psychology, comparative biology, or even an intelligent common sense, that is based on observation and experiments. This data is an indication for something, but whether or not it is an indication of X depends on how one interprets it. For instance, according to certain interpretations, empirical findings may suggest evidence for the existence of certain mental capacities, but at the same time other interpretations might be available as well.

By 'a priori reasoning', I refer to a methodology that purports to establish the conditions for the possession of mental capacities from reflection. Descartes' *Meditations* is a good example of a priori reasoning. My critique, however, is not directed towards a priori reasoning in general, but only towards a particular kind of this reasoning, i.e., anthropocentric a priori reasoning.⁵

As I will demonstrate, the conclusion that results from the reasoning I have sketched above, namely that animals cannot have beliefs, intentionality, and conscious mental states, is enabled by a philosophical misconception that is founded on an anthropocentric approach to animal minds: it is based on the human paradigm as the only possible standard for attribution of certain mental capacities. I will also demonstrate how arguments that are based on anthropocentric a priori reasoning facilitate the inattention to empirical findings, although I do not argue that the latter should prevail over a priori reasoning. My primary line of argument in this regard is based on conceptual analysis.

I first establish my argument through a brief examination of texts by Anthony Kenny and Michael Leahy. These texts illuminate the blind spots in the prevailing philosophical discourse regarding animals' mental capacities. I then proceed to conduct a critical analysis of

⁵ The term 'a priori reasoning' should not, in itself, carry any negative connotation.

Donald Davidson's account of animal belief, which will occupy most of this chapter. Finally, I will critically examine my own argument. While elaborating on the problem of how to interpret empirical findings, I will emphasise how my argument damages the reasoning that I have criticised.

II. Anthropocentric A Priori Reasoning and Empirical Findings

It is commonly held that the mastery of language justifies the ascription of certain mental capacities to humans. Adult humans possess language, which is considered a necessary condition for mental states such as thoughts and beliefs: the idea is that language enables the very capacity for these states. For instance, you cannot think about your belief as *a belief* or as *your belief* if you do not know what belief is, and do not have mastery of the term 'belief'. However, in the case of animals, we face a conceptual problem: although animals can communicate, they lack language in the relevant sense of the concept, and thus they supposedly lack the necessary conditions for mental capacities such as belief. Thus, animals' lack of language is said to set a conceptual barrier to having certain mental capacities.⁶ This is an anthropocentric a priori reasoning because it bases the idea that animals do not have certain mental capacities on the human paradigm of being a 'language user'.

I do not argue that anthropocentric a priori reasoning ignores any empirical findings whatsoever, and such a claim would be false. Indeed, the very claim that animals lack language, or a certain kind of language, is partially based on empirical observations of animals. This, however, does not harm my argument since I am concerned with cases in which the very issue is the alleged sophisticated behaviour of animals, given that they are either languageless or lacking the kind of language that is allegedly required for the mental capacity in question. In other words, a possible reply to my contention regarding

⁶ An additional problem concerns the indeterminacy of content. Humans can express themselves with propositions, and thus we can supposedly determine the content of their beliefs, and hence justify that they hold mental capacities such as beliefs and higher-order representations. That is, their linguistic behaviour supplies the content of these mental states. Animals lack language, and therefore, supposedly, we cannot determine the content of their mental states. This issue will be the subject of the next chapter.

anthropocentric a priori reasoning, the reply that the conclusion that animals are languageless is empirically based, would not have consequences for my argument. Moreover, note that *the need to provide an explanation for the alleged sophisticated behaviour of animals arises precisely because animals are languageless*: my very point is that even though animals do not have language in the relevant sense of the concept, empirical findings still suggest that they may have certain mental capacities that originally were said to require language. Thus, the gap between the empirical findings in this respect and anthropocentric a priori reasoning about what these findings suggest about animal minds demands attention.⁷ It is important to note that I do not argue that empirical findings take precedence over a priori reasoning in general nor over anthropocentric a priori reasoning in particular, but rather that one should attempt to incorporate the relevant empirical finding in the research, and that this cannot be done once one is arguing from anthropocentric a priori reasoning.

By way of illustration, I will consider the arguments of Anthony Kenny and Michael Leahy.

A. Kenny on Intentionality

Kenny attributes wants to animals, but differentiates between wants and intentionality. He argues as follows:

The capacity for intentional action is the same thing as the capacity to act for reasons. It is because they lack the capacity to act for reasons that non-human animals lack the capacity for intentional action.

Intentional action presupposes language in the same way as self-consciousness presupposes language. [...] Fido [the dog] may scratch to get at the bone, and his scratching manifests his desire to get at the bone; but there is nothing within his [behavioural] repertoire to express that *he is scratching because* he wants to get at the bone. (1989, 39)

Kenny appeals to intentional acts as they are defined in relation to humans. It is true that lacking language, animals can neither verbalise reasons for action, even after the act has taken place, nor can they verbalise them in principle. Kenny appeals to a standard that only humans

⁷ In most cases philosophers are aware of the empirical findings, but—crucially—they manifest an unfavourable attitude towards them.

share, i.e., the capacity to verbalise reasons for actions and to reflect upon them; thus, he directly links intentionality to human language and therefore concludes that ascribing intentional acts to animals is flawed with anthropomorphism. Kenny's appeal to the capacity to verbalise reasons (a capacity for which language is a necessary condition) as the *only* standard is an example of anthropocentric a priori reasoning. By appealing exclusively to linguistic ability without considering alternatives, Kenny excludes from the outset any possibility that some animals might perform intentional acts that might not require language like that of humans and that would not completely match paradigmatic human intentionality.

More importantly, Kenny's account indirectly excludes the possibility that animals can have intentional states such as desires and beliefs because they are directed towards an object:⁸ his account implies that because animals lack language, they cannot verbalise the object of such intentional state, and this, supposedly, implies that the dog cannot even want or desire to eat.⁹ I do not contest Kenny's claim that the ability to act *for* reasons that one can verbalise is the paradigm of volition, i.e., that the paradigm of wanting is linguistic (1989, 37). It does seem reasonable, however, to understand intentionality as a generic concept that encapsulates many types of volitional states; some of these states do not require linguistic capacities and could be attributed to animals.¹⁰ The issue here, nonetheless, is not terminological. There are many cases in which it will be hard to ignore the sophistication of animals' actions, especially due to the gap between such actions and animals' other simple actions.

Consider, for instance, cases of alleged deception. De Waal reports cases of deception in chimpanzees (1996, 75-78). In its full meaning, as De Waal claims, deception requires awareness of the way in which others see the actions of the deceiver, and the intention that others may attribute to him. De Waal reports that while seeing a stranger approaching their

⁸ One must note, however, that Kenny definitely does not mean this, and actually attributes to animals desires (see the quote above) as well as simple thoughts (1989, 39 and 127). It is worth noting that Kenny's attitude concerning animals' mental capacities is relatively positive.

⁹ As we shall see in due course, Davidson partially takes this line of argument.

¹⁰ One can think of unconscious cases of intentionality. Horgan and Woodward (1985, 157-158) hold this view. For a review of types of intentional states, see Searle (1994, 69-70).

cage, many chimpanzees will fill their mouth with water, and will wait as if everything is as usual until they are able to splash the water on the 'intruder'. He also reports that some of the chimpanzees have managed to manipulate people who expected this behaviour from them: the chimpanzee, pretending to be busy with something else, conceals the fact that he has water in his mouth, but turns around at the right moment in order to splash the water. Similar cases of allegedly sophisticated behaviour concerning deception, manipulation and pretense, are reported by Byrne and Whiten (1988).¹¹

Importantly, De Waal is not bound by a claim that apes cannot perform acts of deception because they lack language. At the same time he does not argue that these examples represent cases of deception in its full meaning. Once one is not bound to the human paradigm, one can raise alternative ways to provide a satisfying interpretation to certain empirical findings that may provide us with an explanation unavailable to those who work exclusively from the human paradigm. It is clear that for many examples with a particular interpretation, there exist also counter-interpretations. However, the issue here is that a dispute over the correct interpretation of animal behaviour is irrelevant for those who work from the human paradigm, unless the behaviour is linguistic in the full-fledged meaning of the concept.¹² In order to make such a dispute relevant one first needs to consider alternatives to anthropocentric a priori reasoning (such alternatives should not abolish the human paradigm).

¹¹ See also De Waal (1982, 62-63); Allen and Bekoff (1997, ch.6).

¹² Dennett quotes the following example, which was sent to him: "One evening I was sitting in a chair at my home, the *only* chair my dog is allowed to sleep in. The dog was lying in front of me, whimpering. She was getting nowhere in her trying to 'convince' me to give up the chair to her. Her next move is the most interesting, nay, the *only* interesting part of the story. She stood up, and went to the front door where I could still easily see her. She scratched the door, giving me the impression that she had given up trying to get the chair and had decided to go out. However as soon as I reached the door to let her out, she ran back across the room and climbed into her chair, the chair she had 'forced' me to leave" (1976, 183). In this example, in contrast to Kenny's claim, it seems that the dog's behavioural repertoire does express intentionality, while other actions, sophisticated or less so, express simple wants.

B. Leahy on Self-Awareness

In dealing with animals' consciousness and self-consciousness, Michael Leahy argues in a similar vein to Kenny:

Self-awareness even in an absolutely minimal form, is not merely to recognise oneself, but to be aware of recognising oneself *as oneself*, with much of what that implies.
(1991, 145)

Leahy's argument is anthropocentric in that it takes the case of human adults to be the only possible standard for self-awareness. I do not argue that animals can be self-conscious in the same way that humans are; I do not claim that a dog could think about himself *as himself*, or even think literally that *his* master is at the door. However, Leahy argues from the *paradigmatic* case of humans, in which one can think about oneself consciously. In this case one can make oneself the object of one's thought. Only the adult human who possesses a developed language has this ability, but the case of adult humans does not exhaust all there is to say on this matter. Consider the case of children. There is no *single* critical moment when a child becomes self-conscious, and from then on recognises himself as *himself*. Among other problems, Leahy's account is focused on self-awareness in adult humans—the paradigmatic case of self-awareness; thus, it has nothing to say about different stages of acquiring self-awareness that eventually lead to the paradigmatic case of self-awareness.¹³

Considering the possibility that self-awareness could be achieved in ways that diverge from the paradigmatic human model might shift our view on this issue. Here is an initial suggestion that demands further investigation: the dog is aware of objects, but he is aware of his body in a completely different way, and the dog's behavioural repertoire reveals this. In this sense it is clear that the dog differentiates himself from other things in the world, and in

¹³ For a detailed account regarding the transition from an understanding of simple desires to an understanding of beliefs in infants, see Wellman (1991). For a detailed account about the development of self-recognition in infants, see Bertenthal (1978). Gallagher and Meltzoff (1996) argue that the newborn infant is capable of rudimentary differentiation between self and non-self, namely that the newborn's experience includes a sense of self and of others.

order to do that he does not have to know that *he* does that, or to be able to think about himself in terms of subject and object.¹⁴

Gallup (1970), for instance, carried out an experiment testing whether chimpanzees and macaque monkeys recognise themselves in a mirror. While they were anaesthetised they were marked with paint on several parts of their body. After they recovered, the chimpanzees did not show any indication of knowing that they were marked. Later on they were presented with a mirror. At this stage, immediately after catching their sight in the mirror, they touched the marked areas on their bodies, inspecting them with their eyes and fingers. In contrast to the chimpanzees, the macaque monkeys did not show any sign of such self-recognition. Marten and Psarakos (1994) adapted the mirror mark test on dolphins, and report that most of the adult dolphins that they tested used the mirror for a visual inspection of their bodies, in the place where the mark was located.¹⁵

These empirical findings are important because many animal behaviours are illuminated by the interpretation that animals have intentional mental states and self-awareness in a minimal form, even though they are languageless.

Leahy and Kenny argue from the human paradigm, and thus relate to the capacity in question from the perspective of language possession. They ignore borderline cases and gradual degrees of consciousness and intentionality, which are the relevant perspectives to the animal case (as well as for the case of young children); i.e, they ignore the non-paradigm cases. Thus, they examine animals with a tool that only applies to adult humans. In that, they fail to pick up on patterns that might be recognised by using a different analysis. By the use of

¹⁴ See Bermúdez (1998, *passim*; 2001, 143-144) for discussion on non-conceptual self-consciousness and bodily awareness.

¹⁵ Cenami, Aureli, Verbeek and De Waal claim that animals cannot do without a self (and this is different from self-awareness) as a point of reference. They demonstrate their claim on apes and other animals, and do not use the famous mirror experiment. They state: "[T]he animal self is formed on the basis of reciprocal influences and dynamic interactions with surrounding objects: it is ecological, social, and cognitive" (Cenami, 1995, 696). Epstein, Lanza, and Skinner constructed an experiment in which three pigeons used a mirror to locate a spot on their body which they could not see directly. They do not attribute self-awareness to the pigeons, but claim to "have shown how at least one instance of behaviour attributed to self-awareness can be accounted for in terms of an environmental history" (Epstein, 1981, 696).

this anthropocentric a priori reasoning, they implicitly relate to animals as if they were humans.

By starting from the viewpoint of the human paradigm, they allow the empirical findings regarding alleged sophisticated behaviour in animals to be ignored: once one is working from the human paradigm, there is, for example, no point in observing the dog's behaviour. There is no need to make observations about the dog being either disappointed or satisfied with the food he gets, because according to this approach the dog would not be able to verbalise his alleged disappointment or satisfaction anyway. In other words, the anthropocentric a priori reasoning creates so rigid a conceptual framework that it eliminates both the significance and the relevance of empirical findings. This anthropocentric approach might miss significant patterns.

While there are many philosophical accounts that view the lack of language as a barrier for animals' possession of certain mental capacities,¹⁶ I will concentrate on Donald Davidson's work. Davidson's denial of animals' intentional mental capacities has been immensely influential. This prominence renders his discussion essential for illustrating the inattention to empirical findings and its underlying anthropocentrism. In part III, I will present Davidson's account that denies animal belief. Parts IV and V critically examine this account. Finally, in part VI, I will elaborate on how my argument challenges anthropocentric a priori reasoning.

¹⁶ Here are some examples. Hampshire: "The fact that the animal has no language, whether of words or of gestures, adequate to express its intentions is part of the sense of the conclusion that no intentions can be attributed to it" (1959, 98). Frey: "If what is believed is that a certain sentence is true, then no creature which lacks language can have beliefs; and without beliefs, a creature cannot have desires" (1980, 88).

III. Revisiting Davidson's Position on Animal Belief and Surprise

In "Rational Animals" (1982) and other papers (1975, 1997a, 1997b, 1999), Davidson argues that animals cannot have beliefs. I claim that Davidson has not demonstrated this, and that his arguments in that regard are based on the human paradigm as the only possible standard for belief attribution. As I noted earlier, arguing from the human paradigm is what enables the inattention to empirical findings regarding animals' mental capacities. The consequence is an unexplained rift between anthropocentric a priori reasoning and empirical findings. My critique focuses primarily on Davidson's main line of argument, namely, that the existence of a belief requires the possession of the concept of belief.

Propositional attitudes, according to Davidson, are mental states that involve language as a necessary condition. More accurately, they are attitudes whose content can be specified by reference to a proposition. Davidson's holistic view of language entails a holistic view of mental content. The attribution of psychological attitudes is tied up with the interpretation of utterances. This is crucial for attributing mental states to other persons. An inability to assign meanings to an alleged linguistic behaviour will therefore imply an inability to attribute attitudes, and vice versa. A creature that, from a third-person perspective, cannot be interpreted as capable of meaningful speech, will also be regarded as a creature who is not capable of having attitudes. Moreover, the inability to interpret the 'linguistic behaviour' of such creatures entails that languageless creatures such as animals are incapable of thought.

Davidson characterises thoughts as propositional attitudes (1982, 475, 478),¹⁷ but does not deny that speechless animals have a mental life. He only argues for the interrelationship between mental states, language, and interpretation. Heil adequately summarises this idea, noting that "the interpretational practices Davidson discusses float on the surface of a sea of mentality about which his theory is silent" (1998, 154).

In characterising thoughts as propositional attitudes, Davidson uses the term 'propositional attitude' to cover both first-order and second-order thoughts. A second-order

¹⁷ In his (1982) and (1975) Davidson uses the terms 'belief' and 'thought' interchangeably.

thought is the attitude an agent has towards his thoughts, whereas the first-order thought is simply a thought (1982, 478). The key issue is that language is required both for my ability to think (first-order), and for my capacity to know or to think that I am thinking (second-order) (1982, 477, 478).¹⁸

Davidson claims:

That oak tree, as it happens, is the oldest tree in sight. Does the dog think that the cat went up the oldest tree in sight? Or that the cat went up the same tree it went up the last time the dog chased it? It is hard to make sense of the questions. But then it does not seem possible to distinguish between quite different things the dog might be said to believe. (1982, 474)

The dog cannot believe that the tree is an 'oak tree' since he does not possess language, and hence this concept is beyond his reach, as much as it is beyond the reach of every speechless creature. However, Davidson's argument is not merely that the dog does not have language and so does not possess specific terms like 'the oldest tree in sight' and 'oak tree'. Davidson's fundamental claim is that *the possession of the concept of belief is a necessary condition a creature must satisfy if it is to have any propositional attitudes, namely, if it is to have any thoughts or beliefs*. One cannot have beliefs if one does not have mastery of the concept of belief (1982, 479):

First, I argue that in order to have a belief, it is necessary to have the concept of belief.
Second, I argue that in order to have the concept of belief one must have language. (1982, 478)

Since the dog is speechless, he does not possess the concept of belief at all. In other words, the main claim is directed to the very potential to have beliefs: if one does not have the concept of belief one cannot have the potential to form beliefs (1982, 476).

Additionally, Davidson claims that to possess the concept of belief requires possession of the concept of objective truth (1982, 479-480). This provides us with a better

¹⁸ In addition, because of the holistic character of propositional attitudes, every thought or belief is dependent upon a network of beliefs. In Davidson's words: "[T]o have one [propositional attitude] is to have a full complement. One belief demands many beliefs, and beliefs demand other basic attitudes such as intentions, desires and, if I am right, the gift of tongues" (1982, 473). This is the core of Davidson's notion of the holistic nature of thought. Later I relate to Davidson's arguments concerning the holistic and intensional nature of thought.

grip on his notion of the concept of belief. The idea is this: (1) The capacity to have beliefs requires the ability to distinguish between a true belief and a false belief; (2) This ability requires the concept of objective truth; and (3) Only the language user can have this sophisticated capacity that will enable him to differentiate true from false belief.¹⁹ That is, having this capacity amounts to having the concept of belief, which is a second-order belief—a belief about a belief (1982, 479-480).²⁰

Davidson uses the concept of surprise in order to support his argument:

Surprise requires that I be aware of a contrast between what I did believe and what I come to believe. Such awareness, however, is a belief about a belief: if I am surprised, then among other things I come to believe my original belief was false. (1982, 479)

The concept of surprise provides us with a concrete case: in order to be surprised, one must not only have a belief and the ability to change one's belief, but also the awareness of a contrast between the original belief and the present belief.

¹⁹ In "Thought and Talk" Davidson argues for the same conclusion: "Can a creature have a belief if it does not have the concept of belief? It seems to me it cannot, and for that reason. Someone cannot have a belief unless he understands the possibility of being mistaken, and this requires grasping the contrast between truth and error—true belief and false belief" (1975, 170).

²⁰ Davidson does not explain how we acquire the concept of belief, besides saying that "[i]t follows that a creature must be a member of a speech community if it is to have the concept of belief" (1975, 170). To be a member of a speech community is to have the capacity for interpreting linguistic utterances. However, this capacity is acquired gradually. Thus, it seems that we encounter here 'the chicken and egg problem', even in the case in which Davidson takes this concept to be a logical constraint on his explanatory system (1999, 307). Carruthers (1992, 128) criticises Davidson on a similar point (see also Searle, 1994).

IV. A Critique of Davidson's Argument

Whether or not animals are able to be surprised is not important for my argument. I examine Davidson's discussion of surprise because the conditions he sets for this mental capacity (and for others) can be easily applied to many other significant capacities questionably ascribed to animals. Davidson's line of argument implies that animals cannot call for attention, cannot hide, cannot pretend, cannot waylay, and cannot plan. All these abilities, the argument suggests, require language, the concept of objective truth and the concept of belief. However, empirical observations suggest that animals have such abilities as hiding or planning to a certain degree. Yet Davidson's argument can be shown to be problematic *via a conceptual analysis, without necessarily referring to empirical findings*. I shall present my argument gradually.

A. Being Surprised and the Knowledge of Being Surprised

Davidson over-intellectualises the concept of surprise, even with respect to humans. He does so as a consequence of an anthropocentric analysis that sets the conditions for having a belief according to the most sophisticated capacities of adult humans.²¹ As a result he becomes entangled in a misconception of the concept of surprise. The confusion here, I maintain, is between *being surprised* and *the knowledge that I am surprised*. In other words, the confusion is between first-order thought and second-order thought. Davidson's argument holds only for *the knowledge that I am surprised*, not for the experience, or the first-order thought, of *being surprised*.

I suggest that possession of the concept of belief and the concept of objective truth considered by Davidson as conditions for surprise, have nothing to do with surprise in itself, but instead concern reflective capacity—that is, the capacity to reflect on the fact that one is surprised. I will henceforth call this capacity, 'reflective surprise'. Reflective surprise consists of a certain awareness of the gap between past belief and present belief; it is one's

²¹ Davidson suggests that his argument invites the *just* accusation of anthropocentrism, but justifies his methodology by claiming that he simply 'describes a feature of certain concepts' (1982, 473). Accordingly, his inattention to the empirical findings is not presented as a problem that should be explained, but as a pseudo-problem that should be explained away.

understanding of the fact that one is surprised (and sometimes it can be followed by a second-order surprise: one's surprise by the fact that one is surprised). I shall demonstrate my claim, but in order to ensure that I do not carry out an anthropomorphic analysis myself, I will analyse the case of a young child who does not yet possess language. Note that I do not equate the cases of non-linguistic creatures and those of pre-linguistic creatures: the claim here is not necessarily that children at the pre-linguistic stage have the same cognitive capacities as animals, but that in both cases it seems that non-linguistic thoughts take place. That is, despite the absence of language, surprise may occur.

No one suspects that very young children have an understanding of the metalinguistic predicates 'true' and 'false', or of the concept 'objective truth', but nor does anyone doubt that young children can be surprised, at least to a certain degree. Their behaviour demonstrates that they can be surprised. The key issue, however, is that considering that the acquisition of language, and hence of full-blown beliefs, is a gradual process, one must assume that very young children can have first-order beliefs, even if not fully complemented. For instance, when a child says 'toy, this toy', 'this, I want this', or even 'this thing', he does believe something. Crucially, denying this entails the impossibility of acquiring language, and hence of acquiring full-blown beliefs.²²

Children use terms like 'this' and 'thing' before understanding that these are abstract terms, and before being able to reflect on them. Clearly they do not use them abstractly, but as names for things they do not know how to label. That is, they use these words far more narrowly than the way adult humans use them. We do not say that a child does not believe anything when he says 'this' or 'thing' because he does not possess the concepts of 'this' or

²² Vygotsky argues that "[i]n animals, even in anthropoids whose speech is phonetically like human speech and whose intellect is akin to man's, speech and thinking are not interrelated. A prelinguistic period in thought and a preintellectual period in speech undoubtedly exist also in the development of the child. Thought and word are not connected by a primary bond. A connection originates, changes, and grows in the course of the evolution of thinking and speech" (1962, 119). Hauser provides an account on word acquisition in children: "the child's brain appears to limit the inferences drawn about word meaning and appropriate usage. Thus when children hear the word 'dog', they fail to make the inference that the word could refer to dog parts (tail, paw), and action performed by dogs (playing fetch, eating a bone) [...]. Rather, children infer that words associated with solid, bounded objects such as *dog* refer to or name specific objects" (2001, 219-220).

'thing', since these concepts are abstract and require full mastery of language. Rather, we say that he uses these terms in a specific manner, and although this manner does not correspond to their full-blown meaning, the child still has some grasp of these terms. Indeed, one does not know what goes on in the child's mind and one cannot depict it accurately with words, but for the same reason, one cannot deny that the child has beliefs, especially when the child's behaviour points to this conclusion.

The child who has not yet grasped the concept of objective truth can nevertheless still believe 'X' and later 'not X'. The child can be seen as having the potential to experience surprise, once one takes into account that surprise is not always, if at all, a purely cognitive experience, and one that cannot be fully articulated. The elements that condition the surprise here, and make it a surprise, in contrast to 'just believing that not X' (which marks a first-order belief, but not a first-order surprise) are: the context, such as the significance of the original and the present belief,²³ the type of belief, and the child's emotional state at the time. The child is surprised because suddenly, in the 'right' context, something that he wished for has happened, or something has moved him. However, significantly, the child can neither explain the gap between his former belief and his present belief, nor can he conceive of the concept of objective truth. Now, if the child behaves as if he is surprised but cannot reflect on the experience of surprise, we can say that he does not have a reflective surprise, i.e., that he does not know or understand that he is surprised. Yet it appears that the best interpretation of the empirical finding we have in hand is to say that the child is surprised in the sense of first-order surprise.²⁴ Of course, we might be wrong, but fallibility is not the issue at stake. We must not confuse the epistemological problem of 'other minds' with the conceptual problem concerning the conditions of being surprised.

Malcolm claims that "[g]rammatical form is no index of psychological reality" (1977, 51). Indeed, in too many linguistic-based approaches there is a demand, although sometimes

²³ For instance: 'Hey, daddy is here!' I do not mean to say that very young children verbalise this proposition. This proposition is only an approximation. However, from a certain stage, children do differentiate their parents from other people.

²⁴ Note that Davidson would have not accepted this interpretation because according to his account, the experience of surprise requires the understanding of this experience as such.

an implicit one, that first-order mental states be capable of linguistic expression. The consequence of such approaches is not only that the non-linguistic aspects of mental states—even when discussing adult humans—are neglected, but also that mental states and experiences are often examined from a cognitive perspective only (in contrast, for instance, to an emotive perspective) and are taken to be purely cognitive processes.

In this sense, it is significant to note that Davidson, Kenny and Leahy refer to language as a condition for certain mental capacities, but do not provide arguments concerning any powers that make language possible as the crucial feature for developing certain mental capacities. Nonetheless, had they suggested such an argument, it might have been useful in distinguishing between non-linguistic creatures and pre-linguistic infants (recall that earlier I claimed that I do not equate these cases). For instance, such an argument might suggest that the cognitive capacities of children at the pre-linguistic stage consist of an innate capacity of language formation that animals lack—the innate capacity to develop sophisticated language; human language (such an argument was suggested by Chomsky, 1975). That is, it is not simply that animals do not have a human-like language, but that they also lack any potential to develop such a language.

Such an argument, however, would not harm my critique. First, I only claim that in both cases (i.e., the non-linguistic case and the pre-linguistic case) it seems that *non-linguistic thoughts take place*. Second, indeed, such an argument may suggest the beginning of a solution to the issue of gradual acquisition of mental states such as beliefs, self-awareness and others, and the issue of gradual acquisition of language (although it is not available as a way out for Davidson—I will elaborate on this in part V).²⁵ However, I would agree with this line

²⁵ To emphasise this latter point concerning language acquisition, consider the presumed process by which the human species came to have a developed language. For instance, Evans and Marler argue: "Language did not emerge in its current form without evolutionary antecedents, like Athena springing from the head of Zeus. Rather, it is dependent in part upon primordia that can be identified in the communication of animals" (1995, 374). Similarly, Darwin claimed: "If no organic being excepting man had possessed any mental power, or if his powers had been of a wholly different nature from those of the lower animals, then we should never have been able to convince ourselves that our high faculties had been gradually developed. But it can be shewn that there is no fundamental difference of this kind. We must also admit that there is a much wider interval in mental power between one of the lowest fishes, as a lamprey or lancelet, and one of the higher apes, than between an ape and man; yet this interval is filled up by numberless gradations" (1871, 65).

of argument: the reasoning of such an argument would support my claim that we should avoid relying exclusively on the human paradigm. For instance, I claimed that Leahy's account is focused on self-awareness in adult humans—the paradigmatic case of self-awareness (see part II, section B). Thus, I claimed, it has nothing to say about different stages of acquiring self-awareness that at the latest stage lead to the paradigmatic case of self-awareness. Had Leahy provided an argument concerning the powers that make language possible, or at least mentioned its possibility, he would have also needed to admit that self-awareness may be acquired in stages. This, however, would damage his argument that relates only to the advanced stage of acquiring this capacity.

Referring back to Malcolm's claim that "[g]rammatical form is no index of psychological reality" (1977, 51), it might be said that to a certain degree, Davidson's account might be in accordance with that of Malcolm. For instance, in his "Reply to Simon Evnine", Davidson makes a more cautious claim about the requirement of the concept of objective truth: "I do not mean explicit control of the concept of truth, but the realization that what is believed may not be correct" (1999, 309). In that case, animals, as well as young children, *do* possess this ability (in the primitive manner that language users cannot articulate). They definitely grasp, for instance, that their 'demands' for food or a certain kind of food have not been satisfied (and we are able to interpret them as doing so). In general, it is possible to show an awareness of a mistake in one's beliefs by *a proper adjustment of correction in one's behaviour*. Thus, this weaker version of Davidson's requirement makes his denial of animal belief even more problematic with relation to empirical observations.

Let us further examine the experience of surprise, by considering the first seconds of surprise, and the extent to which they entail and involve language.

B. Elaborations on Surprise

Generally, in the first seconds of surprise, one does not reflect upon some former belief or present belief. It is doubtful whether what occurs in the very moment of surprise could be characterised in propositional terms. As we already know, not every experience and realisation can be pinned-down with propositions, and the experience of surprise is no different.²⁶ A few seconds later, maybe still under the effect of the surprise, one may understand that one believed 'X', but that now one does not believe 'X'. It is only at that later point that one performs an act of thinking that is reserved only for competent language users, i.e., paradigmatic humans, typically adult, who possess developed enough language to enable such an understanding.

Davidson relates neither to the very first seconds of surprise nor to the other components of surprise, such as the emotional aspects of surprise. He describes the experience of surprise as a continuous experience that includes the understanding that 'I am surprised'. Hence he defines the experience of surprise as having a propositional content, that is, the content that 'I am surprised'. At least in the first approximation, a surprise is available as a continuous reflective experience, but the crux, yet again, is that this process is available only for language users. Davidson concentrates on specific cases of surprise where one is led to conclude that an original belief was false. Nevertheless, his general conclusion is a broad one, and he implicitly claims that children have neither beliefs nor surprises. The confusion, again, is between first-order and second-order thoughts. One may have the experience of being surprised, but be unable to think 'I am surprised'. The latter (the realisation that 'I am surprised'), involves a second-order thought, the thought that I believe I am surprised.²⁷

Undoubtedly, the paradigmatic human experience of surprise is markedly different from that of pre-linguistic child: there are different types of surprise, and the conditions for

²⁶ Concerning adults, think about infatuation. Less dramatically put, think about experiencing the bite of a mosquito. Davidson, of course, acknowledges this (1975, 157-158). However, according to his account, a child cannot believe that 'something bit him' unless he understands what a bite is.

²⁷ It is worth mentioning that once one considers the emotional character of surprise, it becomes clear that such a second-order belief is not a sufficient condition for this type of surprise. The fact that it is almost impossible to verbalise adequately the pertinent emotional aspects of surprise is irrelevant to the issue.

one type do not necessarily fully overlap with the conditions for the others.²⁸ It appears, thus, that Davidson has traced the conditions of the paradigmatic case of surprise—that of paradigmatic humans. But from these conditions he draws a conclusion that includes non-linguistic and pre-linguistic creatures. Ultimately, his argument cannot account for stages of acquiring the capacity to be surprised in particular, and for the capacity to believe in general.

Note that the non-paradigmatic cases should have been the important elements to Davidson's inquiry. Davidson acknowledges the existence of borderline cases (1982, 473; 1997a, *passim*; 1997b, 127-128), but his inquiry fails to develop them. Let me clarify: for instance, Davidson's argument implies that the tiger cannot hide if he does not possess the concept of belief, which supposedly provides him with the capacity to recognise that he is unsafe in this place and alerts him to find a safer place to lie down. His account does not provide means to understand the following example as well. The famous animal behaviour researcher Donald Griffin (1984, 74) describes a case of self-concealment that can be found in the literature: grizzly bears looked out for positions from which they can watch human intruders, namely hunters, without being seen. He also claims that the bears made efforts to avoid leaving tracks, indicating that they realised that their tracks could be followed by hunters. Now, one should indeed beware of unqualified adoption of empirical observations and experiments, but a demand to acknowledge it seriously is in place, especially when anthropocentric a priori reasoning creates such a rigid rift between the theory on the one hand and empirical findings on the other.

Moreover, Davidson wishes to distinguish between rational animals on the one hand, and a-rational animals on the other, but he does so only on the basis of differentiating *paradigmatic* humans from animals. It is clear that children are somewhere in between, and that their case, although different in many respects from that of animals, is also very similar.

²⁸ This difference is central to my thesis, and it concerns the examples of intentionality by Kenny and self-awareness by Leahy as well.

The most important lesson one can draw from the case of children is that 'rationality', whatever it is, cannot be defined in a cut and dried way.²⁹

Davidson acknowledges his counter-intuitive conclusions by claiming that, "we can continue to explain the behaviour of speechless creatures by attributing propositional attitudes to them while at the same time recognizing that such creatures do not actually have propositional attitudes" (1982, 477-478). He offers a 'practical recipe' for understanding animal behaviour, but not a philosophical account of animals' sophisticated abilities such as discrimination and generalisation.³⁰ He emphasises this claim about behaviour by arguing that examining animal behaviour through the framework of propositional attitudes is justifiable in light of the available observations of animal behaviour. The use of this framework is instrumentally *useful*, but not *true* (1982, 477). Davidson's idea is that it would be wrong to make such attributions, for the same reason that it would be obviously wrong to attribute attitudes to heat-seeking missiles (1982, 477). Yet, as Davidson claims, we have a better explanation of the 'behaviour' of heat-seeking missiles: we do not need to ascribe propositional attitudes to the missiles, but only to their designers. Davidson is aware that in the case of animals we observe behaviour that is much more sophisticated and that we do not have a better explanation of animal behaviour (1982, 477; 1999, 305). Despite the difference between the two cases, he does not modify his conclusion. However, precisely because of this difference the empirical findings deserve careful attention that will lead to an interpretation that may, or may not, fit in with his theory. But in order to do that, one first needs to consider alternatives to anthropocentric a priori reasoning and to attempt to incorporate empirical findings into the research. A brief example of such incorporation can be found in Dupré's account (see footnote 29) and in Evnine's account (to be discussed in part V).

²⁹ Dupré uses Davidson's own argument in this matter against him: "The final conclusion of the paper discussed above [Davidson's "Rational Animals", 1982] is that 'rationality is a social trait. Only communicators have it.' Since many animals are social, and many animals communicate, we should perhaps enlist Davidson in support of the view that there are many kinds of rational animals" (2002, 232). Dupré demonstrates here how animal behaviour (concerning communication skills) is not taken into account. See also footnote 40, below.

³⁰ Davidson, of course, is aware of these abilities in animals. See (1982, 480; 1999, 309).

As I noted earlier, Davidson equates thoughts with propositional attitudes. It is clear that animals do not possess propositional attitudes, but this is not the issue: the real issue is providing an account of languageless or non-propositional attitudes, an account that will partially differentiate between propositional attitudes and beliefs or thoughts. Davidson, however, has not challenged his anthropocentric a priori reasoning by acknowledging such an alternative. He consistently reconstructs his original thesis that "[t]here is in fact no distinction between having a concept and having thoughts with propositional content, since one cannot have the concept of mama unless one can believe someone is (or is not) mama, or wish that mama were present, or feel angry that mama is not satisfying some desire" (1997a, 25).³¹ But the empirical observations suggest that children can be very distressed that mama or papa is going out and leaving them with a babysitter, even before they understand the concept of mama or papa; they also suggest that a child can demand that 'this woman' will do 'what I want', and that he will not be satisfied unless this woman—not someone else—will do it.

On the one hand, Davidson has definitely shown that without having a minimal grasp of the concept 'mama', a child cannot verbalise his anger in propositional terms; thus, he cannot classify 'these people' as 'my parents, the people who brought me to this world'. On the other hand, Davidson's rigid conceptual framework actually dictates that the second-order belief (i.e., possessing the concept of belief) is a necessary condition for the first-order belief (i.e., believing that this is mama). Thus, this framework cannot fit in with the interpretation of the empirical observation concerning children that I suggested in the previous paragraph. A possible way out here is that the young child does have a certain grasp of the concept of belief, maybe even unconsciously. At any rate, however, the child cannot have a full-blown possession of this concept, and he cannot articulate it.³²

The main problem here results from the confusion I highlighted earlier between first-order and second-order thoughts. By positing second-order thoughts as the prototype of

³¹ See also his (1997b, 124).

³² A position in favour of languageless beliefs, and also regarding the ability of languageless beliefs about belief, is maintained by Bennett (1976, §34).

thinking, and by taking propositional attitudes to cover any kind of thought, there is no need to consider any behavioural resemblances or physiological similarities that might suggest that thought is possible *without* propositional attitudes. Thus, the anthropocentric a priori reasoning fuels the neglect of empirical findings. Davidson reduces the argument simply to either having or not having propositional attitudes instead of taking propositional attitudes to be a necessary condition for *certain kinds* of thoughts. He instead extends it to being a necessary condition for any kind of thought.

Based on Davidson's clearly defined conclusions concerning animal beliefs, how are we to explain behaviour of animals that appears to indicate belief? Or, how are we to account for the fact that young children can be surprised, but lack the conceptual sophistication to think 'I am surprised'?³³ If we agree with Davidson, how do we explain the case of a dog who behaves as if he believes the cat is in the tree, and later modifies his behaviour, suggesting that he now realises that the cat is not there but somewhere else?³⁴ How can we explain the successful prediction of a dog's actions, of which Davidson is not unaware (1982, 477)? Davidson has not addressed these issues. Accordingly, again, his lack of acknowledgment of empirical findings is not presented as a problem that should be explained.

To summarise, Davidson's argument is distorted for two main reasons. First, he over-intellectualises the concept of surprise. This is a consequence of his anthropocentrism: he employs anthropocentric a priori reasoning, i.e., reasoning based on standards paradigmatic of adult humans. His biased starting point distorts his analysis by concealing the possibility that there can be differing degrees of concept possession.³⁵ Recognising this point entails a shift in our understanding of concept possession. Second, he neglects the empirical findings, which

³³ A reply from Davidson's doctrine of interpretation would restate his motivations for denying animal belief, but it would also reconstruct his anthropocentric a priori reasoning.

³⁴ Malcolm (1977, 49). Malcolm refers to Davidson (1975). In his (1982) Davidson cites Malcolm (1977); his specific use of the oak tree example that I quoted earlier is a direct reply to Malcolm.

³⁵ A similar claim, albeit in regard to consciousness, is maintained by Dennett: "Consciousness, I claim, even in the case we understand best—our own—is not an all-or-nothing phenomenon. If this is right, then consciousness is not the sort of phenomenon it is assumed to be by most of the participants in the debate over animal consciousness" (1995, 706).

could have been included in a more refined version of his account (and could be surely included in an account that acknowledges differing degrees of concept possession).

V. Holism and Intensionality

My main criticism of Davidson does not relate in detail to his doctrines regarding the holistic nature of belief and intensionality, but rather is directed towards the requirement of the concept of belief. These doctrines have only a secondary role in a possible defence of his position regarding animals.³⁶

However, analysing Davidson's rigid holism would simply fortify my criticism because the requirement for multiple, simultaneous (even if implicit or unconscious) beliefs in order to maintain one specific belief cannot account for early stages of acquiring language. This requirement may adequately represent a network of beliefs of a paradigmatic human, but because we are dealing with animals and children it is irrelevant as an absolute model for having beliefs. Consequently, such anthropocentric a priori reasoning concerning the intrinsic nature of beliefs excludes from the outset the possibility that both languageless and pre-linguistic creatures could have beliefs. In any case, I have not argued that it is possible to make sense of a belief as a private attitude completely detached from other beliefs or mental states.

The same goes for the argument regarding the intensional nature of thought. What it shows with respect to animals is already clear from the very beginning: since animals are languageless, it is impossible to substitute co-referential terms in the sentence 'the dog thinks the cat went up that oak tree', as in any other sentence.³⁷ It is impossible, of course, even to verbalise the very sentence. The challenge that the intensionality thesis causes for the animal case is built into the transference of this thesis from the paradigmatic human case to the

³⁶ Davidson himself argues: "These considerations [of intensionality and the requirement of rich supply of general and true beliefs] point in the direction of language, but they do not amount to a demonstration that language is necessary to thought. Indeed, what these considerations suggest is only that there probably can't be much thought without language" (1982, 477).

³⁷ Davidson acknowledges this. See (1982, 476 & 477).

animal case. Thus, to continue this line of argument is simply to maintain the anthropocentric a priori reasoning that brings us to a dead-end.

My purpose is not to refute Davidson's holism. But in order to explain the interrelationships between stages of acquiring language, primitive beliefs, self-recognition, and primitive self-awareness, Davidson's holism must be revised so as to allow for the possibility of languageless beliefs. Evnine (1999, 291) makes a similar claim about Davidson's rigid holism, saying that it is not suitable to account for language acquisition. He suggests that the first stratum of language and the process of language acquisition are molecular and not holistic, and that this molecular structure does not stand in contradiction to local concentrations of holism (1999, 299-300, and ft.36). This idea is supposed to make Davidson's holism more adequate with respect to children. Davidson's reply to Evnine is rather ambiguous. On the one hand it reveals that he acknowledges the problem, but on the other hand it is a problem his answer fails to address. First he admits that there is a serious problem in this respect, and says:

[W]e can get around this particular difficulty [of how an untranslatable child grows into a translatable adult] by distinguishing between saying that the child learns the language part by part (which could offend my holistic leaning) and saying that the child, at various stages, has partly learned the whole. (1999, 305)

Thus, Davidson admits a difficulty in his holism. However, he later claims:

My suggestion, with respect to the early stages of language acquisition, was that we should ask: in how many different ways can we represent the information conveyed by the child's utterances in our own language. The more ways we can represent what the child says, the less information the child's utterances convey. When the ways become as constrained as they are with accomplished speakers, the child is an accomplished speaker. (1999, 306)

Note that although Davidson acknowledges the difficulty in his holism, he also ignores it by reasserting the argument from interpretation, and does not provide an answer regarding the first stages of acquiring a language.

Before continuing with Davidson's reply to Evnine, it is worth emphasising again (see part IV, section A), that the argument of all the writers that I criticise concerns the mastery of

language and not the powers that make language possible (the same is true to the account of Stich that I discuss in the next chapter). As we have seen, Davidson adheres to the argument from interpretation and avoids discussing the mental mechanisms entailed by his theory regarding interpretation.

Crucially here, had Davidson argued that the issue is not only mastery of language, but also the powers that makes language possible, it would be very problematic with respect to his own account regarding interpretation. That is, it is not enough that Davidson would agree that there are powers that enable us to gain mastery in our language; he would need to agree with Eynine that at least the first stages of language acquisition are molecular and not holistic. In other words, Davidson would have to agree that young children, during the years of acquiring the mastery of language, may have only a partial control in many concepts. This, however, stands in a sheer contrast to his own clearly defined claims. Moreover, Davidson, in his reply to Eynine, reasserts his argument from interpretation and abstains from relating to the considerations entailed by his theory (in the next quote below this reply is restated in a very clear way).

But even a more general argument concerning the powers that make language possible does not necessarily hinder my critique, which focuses on the gap between anthropocentric a priori reasoning that takes language to be a necessary condition for certain mental capacities and the empirical findings that suggest the possibility that animals have the capacities in question. One may suggest that such an argument explains how young children learn language, but I would agree with that (such an argument can also be applied to the ways animals learn their kind of language or to the ways they acquire their communication skills). Significantly, I do not argue that animals may develop a human-like language. From the outset I assumed, like my opponents, that animals do not have language in the relevant sense of the concept, i.e., the sense of human-like language. My argument does not rest only on the analogy to the case of young children but is supported by the illustration that anthropocentric-based arguments are too strong even in relation to young children, and not only regarding animals.

In any case, even had my adversaries claimed that the powers that make language possible (such as an innate capacity to develop a human-like language) are the crucial features for having certain mental capacities, such an argument does not entail maintaining the human paradigm of a full-blown language user as the only possible standard for the possession of the mental capacities in question. Rather, as I have suggested, they could have argued for different stages of possessing the capacities under examination—from the most primitive to the most sophisticated.

Continuing with Davidson's reply to Evinine, Davidson clearly restates his position in the same 1999 paper:

I think it is possible for an animal to have considerable learned mastery of an environment, to employ implements, solve problems, and generally perform many tasks that require memory, learning, and calculation, without ever entertaining propositional content. I would say such an animal does not have beliefs, it does not reason, it does not have concepts, and cannot have a language. Someone who disagrees with this is, I think, using some words with a different meaning than I give them. (1999, 309)

Thus, Davidson still commits himself to his strong position (recall that my critique has been that Davidson equates beliefs, or thoughts, with propositional attitudes and consequently confuses between first-order and second-order beliefs (see footnote 17). This quote still fails to address the significant question about how animals manage to carry out all these abilities while lacking beliefs. However, this passage suggests, at least indirectly, that Davidson's difficulty with his opponents is their supposed terminological confusion.

Now, if (1) Davidson refers to 'belief' as a term of art which, as such, can be applied only to adult humans, then his account of animal belief collapses into triviality; a denial of a capacity from animals on the basis of definition, and a very problematic definition, even with regard to many humans.³⁸ But, if, alternatively, (2) Davidson does not refer to 'belief' as a term of art, then his argument is far too strong. First, it cannot account for stages of acquiring language and beliefs in infants and young children. Second, while Davidson does not deny

³⁸ There is nothing inherently wrong with definitions, but Davidson's definition stands in problematic relation to our basic mental vocabulary (See also footnote 39).

that animals can learn, calculate, solve problems, generalise and discriminate, it does not make sense to carry out all these abilities without entertaining beliefs, even in the most minimal sense of beliefs, unless one eliminates the agency of animals and relates to them as machines. This is what Davidson seems to be doing when he compares the animal case to that of heat-seeking missiles.

It is clear that although Davidson may refer in the quotation above and in other cases to mere terminology, he argues much more than that. This is clear not only from his argument, but also from his failure to acknowledge that certain animals possess proto-beliefs. He is clearly arguing for a denial of animals' beliefs, and without this assertion his argument regarding animals' beliefs could simply have been summarised by stating that animals do not have beliefs in as much as beliefs are 'human-like' beliefs, or, more accurately, paradigmatic 'human-like' beliefs. However, this is obvious from the very beginning.³⁹

VI. How My Argument Damages Anthropocentric A Priori Reasoning

Most of us are impressed by the sophistication of lionesses while hunting; we are aware of their 'plan', their cooperation and way of ambushing. We are also impressed by much sophisticated behaviour of young children. However, the issue throughout this chapter was not one's awareness of such cases. Given that there is a known body of work in cognitive ethology, comparative psychology and comparative biology, my aim has been to expose the anthropocentrism in the discourse of the animal issue, which facilitates the neglect of empirical findings by assuming that language is a necessary condition for abilities such as planning, hiding, ambushing, and so forth. Importantly, as I mentioned earlier, I do not argue that empirical findings should take precedence over a priori reasoning of any sort. Thus, I

³⁹ Davidson's line of argument collapses our mental vocabulary. Children cannot believe and be surprised; animals cannot hide, pretend and so on. The mental, even in the human case, cannot be fully articulated. Accordingly, rather than limiting terms such as belief, thought and intentionality only to developed language users, one should point out whether the term is being used broadly to include borderline cases and even animals, or narrowly to include only language users. Dummett, for instance, denies that animals have genuine thoughts and concepts, but does not hesitate to attribute to them 'proto-thoughts' which one cannot accurately express in our language since "any sentence that suggests itself is conceptually too rich for the purpose" (1993, 122). See also, Dretske (1988, 106-107).

have not argued that empirical findings should replace a priori reasoning. Rather, I have offered it as a point of reference that should be considered. In that respect, my own main line of argument against Davidson was conceptual in its nature.

In what sense, then, does my suggestion to depart from anthropocentric a priori reasoning challenge and damage the view against which I have argued? I will attempt to answer this question in this part.

A. My Proposal (Revisited) and Relevant Empirical Findings

In denying certain mental abilities to animals, anthropocentric a priori reasoning clearly does not eliminate the fact that animals do many things that *appear* to be very sophisticated. For instance, it seems that animals can hide themselves as a defense, to waylay for a prey (in contrast to simply lying on the ground) and to warn their community of particular dangers.⁴⁰ Nevertheless, one may reply that what one has observed is inconclusive and may be interpreted in more than one way, and therefore the 'right' interpretation is only approximated. This is true especially when it concerns the issue of mental capacities in which observations are always indirect: one cannot see an intention, but only to infer its existence from the behaviour of a creature. In other words, from the fact that we have the impression that a chimpanzee performs an act of deception, it does not derive that the chimpanzee actually performs such an act.

Yet, I would agree with such a reply. I have not argued that the empirical findings can establish a direct proof for the existence of certain mental states. As I have noted, my purpose in this chapter has not been to defend the claim that animals possess certain mental capacities such as beliefs and intentionality. Accordingly, I have not argued that animal behaviour and the similarities between humans and animals show that Kenny, Leahy, Davidson and others are simply wrong in claiming that animals do not have certain mental capacities. I have

⁴⁰ Regosin (2002) argues that the alarm calls of Arabian Babblers (a type of bird) may be divided into different classes of alarm calls in reaction to possible predators. For instance, he reports that one class ("pshews") was associated with flying avian predators and fleeing behaviour, while a second class ("tsits") was associated with terrestrial predators and mobbing behaviour. He also reports that a third class of alarm calls ("trills") was associated with perched avian predators and monitoring behaviour. For a detailed discussion on animals' signals, see Evans and Marler (1995).

argued, rather, that there is an unexplained gap between their claims and the behaviour that many animals exhibit, and therefore empirical findings should not be ignored, but should be discussed in the research.

In other words, the idea is that animal behaviour—and especially what appears to be a sophisticated behaviour—is an indication of something, but that anthropocentric a priori reasoning fails to discuss what it indicates. A similar failure occurs with regard to similarities between animals and human beings in the brain and nervous system.⁴¹

A potential reply from my opponents that they do rely on empirical findings by observing that animals are not language users is irrelevant here, and misses the very issue with which I am concerned in this chapter. As I have already argued in part II, like my opponents, my assumption from the outset is that animals are languageless, or at least that they do not have the kind of language that is supposedly required for the mental capacity under examination. Given this assumption, the problem that I have pointed out is due to the gap between what appears to be a sophisticated animal behaviour on the one hand, and reasoning that from the outset relates to a certain mental capacity as language dependent on the other. Based on such reasoning, any empirical finding which does not pertain to the discovery that animals have the putative required linguistic abilities for the capacity in question will be irrelevant. But as a consequence of the great rift between anthropocentric a priori reasoning and the empirical findings, as well as the agreement that animals do not possess a human-like language, the relevant empirical findings concern the behaviour and actions of animals as well as biological similarities.⁴²

⁴¹ Or, as Searle puts it: "Whatever its surface logical form, any argument against animal intentionality and thinking has to imply the following piece of speculative neurobiology: the difference between human and animal brains is such that the human brain can cause and sustain intentionality and thinking, and animal brains cannot. Given what we know about the brains of the higher mammals, especially the primates, any such speculation must seem breathtakingly irresponsible. Anatomically the similarities are too great for such a speculation to seem even remotely plausible, and physiologically we know that the mechanisms that produce intentionality and thought in humans have close parallels in other beasts" (1994, 64).

⁴² I discuss the role of language in chapter two.

B. Every Debate has (at Least) Two Sides

When it comes to attributing mental capacities to animals, the issue of how to interpret or to understand the observations is far from simple. Considering my aim in this chapter, this issue is highly relevant from the moment that there is a readiness to consider animal behaviour and other relevant empirical findings, i.e., while there is an attempt to incorporate it within a theory of mind. Moreover, in order to attempt to incorporate empirical findings in the research, one needs to depart from anthropocentric reasoning. In any event, the issue of the correct understanding of empirical findings concerns both sides of the debate, as I shall explain.

We usually ask how we can be sure that empirical findings prove that animals have, indeed, a certain mental capacity (although I have not argued that empirical findings provide us with definitiveness or with evidence that animals have a certain mental capacity). Yet we do not usually ask how one can be sure that empirical findings *do not* show that animals have a certain mental capacity. In that sense, it seems that relating to empirical findings (like in the cases of Evnine, Dupré, Byrne, De Waal and others) is considered problematic from the outset, whereas neglecting them and leaving such findings unexplained (like in the case of Davidson and others) is not considered a problem.

On the one hand, I have argued that certain behaviours of animals (or other empirical findings) should lead us to rethink the reliability of certain anthropocentric a priori accounts. Given this claim, all one needs to show is that there is *some reasonable room for doubt* with regard to anthropocentric accounts that deny the existence of a certain mental capacity in the relevant animals. At a later stage one should be able to explain why we should favour one's interpretation; for instance, one needs to show how the thesis that certain animal behaviour points to the existence of a particular mental capacity is more successful than other views (this also concerns the explanatory value of such a thesis. To be discussed in section C below).

On the other hand, someone who totally denies a certain capacity from animals on the basis of an anthropocentric a priori reasoning is not exempted from explaining how, for

instance, animal behaviour that appears to be sophisticated and suggests a certain mental capacity is *totally misleading*. Given many biological similarities between humans and higher animals, providing a persuasive explanation would not be an easy task (again, many, of course, are aware of such similarities, but the issue is that they do not sufficiently relate to them). At the same time, he will have to show that by referring to human paradigm-based condition he does not repeat the mistake I have pointed to throughout this chapter.⁴³

In any case, precisely because the behaviour of an animal may invite different interpretations, one should be very cautious in deriving cut and dried conclusions regarding mental capacities in animals, both for and against.⁴⁴ Byrne, for instance, provides some insight concerning intentional understanding in animals with regard to the ability to attribute intentions to others. Byrne reports that he and Andrew Whiten found strong indications for this (1995, 131-137). One example is what Byrne names 'righteous indignation': Byrne argues that in contrast to regular frustration, one can observe "a reaction specific to understanding that it had been deceived" (1995, 131). The example that Byrne provides for such a reaction concerns a chimpanzee who hit over the head the researcher who deceived her and subsequently ignored the researcher for the whole day (1995, 131). Once the apparent sophisticated behavior of animals is taken into consideration, and if we agree that it is not easy to justify that an animal has, say, the ability to deceive in a primitive (and non-paradigmatic) manner, then it is also not easy to utterly deny this ability.⁴⁵

Nonetheless, the conclusions that I have examined in this chapter are clearly defined. For instance, we have seen that Davidson claims that given the available observation of animal behaviour, attributing beliefs to animals is *instrumentally* useful, but not true (1982, 477). This statement is far stronger than possible statements such as, for example, that the issue is moot, or that attributing beliefs to animals is not only instrumentally useful but one

⁴³ And here he faces the problem that his anthropocentric account does not fit in with gradual acquisition of mental capacities. I relate to this issue in section C below.

⁴⁴ Earlier I have emphasised that Davidson attempts to demonstrate how behaviour is misleading, but he does it *only* with regard to heat-seeking missiles, not with regard to animals. Moreover, the comparison between animals and heat-seeking missiles assumes a Cartesian conception of animals as automata, a conception that Davidson surely would have rejected.

⁴⁵ See also part II in this chapter for details about De Waal's report concerning deception.

day might also be revealed as true. Davidson's statement that attributing beliefs to animals is not true is not based on showing that experiments on this matter were insufficiently controlled, and it is not based on doubts regarding similarities between the brains of humans and higher mammals but is rather based on anthropocentric a priori reasoning. As I argued earlier, Davidson only argues for the interrelationship between mental states, language, and interpretation of utterances. The bottom line is that given the idea that any thought or belief requires language—an idea based on the human paradigm—any attribution of such mental states to animals cannot be true.

However, empirical findings such as animal behaviour may teach us something, or at least lead us in the right direction. As Byrne says about experiments concerning deception:

For the 18 cases [of deception] that seem intentional, any one of them can still be challenged and an explanation devised that is based on a hypothetical series of coincidences in the past that might have given rise to learning by association. However, as the hypothesized coincidences become more and more far-fetched, and the histories of possible events that just might have reinforced these tactics grew longer and longer, we decided at some point it was simpler to accept that some primates can understand intentions. (1995, 134)

In this self-consciously written paragraph, Byrne points to a sort of balance between possible theories and the empirical observation. The observations have not given cut and dried results, but they do point at the possibility that chimpanzees are able to deceive. This is a possibility, therefore, that deserves a careful attention.

Yet in reply to Byrne, all that Davidson could have said is that attributing to some kinds of apes the ability to deceive is useful, but not true. This is because his anthropocentric a priori reasoning dictates that in order to deceive, the animal must have the concept of belief, and in order to be able to differentiate between 'the situation as it is' and 'what others may believe about this situation' the animal must have the concept of objective truth—a concept which requires language. Davidson would have similarly repeated his argument with regard to surprise. In other words, based on his anthropocentric a priori reasoning, from the outset Davidson would have rejected the relevance of the empirical findings concerning deception in

chimpanzees; the requirement of language makes it redundant to examine the empirical data. This is how his reasoning bypasses, for instance, experiments concerning potential deception in chimpanzees.

Now, let us imagine a situation in which an experiment will produce very clear results concerning the ability of chimpanzees to deceive. Let us even imagine that lots of thinkers and scientists who were sceptical about the ability of chimpanzees to deceive admitted their astonishment at this experiment. It is unclear what Davidson would have said in this case. Based on his theory, and based on his anthropocentric a priori reasoning, it seems that he would have to reject the possibility that chimpanzees could deceive.

A salient characteristic of anthropocentric reasoning with regard to animals is that it is focused on negation in absolute terms of the possibility that animals have certain mental capacities. My critique shows that this reasoning does not invite us either to interpret or to attempt to understand sophisticated behaviour of animals. In that sense my critique also shows that this reasoning attempts to restrict the debate in this issue to philosophy of language. In contrast, I have offered to take the *relevant* empirical findings into consideration in order to enable the possibility of obtaining a better understanding of animal behaviour. Incorporating the relevant empirical findings into the research may not produce the results that many animal lovers have hoped for. It is a resource, however, that one should use in order to enable fruitful research.

Importantly, the possibility of conducting a discussion about the correct interpretation of empirical findings is an advantage; it enables this approach to be self-critical. Thus, it enables one the possibility to recognise that one may be wrong and to attempt to devise an alternative account that will provide a more satisfying explanation. And for that matter, 'a more satisfying explanation' might also be one that attempts to show that certain empirical findings are irrelevant for a certain research, for such an explanation would not be based on a neglect of empirical findings.

Another issue that deserves attention is the assumption that both my opponents and I agree on, i.e., that animals are languageless, or do not have a developed language. Recall that this assumption is based on empirical observations. Thus, the neglect of the *relevant* empirical findings (namely, empirical findings that do not concern the issue of language) becomes even more problematic once one recalls this assumption. Namely, if my opponents would deny the use of empirical findings on the legitimate basis that it is available to many interpretations, then they would have to provide an argument that explains why using the empirical findings for establishing the assumption we agree on regarding animals not having language is justified, or at least legitimate, whereas the use of empirical findings in the case of mental capacities is entirely unjustified. Given what I have explained throughout this chapter regarding the possibility of having a certain capacity in a non-paradigmatic manner, providing such an explanation will be very difficult.

C. Explanatory Value

One criterion with which the success of an account can be measured is in its explanatory value. My account damages anthropocentric a priori reasoning by showing the rift between anthropocentric a priori reasoning and empirical findings, primarily by showing that as a consequence of relying on the human paradigm of being a 'language user', anthropocentric a priori reasoning cannot explain stages of acquiring certain mental capacities. Davidson, in particular, cannot explain the stages of acquiring language.

Nonetheless, such an explanation is of extra importance because without it our possession of mental abilities is characterised in terms of 'all or nothing': either you have the ability to be self-aware or you do not; either you have the ability to form beliefs or you do not. Note that the main problem is not that an explanation for gradual acquisition of such mental capacities is not provided, but rather that it *cannot be provided* once we work from the human paradigm. For instance, consider the case of surprise: the very idea of gradual acquisition of the ability to be surprised is problematic with relation to the requirement of language as a

necessary condition for the ability to be surprised. Gradual acquisition of this ability assumes that being surprised is possible even without knowing anything about the concept of objective truth. But the idea of gradual acquisition of this ability stands in contrast to the anthropocentric analysis of surprise, and thus, such an account simply cannot provide an explanation for the process by which young children develop the ability to be surprised. Similarly, Leahy's account of self-awareness is indifferent to the thesis that full-fledged self-consciousness emerges from primitive types of non-conceptual self-awareness.⁴⁶

Yet, Davidson claims that it is instrumentally useful but false to attribute beliefs or thoughts to animals. Davidson did not relate to young children while presenting his argument. The importance of relating to the case of young children is that one is exposed to the process of gaining mental capacities: a baby who is two days old cannot be surprised, but, following Davidson, it may be instrumentally useful to attribute to him this capacity from a certain stage. Nonetheless, *surely from a certain point such an attribution is not only instrumentally useful, but true as well*. Yet, Davidson's account concerning the concept of belief and his holistic position cannot address this issue (see also footnote 25).

As I have argued earlier (in part V), when contrasted with the case of children, Davidson reasserts his argument and does not address the issue of the first stages of acquiring language. (In order to do that, he would have had to incorporate an argument concerning the powers that make language possible). In that sense his reply is very similar to the reply that I estimated on his behalf to the imaginary experiment in section B above. The main difference between the case of animals and that of children is that in the case of children, the 'experiment' is not imaginary: children acquire language, as well as mental capacities, gradually. Based on the human paradigm, Davidson's account simply cannot provide an explanation for the case of children.

One does not necessarily need to provide an account about the process of acquiring mental capacities. However, if one does not explain this, then one cannot simply deny the possibility of a *primitive possession* of the mental capacities under examination. Although in

⁴⁶ See, for instance, Bermúdez (1998).

many cases the correct interpretation of animal behaviour is, indeed, debatable, nonetheless, recalling the statement of Byrne quoted in section B above, from a certain point it is simpler to accept that some animals are, for instance, able *to waylay* and *to cooperate* in a kill, rather than imply a denial of these and other putative abilities. In other words, the explanatory value of anthropocentric a priori reasoning in the cases that I have examined is relatively low, even with regard to human beings.

This can be clearly seen regarding competing a priori accounts. Although it is agreed that empirical findings may invite multiple interpretations, nonetheless, one must remember that conceptual arguments are not immune from mistakes. How are we to decide, then, between competing conceptual arguments? Consider, for instance, the highlight of Evidine's account that we have met in part V, namely, the idea that the process of acquiring language is molecular and not holistic. Like Davidson, Evidine provides a conceptual argument. Yet, in contrast to Davidson, Evidine's account can accommodate the idea that animals have primitive beliefs. So, again, how are we to decide which account is more reasonable or more preferable? It appears that the key issue is that Evidine's account is non-anthropocentric, and hence it is much more reasonable than anthropocentric a priori accounts, which are based on the human paradigm. Specifically, its explanatory value is higher: it simply explains more, and without creating unnecessary problems. Moreover, it can still accommodate the case of the human paradigm. On the one hand, it provides a general theoretical framework of gradual acquisition of language (and beliefs) which can accommodate the anthropocentric account with regard to normal, adult human beings. On the other hand, it appears to fit in much better than anthropocentric accounts with the empirical findings with regard to children. From the case of children, i.e., pre-linguistic creatures, it may be enlarged to the case of animals, i.e., non-linguistic creatures. At the same time, it does not explain 'too much': there is no risk that this framework could be seriously applied to machines or heat-seeking missiles since in these cases we have a much better and persuasive explanations.

Note that I have not argued against a priori reasoning in general, but against anthropocentric a priori reasoning. I also have not argued that the empirical findings should prevail over a priori reasoning. Additionally, recall that the main argument that I have presented was conceptual in its nature. The requirements of anthropocentric a priori reasoning, I claimed, may very adequately represent the case of paradigmatic humans, and that is the advantage of this reasoning. However, the attempt to see this reasoning as an absolute model for having certain mental capacities, such as beliefs and thoughts, is a disadvantage. We can avoid this disadvantage by relating to behaviour of animals as well as children in order to assist us in analysing the development of mental capacities, in attempting to provide a sufficient account for our observations. In many cases, empirical findings (of any kind) are inconclusive and may be subject to several interpretations. But relating to the relevant empirical findings seriously via non-anthropocentric reasoning has a significant advantage over anthropocentric a priori reasoning in that this provides a possibility to understand the animal mind in a better way.

VII. Conclusion

My aim in this chapter has not been to defend the claim that animals possess some mental capacities such as beliefs and intentionality. Rather, my aim has been to expose the anthropocentrism in the discourse of the animal issue and its implications.

As this chapter stressed throughout, Kenny, Leahy, Davidson, and others have not addressed the possibility of having differing qualitative degrees of possessing a capacity. By keeping the human perspective as the only possible standard, they have developed an argument that proves what we already know: to have a human capacity—that is, to possess a capacity in the human manner of that capacity—one has to be human. Yet by arguing from this perspective (which is deeply embedded in our way of thinking and thus seems perfectly natural and legitimate), these philosophers have not really addressed the issue, or at best, they have addressed it in an irrelevant manner.

We tend to conceive of our mental states as language-based, since doing so allows us to mark a significant distinction between us and all other living creatures. I have called into question this tendency and disclosed its limitations. Moreover, in dealing with this aspect of our experience we have a very substantial body of work to relate to, since we think with words, reflect on thoughts using words, and hence, at least potentially, remain faithful to the subject-matter and carry out an accurate analysis. That is to say, we are much more disposed to dealing with the linguistic aspects of our lives than with non-linguistic aspects. Still, adult humans are conscious in many ways that cannot be accurately described in terms of states of mind with propositional content. However, references to such experiential states, either as recollection or as reflection, are usually soiled with language, and hence, by definition, miss their very essence. Only seldomly do we maintain a thought of the type '*what exactly happened to me then when I was so surprised*', namely, when I experienced a surprise (and it is hard to explain this experience to others). Accordingly, it is much harder to locate the subject-matter in these cases, and to be accurate while focusing on it. This ubiquity of language has detrimental effects on the philosophical accounts of animals' mental capacities. It seems that a main reason for the denial of animals' sophisticated mental capacities is that it is very difficult for us to comprehend and theorise any non-linguistic mental state. It is thus much easier to formulate an argument against animals' mental capacity than to formulate an argument in its favour. At any rate, our interest in the linguistic aspects of our lives cannot and should not serve as a justification for making language the only standard for the possession of mental capacities such as beliefs and intentionality.

The solution to the conceptual problem regarding animals' mental capacities should not be based on the elimination of a priori reasoning, but rather of the elimination of anthropocentric a priori reasoning. In order to conduct a non-anthropocentric inquiry, one does not have to stop being human but rather to draw on the elements that are shared by humans and animals, and to be willing to relate to empirical findings without categorically resisting it on an anthropocentric a priori basis. Moreover, one would need to consider the possibility that the mental capacities of animals should be studied by using a more nuanced

conceptualisation. The immediate and perhaps too familiar response is that many interpretations of empirical findings in support of animals are based on the highly emotional attitudes of animal lovers and pro-animal researchers.⁴⁷ To a certain extent, I agree with that response. But one may consider that 'animal lovers' attribute a greater variety of mental states to animals since they are simply more familiar with their behaviour, or, more interestingly, because their observations are not inhibited by categorical negation of the possibility that animals may have certain mental capacities. Therefore, it might be that they are more attentive, and thus more competent to examine their behaviour.⁴⁸

Another common response is that pro-animal observers anthropomorphise the animals' behaviour. But we should note that not every ascription of intentionality to a dog, for instance, would be anthropomorphic. The delicate distinction here is that the ascription of intentionality to the dog would be anthropomorphic only if one is to argue that *there is no difference between the intentional states of the dog and the intentional states of humans*. This is not a mere terminological game; this opens up further inquiry into the degrees of intentionality (and other capacities) between lower and higher levels of animal mental capacities. While it might be tempting to search for clear-cut answers, this matter needs much more investigation without, perhaps, achieving any accurate conclusions in comparison with the human case. This issue also concerns the degree of specificity of knowledge regarding animal abilities that one expects. I deal with this in the next chapter.

To conclude, we should break the cycle in which anthropocentric a priori reasoning serves as a criterion for cases that are not based on human paradigms. Avoiding anthropocentric a priori reasoning where it is irrelevant would prepare the ground for a methodology that could incorporate empirical findings into the research. Such methodology would produce a much richer and convincing account of animals' mental capacities—either

⁴⁷ For instance, Fox claims: "Many people simply lack the ability to think clearly, objectively, and consistently about animals" (1986, 13). Frey: "[I]n the case of domesticated animals especially, many people, particularly lonely people, regard (and often want to regard) their pet as a kind of lesser human being, with a less rich but still plentiful mental life which explains why their cat or dog behaves as it does" (1980, 84).

⁴⁸ Glock makes the same point (2000, 60). Vicki Hearne (1982) provides a stimulating account of acquaintance with animals from her perspective as an animal trainer.

for or against their having certain mental capacities. This chapter has not aimed to solve the problem of anthropocentric a priori reasoning but to expose it, and by doing so, hopefully provides a useful starting point.

Chapter 2

Indeterminacy of Content and Sceptical Atmosphere

*Anyone can run to excesses,
It is easy to shoot past the mark,
It is hard to stand firm in the middle.¹*

I. Introduction

'Animals do not possess language, and hence we cannot be justified in attributing to them intentional mental states'. Would it be correct to interpret this claim to mean that we cannot be justified in such an attribution because animals are languageless and cannot report their experiences, and hence we do not know what goes on in their minds? Or would it be more adequate to interpret this claim to mean that we cannot be justified in such an attribution because language is a necessary condition of intentionality, a condition that animals lack? In the animal mind discourse, it is not clear whether this claim represents an epistemological issue or a conceptual one. In this discourse there is a tendency to confuse these two issues, which are, indeed, not always disconnected from one another.

I take intentionality to be a general type of mental state, and one which includes desires, beliefs, and intentions.² In that sense, the ability to provide reasons to an action refers to a specific sort of intentionality which is reserved for language users. However, the general approach to animal intentionality is influenced by the human paradigm, and thus intentionality is taken by many to be a language-dependent concept. Based on the paradigmatic case—that of normal, adult humans who possess rich linguistic capabilities—

¹ Ezra Pound, from "Canto XIII" (1954, 63).

² I consider intentionality to be a type of mental state that occurs, at least partially, in the brain. Following Davidson and others, I remain silent about the real nature of these mental states. That is, I do not offer a definition in terms of neuroscience. I partially accept Dennett's (1983) conception that belief, desire, *etcetera* are terms of convenience, i.e., they represent mental states or capabilities that we can classify under these terms in order to explain or predict an action. I also accept Dennett's idea that intentionality of any kind cannot be linked to any single brain state that can be pinpointed, for instance, as the belief itself. At the same time, however, I do not think of these terms instrumentally as Dennett does, although I do agree with his instrumental approach in relation to his project. In our daily lives we do generally manage to interpret the world in a way that enables us to survive and to flourish, which is not to say that our interpretations of many phenomena are necessarily in line with the real nature of things. Hence, I hold that the main premises of folk psychology can serve as reasonable working assumptions. For a similar position, see Horgan and Woodward (1985, 150). In contrast to eliminative materialism, I support the idea that there is no urgent need to reject some basic assumptions of folk psychology. Even if it will turn out that "there are no beliefs", the concept of belief is still strongly explanatory, as are other folk notions—for both the human case and the animal case.

one thesis maintains that there is an asymmetry between humans and animals regarding the justified ascription of intentionality. This asymmetry thesis, I argue, conflates epistemological issues and conceptual issues, which in turn creates double standards of doubt regarding intentionality attribution: *actual* doubt in the animal case, and *methodological* doubt in the human case.

What is meant by 'actual doubt' and 'methodological doubt'? Within the debate about animal minds, the doubt as to whether animals have intentional states is real, i.e., actual. By contrast, when considering humans, the same claims (for instance, the claim that humans have beliefs) are justified solely in theoretical terms, i.e., methodologically, or for the sake of philosophy, while the mental capacities that humans possess are usually not called into question at all (this justification is usually given in the context of discussion about scepticism). The actual doubt should also be understood in the context of the sceptical atmosphere surrounding the discussion of animals' mental capacities, the atmosphere that has framed the subject and distorted the approach to the animal mind issue.³ Part of this atmosphere is based on the difficulty of providing a positive account of non-propositional mental states. Such an account, by definition, steps out from the core discourse of philosophy of language which is very influential in this context.

My focus in this chapter is on the issue of determinacy of content in the animal mind discourse. Within this issue, the epistemological problem of other minds and the conceptual problem concerning the conditions of intentional states represent two sides of the same coin: on the one hand it concerns the conditions for having mental states that consist of determinate content, and on the other it concerns the ability of a spectator to attribute determinate content to mental states. I show how the problem of indeterminacy of content is just as applicable to normal and/or adult humans as to animals, and that in many cases it is not a problem at all. The similarity between the human case and the animal case concerns non-propositional

³ The distorted approach that frames the discourse and hence the subject is not unique to the animal issue. Searle, for example, in commenting on cognitive sciences, claims that, "[a]s recently as a few years ago, if one raised the subject of consciousness in cognitive discussions, it was generally regarded as a form of bad taste, and graduate students, who are always attuned to the social mores of their disciplines, would roll their eyes at the ceiling and assume expressions of mild disgust" (1990, 585).

intentional states. The actual doubt concerning animals is a result of working with a standard that only fits the case of language-based intentional states, which is irrelevant to the animal case. This will entail that the *actual* doubt regarding animal intentionality be unjustified. I will also show that actual doubt regarding animals' non-propositional intentions, desires and beliefs, entails the employment of such doubt in the human case as well.

In the following analysis, I will examine the issue of determinacy of content in the animal mind discourse, refuting the commonly held view that there is asymmetry between the animal case and the human case regarding our ability to determine the content of intentional mental states.

II. The Asymmetry Thesis

The Asymmetry Thesis embedded in animal mind discourse can be summed up as follows:

There is an asymmetry between humans and animals regarding the justified ascription of intentionality because humans have language while animals do not.

The claim here—which is held, explicitly or implicitly, by many philosophers—is that due to the language factor, there is a categorical difference between humans and animals regarding the way we should justify the attribution of intentionality to them.⁴ This thesis entails a confusion between conceptual and epistemological issues, which is represented in the extended asymmetry thesis:

There is an asymmetry between the debate about the animal mind and the epistemological scepticism in the general case of the problem of other minds.

In the case of humans (a) 'we cannot know that other people have minds or mental states', or 'we do not know that p'.

In the case of animals (b) 'we can know that animals do not have intentional mental states', or 'we know that not-p'.

⁴ Hampshire (1959); Black (1968); Leahy (1991); Frey (1980); Davidson (1975 and 1982); Kenny (1989).

This thesis represents the *immediate* professional response, which argues for asymmetry between humans and animals concerning the attribution of intentional mental states. However, concerning non-propositional intentional states, this thesis is mistaken and confuses two different issues.

The first issue is epistemological, i.e., arguments of type (a) are usually sceptical arguments that are based on our lack of knowledge of other minds. The second issue is conceptual, i.e., it concerns the conditions of having certain mental states. Thus, arguments of type (b) centre upon the conditions necessary for certain mental states. For instance, if language is considered to be a necessary condition for beliefs, then a creature who lacks language cannot have these beliefs. Thus, when one claims that *one knows* that not-p, or that *one knows* that animals cannot have beliefs, one establishes this statement about his or her knowledge that animals lack the necessary condition for having beliefs. Note that although one uses an epistemic vocabulary ("*I know*") to demonstrate arguments of type (b), such arguments neither concern an epistemological problem, nor are they sceptical arguments.⁵ In sum, the extended asymmetry thesis provides us with two different types of arguments that represent two different issues.

The confusion between the issues is reflected in the mistaken idea that in the animal case we are faced with a conceptual problem concerning the condition of intentional mental states, while in the human case we are faced only with the epistemological problem of other minds. This confusion is at the basis of applying actual doubt in the animal case rather than methodological doubt as in the human case, and has become a rigid and powerful dogma that represents the tacit spirit of many arguments. Thus, it frames the animal mind discourse in such a way that promotes the discounting of the similarities between humans and animals

⁵ The conceptual issue concerns only the conditions of having certain mental states; it is like saying that 'I know that there is no electric light in the room because I disconnected the electricity to it, and therefore there is no way that there could be electric light in that room'. The room lacks a necessary condition for 'having an electric light'.

regarding the problem of other minds, as well as the inattention to conceptual issues that are relevant to the human case, especially concerning non-paradigmatic cases.⁶

While examining the issue of determinacy of content in the human case, I will show that the asymmetry thesis is mistaken as far as it concerns non-propositional intentional states. My argument will show that there is a *symmetry* in certain aspects between humans and animals, particularly in the way in which we justify the ascription of intentional mental states to them.⁷ This entails that there is no justification for the double standards doubt: for the same reasons that in very many cases one dismisses the problems of indeterminacy of content in the human case, one should also dismiss it in the animal case. At first the problem seems only conceptual, and not epistemological.⁸ However, it will become clear that the epistemological issue is of much relevance to our concern—especially with regard to the problem of indeterminacy of content.

III. Indeterminacy of Content: The General Reasoning

The argument of type (b), that 'we can know that animals do not have intentional mental states', or 'we know that not-p', typically maintains that language is a condition necessary for intentionality. This thesis about language stands in contrast to the idea that language clothes internal intentionality with words; and it becomes crucial especially when it concerns higher mental capacities, which, supposedly, cannot even be manifested in behaviour. This leads us to the problem of indeterminacy of content concerning the content of animals' mental states.

Determinate content, the claim goes, can be attributed only to those who are *able* to possess determinate content, or content that can be specifiable, namely, specified accurately. Thus, creatures who can possess determinate content must be language users. Naturally, the requirement of determinate content also involves a constraint concerning the ability of the

⁶ McGinn also claims that there is confusion between epistemological and ontological issues (1995, 732).

⁷ I do not argue that language has no special role to play in the ascription of some intentional mental states to humans. I do argue, however, that language plays a much larger role in this philosophical debate than it should, and that language is unnecessary for the ascription of many kinds of intentional mental states.

⁸ This view is taken by Nagel (1986, 19).

spectator to ascribe determinate content-possession to someone. This constraint concerns the conditions under which an attribution of content would be possible, or under which an interpretation of linguistic and bodily behaviour would be considered reasonable. We saw Davidson's example of such an argument in the previous chapter:

That oak tree, as it happens, is the oldest tree in sight. Does the dog think that the cat went up the oldest tree in sight? Or that the cat went up the same tree it went up the last time the dog chased it? It is hard to make sense of the questions. But then it does not seem possible to distinguish between quite different things the dog might be said to believe. (1982, 474)

Stich provides a similar argument, but is more explicit:

If we were to suppose that animals do have beliefs, we would find ourselves utterly incapable of saying *what* they believe. But it is absurd to suggest that we can explain an animal's behaviour in terms of its desires and beliefs when we cannot say what it is that the animal believes. (1979, 18)

These quotations emphasise our inability—as spectators—to determine the words that depict animal belief, and to attribute concepts to animals.⁹ The content of beliefs (and of attributed beliefs) is, for us, composed of words, but animals do not possess a language.¹⁰ Even if a dog possesses a primitive language, he certainly does not understand English or any other human languages, and hence the sentence 'this man is about to feed me' cannot express the content of his belief. The idea underlying such arguments is that our inability to attach terms that correctly represent to ourselves the content of the animal's intentional state reflects the

⁹ Intentionality allegedly cannot be manifested in the animals' bodily or linguistic repertoire. Subsequently, the argument goes, even if it can be manifested in the behavioural repertoire of animals, it is not considered an exhaustive justification since, by exploiting the slippery slope argument, their behavioural repertoire may lead to a deflationary argument which can work for too many kinds of animals, and sometimes even plants and machines.

¹⁰ In line with my argument in chapter one, in saying that animals are languageless, I refer only to human-like language, which is the relevant language to our concern. However, note that in many cases the consideration of animals as languageless ignores the fact that animals communicate by making voice. Crucially, in many cases *we are able* to interpret this voice. For instance, Evans and Marler (1995) argue: "The alarm calls of vervet monkeys, ring-tailed lemurs, and chickens function like words in the sense that they are arbitrary acoustic labels that are reliably associated with defined categories of visual stimuli. We might thus begin to make the case that some of the differences between animal systems and language are quantitative rather than qualitative, although the difference between a 'vocabulary' of a few calls and one of some tens of thousands of words, as in human adults, is a prodigious one" (1995, 371). For an extensive discussion on animal communication and its implications concerning the animal mind, see Griffin (1995, esp. 195-198). See also footnote 40 in chapter one.

impossibility of justifying an attribution of such a state, or, rather, of justifying its existence.¹¹ Our inability here is conceptual: I cannot see through a dog's mind not because of the other mind problem, but because *there is nothing there to be properly expressed by a sentence*. According to this reasoning, interpretation of bodily and 'linguistic' behaviour of animals will not suffice as justification. This is because representing to ourselves the content of animals' mental states, based on their behaviour, is not considered as approximation, but as an anthropomorphic projection: animals, the claim goes, simply lack the necessary infrastructure, i.e., language, to have intentional mental states. Lacking language, even the animal itself cannot formulate the object of its beliefs.¹²

A similar reasoning occurs regarding concept possession. Even under the assumption that at least certain concepts are not language dependent, the dog still does not possess the concepts in the sentence 'this man is about to feed me', and thus one cannot attribute to the dog the desire to be fed by the man. Stich offers such an argument:

[C]onsider trusty Fido who sees his master bury a meaty bone in the back yard. Fido goes out the door and begins pawing at the very spot where the bone is buried. On the belief-desire account, Fido believes that there is a meaty bone buried in the yard and wants to get it. [...] It surely cannot be quite right to say that Fido believes there is a meaty bone buried in the yard. After all, Fido does not even have the concept of a bone, much less the concept of a meaty bone or a yard. He may be able to recognise bones tolerably well, provided they are typical examples and presented under conditions that are not too outlandish. But this is hardly enough to establish that he has the concept of a bone or any beliefs or desires about bones. [...] We cannot explain a dog's behaviour in terms of its beliefs since we cannot say what a dog's beliefs are. (1979, 18-19)

The idea is that even if one tries to make sense of the concept of 'man' in dogs' terms, i.e., in terms of raw or primitive concepts, one will find it impossible to maintain this attribution. For instance: you say 'man' since it is convenient, but you do not really think that the dog possesses this term. So you replace 'man' with 'this thing', that is, 'this thing is about to feed

¹¹ For this type of argument, see also Dennett (1969, 85).

¹² This, of course, implies denying any animals' intentional states—mental states that involve an object. If I desire X, then X is the object of my desire. Attributing to me the mental state of desiring X amounts to knowing the content of my desire. Frey (1980, 88), although I disagree with his account, was consistent in denying animals desires as well as beliefs. See footnote 16 in chapter one.

me'. The same reasoning stands here as well: the dog does not possess the concept of 'figure' or 'thing', and it even makes things worse, because these concepts (once one works from the human paradigm as the only standard) are considered abstract, and it seems far-fetched to attribute the possession of abstract concepts to dogs. The upshot of this reasoning is, again, that we cannot represent animals' intentional mental states adequately, and we therefore cannot justify their existence.¹³

Note that such arguments—which are based on determinacy of content and rigid holism—would also deny normal adult humans many intentional mental states. If one takes this line of argument seriously, then one must conclude that we are not justified in ascribing beliefs to humans on the basis of ambiguity and rough predictions. However, if we are not justified in such ascriptions, then we could not have maintained our lives within societies. In other words, this consequence simply does not stand the test of reality regarding humans. As Searle puts it: "Where it really matters, where something is at stake, folk theories have to be in general true or we would not have survived" (1992, 58-59).

Once faced with such reasoning concerning determinacy of content, one can offer examples of unarticulated beliefs in the human case in order to refute the need for determinate content. For instance, there is no specific content that stands for Smith's belief that he is in love. As a matter of fact, nothing can depict the content of such a belief non-arbitrarily (and this concerns self attributions as well). But this does not mean that Smith does not believe that he is infatuated. Smith can even have a second-order belief about it.¹⁴

Consider another example: I leave my flat to go to the university. In my bag I have some books which I borrowed from the library. I put them *consciously* into my bag. Yet, I do not think about it in terms of: 'I believe it is about time to return these books to the library'; 'I put them into my bag because it will force me to return them to the library'; 'I will return these books only if I find the time', etc. The fact is that I just put them in my bag, and neither I nor someone else can say whether I tried to force myself to return the books, or just tried to leave

¹³ Williams makes an ambiguous claim along this line of thought against animal belief (1973, 139).

¹⁴ Note that this example as well as the example that follows were not meant to be decisive. Moreover, eventually I claim that within the terms of the reasoning that I describe, both examples are irrelevant.

it as an option. It is also a fact that sometimes I do return the books I have in my bag to the library, and that sometimes I do not. In this case, like many others in our lives, it seems that it is impossible to determine the content of the mental state that I was experiencing in relation to the action of putting the books in the bag (although it is possible to determine an alleged content). The crucial point, again, is that even I, in the first person, do not know what kind of proposition will fit in order to describe that situation adequately. Even if one would have provided information about how determinate 'determinate content' should be, it will beg the question regarding the *epistemological issue* as well as the *conceptual issue*: regarding the former, I can always be mistaken in ascribing to someone certain mental content, whether animal or human; regarding the latter, it seems that there is no determinate content in such situations—or perhaps there is no content at all.

These examples demonstrate that there are many cases in which we have excellent grounds to consider ourselves justified in attributing intentional states to others, although the content of the attributed intentional states is not determinate, but only alleged or approximate. In other words, these examples show that the reasoning that underlies the idea of determinacy of content is too demanding. However, when considering the common argument regarding determinacy of content, it appears that the examples I just discussed are irrelevant. This is because in the cases that these examples describe, we have already assumed large isomorphism between networks of beliefs—similarity between the networks of intentional states of the person who attributes content and the other person to whom this content was attributed. I will now discuss this argument.

IV. Similarity between Networks of Intentional States

Stich offers the notion of similarity between networks of intentional states as a device that enables belief attribution in folk-psychology. He argues as follows:

We are comfortable in attributing to a subject a belief with a specific content only if we can assume the subject to have a broad network of related beliefs that is largely isomorphic with our own. When a subject does not share a very substantial part of our network of beliefs in a given area we are no longer capable of attributing content to his beliefs in this area. (1979, 22)

The main claim is that in attributing a belief, we tacitly use the notion of similarity between networks of beliefs.¹⁵ This idea can be characterised as follows:

1. X can determine that Y has a belief only if X can express the content of Y's belief accurately, or can make it specifiable.
2. In order for X to be able to express the content of Y's belief accurately, or to make it specifiable, it is insufficient that Y has a network of beliefs, unless this network is very similar to X's network of beliefs.
3. Only language users can have very similar networks of beliefs.¹⁶

Therefore,

4. A justified attribution of content can take place only between language users.¹⁷

¹⁵ A similar position is held by Goldman in his discussion on simulation (1995b, 723).

¹⁶ Although my appeal to language does not appear explicitly in Stich's text above, he makes all the moves that point to language as one of the necessary conditions for a justified attribution of beliefs—attributing specific content cannot be carried out without language. Later on in his book (1983), Stich does refer explicitly to language: "[...] Fido does not express his belief verbally and is not a member of a linguistic community. So the fact that he does not distinguish squirrels from others (actual or possible) squirrel-like things generates puzzles about how his belief is to be characterized" (1983, 105). Collin Allen (1992, 551) points out that it is simply untrue that an animal cannot make that kind of distinction between an animal and an animal-like object. Either way, the important issue here is the animal case, in which language (in the relevant sense) does not take place. Thus, as I argued in chapter one, even if one would refer to the powers that make language possible, it will be irrelevant to the animal case. As to the case of pre-linguistic children, I have already said in chapter one that I do not equate their case with that of non-linguistic creatures and thus have not argued that children at the pre-linguistic stage have the same cognitive capacities as animals. I argued that in both cases it seems that non-linguistic thoughts take place. (See the end of part V in this chapter for a discussion regarding the similar methodology of Stich and Davidson).

¹⁷ Stich's claim (1983) regarding animal beliefs should be understood in the context of rejecting the concept of belief as it is understood within the domain of folk psychology. Stich is interested in going beyond folk psychology towards cognitive science while claiming that folk notions such as belief do not suit scientific inquiry, be it about humans or animals. My concern here is not in disputing that. My disagreement with Stich lies *within the domain of folk psychology*, i.e., with his positive account of folk notions. In any case, Stich is interested in preserving folk psychological notions for certain needs,

A. Premise 1

According to premise (1), the issue is the possibility of attributing accurate or specific content. Note, however, that 'specific content' does not stand for the *actual* content that one has in mind given a certain belief, but for one's *potential* to ascribe an alleged specific content to other humans. This content is only estimated, but the crunch is that it makes sense to attribute such content because the other and I are both language users, and thus possess networks of beliefs which are largely isomorphic. This will not make sense in the animal case, however, since animals are languageless, and thus their alleged networks of beliefs are not largely isomorphic with ours. In other words, based on the similarity between networks of beliefs, one can still attribute to me beliefs in the examples discussed earlier (being in love, returning my books to the library). This is because the requirement is not for the actual content that I had—or did not have—in mind. The requirement is only to have a broad network of related beliefs that are *largely isomorphic* with one's own.

The conclusion that belief attribution can take place only between language users is based, however, on the human paradigm, and cannot account for the case of pre-linguistic children and young children. Note that it does not matter that in the case of young children, as in the animal case, the content of their 'so called' beliefs is not specific or actual. The significant thing is that *young children's networks of beliefs are not largely isomorphic with those of language users*. Hence, the argument entails that we cannot justifiably pin down even the estimated content of pre-linguistic children's mental states, and consequently cannot be justified in ascribing beliefs to them. The case of older children whose language is only primitive is also problematic, since, according to the premises of this argument their networks of beliefs cannot be very similar to ours. Stich would probably agree with this criticism. However, the fact is that in our daily life we consider ourselves to be justified in attributing

which are not scientific, and that is why he offers his account of these notions. The main thing at stake for our concern is not only his positive account of folk notions, but also the reasoning that it represents.

beliefs to pre-linguistic children and young children—especially as it works fairly well—although such attributions are defeasible.¹⁸

B. Premise 2

The requirement in premise (2), concerning networks of beliefs that are *largely* isomorphic with ours (i.e., adult, normal humans), is also problematic. The idea is that belief ascription requires sufficient similarity between mental networks (that of the ascriber and that of the subject to whom one ascribes beliefs). But this requirement is ambiguous because the conditions under which 'very similar' will be considered similar enough are unclear. Yet again, whatever the conditions are, this requirement cannot be employed in many cases of pre-linguistic children and older children who possess only a primitive language. This suggests that, for instance, one cannot make sense of the call 'Papa' or 'Mama' either in terms of belief or in terms of desire, since young children have neither the concepts of 'Mama' and 'Papa', nor the concepts of 'parents' or 'family'.¹⁹

Like Davidson's holism and its consequences, which I discussed in chapter one, the main problem with the large isomorphism argument is that it assumes fully developed concepts of *other subjects* (that in turn assumes language), and fully developed interrelationships between concepts, as a background starting point of belief attribution. The result is that this argument provides the mechanism that enables one to justify that someone has beliefs as long as this person has fully developed concepts and fully developed interrelationships between concepts. In other words, *this argument identifies the conditions of*

¹⁸ Stich (1983, 8) is aware of problems arising in attributing beliefs to children and people with brain injuries as a consequence of his account, and claims that this consequence is embedded in the problematic nature of folk psychology. However it seems that the problem is not with folk psychology but with his argument: this argument cannot underlie folk-psychology, because in practice our attribution of beliefs in borderline cases can be successful. It is definitely successful in the case of children and animals, at least in the relevant respects: namely, when it concerns certain kinds of intentionality. I shall relate to this issue in due course.

¹⁹ Beckwith provides an account regarding how children learn words, and in particular how they learn terms with abstract references. For instance, he argues as follows: "There can be no successful reference given a nominalist listener and a speaker making reference to categories that have no causal efficacy—for example, abstract objects such as that referred to by mental ascriptions. However, if the speaker refers to an abstract object (e.g., happiness), and the listener believes that the reference is to some concrete correlate of the abstract object (e.g., a smile) we can then have what might be considered semisuccessful reference" (1991, 85).

a justified attribution of intentional mental states that takes place among adult and normal humans. Based on the human paradigm, this argument is unable to explain the process of acquiring beliefs,²⁰ which is so relevant to the issue of children and animal beliefs—especially due to the success of applying these folk notions.

There is no doubt that the requirement of determinate content—based on large isomorphism of networks of beliefs—is useful and highly relevant in many cases, especially to the human case: language users possess mental states that can have very specific content, and can be formulated very accurately. For instance, as an adult human I can report that I opened the refrigerator because I wanted some vanilla yogurt that I bought today at the corner grocery; and that I bought only one vanilla yogurt, and wanted to eat it before my flat-mate could grab it (note that the important thing here is not that one can imagine reasons for my action, but that one can attribute to my beliefs specific content in that respect). There is no easy way, to say the least, to attribute this example to a very young child, but usually there is no need either: a cautious attribution of beliefs to young children and animals will avoid such accuracy and complexity. This detailed description of my plan and actions represents a case that is reserved for language users, but this paradigmatic case, as I shall demonstrate in part V, is irrelevant to humans under very many circumstances.

The problem with the requirement of large isomorphism goes even further. To emphasise this point one may suggest the case of aliens. This ambiguous requirement cancels out any possibility to attribute beliefs to aliens who might be mentally superior to us, and whose language we may not understand. Such creatures—although their behaviour might give us the 'impression' of mental sophistication—may not have an expressible language (they might, for example, communicate telepathically). Accordingly, one will have to assume that our networks of beliefs are not largely isomorphic with their supposed mental network—even if it appears that we understand each other fairly well.²¹ It seems that the argument of large

²⁰ See also the last paragraphs of part IV, section A and footnote 25 in chapter one.

²¹ It is important to note that in some cases a report on the existence of a particular mental state would be insufficient if not accompanied by a certain *action*, i.e., a behaviour that will manifest this mental state.

isomorphism is based on analyticity, and hence leads to triviality: it provides us a way to justify that others have beliefs, given that they are like us, and given that we already know that they are like us. However, it prevents the possibility of accommodating a conceptual change. Additionally, it prevents a justified belief attribution to others who are not like us. Nonetheless, this is precisely the intriguing point in question given the success of this method and its explanatory value.

This leads us to another issue in premise (1) concerning the possibility of determining content. The fact that the requirement only concerns the potential for another's mental state is the key to understanding the requirement of similarity between networks of beliefs. If the alleged content that one attributes to someone is supposed to work only 'in principle', then, at least indirectly, we ignore the possibility that there is no underlying fact in certain cases. Thus, it does not matter whether the alleged content adequately represents what I have in mind, for instance, while I am in love. What matters is that 'it makes sense'—that it is reasonable to attribute to a particular person certain mental content. That is, the potential to attribute content on the basis of large isomorphism eliminates the epistemological circularity in the human case by assuming that all humans have similar networks of intentional states.

It is crucial to our concern that if it makes sense to attribute any content that seems reasonable—specific or not—in situations where it seems that there is no content, then it appears that there is no substantial reason to reject the idea that we can potentially ascribe approximate content to animals. In order to draw the conclusion that we can ascribe estimated content to an animal, we must be clearer about my claim concerning the epistemological circularity of the large isomorphism argument.

V. Epistemological Circularity

The requirement of large isomorphism is based on epistemological circularity. This is how it works:

Q: Who are the subjects to whom it makes sense to attribute content?

A: People like me, you and her.

Q: How do you know that they are (really) like you?

A: I assume. I assume that their networks of beliefs are very similar to mine.

Q: How do you know that?

A: I assume, and for good reason: *usually* it works. However, obviously I can be wrong.

I must assume, therefore, that one's network of beliefs is very similar to mine in order to be justified in ascribing content to one's mental state. There is a sense in which this account leads to triviality: I am justified in ascribing certain content to others if and only if it makes sense to do so. By the same token, it is clear that the large isomorphism requirement is in general very reasonable regarding normal, adult humans, as confirmed by our daily practice. Indeed, by and large we do not doubt that other humans have intentional mental states. If there is any serious or actual doubt in that concern, then it is only while facing an extreme situation (for example, while we try to maintain a conversation with a senile person).

The epistemological circularity leads us to examine the rationale of arguments of type (a) (see part II above)—'we cannot know that others have minds or mental states'. As I mentioned earlier, within the context of the extended asymmetry thesis, this is the problem that one ascribes to the human case, while still considering the conceptual issue irrelevant in this case. The epistemological issue in type (a) represents the theoretical problem of other minds: the problem raised by the radical epistemological sceptic—the theoretical problem of other minds—is based on the theoretical worry that 'one cannot know that others have minds or mental states'. The epistemological sceptic holds that we do not have any reason to continue to believe as we do; thus, the crux of the theoretical other minds problem is that I may always be wrong while ascribing to you a certain mental state or even the possession of a

mind. This theoretical worry is unlikely to affect our daily lives; it cannot be taken seriously outside intellectual debates, and it would be the same apprehension whether it concerns humans or animals. Thus, it cannot take us further in our inquiry.

Nevertheless, arguments of type (a) also lead us to a slightly different problem, namely, the practical problem of other minds, upon which it is worth dwelling. The practical problem of other minds does not revolve around radical scepticism about minds, but around specific doubts about certain cases. For instance, when a person dates someone for a while and wonders what the other person is feeling about the relationship, the person wishes he or she can see through the other person to get the real answer. While dealing with the practical problem of other minds, we have already rejected the main doubt of the radical epistemological sceptic. That is, we do consider others to have certain mental states, although this attribution can be mistaken. Similar to the theoretical problem, the practical problem of other minds applies both to humans and animals.

The crucial assumption in the way out of the practical problem of other minds concerns the importance of language as a device for justification: my understanding of your report justifies a claim about the *existence* of your mental state. My ability to understand the content of your mental state and to depict it adequately with words justifies my attributing this mental state to you, and therefore the determination that you *really* have certain mental states is justified. In other words, if my attribution is justified, then it points to the existence of your mental state. However, from an epistemological perspective, language is irrelevant for many cases of attributing intentional states to humans—cases of unarticulated intentional states. These mental states are relevant for us because they represent a partial overlap between human and animal intentionality. In these cases, the problem of indeterminacy of content applies to humans as well.

When humans cannot express their thoughts with words it does not seem to create an epistemological problem regarding the justification of attribution of such thoughts. For instance, consider a choreographer who reflects on her new project. Neither we—as observers—nor the choreographer herself (in many cases) can say what she believes or

desires during the process of creation and by the choreography she created.²² More specifically, in many cases the choreographer cannot say why she desires a specific dancer to take the leading role, or why she believes that the project should be, for instance, in a minimalist style. Later on the choreographer might be able to report on her thoughts, but this will be a thought about earlier thoughts. However, the earlier thoughts are our primary focus.

The example of the choreographer is not a paradigmatic case of normal linguistic activity, but this is the main point of our concern, since we are interested precisely in non-paradigmatic cases. However, according to the line of argument that takes language as a justification for attributing intentionality—by enabling determinate content and attribution of determinate content—one cannot be justified in attributing desires and beliefs of the sort in the choreographer example. This is because neither we nor she can say anything about the *real* content of mental states that cannot be expressed (in contrast to 'described') with propositions.

From the perspective of the practical problem of other minds—which is actually a problem that humans face almost everyday—the real content of one's mental state is always estimated. This is true whether the content is language-based or not, and whether there *is* content or not.

Recall that Stich claimed that it is absurd to argue that it is possible to explain animal behaviour in terms of animals' desires and beliefs since we cannot say what it is that they believe.²³ But in this case the same works for humans. The point here is that language cannot always serve as a justification for considering that others have certain mental states.²⁴ Clearly

²² Harman makes a similar claim. He uses examples of a chess player and an artist who cannot express what led them to a certain action while playing chess or painting (1973, 85).

²³ Note that one can continue the line of argument that is based on lack of language by claiming that we do not know what animals feel, and hence that it is absurd to explain what appears to be pain behaviour as pointing to a possible present pain. This does not mean that they do not feel pain, but it does not mean that they do either. We simply cannot be justified in ascribing them pain, since we might be wrong. But this marks a confusion between the theoretical and the practical problems of other minds: we can be wrong in ascribing pain to humans, but it does not mean that we are not justified in this ascription. Such an argument which confuses the two problems of other minds is presented by Harrison (1991). See footnote 25, below.

²⁴ And clearly language does not provide necessity. Stich (1983, 54-56) agrees with that. He brings the case of a Mrs. T whose memory was fading. This case represents a salient anomaly, and does not stand as a parallel example to the regular and normal case that I brought, a case which refers us to very many

there is an asymmetry between humans and animals, but the assumption that language can justify the ascription of *every kind* of intentional mental state is unjustified. Again, this does not mean that language has no special role to play in the justification of an attribution of many intentional states to humans. But the crucial point is that language is simply irrelevant in the ascription of many kinds of intentional states. If I am right, then animals' lack of language should not create an epistemological problem in attributing to them certain intentional mental states. Our tacit theory, in the relevant cases of humans, also works in the animal case: one can be highly accurate in predicting animal behaviour, including specific behaviour.

Thus, on the one hand, the other minds problem—as a theoretical problem—is a philosophical artifact that is irrelevant to our practical life. On the other hand, in daily life when it concerns the practical problem of other minds, one does not expect one's considerations about others' mental states to be infallible.²⁵ Moreover, in the practical problem (as in the theoretical problem) there are overlapping cases between humans and animals in which we can be mistaken in our attribution of a mental state; but the possibility of mistake should not automatically project on the justification for attributing mental states to either humans or animals.

A main difference between the theoretical and the practical problem is embedded in different expectations regarding the kind of knowledge that is available to us. On the one hand, if one expects absolute reliability, then one is in the realm of radical epistemological scepticism. On the other hand, if one does not expect such reliability, then there is only uncertainty to some degree. This uncertainty works for both animals and humans. In both the

unarticulated thoughts of normal humans. There are relevant similarities between animals and mentally handicapped humans, but the references to abnormal cases can be misleading sometimes. In this case such reference causes us to overlook an important similarity between normal humans and animals.

²⁵ Harrison, for instance, is guided by the aspiration to infallibility. He claims the following: "There is, then, some value in the belief that animals suffer pain, for it provides a reasonably reliable guide to how they will behave. But it is not an infallible guide" (1991, 35). Harrison relates to animal's pain in terms of the theoretical problem of other minds. Note that his claim works in the human case as well. Consider also Kripke's puzzle (1979) in which he presents Pierre, the Frenchman who believes that '*Londres est jolie*'. We have excellent grounds to assume that he actually believes that 'London is pretty', but Pierre believes that 'London is not pretty'.

human case and the animal case we face similar degrees of fallibility.²⁶ I claimed that arguments of type (a)—'we cannot know that others have minds or mental states'—are associated with the human case as a theoretical problem. This theoretical problem is a non-starter for an account that aims to deal with animal or human intentional states. However, it appears that in the *relevant aspects*—i.e., regarding unarticulated intentionality—the practical problem of other minds, which is associated with the inability to achieve determinate content, also applies both to animals and humans. Accordingly, animal intentionality cannot be rejected on the basis of such an argument, and the actual doubt in the case of animals cannot be justified on the basis of this type of argument.

This conclusion may sound trivial because, to begin with, the issue in the animal case was about the conceptual problem concerning the conditions of intentional states. However, we have seen that in the human case we do not have a problem attributing unarticulated intentional states, and that *such attributions are actually based on the elimination of the epistemological problem—the practical problem of other minds*. This, of course, is supported by the success of this method. We have already seen that both the conceptual issue and the epistemological issue apply equally to humans and animals when such mental states are concerned. Yet in the human case the way out of this is to assume large isomorphism between networks of beliefs.²⁷

* * *

Importantly, the large isomorphism argument is not exceptional in its kind. For instance, it is closely related to Davidson's charity principle (1973). Both the charity principle and the large isomorphism requirement represent a getaway out of sceptical premises regarding other minds. Davidson claims that we do not know what the speaker believes, and therefore we

²⁶ Philosophers have referred to different methods in an attempt to explain the attribution of mental states to others; for instance: the argument from analogy (Russell, 1948, 501-505); imaginative identification and simulation (Hare, 1963 and 1981; Gordon, 1986; Goldman, 1995a); theory-theory (Carruthers, 1996); a mix of simulation and theory-theory (Perner, 1996a); and inferences to the best explanation (Chalmers, 1996, 246). All these techniques, whether operated consciously or not, cannot satisfy infallibility, and were not formulated in order to satisfy infallibility.

²⁷ Again, if there is any serious or actual doubt in that concern, then it is only while facing an extreme situation such as while talking with an Alzheimer's patient. Note that in the relevant respects it is easier to communicate with animals than with humans who have brain damage.

cannot assign meaning to his utterances. The charity principle enables one to talk in terms of an injunction to optimize agreement between the interpreter and the interpretee. It guides us to interpret speakers as holding true beliefs. On the one hand, the charity principle assists in attributing beliefs, but on the other hand—because of the epistemological issue—those attributions are defeasible. This is the case with the requirement of large isomorphism of networks of beliefs regarding the *real* content of mental states—which is a sort of charity principle.²⁸ Thus, in both cases we do not escape the possibility of making a mistake. The similarity goes further: although the attribution of content can be defeasible, the charity principle is a necessary condition of any act of interpretation. The large isomorphism requirement is also a necessary condition of content attribution. That is, in both cases one constructs a device, as it were, that enables either an interpretation or the attribution of content. In other words, in both cases this device is used to solve the epistemological problem for practical reasons.

Eventually, like Davidson, Stich adheres to language as a necessary condition for belief attribution: as I mentioned earlier, like Davidson's holism, Stich's large isomorphism requirement assumes fully developed concepts of other subjects that, in turn, assumes language and fully developed interrelationships between concepts.

However, in both cases, one has not really addressed the conceptual issue concerning the conditions of languageless beliefs and the attribution of languageless beliefs, but has relied on the paradigmatic model of intentionality as a language-based concept, and the cases of lack of language are either dismissed as impossible or are pushed to the margins. This situation is closely related to what we encountered in the first chapter. Now, however, our main concern is not the gap between the empirical findings and the anthropocentric a priori reasoning. Our main concern is the relevance of such an account—an account of the

²⁸ Being aware of the problematic character of the issue, Stich, in contrast to Davidson, concludes that the issue of animal belief is moot (1979, 27-28). In his (1983) he changes his mind and claims that belief attribution, as a folk notion, is context-sensitive, and thus in certain contexts it might be reasonable to say that animals do have beliefs.

paradigmatic model of intentionality—to the actual doubt that one maintains while addressing the issue of animal intentionality.

VI. How Actual Doubt Comes into Play

Actual doubt comes into play once one is working from the human paradigm and compares language-based intentional states with intentional states which are not language-based. Let me restate the argument: we have seen that I must assume that one's network of intentional states is largely isomorphic with mine in order to be justified in ascribing content to one's mental state. This requirement is based on our background theory in the human case. This background theory establishes from the outset the epistemological issue in the human case as a purely theoretical issue, and does not consider the conceptual issue seriously, as it is based on the human paradigm and our daily practice (which is usually successful). In other words, the large isomorphism argument assumes the asymmetry thesis with which we started:

There is an asymmetry between humans and animals regarding the justified ascription of intentionality because humans have language while animals do not.

This asymmetry thesis is true, and the claim that it sustains, that 'we can know that animals do not have intentional mental states', is also true, but only as much as it concerns language-based intentional states. However, the thesis and its claim are false and irrelevant to the case of non-linguistic intentional states. It is simply untrue that 'we know that animals do not have intentional states' when it concerns non-propositional intentional states. The argument of large isomorphism cannot explain what common sense takes to represent non-propositional intentionality of *humans*—common sense that in reality proves to work fairly well. Hence, in that respect, this argument does not separate the human case from the animal case, and thus does not show that there is an asymmetry between the human case and the animal case regarding unarticulated intentional states. This means that if there is reason to employ actual doubt in the animal case, then there is also reason to employ such doubt in the relevant human cases. Accordingly, if there is no reason to employ actual doubt in the relevant human cases, then there is also no reason to employ such doubt in the animal case.

Significantly, one cannot derive the inexistence of supposed intentional states from our inability to determine the content of these states. One might argue that the problem is that our inability works in both directions, and hence one cannot justify the attribution of non-linguistic intentional states either. However, if one cannot say much about what goes on in the non-paradigmatic mind—such as that of pre-linguistic children and animals—then empirical findings should be taken into consideration here as they provide another point of reference that might be very useful, even in case they entail the denial that animals, or pre-linguistic children, have certain mental capacities.

The empirical findings should be integrated before we decide to disqualify the theory (as Stich suggests), and before we decide to exclude the possibility that animals have beliefs (as Davidson suggests). The available empirical findings consist of scientific findings concerning the similarities between humans and animals, but also include daily life experience. Indeed, when we attribute unarticulated intentionality in the human case, and in cases where large isomorphism seems unlikely,²⁹ we rely on the fact that we usually succeed in the attribution of mental states to others. This eliminates both the practical epistemological problem and the conceptual problem.

This can work for animals as well. For instance, when the cat repeatedly stands near the tap in the kitchen and yowls we say that he asks for water, and sometimes we say that he asks for running water. The cat can neither say it to himself nor think it literally. The fact of the matter is that one does not know what goes in the cat's mind. This is why our linguistic description of the cat's want is only a representation of content that, although we cannot comprehend literally, we nevertheless project in order to formulate an inference to the best explanation—that the cat wants water from the tap. One has excellent grounds to assume it because it works fairly well: we know that once we will provide the cat this water, he will sip

²⁹ In addition to the case of young children, one can think of people who are deaf and unable to speak from birth, and cases where there are great ideological differences between speakers. Note that in contrast to the mentally handicapped and people with aphasia, the types of humans that I mentioned here are normal.

it and go back to his corner.³⁰ To emphasise this point, recall that Stich claims that "[...] Fido does not even have the concepts of a bone, much less the concept of a meaty bone or a yard" (1979, 18). However, in certain respects it seems that dogs know much more about bones than humans. Clearly Fido does not know what a bone is made of, but he recognises much better and much faster than humans which bone is real and which is not. Maybe there is no large isomorphism between animals' and humans' networks of intentionality. Due to our success in explaining and predicting animal behaviour,³¹ however, it appears that our networks of intentionality are at least in partial overlap when it concerns non-propositional intentional mental states.³² If the success of this method in the relevant human cases implies partial isomorphism of our networks of intentional states, then this should be enough for the animal case as well.

Earlier I mentioned that we tend not to seriously consider the conceptual issue in the human case because one is working from the human paradigm. It is reasonable to assume that elements that are irrelevant in this context underlie the surface—these are the same elements that are involved in the dismissal of the issue of non-paradigmatic humans. In our case in particular, though, an element that distorts the inquiry is a difference between animals and humans, or more accurately, between paradigmatic cases and non-paradigmatic cases: in the former case one can be far more accurate in attributing mental states to others because language enables the accuracy of both the mental states themselves and the attribution of their content by another. Yet, importantly, the possibility of being accurate does not necessarily

³⁰ People simply use human terminology, because this is the only terminology they have at hand as humans, in order to depict something in the animal mind which they assume is in a *partial* congruence with ours. Sometimes they are highly sentimental, sometimes they are incorrect, and many times they are simply well-acquainted with animals and with ways to approach them and understand them. Daily experience proves them right.

³¹ Animal behaviour stands in contrast to sophisticated 'behaviour' of computers. In the latter case we have a better explanation than attribution of intentionality to explain the behaviour, while in the former we do not. Moreover, in the former cases we also have great biological similarities, and behaviour which is more sophisticated by far.

³² Yet again, this works for young children as well: young children use 'this' when they cannot attach the right term (for instance, 'toy') to a certain object. They do not know that 'this' can be an abstract term, and cannot provide an account of the relationship between their finger and the object to which it points. Yet, it is possible to understand their desire or belief and to attribute to them a mental state of wanting. One can determine that a young child wants the toy; the 'toy' is the alleged content of his mental state.

entail low chances of error. It might be that precisely because a spectrum of possibilities is available, one will go wrong in attributing a certain mental state to another human: you thought that your boss is angry with you because you were late to work yesterday, but you do not know that she does not even know that you were late, and actually is not angry with you at all, but simply has had a bad day. So although you have a good reason to attribute to her some mental states concerning your functioning as her employee, you are completely mistaken in capturing her mental state and its content. That is to say, the potential for accuracy in ascribing content cannot guarantee any actual accuracy. Still, in most cases, we do not have a better alternative than relating to others with a background theory (conscious or non-conscious) concerning their spectrum of desires, intentions and beliefs.

VII. Conclusion

This chapter examined the commonly held view that there is asymmetry between humans and animals regarding our ability to determine content of intentional states. I have argued against this view that there is symmetry between humans and animals with respect to determinacy of content when it concerns unarticulated intentional states.³³ In both cases there is a lack of accounts on unarticulated intentional states and in both of them one faces the same epistemological problems. However, in both cases the method of applying intentional states works fairly well. If it did not work, there would be no reason whatsoever to assume that networks of intentionality of paradigmatic humans are largely isomorphic, and there would be no reason to assume that these networks are partially isomorphic with those of non-paradigmatic humans and other creatures. Accordingly, I have concluded that there is no reason to employ actual doubt in the animal case; or that if there is a reason to employ an actual doubt regarding animals' intentional states, then there is good reason to employ actual doubt in the relevant human cases as well.

³³ It is hard for discourses to recognise the non-discursive and grant significance to it. And indeed, at the end of the day, philosophy of mind does not say a lot about animal intentionality. Among other things, this is a result of not being able to say much about languageless intentionality in a manner that suits the prevalent philosophical discourse in which language plays a main role.

In the preceding chapter, I related to the possibility that Davidson refers to intentional states such as belief as terms of art. Stich clearly does not refer to such terms as terms of art, but rather as folk notions. Nevertheless, a focal problem in Stich's account is his assessment of folk notions in relation to a scientific framework. He is aware of the impossibility of this attempt, since the very idea is to show that these notions do not suit scientific inquiry. But the main problem is his dialectical attempt to 'scientificize' folk psychology. At best, this attempt shows that folk notions do not suit scientific inquiry, or that they are problematic with respect to this specific framework.³⁴ In any case, from this result one cannot conclude that folk notions are useless and should be abandoned, or that we cannot refine them.³⁵

The latter point is of great significance to the vision of science. For instance, most of us believe that cigarettes damage health and cause cancer, especially lung cancer. Nonetheless, there are many exceptions of people who smoked all their lives, lived for many years, and did not develop lung cancer or other types of cancer. Should we abandon this theory only because there are many intriguing exceptions? Apparently not. Recalling the poem at the beginning of this chapter one may say that 'we stand firm in the middle': at the moment it seems too good a theory, at least for certain uses. Until now, scientists and physicians have not managed to map the issue in a determinant way. Yet for each case in which they are wrong, there are very many other cases in which they are right. However, rephrasing Stich's statement about animal beliefs with which he concludes his (1979), one can ask rhetorically: Do cigarettes cause

³⁴ It is not surprising, therefore, that when analysing folk notions in the context of their function—the context of our social practices—they seem to work fairly well.

³⁵ Searle makes a similar claim regarding the elimination of consciousness in cognitive science as a consequence of difficulty in explaining this phenomenon. He claims that the fact that the first-person subjective experience of consciousness cannot be reduced to physical reality, i.e., to the objective perspective of third-person, does not mean that consciousness cannot be a proper object of scientific inquiry. The point is that the ideal of purely scientific inquiry should not entail the elimination of phenomena that we all experience (1992, 16-17; 116-124). With regard to Stich's attempt to replace one discourse with another, it is worth mentioning that even physicists do not have an agreed-upon unified theory that explains everything. 'String Theory', for instance, is not accepted by all physicists, and some of them do not even consider it a scientific theory, since there is no way to verify it yet. However, until there is agreement on such a theory, if ever, it would be legitimate for them to work with different tools that are sometimes incommensurable (for instance, Einstein's General Relativity is incommensurable with Quantum Mechanics).

cancer? To paraphrase my young son: 'A little bit they do. And a little bit they don't'.³⁶ Sometimes science (or the philosophical inquiry, for that matter) cannot provide the cut and dried criteria that we seek. Still, we never cease searching in hope of finding such criteria, and in many cases we do. Theories rise and fall, and sometimes theories that have been considered unscientific, eventually turn out to be scientific as a consequence of technological advancement.

Finally, it is unclear that our social practices, which include the attribution of intentional states, can be reduced to a science, i.e., that these practices can be analysed exclusively within a scientific framework.

³⁶ The original statement: "Do animals have beliefs? To paraphrase my young son: 'A little bit they do. And a little bit they don't' " (1979, 28).

Chapter 3

Moral Status in the Mirror of Anthropocentrism

*From the place where we are right
flowers will never grow in the spring.
The place where we are right
is hard and trampled like a yard.
But doubts and loves dig up the world
like a mole, a plow.
And a whisper will be heard in the place
where the ruined house once stood.¹*

I. Introduction

This chapter aims to show that the issue of animals' moral status is obscured by anthropocentric discourse, which uses human paradigms as the sole point of reference. This problem is analogous to the issue explored in the first chapter regarding animal belief. This chapter examines the problem regarding animals' moral status.

I argue that human paradigms have been mistakenly employed as conditions of moral status in general, or of moral entitlements that specify a particular moral status. The proposed moral status is defined in terms of moral agency—namely, it is based on conditions that can be satisfied only by adult, normal humans. Consequently, I argue, this reasoning equates between the proposed moral status and moral agency, characterising the former in terms of the latter. Had the proposed moral status that is defined in terms of moral agency been meant to include only moral agents, it would not constitute a problem. But in each example that I present, the proposed human paradigm-based moral status is said to include both moral agents and human moral patients, but not animals. It appears, then, that the implications of characterising moral status in terms of moral agency mostly concern animals.

This is a problematic situation: neither human moral patients nor animals satisfy human paradigm-based conditions. In that case, one should question *what enables the situation in which a proposed moral status that is based on the conditions described above is taken to include human moral patients, but at the same time manages to exclude animals.* This question is valid in two sets of cases: (1) cases where the moral status under examination

¹ Yehuda Amichai, "The Place Where We are Right" (1996, 34).

is understood as a concept that specifies all those who deserve moral consideration; and (2) cases where the proposed moral status concerns a certain group of individuals, although it does not necessarily exclude the moral significance of other groups.

With regard to case (1), I argue that excluding animals from the moral community on the basis of equating moral status with moral agency does not show that animals are not moral patients. Rather, it only shows that animals are not moral agents. One cannot argue the same with regard to case (2) because denying a *particular* moral status to a subject does not deny him or her any moral status whatsoever. Nevertheless, both cases are eligible for use at the next stage of my argument, while I attempt to answer the question posed earlier. The core of my argument is as follows:

The anthropocentric reasoning in the examples that I shall examine does not influence human moral patients because it converts the gap between moral agency and moral patience to the gap between human beings and animals. This is done by considering human beings *in general* to be the paradigmatic case while considering animals to be the non-paradigmatic case. In other words, the human paradigm-based condition is taken, at the end of the day, to be a collective condition for a proposed moral status. As such, the original condition no longer stands for each individual. Rather, according to this manoeuvre, it is enough for the majority of individuals within a given species to satisfy this condition in order for all individuals within the species to be entitled to the proposed moral status. Significantly, I do not argue against the use of a collective condition. Rather, I argue that the divergence from the original proposed condition that is based on individual abilities to a collective condition is problematic and unexplained.

This chapter is our first step towards the connection that I aim to uncover between anthropocentrism and morality. Accordingly, in part II I provide a general exposition of the concept of moral status; many issues that it raises will be discussed in subsequent chapters. In parts III and IV, which occupy most of this chapter, I develop my main arguments using examples primarily from Kant, Rawls and Fox.

II. Moral Status

In this part, I present an introductory discussion of the concept of moral status that places signposts essential to this and later chapters. In section A, I present several aspects of moral status, and in section B I draw on the conditions of moral status. In section C, in order to clarify my use of the expression 'moral rights', I discuss the relationship between moral status and moral rights that are relevant to my argument.

A. Aspects of Moral Status

Moral status is a general concept that specifies all those who deserve moral consideration. Accordingly, it specifies all those who can be morally wronged. Having a moral status is a sort of 'social vaccination': it provides, first and foremost, a measure of security and protection; it secures and regulates the moral entitlements of the individual. The extent of moral status is primarily taken to include the very minimal standards of protection that are said to be moral, although its implications for individuals are affected by the moral theory in use.

If an individual is endowed with moral status, then others are prohibited—at least to a certain extent—from doing things that harm this individual and violate his or her moral entitlements. In other words, someone who deserves moral consideration, or someone who is morally considerable, is *recognised* as having a moral claim on others who are able to recognise such a claim.²

Broadly construed, moral status concerns aspects of protection such as liberty, dignity and other benefits. That is, having moral status determines the scope to which one's well-being should be considered. The scope of moral status should be formulated as minimal standards that are supposed to protect the minimal good, i.e., the minimal well-being, of those who deserve moral status. Consequently, those standards are of high priority, although certain entitlements might be more imperative than others. At any rate, all this does not mean that all

² Some claim that being morally considerable is not unique to sentient beings. They claim that moral significance can also be applied to insentient things such as plants, rivers, and mountains (See Naess, 1973; Rolston, 1999). This issue concerning environmentalism is beyond the scope of this project.

those who deserve moral consideration have equal moral status or a full membership in the moral domain.

Moral status also concerns obligations of individuals towards others, i.e., obligations of individuals to respect the moral entitlements of others. But if we are to characterise this concept in the most general terms, then moral status concerns, first and foremost, the entitlement of members of the moral community to be protected. This is because there are some individuals in the moral community who cannot act morally and who do not have obligations, namely, those whom we consider moral patients.

This brings us to the issue of the distribution of moral entitlements among individuals. If some members of the moral community cannot act morally, does it affect their moral worth? In other words, do all members of the moral community have equal moral worth, or might some be 'more equal' than others? Does equality concern an *equal distribution* of moral entitlements, or does it concern *equality of consideration*? The distribution of entitlements might also vary in accordance with a certain calculus (for instance, in proportion to needs and interests). My discussion regarding moral entitlements and how they are to be distributed will be limited to the ways they are understood and presented by the philosophers that I discuss. This is because my primary aim is to criticise a certain philosophical discourse in order to identify the reasons by which animals are excluded from specific moral domains.

B. Conditions for Moral Status

A major issue in this chapter, which is highly relevant to the upcoming chapters as well, involves examining proposed conditions for moral status. I previously claimed that the concept of moral status specifies all those who deserve moral consideration, and that therefore it also specifies all those who can be morally wronged. But how are we to determine who can be morally wronged, i.e., who are those who deserve moral consideration?

This issue is settled via conditions for moral status. Such conditions are said to set the threshold for moral concern, meaning whether the concern is of a particular kind (such as specific moral entitlements that can only be validly attributed to some members of the moral

community), or a moral concern in general. Common conditions for moral status in the literature—whether sufficient or necessary—are sentience, rationality, reason, being autonomous, having interests, having the ability to reciprocate, being self-conscious, and having the ability to understand morality and to perform moral judgments. Such conditions for moral status are based on the characteristics of the subject, which, the claim goes, entitle the subject to a certain moral concern. For instance, consider Bentham's famous statement regarding the condition for moral concern:

The day *may* come, when the rest of the animal creation may acquire those rights which never could have been withholden from them but by the hand of tyranny. [...] It may come one day to be recognized, that the number of the legs, the villosity of the skin, or the termination of the *os sacrum*, are reasons equally insufficient for abandoning a sensitive being to the same fate. What else is it that should trace the insuperable line? Is it the faculty of reason, or, perhaps the faculty of discourse? But a full-grown horse or dog, is beyond comparison a more rational, as well as a more conversable animal, than an infant of a day, or a week, or even a month, old. But suppose the case were otherwise, what would it avail? The question is not, Can they *reason*? nor, Can they *talk*? but, Can they *suffer*? (1789, Chapter 17, 283n)

According to Bentham, a creature deserves moral consideration by virtue of its ability to suffer.³ Bentham's statement opens a front that is highly relevant to this discussion. First, the ability to suffer represents a condition that enlarges the moral community to include many animals. Second, by focusing on what the subject may experience, rather than on how he can act, Bentham brings forward the idea of moral patience: many who are capable of suffering—whether human or animal, whatever the exact definition of suffering is—cannot behave morally; and, in contrast to moral agents, cannot bear the burden of morality on their shoulders.

The issue of moral patience is highly relevant to my main argument in this chapter. The distinction between moral agents and moral patients is well-established in the

³ I relate to Bentham's use of the term 'right' in footnote 6 below.

philosophical literature, and thus I do not wish to reiterate it.⁴ Usually the arguments in this matter point out the differences between moral agency and moral patience, and concentrate on the need to relate to moral patience.

Given that the distinction between moral agency and moral patience is already established, it is important to note that my aim in using it is to show how a certain philosophical discourse fails to address it properly: by equating moral agency with moral status, *the discussion is shifted from the differences between moral agency and moral patience to the differences between human beings and animals*, without providing a proper justification for this manoeuvre. I will also expose the reasoning that enables this situation, which either excludes animals from the moral community or denies them certain moral entitlements (e.g., moral rights).

C. Moral Status and Moral Rights: A Note on Terminology

The issue of moral status and entitlements is closely related to the issue of moral rights. For instance, usually it is said that if an individual has a moral status, then she has moral rights, such as the right to liberty. The idea is that she has moral rights by virtue of having moral status. But having moral rights is often linked with the ability of the individual *to claim it* as a necessary condition. Thus, according to this reasoning, having the right to liberty assumes one's ability to claim liberty. In this sense, it seems that having moral status does not grant one any moral rights unless, to begin with, having moral status assumes the ability to claim this status and its derivatives.

In the exposition of my main argument, I will provide examples concerning the conditions of both moral status in general and certain moral entitlements in particular, such as moral rights. An interesting question regarding moral rights is about where the concept of moral rights stands in relation to the general concept of moral status. I shall not address this question as it is irrelevant to my argument. This is because I am only concerned with the

⁴ Philosophers who have discussed this issue: Clark (1977); Regan (1979, 1983); Feinberg (1980a); Jamieson (1981); Kuhse and Singer (1985); Pluhar (1988 and 1995); Rachels (1986; 1990); Lomasky (1987); De Rose (1989); Singer (1990 and 1994); Huffman (1993); Rollin (1993); Warren (1997); Dombrowski (1997); Cavalieri (2001); Rowlands (2002); Tooley (1983).

reasoning behind denying both animal moral status in general or certain moral entitlements in particular while attributing them to human moral patients. This is although both the animal and the human case do not satisfy the required and explicit conditions. However, in order to avoid misunderstandings and to prepare the ground for further discussion in the next chapters, I shall now clarify my use of the expression 'moral rights', by presenting two different approaches to the concept of moral rights.

1. Moral Rights as a Specific Moral Domain

One might relate to moral rights as a specific domain within the concept of moral status. In this case, one has to present conditions on the basis of which it would be possible to single out those who deserve moral rights. At the same time, those who lack moral rights do not necessarily lack any moral status whatsoever.

For instance, McCloskey denies moral rights to animals, arguing that "only beings which can possess things can possess rights" (1965, 126), where possession is to be understood literally. He provides the following example:

Consider 'possess' in a literal use. Can a horse possess anything, e.g., its stable, its rug, in a literal sense of 'possess'? (1965, 126)

McCloskey claims that moral rights can be validly attributed only to those who can claim such rights by analogy to the idea that someone can possess something only if he can claim this possession. That is, his account is an attempt to characterise moral rights as language-dependent.⁵ He also argues that attributing rights to humans who cannot possess things may be a useful lie or a mistake. According to McCloskey's approach to the concept of moral rights, it is clear that in order to have moral rights, it is not enough to be recognised as having claims for moral rights, such as the right to liberty or the right to life. In order to have moral rights one also needs to be able to claim them.

Nevertheless, McCloskey does not deny that we have duties towards humans who cannot claim rights (or duties towards animals), but that the rights that such duties create are

⁵ See also White (1984, 120).

rights by analogy (1965, 127). Thus, it appears that McCloskey would agree that killing infants is not allowed—although their right to life is a right by analogy—unless there is a good enough reason to do so. Thus, denying rights to individuals does not amount to a denial of their moral status.

However, there are positions that interpret the expression 'moral rights' differently to McCloskey.

2. Moral Rights as Specifications of Moral Entitlements

Singer claims that "[t]he language of rights is a convenient political shorthand" (1990, 8).

While criticising Fox, Singer argues as follows:

I have little to say about rights because rights are not important to my argument. My argument is based on the principle of equality, which I do have quite a lot to say about. (1978, 122)

It may be that Fox intends to suggest by this argument [concerning Singer's whole approach in the mirror of the nature of rights itself] no more than that animals cannot possess moral rights. If so, I would not wish to challenge his conclusion; but I would wish to emphasize that moral rights, in this sense, are at best one aspect of morality. (1978, 123)

Singer is not interested in attributing moral rights to animals, but rather in equal consideration of interests. Accordingly, Singer tries to avoid using 'rights talk'. However, when he talks about rights, he does not commit himself in any way to a rigid concept of rights according to which only someone who satisfies the conditions for being a right bearer can have rights. He uses it merely as a specification of a certain moral entitlement. In his case, it is the principle of equal consideration of interests.⁶

⁶ In that sense, Singer explicitly continues in the tradition of Bentham. Bentham claimed as follows: "The day *may* come, when the rest of the animal creation may acquire those rights which never could have been withholden from them but by the hand of tyranny" (1789, 283n. See section B above for the full quote). Singer quotes this passage and claims the following: "Although Bentham speaks of 'rights' in the passage I have quoted, the argument is really about equality rather than about rights. Indeed, in a different passage, Bentham famously described 'natural rights' as 'nonsense' and 'natural and imprescriptible rights' as 'nonsense upon stilts.' He talked of moral rights as a shorthand way of referring to protections that people and animals morally ought to have; but the real weight of the moral argument does not rest on the assertion of the existence of the right, for this in turn has to be justified on the basis of the possibilities for suffering and happiness. In this way we can argue for equality for animals without getting embroiled in philosophical controversies about the ultimate nature of rights" (1990, 8).

According to this reasoning, having moral claims does not entail one's ability to claim them. Rather, it is enough to be recognised as having moral claims on others who are able to recognise such sort of claims. Thus, in order to have a moral right one does not have to be able to claim that right in the literal sense (for instance, 'I have the right not to be harmed without a good reason'). Moral rights, according to this reasoning, are nothing more than the specification of moral entitlements: instead of saying that 'X is deserving of liberty', one says that 'X has the right to liberty'.

If moral rights were to require the ability to claim them, then many human beings, such as infants, the senile and the comatose would not have any rights, not even the right to minimal respect, because they have no such ability. Arguing from the position of McCloskey, the reply would be that these humans have rights by analogy. Or, one could respond that such human beings do not have rights, but that they have moral entitlements: for instance, they cannot claim their right for respect, but society endows them with entitlement to respect.

Nevertheless, the idea that underlies Singer's reasoning is that what really matters is not 'how you name the moral entitlement', but 'what the entitlement amounts to'.⁷ The former option is a sort of casuistry, whereas the latter is the real issue at stake because it focuses on whether a creature is morally considerable or not. And, indeed, whether a creature has a right in the full sense or a right by analogy, the important thing to our concern is that, in either case, the creature is *recognised* as having a moral claim upon others. For instance, it seems that McCloskey would agree that parents have a duty to keep their healthy born infant alive, although the infant's right to life is only a right by analogy.

On the one hand it is essential to distinguish between a moral right or entitlement that is endowed by society, and a moral right or entitlement that can be literally claimed by its bearer. On the other hand, every moral consideration can be formulated in terms of full-fledged rights that supposedly could only be claimed by the subject to whom they are attributed. For instance, one might claim that Singer's principle of equal consideration in

⁷ See footnote 6 for the quote from Singer.

interest must be conditioned by the ability of the creature to claim it. However, such an approach, although it may have its merits, will take us to the issue of the very nature of rights in general or of certain moral entitlements in particular, and to the nature of their normative existence. But this issue does not harm my argument, as I shall explain.

In the examples that I discuss in the following pages, *human* moral patients are already granted moral status or certain moral entitlements—such as moral rights—although they cannot claim those entitlements. Therefore, I am not concerned here with the entitlements that an individual can literally claim but rather with the conditions to the entitlements with which an individual is endowed. In such cases the pressing issue is not *how to name* the entitlement in question, but *what is* the entitlement in question and what are the conditions for it.

This fits very well with my approach to moral status as a general concept that includes all kinds of moral entitlements. Therefore, I apply my thesis in this chapter to the conditions of the moral status in question—whether I examine the philosophical discourse regarding the very condition for a being to be morally considerable, or whether I examine specific kinds of moral considerations, such as moral rights. Accordingly, when I criticise arguments against attributing moral status in general, particular types of moral status, or moral rights to animals, I do it on the basis of *proposed conditions* that, as I argue, do not suit moral patients—neither humans nor animals. By doing so, I will also uncover the reasons for attributing to human moral patients the moral entitlement in question, while denying it to animals, as is my aim in parts III and IV.

III. Anthropocentrism and Conditions of Moral Status

I argue that conditions of moral status in general and of certain kinds of moral status in particular are based on anthropocentric reasoning, i.e., that human paradigms have been used as either necessary or sufficient conditions for a proposed moral status. Basing moral status on human paradigms such as reason (Kant, 1785a, 1785b) and consciousness (Carruthers, 1992) means that the conclusions derived apply only to these paradigmatic cases, since these capacities are shared only by paradigmatic humans. Thus, conclusions based on these capacities will be applicable only to moral agents, i.e., adult, normal humans who are conscious and possess reason. In other words, basing moral status on human paradigms characterises moral status in terms of moral agency, and thus equates between the proposed moral status and moral agency.

Human paradigm-based conditions exclude animals from the outset from the proposed moral domain. Seemingly, this problem does not concern only animals, but human moral patients as well. This is because human paradigm-based conclusions will not apply to many human moral patients, such as people who are mentally handicapped, in a vegetative state, or senile.⁸ None of these humans are conscious to the required degree, able to reason, or capable of participating in the moral discourse. Hence they do not even have moral obligations towards others. Such conclusions, therefore, are based on premises that from the outset lack the potential to include moral patients—be they human or animal—in the proposed moral domain. Nevertheless, as we shall see during the progression of my argument, although this situation is unlikely to affect human moral patients, it directly influences the case of animals.

As a matter of fact, the approaches to the conditions of moral status that I present here are not problematic in themselves. They are problematic because although they are based on

⁸ Some philosophers demonstrate this using the argument from marginal cases concerning humans who always fall short of the requirements suggested for moral status. I will expand on that argument in chapter five. Normal humans such as infants and little children are moral patients, although they are also potential moral agents. A further aspect in which conditions based on the human paradigm fall short is in that of future generations (who cannot reciprocate, cannot suffer and cannot feel pain). The issue of future generations highlights the need to relate to non-existing entities that only have the potential to develop some mental abilities. See Feinberg (1980a).

human paradigms, they are also taken to include human moral patients who, by definition, cannot satisfy human paradigm-based conditions. However, were human paradigm-based conditions used only for the paradigmatic case of moral status, i.e., the moral status of moral agents (as opposed to other conditions which were used for the case of moral patients), they would have been very reasonable conditions.

Since I relate to moral status as a general concept, my argument concerns cases that deny any moral status to animals as well as cases that deny only a certain moral status to animals. In both cases, I am interested in showing how one denies moral entitlement to animals while not denying it to human moral patients, although neither of them satisfy the required conditions. Specifically with regard to animals, I argue that this reasoning merely shows that animals do not satisfy the conditions for being moral agents and does not show that animals are not moral patients.

As I mentioned earlier, I do not wish to re-establish the distinction between moral agency and moral patience. However, although this distinction is well-known, my arguments show that it does not receive sufficient consideration. In this Part I will use this distinction in order to demonstrate how the proposed moral status is equated with moral agency due to the employment of human paradigm-based conditions. In part IV I use the distinction between moral agency and moral patience in order to show how the anthropocentric reasoning converts this distinction to the distinction of human beings versus animals.⁹

In what follows, I demonstrate my claim regarding anthropocentric reasoning. In my examples I refer to Kant's moral theory, to Carruthers' condition for moral concern, and to Rawls' social contract theory.

A. Kant

For Kant (1785a, 1785b) morality is a domain based on reason and applies only to creatures of reason. In contrast to moral agents—adult, normal humans—moral patients are not creatures of reason and consequently cannot be considered part of the moral domain.

⁹ See also footnote 16 in this chapter.

Basing his moral theory on a condition that only moral agents can satisfy introduces a serious problem for Kant. The fundamental idea of Kant's deontological moral theory—the concept of duty—and thus his moral theory as a whole, cannot be applied to many human moral patients; duty for Kant is a self-given law, and hence Kant calls it an *autonomous* law. But if human moral patients such as the mentally handicapped, the senile and the comatose cannot act autonomously, do not have duties, and cannot perform any duties, then it is unclear to what extent they can be considered moral entities. Moral patients—be they humans or animals—simply do not fit within the central theme of Kant's moral theory.

However, Kant does not mention this problem. He demonstrates his claims in this matter, i.e., regarding amoral entities, only with respect to animals, even though his claims are applicable to many humans as well.

Kant's idea is that since animals lack reason, they are simply not moral entities. Since they are not moral entities, all putative relations with animals cannot be said to be moral; rather, they are amoral. Kant also claims that since animals are not self-conscious, they are not ends in themselves, and accordingly our duties towards them are indirect; for instance, the duty not to be cruel to animals is not directed towards animals, but towards humanity. That is, duties towards animals are virtually indirect duties towards humans from which, coincidentally, animals can benefit. In this sense, insofar as it concerns animals, our indirect duties 'towards' animals are not duties at all.¹⁰

In sum, Kant does not grant animals any moral importance. He sees them as utterly undeserving of moral consideration on the basis of a human paradigm.

¹⁰ Ritchie argues with a voice similar to that of Kant: "Cruelty to animals is rightly supposed to be an offence against *humanitarian* feeling. Our duty to animals is a duty to human society" (1894, 183); or "we may be said to have duties of *kindness towards* the animals; but it is incorrect to represent these as strictly *duties towards* the animals themselves [...]" (1894, 184).

B. Carruthers

A radical example of a human paradigm-based condition of moral status can be found in Carruthers' early writings on animals. Carruthers claimed that consciousness—to which he relates in its full-blown sense, i.e., self-consciousness—is a pre-condition for sympathy and moral concern:

[S]ince there is no reason to believe that any animals are capable of thinking about their own thinkings in this way [reflexive thinking], none of their mental states will be conscious ones. If this account were acceptable, it would follow almost immediately that animals can make no moral claims on us. For non-conscious mental states are not appropriate objects of moral concern. (1992, 193)

Full-blown consciousness is a capacity paradigmatic of adult, normal humans. Therefore, this approach is anthropocentric and makes linking animals and morality problematic from the outset.¹¹ Moreover, this anthropocentric reasoning cannot account for the moral status of some human moral patients, unless one employs other conditions in the background.

In his discussion, Carruthers relates to non-conscious experience in the human case only with regard to adult humans, such as the famous example of the absent-minded driver (1993, 170-171). But these cases already assume, and for good reason, that the humans involved are conscious to a certain degree: the driver might be non-conscious with regard to the route she is driving in and to what she is doing with the gear stick, but Carruthers agrees that she is conscious of other things at that time. However, significantly, Carruthers does not relate to the difficult cases, the cases of human moral patients who are entirely non-conscious, or at least not conscious to the required degree. Like Kant, he demonstrates his claim only with regard to animals.

Kant and Carruthers aim to define the *necessary* condition for a being to be morally considerable. Thus, the conditions they propose concern the limits of the moral domain. If one

¹¹ This view is one-dimensional in that it approaches morality as well as consciousness in terms of 'all or nothing'. The 'all or nothing' attitude is extremely significant, because it ignores intermediate positions: it conceals the possibility that there could be different degrees of moral status. For a developed critique of Carruthers' position, see Bernstein (1998, 133-137).

does not satisfy these conditions one cannot be considered a moral entity, and therefore not deserving of moral status. However, Kant and Carruthers establish moral status on the basis of human paradigms and thus characterise moral status as moral agency, practically equating the concepts. Such anthropocentric reasoning denies the proposed moral status to animals on the basis that they are not moral agents.

In contrast to Kant and Carruthers, Rawls does not aim to exclude animals from the moral domain, as I shall demonstrate in the following section. Rather, he claims that animals cannot be part of his theory of justice and the social contract, and thus they are not entitled to the status that this contract provides to its parties.

C. Rawls

Anthropocentrism is intrinsic to social contract theories, which assume relationships of mutuality between moral persons. The main aim of these theories is to settle the interrelationships among human beings which will allow them to live together. As such, this type of theory is based on the case of moral agents, and hence focuses mostly on them. Nevertheless, contractarian theories aim to apply to human moral patients as well. Rawls, for instance, strives to form the theoretical basis of the state—that is, to formulate the interrelationships between men as moral beings in terms of principles of justice which characterise the links between men in a welfare society. Welfare society is based on the social contract that is signed on the basis of agreement upon the conditions of normative and just settlement.

Rawls takes justice to be the main concept under focus in relation to the moral consideration of individuals and their interrelationships. In this sense he approaches the issue of moral status in terms of justice, and formulates the general scheme of do's and don'ts in terms of his conception of justice. For instance, in the opening of his book he claims the following:

Each person possesses an inviolability founded on justice that even the welfare of society as a whole cannot override. For this reason justice denies that the loss of freedom for some is made right by a greater good shared by others. It

does not allow that the sacrifices imposed on a few are outweighed by the larger sum of advantages enjoyed by many. Therefore in a just society the liberties of equal citizenship are taken as settled; the rights secured by justice are not subject to political bargaining or to the calculus of social interests. (1971, 3-4)

Rawls' theory of justice is a moral theory (1971, 46), but Rawls is careful to relate to this theory as a specific domain within morality that, as such, has its limits:

[W]e should recall here the limits of a theory of justice. Not only are many aspects of morality left aside, but no account is given of right conduct in regard to animals and the rest of nature. A conception of justice is but one part of a moral view. (1971, 512)¹²

In contrast to the cases of Kant and Carruthers, Rawls does not deny moral status to animals, but argues that animals and human beings have different statuses.¹³ I am interested in Rawls' reasons for excluding animals from the specific moral domain provided by his social contract. Therefore, my main concern is with Rawls' condition for being part of the social contract and for being in the range of his conception of justice.

Rawls aims to distinguish between human beings and other animals. He asks:

On what grounds then do we distinguish between mankind and other living things and regard the constraints of justice as holding only in our relations to *human person*? (1971, 504. My italics)

Rawls answers by offering the conditions for being a moral person. Moral persons are those who are assumed to (1) have a conception of their good, and, (2) have acquired a sense of justice to a certain minimum degree (1971, 505).¹⁴ In other words, moral persons are moral agents or potential moral agents. Aware of the issue of permanent moral patients, Rawls maintains that human moral patients—those who are not moral persons—may present a difficulty for his account of equality and the guarantees of justice, but only a minor one as they are included within the scope of the theory of justice (1971, 17; 510). As for animals,

¹² See also Rawls (2001, 19).

¹³ Rawls claims: "[T]hey [animals] have some protection certainly but their status is not that of human beings" (1971, 505).

¹⁴ Rawls also claims that moral personality in that respect is "defined as a potentiality that is ordinarily realized in due course. It is this potentiality which brings the claims of justice into play" (1971, 505). See also Rawls (1971, 509).

Rawls states that they are outside the scope of the theory of justice, and claims that the contract doctrine cannot be extended in a natural way to include animals (1971, 512).

Rawls, however, is clearly less radical than Kant. In the above quote, he claims that a conception of justice is only one aspect of morality.¹⁵ Namely, yet again, Rawls relates to his conception of justice as a distinction within morality, and thus the moral status that is based on justice is not meant to exclude animals from the moral community. Nevertheless, qualifying or being disqualified as a moral person (or falling within or without the scope of the theory of justice), is, significantly, defined in accordance with human paradigms—the condition of moral personality. Thus, neither human moral patients (or at least many of them) nor animals satisfy the condition of moral personality. Rawls, however, excludes only the latter from the social contract while the status of the former is secured.

D. Summary

We have seen that human paradigms are used as conditions for either moral status in general or for a certain kind of moral status in particular, and thus the proposed moral status is characterised in terms of moral agency. In other words, Kant's and Carruthers' attempts to exclude animals from the moral community are unsuccessful because they rest on equating moral status with moral agency: reason and consciousness are shared only by adult, normal human beings. They are shared neither by the senile and the comatose, nor by animals. Accordingly, it does not show that animals are not moral patients. Rather, it shows that animals are not moral agents.

There is a similar situation concerning Rawls' theory of justice: basing the moral status that is provided by the social contract on human paradigms is also applicable only to moral agents. This should create a serious problem for individuals who do not fit within such framework, i.e., the case of moral patients. Nonetheless, there is an important difference between Rawls on the one hand and Kant and Carruthers on the other: Rawls does not aim to exclude animals from the moral community. Accordingly, in contrast to Kant and Carruthers,

¹⁵ Rawls also acknowledges duties of compassion and humanity *towards animals* (1971, 512). Yet he avoids stating whether these duties are direct or indirect. I discuss this issue in chapter four.

he does not deny that animals are morally considerable, or that they have moral worth. While he claims that animals do not satisfy the condition of moral personality, this does not mean that they cannot be granted moral status that is not based on a conception of justice.

Human paradigm-based conditions should have created a problem not only to animals, but to human moral patients as well. Yet the implications of this situation mostly concern animals. It may be argued that human moral patients can be included within the proposed domain of morality via extra principles. However, in this case their moral status would not be based solely upon consciousness, as Carruthers suggested, nor would it be based solely upon reason, as Kant suggested. Additionally, being part of the social contract and benefiting from the protection it provides would not be based solely on Rawls' condition of moral personality.

Thus, the question remains the same: what enables including human moral patients, but not animals, in a proposed moral status that is based on a human paradigm? I shall attempt to answer this question in the following part.

IV. Shifting the Centre of Gravity

The denial of animals' moral status (either moral status in general or moral status of a particular kind) should have been understood as a specific example of the larger problem of moral patience. Indeed, many philosophers who use marginal cases to argue for animals' moral status based on the distinction between moral patience and moral agency aim to demonstrate precisely this point.¹⁶

My aim is different: it appears that blurring the gap between moral agency and moral patience by basing moral status on human paradigms does not have crucial consequences for human moral patients. Accordingly, it does not lead to problems in attributing moral status to

¹⁶ As we shall see throughout the dissertation, in contrast to supporters of the argument from marginal cases that use the distinction between moral agency and moral patience, my overall answer to this question will not go along the lines of finding a common denominator shared by both human beings and the relevant animals. And, indeed, note that I did *not* argue that since human moral patients are included in a proposed moral domain, therefore animals are also included in this domain. Rather, I raised this issue as one that deserves an answer. In this respect I only argued that the anthropocentric reasoning does not show that animals are not moral patients.

moral patients such as infants and the mentally handicapped. Thus, my aim is to uncover the reasons for this situation: analysing this issue will show that the distinction between moral patient and moral agency is converted, so to speak, to the distinction between paradigmatic cases on the one hand and non-paradigmatic cases on the other, whereas the former includes all human beings and the latter includes animals. This manoeuvre is generated by applying the condition for the proposed moral status in a collective manner. Applying a condition in a collective manner means that *all people* deserve what is enabled by a certain condition as long as the *vast majority of people* fulfil it. Note, however, that I do not argue against the notion of a collective condition, but rather against the way the transition from an individual-based condition to a collective-based condition is carried out. My argument, which I discuss in the following section, will be demonstrated by considering Kant, Rawls, and Fox.

A. The Transition to Collective Conditions

I argue that anthropocentric reasoning shifts the gap between moral agency and moral patient to the gap between human beings and animals. This is done by considering human beings *in general* to be the paradigmatic case, whereas animals are considered to be the non-paradigmatic case. In other words, we shall see that the anthropocentric reasoning does not influence human moral patients because the proposed human paradigm-based conditions are applied in a collective manner. This allegedly qualifies *all people* to deserve what this condition makes possible.

1. Kant

Kant's example concerning amoral subjects to whom one owes indirect duties (in contrast to direct duties in the case of moral subjects) did not concern infants and the mentally handicapped, but only animals. Kant circumvents the issue of human moral patients by avoiding their case:

Our author here commits an extravagance, in that he discusses duties towards inanimate things, animate but irrational creatures, and rational beings. *We have duties, though, only towards other people*; inanimate things are totally subject to our will, and the duties to animals are

duties only insofar as they have reference to ourselves.
Hence we shall reduce all duties to those towards other people. (1785a, 177. My italics)

Kant classifies animals as irrational creatures. He avoids relating to mentally handicapped humans or the senile. Thus, he classifies all humans as rational beings, and does not make any distinction within them. Accordingly, people whom we classify as irrational, and lack reason, are also considered moral entities. It also appears that, in one way or another, Kant considers the necessary condition of morality—reason—in a collective manner:

Our author now points out special duties that we have to particular kinds of people, namely, duties in regard to differences of age, sex, and station. But all these duties are deducible from the *foregoing universal duties to mankind.* (1785a, 213. My italics)¹⁷

Man must regard himself as a legislating member in the kingdom of ends, or of rational beings. (1785a, 234)

Kant's lack of account regarding human moral patients, and his use of the expressions 'mankind' or 'being a member in the kingdom of ends', may lead one to conclude that Kant relates to the necessary condition of moral status that he offers as a collective condition—a condition that is shared by 'humanity' rather than by 'all people'; or at least that he sees human moral patients as benefiting from the fact that they are part of human society.¹⁸

Either way this marks an implicit divergence from Kant's original necessary condition: on the one hand it appears that Kant's original condition—being a creature of reason—is not a necessary one, because Kant considers human moral patients to be moral entities even though they do not satisfy this condition. Thus, it seems that another condition runs implicitly in the background. On the other hand, if Kant does not use another condition, but relates to reason as a collective condition without any further explanation, then he justifies the moral status of human moral patients by claiming that they are humans. This alternative

¹⁷ In this quote it may seem that Kant relates to human moral patients—maybe very old people—but this is not so. He simply refers to specific types of duties, but does not question his own condition of reason in regard to individuals who do not satisfy it.

¹⁸ At any rate, Kant is very explicit in his statement that we have duties towards people (and mankind), and he did not argue that moral agents do not have direct duties towards human moral patients. Haksar claims that although the mentally handicapped may lack freedom and rationality, from a Kantian point of view they may still have them at a deep noumenal level (1979, 23).

runs the risk of replacing the conditions of moral status with the conditions of being human. It is very likely that such conditions are not only anthropocentric, but speciesist as well.¹⁹

We have already seen that Kant does not relate to the fact that human moral patients do not fit in with the main narrative of his moral theory, and focuses on showing how animals do not satisfy the condition that he requires. Kant shifts the distinction of moral agents versus moral patients to that of human beings versus animals by approaching the condition of reason in a collective manner. Hence human moral patients are included in the moral community, whereas animals are not.

2. Rawls

A similar situation concerning human moral patients can be found in Rawls' theory of justice. First, Rawls considers moral personality to be a sufficient condition to be included in the scope of his theory of justice (1971, 505), but avoids clarifying whether it is a necessary condition as well. Second, Rawls softens his requirements for moral personality by considering the sense of justice a collective condition that is shared by the majority of mankind:

Whether moral personality is also a necessary condition I shall leave aside. I assume that the capacity for a sense of justice is possessed by the *overwhelming majority of mankind, and therefore this question does not raise a serious practical problem*. That moral personality suffices to make one a subject of claims is the essential thing. We cannot go far wrong in supposing that the sufficient condition is always satisfied. Even if the capacity were necessary, it would be unwise in practice to withhold justice on this ground. The risk to just institutions would be too great. (1971, 506. My italics)

Thus, human moral patients who do not satisfy the condition of moral personality—including those who do not have the potential to satisfy it—are part of Rawls' theory of justice, but animals are not. Originally the condition of moral personality was applied individually, but according to this quote it is applied collectively: human moral patients are part of Rawls' theory because the majority of human beings satisfies the proposed condition. As I mentioned

¹⁹ Although it is not necessarily so, it depends on the justification that one provides for such conditions. I will expand on this point in chapter six.

earlier, such a manoeuvre that takes the relevant condition to be a collective condition is suspected of 'converting' the condition of the proposed moral status to this of being human. In the case of Rawls' theory of justice, we are talking about converting the condition for being part of the social contract (and hence for being part of his theory of justice) to this of being human.

Note that the problem here is not that in practice Rawls considers human moral patients to be part of his theory of justice. Indeed, I agree with Rawls that the condition of moral personality does not raise a serious practical problem for human moral patients. The problem is that *his justification for the inclusion of human moral patients in his theory clashes with his own account regarding the condition of moral personality*. The main issue in Rawls' discussion about the basis of equality (1971, 504-512) is finding a *theoretical* foundation for including individuals in the theory of justice. Yet human moral patients do not satisfy the required condition even if it is only a sufficient one. Rawls sees all humans as having equal moral status *by virtue of being moral persons*. But human moral patients are not moral persons. Thus, in effect, Rawls does not explain how the status of human moral patients is equal to that of human moral agents.

Rawls deals with the application of his conception of justice that is, as he claims, only one aspect of morality, and does not deny the moral significance of animals. However, what we have attempted to understand is why Rawls denies the relevant set of moral entitlements provided by his conception of justice to creatures of type (A) but not to creatures of type (B), even though neither type are moral persons. That is, the question remains as to why animals are undeserving of being part of the social contract and enjoying its goods, whereas human moral patients who also do not satisfy the required condition deserve to be in the contract and are entitled to its goods.

The answer to this question is that Rawls circumvents the theoretical problems with human moral patients by attaching their case to that of human moral agents, thus avoiding a sufficient account of their case. More accurately, he does not provide a sufficient account of the divergence from his original condition of moral personality. He simply claims that the

overwhelming majority of mankind satisfies the required condition. In other words, human moral patients are part of the social contract because the majority of mankind satisfies the required condition.²⁰

By attaching the case of non-paradigmatic humans to that of paradigmatic humans, the argument shifts from the issue of moral agency versus moral patience to that of human beings versus animals. This is because the paradigmatic cases are taken to include all humans, and the non-paradigmatic cases are taken to include only animals.

A potential rejoinder from Rawls may be based on his attempt in *Theory of Justice* to settle the interrelationships among human beings in a way that will enable them to live together. More specifically, Rawls can point at the circumstances of justice, what he refers to as "the normal conditions under which human cooperation is both possible and necessary" (1971, 126), in order to emphasise the purview of his theory. These circumstances arise out of a problem for individuals who must cooperate together in agreeable terms. Rawls claims that:

[T]he circumstances of justice obtain whenever mutually disinterested persons put forward conflicting claims to the division of social advantages under conditions of moderate scarcity. (1971, 128)

The main issue at stake, then, is what characterises human society, with an emphasis on 'society', i.e., on the characterisation of human beings within communities (1971, 129-130).

Thus, Rawls could argue that human moral patients are part of his theory of justice in general

²⁰ Rawls is right to claim that the majority of mankind are moral persons, but the empirical data portrays a more complex picture. For instance, here are three examples:

(1) It is estimated that 4.5 million Americans have Alzheimer's disease (see the Alzheimer's Association site, <http://www.alz.org/AboutAD/statistics.asp#1>. The site refers to: Hebert, L. E., Scherr, P. A., Bienias, J. L., Bennett, D. A. and Evans, D. A. "Alzheimer Disease in the U.S. Population: Prevalence Estimates Using the 2000 Census". *Archives of Neurology* August 2003; 60(8): 1119-1122).

(2) It is estimated that 5.3 million American adults aged 18 to 54 have social phobias (see <http://www.nimh.nih.gov/publicat/numbers.cfm>. The site refers to: Narrow W. E., Rae D. S. and Regier D. A. "NIMH epidemiology note: prevalence of anxiety disorders". Population estimates based on U.S. Census residential population age 18 to 54 on July 1, 1998. Unpublished).

(3) It is also estimated that about 6-7.5 million Americans are mentally retarded (see http://www.healthatoz.com/healthatoz/Atoz/ency/mental_retardation.jsp). See also the following link at the site of the World Health Organization: <http://www.who.int/mediacentre/factsheets/fs265/en/>). These are only three examples, and they make one wonder whether reason, autonomy, moral personality or even consciousness, can really take us far when stipulating them as conditions of moral status.

and of the social contract in particular because *they are part of human society*, and hence they are part of the circumstances of justice.

This claim from Rawls can be backed up by one of his statements about the objective circumstances of justice (Rawls also relates to the subjective circumstances of justice):

[M]any individuals coexist together at the same time on a definite geographical territory. These individuals are roughly similar in physical and mental powers; or at any rate, their capacities are comparable in that no one among them can dominate the rest. (1971, 126-127)

Clearly individuals are different from one another in many respects, but are nonetheless roughly similar, especially once one relates to them as a community, or as members of human society, rather than as merely individuals. Rawls does not refer to human moral patients in his discussion about the circumstances of justice, and his assumptions are based on the case of moral agents. However, continuing his line of argument, one may claim that although human moral patients are different from most people, in many relevant respects they are similar, and more importantly, they are clearly part of human society. This line of argument that one might extricate from Rawls' account, therefore, gives him a principled basis for arguing that animals do not fall within the scope of justice: animals are entirely irrelevant to the issue at stake because, the claim goes, they have nothing to do with human society in respect to the circumstances of justice that characterise it.

My critique does not focus on the aim of *Theory of Justice*, nor do I claim that my critique damages the main aim of Rawls' seminal project. I also do not find a problem in demarcating the aim of Rawls' theory to human society. This possible rejoinder from Rawls is indeed legitimate and in itself reasonable. It is, however, unsatisfying, as I shall explain.

Earlier I asked why creatures of type A (human moral patients) are included in Rawls' theory of justice and hence in the social contract whereas creatures of type B (animals) are not, despite the fact that neither group satisfies the required condition. Rawls' possible reply based on the circumstances of justice is that human moral patients are part of the social contract because they are part of human society, on which his theory is focused. This possible answer is unsatisfying because it is inconsistent with the explicit condition of moral

personality that Rawls offered in order to establish the guaranties of justice. Namely, the explanation based on the circumstances of justice regarding why human moral patients are guaranties of justice whereas animals are not is inconsistent with the supposedly individual-based condition that Rawls provided earlier. Recall that human moral patients do not satisfy the required condition of moral personality, which is based on individual abilities, even though it is only a sufficient condition.

In fact, Rawls' possible line of argument that is based on the circumstances of justice supports my analysis that the condition of moral personality is converted to a sort of a collective condition that applies to the community as a whole. Yet again, note that I have not argued against the notion of a collective condition. As in the case of Kant (and the case in Fox that I shall analyse below) the problem that I have pointed at is not that the proposed condition is applied in a collective manner, but rather that the explicitly proposed condition is presented as an individual-based condition whereas, practically speaking, it is a collective condition. This manoeuvre, I argued, is what enables the inclusion of human moral patients alongside the exclusion of animals in a proposed moral domain in which both types of beings do not satisfy the required condition. The possible rejoinder from Rawls explains why human moral patients are part of his social theory—but I have not argued that they should be excluded from his theory. At the same time, Rawls' possible rejoinder has still not provided a sufficient account to my main contention regarding the divergence from his original condition of moral personality—a condition that is based on the human paradigm.

Indeed, the question of why animals are undeserving of being part of the social contract whereas human moral patients who also do not satisfy the required condition deserve to be in the contract, would have been irrelevant had Rawls avoided the condition of moral personality and referred to conditions that are based on the circumstances of justice. In this case, the issue from the outset was not about individual abilities that a being do or do not possess, and thus the comparison between animals and human moral patients would have been irrelevant. Moreover, my contention that Rawls' argument is based on the human paradigm might have been inappropriate, because the circumstances of justice relate to

society as a whole. That is to say, human society is being lead by moral agents and includes other beings of different sorts (potential human moral agents and human moral patients as well) and since Rawls refers to the normal conditions in which cooperation in human society is both possible and necessary, then it is clear why the emphasis is on the case of moral agents. (In fact, chapter six illustrates that my line of argument is similar to this in that it relates to human society as a whole.)

However, if this explanation is to be consistent with Rawls' discussion about the basis for equality (1971, 504-512), in which he explicitly refers to the case of human moral patients, then Rawls should not have argued that the condition of moral personality is the grounds by which we distinguish between mankind and other creatures—grounds by which we hold the constraints of justice as holding only between humans (1971, 504). This is because the condition of moral personality does not separate the human case from the animal case, but rather separates the case of human moral agents from all other cases—both human moral patients and animals. Thus, in order for this possible line of argument that I presented on behalf of Rawls to be consistent with his discussion on the basis of equality, Rawls' focus on the condition of moral personality should have been followed by an explanation that makes it clear that the condition of moral personality is relevant only for moral agents and potential moral agents. In this case Rawls could have claimed that this condition is based on the human paradigm, that is, on the case of moral agents and potential moral agents, because they are those who have the ability and the responsibility to settle the interrelationships between individuals within human society. At the same time he could have avoided struggling to explain the case of human moral patients in his discussion on the basis of equality by arguing that they are part of human society, and therefore part of his project.

In short, Rawls' possible reply based on the circumstances of justice is legitimate and has the potential to make my argument irrelevant, but is inconsistent with the explicit condition of moral personality that he himself provided to which my critique was directed.

3. Fox

Fox also provides an example of denying certain moral entitlement to animals, but not to human moral patients, by using a manoeuvre that takes us from an individual to a collective condition for the moral entitlement in question. Fox takes autonomy to be a necessary condition of moral rights—a condition that animals cannot satisfy. He claims that:

[A]ll (and only) those beings which are members of a species of which it is true in general (i.e., typically the case at maturity, assuming normal development) that members of the species in question can be considered autonomous agents are beings endowed with moral rights. (1978a, 112)

Fox takes this condition to apply to all autonomous subjects, independent of their species—even if they are extraterrestrials (1978a, 112ft; 1986, 63). However, he also considers the proposed necessary condition to be *the typical case* for human beings, and hence, like Rawls, does not provide a sufficient account of the case of moral patients. In effect he offers autonomy as a collective condition: *most* people satisfy this condition, and hence *all people* enjoy what it enables.

The gap between Fox's necessary condition for moral rights on the one hand and its collective application on the other becomes more problematic while examining his proffered necessary conditions for autonomy:

I have drawn attention to certain cognitive capacities (critical self-awareness, concept manipulation, and the use of a sophisticated language) because these are the essential tools or vehicles by means of which an agent's autonomy is evolved, made known to himself reflexively, and manifested or expressed. The possession of these cognitive capacities, therefore, is a necessary pre-requisite for autonomy, which is the capacity for self-conscious, voluntary, and deliberate action, in the fullest sense of these words. (1978a, 111-112)

Human moral patients do not possess most of these pre-requisites. For instance, like animals, the permanently comatose, the senile, and even the mentally handicapped are not self-conscious *in the fullest sense of these words*. Thus, both human moral patients and animals do not fulfil Fox's pre-requisite for autonomy, and therefore, both cannot be considered autonomous.

Nevertheless, Fox appears to suggest that it does not matter that human moral patients do not satisfy the required condition for moral rights—namely, being autonomous—because he does consider them to have moral rights. What matters, thus, is that they belong to a species in which being autonomous is a typical characteristic.

Fox does not explain the sharp transition from a condition based on individual capacities to a collective condition. Consequently, human moral patients are granted moral rights due to being part of a species whose overwhelming majority is autonomous. Thus, it appears that the explicitly proffered condition—being autonomous—is not the only condition of the moral entitlement in question, i.e., moral rights. And, yet again, one finds that the distinction between moral agents and moral patients is 'converted' to the distinction between human beings versus animals.²¹

B. Where does all this Leave Animals?

The anthropocentric reasoning that uses human paradigms as conditions of a proposed moral status in general, or specific kinds of moral considerations such as moral rights, does not affect human moral patients because human paradigm-based conditions are taken to be collective conditions for a proposed moral status.

In contrast to the original condition, the collective condition does not stand for each individual. The collective condition is satisfied by the majority of human beings, and thus stands for all individuals within our species; human beings *in general* are considered to be the paradigmatic case, whereas animals are considered to be the non-paradigmatic case. Accordingly, the center of gravity is no longer designated by the distinction between moral agents on the one hand, and moral patients on the other. Rather, it is marked by the distinction between human beings on the one hand and animals on the other.

²¹ The denial of a certain moral entitlement to animals by the manoeuvre from an individual to a collective condition by means of attaching the case of human moral patients to that of moral agents, can be found in other authors as well. See White (1984, 120) with regard to moral rights and the scope of the language of rights. White claims that being a person is a necessary condition for moral rights; Cohen refers to free moral judgment as a necessary condition for moral rights (1986, 866).

The truth is that there is no real and urgent conflict in applying either moral status, a particular moral status, or any other basic moral entitlements such as moral rights, to human moral patients. Conflicts in this matter always mark the exceptional and the unique, and are usually typical of theoretical or methodological disputes. For instance, whatever the explicit conditions for moral rights, most people consider human moral patients as having such rights.²² In the case of Fox, human moral patients are considered to have moral rights via the transition to a collective condition. However, as we have seen earlier in the discussion on McCloskey, a denial of such rights to human moral patients would usually be accompanied by a claim that these are rights by analogy.²³ Namely, the denial of such rights to human moral patients is tangential to formality, because such individuals are still recognised as deserving to be treated in a way that is consistent with such rights. For instance, consider the right of the mentally handicapped not to be inflicted with unnecessary pain, or the right of the comatose to be treated respectfully. The point is that in these instances, it does not matter what you call these entitlements because the important thing is *what the entitlement amounts to*. Yet in contrast to human moral patients, McCloskey does not claim that animals have rights by analogy.

However, the situation resulting from anthropocentric reasoning—the situation in which the paradigmatic cases are taken to include all humans and only humans, while the non-paradigmatic cases include only animals—does affect animals: either (1) they are denied *any* moral status, or (2) they are denied a *certain* moral status or *certain* moral entitlements.

What are the implications of these two possibilities for animals thus far? The implications are very clear with regard to option (1) (the denial of any moral status): animals do not have any moral worth whatsoever. We have seen that Kant does not grant any moral status to animals, and thus they can be wronged, but they cannot be morally wronged. Kant does recognise animals as sentient creatures, and consequently he recognises that the notion

²² This can be seen by analogy to my argument in chapter two. Doubts regarding the moral status of some humans are usually only *methodological*, whereas doubts regarding the moral entitlements of animals are *actual*.

²³ See my discussion on McCloskey in part II of this chapter.

of cruelty to animals is not meaningless (1785a, 212; 1793, 434-435; 1798, 238). Yet by the same token, he claims that humans do not have any substantive duties towards animals, because they do not have any direct securing status. In other words, our duties in the case of animals are not towards the animals themselves, but rather towards humanity.

Animals' lack of direct securing status does not imply that humans have free reign in animal treatment. Rather, it means that what we can or cannot do to animals is mediated through our direct duties to humans. For instance, Kant explicitly claims that vivisectioning animals is an act of cruelty that has a praiseworthy aim (1785a, 213). Thus, it can be said that vivisectioning animals is justified because it helps in fulfilling our direct duties towards humans. However, it would have not been justified to vivisection animals had it not served a human aim.²⁴

The implications of option (2), however, in which animals are denied moral status of a particular type, remain thus far unclear. What we can say at this point is that this option appears to leave room for animals to be morally considerable entities. On the one hand we already know that Rawls stated generally that we owe animals duties of compassion and humanity, but on the other hand we do not yet know whether these duties are direct or indirect. Fox denied that animals deserve moral rights; his main concern was about the condition for moral rights, but we shall see that he claims that animals are morally considerable creatures. Moreover, Fox states that we should not inflict unnecessary pain upon animals or be cruel to them (1978a and 1986). On the other hand, this claim has not been examined yet, and thus we are not clear at this stage about moral entitlements outside the scope of rights-holders according to Fox.

These issues, which are highly important for us and deserve our full attention, will be discussed in detail in the following chapter.

²⁴ Kant's view of indirect duties towards animals can be defended in relation to his moral theory and its foundation. For such a defence, see Leahy (1991, 183-186). The significant point, however, is that Kant's moral theory is constructed in a way that excludes animals from the moral community. Thus, going back to Kant's motivations in order to justify his theory will at best justify his motivation but is still irrelevant to my concern.

V. Conclusion

In this chapter I examined the anthropocentric approach to the issue of animals' moral status. I argued that basing a proposed moral status on conditions paradigmatic to humans entails that the proposed moral status is defined in terms of moral agency.

Working from the human paradigm is not necessarily a problem: taking human paradigms to be necessary conditions of moral status may bring out salient and significant aspects of moral status in general or of a specific kind of moral status—one that is reserved for adult, normal human beings in particular. For instance, clearly Rawls' social contract cannot exist without moral agents. Thus, as I claimed earlier, had the Rawlsian notion of moral personality that is defined in terms of moral agency been meant to include only moral agents, it would have not created a problem. Other conditions that are not based on the human paradigm could have been formulated in order to include moral patients in the social contract. However, in the examples that I have discussed, human moral patients have been included within the proposed moral domain, which is, as we can recall, based on a human paradigm.

I criticised this reasoning, and claimed that ultimately its implications concern only animals. Accordingly, I showed why the consequences of anthropocentric reasoning do not affect human moral patients; that is, due to the transition from an individual-based condition to a collective condition, the human paradigm-based condition is taken to include all humans and only humans, whereas the non-paradigmatic cases include only animals.

The manoeuvre of applying a certain condition in a collective manner brings us to the situation in which the main issue at stake is no longer the distinction between moral agency and moral patient, but rather the distinction between human beings and animals. I have not argued that the latter distinction is irrelevant, but rather showed that the accounts concerning the former distinction were insufficient.

Significant for our concern in this chapter is that the anthropocentric reasoning that we have encountered has not really denied that animals are moral patients. I argued that anthropocentric reasoning simply shows that animals are not moral agents, but this does not show that animals are not moral patients. In the case of Kant and Carruthers, animals have

been defined as amoral entities on the basis of human paradigms. Therefore, I argued, they are excluded from the moral community because they are not moral agents.

The cases of Rawls and Fox are somewhat different: in these cases the explicit claim is that animals do not deserve a particular moral status. In the case of Rawls animals are not part of the social contract, and hence are not guaranteed justice; in the case of Fox animals cannot have moral rights. In both cases, however, it appears that animals can still be seen as moral patients that deserve at least some moral protection, i.e., animals can still be morally considerable even without the guarantees of justice and without moral rights. However, in the cases of Rawls and Fox, animals are still excluded from the specific moral domain because they are not moral agents. This is because the explicit conditions suggested by Rawls and Fox are based on human paradigms.

Among other things, my aim in the next chapter is to examine what Rawls and Fox endow animals with, and what exactly they deny animals.

Chapter 4

Animals' Moral Status and Duties

*Let fear break through,
You who were made to negate the world,
you whose only vouchsafe may lie in negation,
have caught yourself in flagrante delicto:
you have taken pity.¹*

I. Introduction

In the previous chapter, we saw that anthropocentric reasoning fails to show that animals are not morally considerable, but rather shows that animals are not moral agents. Additionally, we have seen that Rawls' denial of equal justice, or the 'status of justice', to animals does not entail a denial of their moral status, and that the same applies to Fox's denial of moral rights to animals. In this chapter, I examine the implications of Rawls' and Fox's accounts for animals.

Rawls and Fox see animals as morally considerable by virtue of their ability to suffer and to experience well-being. Thus, they both grant welfare to animals to a certain extent by holding that animals are entitled to well-being. Rawls, for instance, claims that the fact that animals are sentient imposes some duties on us. My claim here is that recognising animals as being entitled to well-being is a view that must take the animal itself as the object of well-being (rather than the animal's owner, for instance). In other words, developing the claim that animals are deserving of a particular moral status by virtue of their ability to suffer and to experience well-being paves the way to direct duties towards them.

Despite Rawls' and Fox's view that animals are moral patients who deserve to be treated in a way that supports their well-being, they seem to imply that humans are under no serious obligation to ensure animals' well-being. Rawls claims that we have duties towards animals, but avoids stating whether they are direct or indirect. Yet we shall see that understanding these duties as direct duties is inconsistent with his account. Fox also sees animals as moral patients, but claims that we have no duties towards them. This situation appears to be problematic in relation to the claim that animals are morally considerable by

¹ David Avidan, from the poem "The Desert Generation" (1966, 15).

virtue of their ability to suffer and to experience well-being. The resultant account does not commit us—humans—in any substantial way to animal well-being. On the one hand, there is an agreement that animals should be treated in ways that support their well-being because they can experience well-being. On the other hand, however, there is no articulation of what we owe to animals by virtue of their ability to experience well-being in terms of direct duties, and there is a refusal to define what we owe to animals solely on the basis of this ability (by 'what we owe to animals' I do not refer to particular aspects of do's and don'ts, but to the very ability to integrate such standards into the proffered explanatory system). Alternatively, the definition is mostly associated with human needs and interests. I would argue that without direct duties towards animals, the specific and limited moral status that Rawls and Fox grant to animals could not be substantiated.

The contributions of this chapter are in demonstrating that Rawls and Fox should be committed to direct duties towards animals if they grant moral status to animals, and in tracing the source of their problematic accounts to their anthropocentric approach to moral status. This approach aims to separate the human case from the animal case by using a human paradigm-based condition for the inclusion of all humans in a proffered moral domain. This creates a simplified framework regarding the conditions of moral status. I shall propose a general non-anthropocentric framework that can both include animals in the moral domain and to grant them direct duties as well.

II. Animals as Objects of Welfare

Two frequent consequences of the anthropocentric approach to the conditions of moral status are that animals are denied any moral status, or alternatively that they are denied a certain moral status—that of humans. Claims of the latter sort are usually accompanied by a claim, either explicit or implicit, that animals are morally significant, although their moral worth is less than that of humans. Basically, this amounts to a claim that animals are entitled to welfare or some moral protection that requires humans to behave towards them in certain ways. Such an approach can be found in the accounts of Fox and Rawls to which I will relate in this part.²

Both Rawls and Fox agree that animals are morally significant by virtue of their ability to suffer and to experience well-being. This, I argue, entails that humans have direct duties towards animals. Rawls and Fox seemingly agree with this claim, but I show that their accounts are highly problematic. In the case of Rawls, the idea that humans can have direct duties towards animals appears to be inconsistent with his account. And in the case of Fox, the explicit claim is that humans have no duties towards animals.

Welfare can be characterised in many ways, but it is understood—and sufficient to our concern—that first and foremost it concerns the basic well-being of a creature, i.e., its basic needs and interests. In other words, granting animals welfare is supposed to support *their* well-being (in contrast to the well-being of human society), and thus it must be based on the idea that animals have some capacities that enable them to experience well-being—even if only to a minimal sense. This recognition must be based on the assumption that animals are sentient beings that can feel pain and are subjects of life that are distinct from plants, for example.³ As subjects of life, they not only have needs, but also wants or desires, such as the desire to avoid pain.⁴

That is, acknowledgement of animals' welfare entails a recognition that animals' mental and physical abilities are relevant to their well-being; animals' abilities such as the

² In addition to Rawls and Fox, see Nozick (1974, 35-42); Townsend (1979); Becker (1983); Cohen (1986, 866); Leahy (1991, 198-201).

³ Skorupski (2000, 254).

⁴ Kenny (1989).

ability to feel pain serve as conditions of well-being. At the very least, there must be something intrinsic to animals that validates the claim regarding animal welfare. Otherwise, it would not be based upon consideration of animals' well-being but rather on indirect duties which encompass the well-being of humans from which animals benefit only incidentally.

In sections A and B, I present the problematic accounts of Rawls and Fox, respectively, on duties in regard to animals. In section C, I examine the relationships of their accounts to their claim that animals are morally considerable creatures.

A. Rawls on Duties towards Animals

In his discussion on the limits of his theory of justice, Rawls relates to the status of animals:

Last of all, we should recall the limits of a theory of justice. Not only are many aspects of morality left aside, but no account is given of right conduct in regard to animals and the rest of nature. A conception of justice is but one part of a moral view. While I have not maintained that the capacity for a sense of justice is necessary in order to be owed the duties of justice, it does seem that we are not required to give strict justice anyway to creatures lacking this capacity. But it does not follow that there are no requirements at all in regard to them, nor in our relations with the natural order. Certainly it is wrong to be cruel to animals and the destruction of a whole species can be a great evil. The capacity for feelings of pleasure and pain and for the forms of life of which animals are capable clearly imposes duties of compassion and humanity in their case. (1971, 512)⁵

Rawls recognises animals as creatures who can feel pain and pleasure, and for that reason he states that it is wrong to be cruel to them. It seems, therefore, that Rawls means that we owe animals duties of compassion and humanity—such as the duty not to be cruel—by virtue of their ability to feel pain and pleasure.

Rawls does not specify whether duties of compassion and humanity to animals are direct or indirect. Nonetheless, at least in a first approximation, it is reasonable to interpret them as direct. For instance, assuming that the wrongness of being cruel to animals is based

⁵ Note that in saying that "it does seem that we are not required to give strict justice anyway to creatures lacking this capacity", Rawls does not relate to human moral patients, but to animals: first, we have seen that Rawls includes human moral patients in his theory of justice. Thus one owes human moral patients strict justice. A second reason by which it is clear that he refers to animals and not to human moral patients is that in this discussion he refers to issues beyond the theory of justice, issues of which he did not provide an account.

on animals' ability to feel pain and pleasure, this duty must be directed towards the animals themselves. Interpreting the duty not to be cruel as a direct duty towards animals also gains support by virtue of the following two reasons.

First, Rawls claims that animals deserve some protection, but that their status is different from that of humans because the latter are included in his theory of justice (1971, 505). This fits in with Rawls' claim above that his conception of justice is only one aspect of morality, meaning that exclusion from the theory of justice does not mean that animals are amoral entities that do not deserve any moral consideration.

Second, interpreting duties of compassion and humanity in general and the duty not to be cruel in particular as indirect duties would not substantiate Rawls' recognition that animals can feel pain, and therefore it would be problematic when taken together with the very idea of compassion. This is because indirect duties would not be directed towards animals but rather towards human beings or towards humanity (as in the case of Kant), they are only mediated through animals. Consequently, animals can benefit from such duties only accidentally. As such, again, indirect duties could not substantiate Rawls' recognition that animals are sentient creatures, and cannot account for what it seems that he is interested in endowing them.

However, seeing duties of compassion and humanity towards animals as direct duties seems to be inconsistent with Rawls' account concerning the guarantees of equal justice in general and natural duties in particular.

Rawls provides some characteristics of natural duties:⁶

Now in contrast with obligations, it is characteristic of natural duties that they apply to us without regard to our voluntary acts. Moreover, they have no necessary connection with institutions or social practices; their content is not, in general, defined by the rules of these arrangements. Thus we have a natural duty not to be cruel, and a duty to help another, whether or not we have committed ourselves to these actions. It is no defense or excuse to say that we have made no promise not to be cruel or vindictive, or to come to another's aid. [...] A further feature of natural duties is that

⁶ Here is a partial list of natural duties that Rawls provides: "The following are examples of natural duties: the duty of helping another when he is in need or jeopardy, provided that one can do so without excessive risk or loss to oneself; they duty not to harm or injure another; and the duty not to cause unnecessary suffering" (1971, 114).

they hold between persons irrespective of their institutional relationships; *they obtain between all as equal moral persons.* (1971, 114-115. My italics)

The natural duty not to be cruel is highly relevant here. The natural duty not to be cruel makes sense only with regard to creatures who can suffer from cruelty. Accordingly, it would be reasonable to suggest that it consists not only of human beings, but of some animals as well, at least animals that have a central nervous system. Nonetheless, it seems that the natural duty not to be cruel cannot be applied to our relationships with animals. The main issue for our concern is the condition of moral personality.

Rawls claims that natural duties "obtain between all as equal moral persons". However, animals are not moral persons, and thus cannot be among those who are eligible for natural duties. In other words, assuming that the duty not to be cruel to animals is a natural duty, humans do not owe this duty to animals because animals do not satisfy the condition of moral personality. This is not because animals are not *equal* moral person, but rather because they are *not* moral persons.

However, we have seen earlier that Rawls states very clearly that humans owe duties of compassion and humanity to animals, and it seems that among these he counts the duty not to be cruel to them. So if people do owe animals the natural duty of non-cruelty, then being a moral person is not a decisive feature of those to whom we own natural duties. Yet in this case it would be unclear by which standards Rawls determines whether or not moral personality is a decisive requirement. For instance, in the previous chapter we saw that by using the condition of moral personality Rawls singles out those who should be treated in accordance with the principles of justice—that is, those who deserve equal justice (1971, 504-505). Moreover, we saw that he strives to apply the condition of moral personality only to humans, including moral patients, but not to animals. Thus, Rawls uses the condition of moral personality in order to distinguish humans from animals. Accordingly, he cannot simply use this condition in order to connect the human case to the animal case unless further explanation is provided.

This brings us to a related issue concerning the problem of applying natural duties towards animals. Natural duties are principles for individuals that govern the conduct of individuals in the state. These principles follow from the principles chosen by the parties in the original position; in Rawls' words: "These principles [for individuals] are understood as the outcome of a hypothetical agreement" (1971, 115).⁷ Rawls also claims that the principles of natural duty are derived from a contractarian perspective (1971, 115). In other words, natural duties should not apply to animals because animals are neither part of the original position nor part of the social contract. Accordingly, even if the barrier of moral personality is removed only for the purpose of applying some natural duties towards animals, and specifically the natural duty not to be cruel, we are still left with a situation in which the application of natural duties to animals does not fit in with Rawls' conception of justice—a conception that includes only human beings (1971, 17; 512).

A possible objection might be that the natural duty not to be cruel to animals is not a direct duty, but an indirect one. I emphasised earlier, however, that indirect duties towards animals are not duties towards animals, but rather duties towards human beings that are mediated through animals. In other words, an indirect duty not to be cruel to animals would mean that one should not be cruel to animals because it harms human beings (e.g., the owner of the animal, or even the person who intends to act cruelly). This will not substantiate Rawls' recognition of animals' ability to feel pain and pleasure. Consequently, such duties will be defined on the basis of human needs and interests, and hence will virtually collapse into the Kantian conception of indirect duties.

Another objection that one may put forward, that is perhaps even more apparent than the former, is that the duty not to be cruel *to animals* is not a natural duty. However, if it is not a natural duty, then it is unclear what kind of a duty it is: What is the basis of this duty? Is it a direct or indirect duty? These questions apply not only to the duty not to be cruel to animals, but to duties of compassion and humanity in general. As a matter of fact, these questions take

⁷ See also Rawls (1971, 333).

us back to the starting point of this discussion, in which we have tried to find out what Rawls means when he speaks of duties towards animals.

In sum, there are reasons to classify duties of compassion and humanity as either direct or indirect, but it appears that each alternative is problematic. Classifying these duties, and specifically the duty not to be cruel to animals, as direct is inconsistent with Rawls' account concerning natural duties. Rawls might resolve this problem by claiming that these duties are indirect. However, classifying these duties as indirect is problematic in relation to Rawls' recognition that animals are sentient creatures because such duties cannot substantiate this recognition, and thus will virtually collapse into the Kantian conception of indirect duties towards animals.

B. Fox: Against Duties towards Animals

Fox denies animals moral rights, but still sees them as moral patients or recipients whose moral status is limited:

In other words, although animals do not have even potentially full moral status, they may be assigned a limited moral status in terms of which (a) they may be included within an extended moral community, (b) certain principles of human conduct can be applied, and (c) an appropriate degree of moral sensibility can be generated. (1986, 80)⁸

Fox recognises animals as creatures who can experience well-being, and agrees that they can suffer pain, and that it is better for them not to be in pain (1986, 161). In other words, he bases the attribution of a limited moral status to animals on their ability to suffer (1986, 70). This entails that animals' well-being is grounded in the experience of the animals—the experience of pain, and maybe other associated experiences as well. Thus, well-being is something that the animal itself deserves.

More specifically, Fox claims that we should not inflict unnecessary pain upon animals or be cruel to them without a sufficient reason (1986, ch.6). Now, if the statements 'we should not inflict unnecessary pain upon animals' and 'we should not be cruel to animals' are to be substantiated, then they should correlate to direct duties towards animals in this

⁸ See also Fox (1986, 70).

respect: the duty not to inflict unnecessary pain to animals, or the duty not to be cruel to them. Interpreting these statements in terms of direct duties gains extra validity due to Fox's claim that animals deserve a limited moral status.

However, Fox's understanding of the statement 'we should not inflict unnecessary pain upon animals' cannot be interpreted as a direct duty towards animals. Although Fox appears to consider animals to be moral patients (even if only to a limited extent), and thus sees them as creatures who have at least some moral significance, he also claims that humans have no obligations or duties towards them:

I wish to argue now that only within the context of a moral community do rights and obligations (duties) arise at all. This is so first of all because rights are possessed solely by persons. (1986, 51)

If moral obligations are contingent on rights and their possession by certain beings, then since animals have no rights, humans cannot have correlative obligations toward them. It follows that we have no duty in the strict moral sense to prevent animal suffering. Therefore, if it is wrong to inflict suffering on other sentient creatures, this must be for reasons other than the failure to heed or be bound by a moral obligation not to cause harm. (1986, 70)

Fox states that humans do not have obligations or duties to animals because animals do not possess moral rights. This statement is problematic with regard to his claim that animals do have a limited moral status, but this issue will be discussed later (see section C below).⁹ What is relevant to our current concern is that Fox claims that not inflicting unnecessary pain to animals, or not being cruel to them, cannot be formulated in terms of direct duties towards animals. Therefore, if we have any duties in that respect, then at best, they must be indirect, i.e., duties to human beings that are mediated through animals.

In that case, how does Fox legitimise his claim that one should not inflict unnecessary pain on animals? He provides several answers. First, he claims that our empathy towards

⁹ Note that in the last quote above Fox claims that we have no duty towards animals, but qualifies that we do not have duties to them "in the strict moral sense". Nonetheless, he does not explain what the 'non-strict sense' of having duties is in this case, and how it fits in with his claim that animals have a limited moral status. As we shall see, ultimately it appears that not having duties in the strict moral sense is basically preparation for the idea that humans do not have direct duties towards animals (as can also be understood from the end of the last quote above).

animals, our awareness of the evolutionary continuity between animals and ourselves, and our awareness of ecology and the environment as vital to humans, are sufficient reasons for seeing cruelty as morally wrong (1986, 70-74). Additionally, Fox claims that inflicting pain on animals demeans and degrades humans (1986, 74), and that animals' well-being is not only in the interest of animals, but in the interest of humanity as well.

Fox does not describe the considerations he provides for not being cruel to animals as duties, which is consistent with his claims that humans do not have duties towards animals, and that animals do not have intrinsic value (1986, ch.1). Accordingly, Fox does not really anchor the reasons for seeing cruelty as morally wrong in animals' ability to suffer or experience well-being for their own sake. Indeed, most of the considerations that he provides concern human interests and abilities and human well-being. For instance, when Fox claims that cruelty is demeaning, he connects it to the idea that it is inhuman, and adds that cruelty is beneath human dignity (1986, 77). Similarly, when he refers to ecology and the environment, he points to the importance of other species for the flourishing of the human species. In his other considerations, an analogous approach can be found in which cruelty is described as morally wrong based on a reference to human interests and abilities. Fox's reference to empathy might be seen as an exception in this respect. He denies that we can put ourselves in animals' shoes, but claims that we can easily recognise animal suffering (1986, 71). Thus, for Fox animal suffering serves as a mediating element in the set of reasons for not being cruel to them, and it appears that his main reasons concern human beings.

Yet again, embedding the claim of the moral wrongfulness of animal cruelty in animals' abilities would entail a direct commitment to animals, while anchoring it in human needs and interests is consistent with Fox's claim that we do not have duties towards animals. Thus, it appears that Fox takes animals' ability to suffer to be a reason for seeing cruelty to animals as bad for humans: it is an act that humans should attempt to avoid because it harms *humans*, not so much because it harms animals. Indeed, Fox claims that it is morally acceptable and even necessary for humans to use animals for research. Thus, it is permissible to cause pain to animals in order to fulfil human ends:

If suffering can be labelled "unnecessary," then this is presumably by contrast with suffering which is deemed to be "necessary." What kind or degree of suffering is properly regarded as necessary? Within the context of laboratory animal research, the most general answer would seem to be whatever kind or degree of suffering has to be produced to obtain a particular statistically significant result within the framework of a given, ethically acceptable experiment. (1986, 166)

In other words, we—humans—decide what pain will be considered unnecessary according to our own ends. Namely, *human ends* define whether inflicting pain to animals is cruel or not.¹⁰ Establishing cruelty to animals, or infliction of unnecessary pain on animals, as morally wrong by virtue of human needs and interests, enables Fox to characterise those acts as morally right on the basis of other human needs and interests. Accordingly, Fox's characterisation of 'unnecessary' suffering turns out to be almost lexical:

To sum up, suffering is unnecessary when it is morally unacceptable, meaning excessive or preventable. (1986, 167)

Thus, what animals can feel and experience becomes almost irrelevant for considering a certain act towards them as morally wrong or right. Relevant only are the needs and interests of human beings. The ability of animals to suffer and to experience well-being is only a substratum for human needs and interests. This conclusion fits well with Fox's claim quoted above, that "if it is wrong to inflict suffering on other sentient creatures, this must be for reasons other than the failure to heed or be bound by a moral obligation not to cause harm" (1986, 70).¹¹

In sum, Fox's position is that humans have no duties towards animals. We have duties involving animals, but they are directed towards humans. In the case of Rawls, we have seen

¹⁰ Gewirth argues in a similar way: "[T]o the extent to which animals have in a similar way the quality or property of being debilitated by pain, they have in a similar way the right justified by this quality, the right to immunity from wanton infliction of pain. When, however, the freedom and well-being of animals conflicts with those of humans, the generic rights of the latter take priority, for the reasons indicated by the Principle of Proportionality. [...] And to the extent to which eating of animal flesh is needed for the physical well-being of humans, the killing of animals is also justified on this ground" (1978, 144-145).

¹¹ In the final stage of the research I learned that a year after publishing his book, Fox published a paper ("Animal Experimentation: A Philosopher's Changing Views." *Between the Species* 3, 1987) in which he repudiated most views expressed in his book, views which he now considers anthropocentric.

that if we take the duty not to be cruel to animals as a direct duty, then it would be inconsistent with his account of natural duties. Seeing this duty as indirect means that it is directed towards humans, and hence animals can benefit from it only accidentally. This latter option in Rawls' discussion collapses into the Kantian conception of indirect duties that are directed towards human beings, but are mediated through animals. This is true for the position of Fox as well.

The problem we encounter at this stage is the contradiction between acknowledging animals' moral considerability on the one hand, and not grounding it in any securing status on the other, thereby allowing the violation of animals' basic well-being. This issue will be discussed in the next section.

C. Rawls' and Fox's Problematic Accounts on Animal Moral Consideration

Until now I have presented and analysed the positions of Rawls and Fox from the perspective of duties. In this part I attempt to do the same with regard to the moral status with which they endow animals. I show that the problematic positions of Rawls and Fox concerning what humans owe to animals are anchored in the ambiguities of their accounts with regard to animals' moral status.

Surely the texts of Rawls and Fox show some commitment to animals' well-being. Yet, the text remains unclear about what it forces us to accept, because it appears that humans do not have direct duties towards animals. This situation is particularly salient in the case of Fox, who denies that we have any duties towards animals whatsoever. The case of Rawls is less obvious, but we have seen that creating direct duties towards animals entails an inconsistency in his account regarding natural duties and the condition of moral personality. Nonetheless, it would not be far-fetched to interpret the duties of compassion and humanity as indirect duties while holding fast to the meaning of compassion and humanity: compassion and humanity in this case, as in the case of Fox when he speaks about humanness, relate to us as human beings.

However, this problematic situation regarding duties takes place in a context in which both philosophers agree that animals are morally considerable—meaning that they have at least a partial moral status—even though their moral worth is not equal to that of humans. Rawls makes it clear that justice is only one aspect of morality, and Fox claims that animals are morally considerable. We have seen that Rawls and Fox recognise animals' ability to experience well-being in its basic forms, and hence it appears that they both see animals as morally considerable due to this ability. The defining characteristics of basic entitlements to well-being concern the individual himself, not other individuals. Therefore, the meaning of animals' moral status is unclear if it does not entail direct duties towards animals—namely, to the subjects of moral status.

1. Rawls

Aside from the problems that attributing direct duties to animals causes Rawls' account of natural duties with respect to the condition of moral personality, direct duties towards animals are also problematic with respect to the basic structure of society that he proposes. Even if natural duties are applicable to animals, it is still unclear when and how people decide on what they owe to animals. On the one hand, it is unclear why people have any interest in taking animals into consideration 'within' the original position. The original position aims to design the basic structure of human society, and animals are not part of it. On the other hand, if a decision regarding animals is to be made at a later stage, then the way it will be carried out remains unclear, as is the stage in which this decision should be taken, as I shall explain.

In *Justice As Fairness—A Restatement* (2001) Rawls emphasised that "justice as fairness is a political conception of justice: that is, it is designed for the special case of the basic structure of society and is not intended as a comprehensive moral doctrine" (2001, 19). The conception of justice as fairness established the case of humans within society. This means that when the case of animals is considered, it will be restricted by this conception. As Nussbaum criticised Rawls: "This approach seems inadequate [...] because it postpones the important issue of animal welfare until a late stage of political planning, after society's basic

institutions are already designed [...]" (2001, 1528).¹² Moreover, once society maintains itself in accordance with the principles of justice, what interest has it in changing its ways in order to care for the well-being of animals? Recall that animals' well-being concerns, first and foremost, the animal itself, not human beings. If, however, society has an indirect interest in promoting animals' well-being, then it will entail indirect duties from which animals can benefit only accidentally.

Thus, Rawls' account leaves us unclear about the sense in which animals are morally considerable. Indeed, he is interested mostly in the human case, which is legitimate and, as I stated in the previous chapter, to which I do not object. The problem is not that Rawls does not provide a list of do's and don'ts for regulating our behaviour towards animals. Rather, the problem is that it is unclear how Rawls could provide such a guideline in a way that will be consistent with his theory of justice. As I have already mentioned, Rawls' text clearly shows some commitment to animals' well-being. Yet developing his conception without providing a general account regarding animals creates a situation in which his account about justice subjugates the other aspects of morality,¹³ and hence avoids direct duties towards animals. Had Rawls argued for direct duties towards animals, he would have had to change the conditions of decision making in the original position in order to leave room for direct duties towards animals. And were that the case, it might have entailed that animals are part of the theory of justice, or at least we might have had a general idea regarding *the way* animal basic needs and interests can be integrated in his theory, although animals are beyond the scope of justice.

¹² For criticism of Rawls' contract theory in regard to animals, see Nussbaum (2004). As I stated in chapter three with regard to Kant (footnote 24), Fox's and Rawls' moral theories can be defended in relation to the foundation of their moral theories. Yet again, such an attempt can defend their moral theories only in regard to their motivations, and is irrelevant to my concern.

¹³ A similar claim is expressed by Midgley (1983, 64).

2. Fox

Fox delineates at length his conception regarding animals' moral status. He argues as follows:

The fact that they can suffer, although morally significant because it gives animals the status of moral patients or recipients, is not by itself a sufficient ground on which to accord them equal moral status with humans and other autonomous beings, if such there be. (1986, 70)

Fox claims that animals are morally considerable, i.e., they are moral patients of a sort, by virtue of their ability to suffer. Nevertheless, we have seen earlier that he also claims that rights and obligations (or duties) arise only in the context of a moral community (1986, 51). Since animals are not part of the moral community, humans do not have any duties to them (1986, 70). However, Fox later argues that sentient animals may have a limited moral status by virtue of which they may be part of an extended moral community (1986, 80). But if animals are part of the extended moral community, and rights and duties arise in the context of a moral community, then moral rights to animals should arise. In this case, why not approach the animal case in terms of duties? Fox does not provide an answer to this question.

Fox might reply that being part of the extended moral community is not a sufficient condition for having rights (and hence no correlative duties arise); only members of the central moral community have rights, i.e., only those who have full moral status have rights. However, if humans do not have any direct duties towards animals, then this explanation does not lend much weight to being a part of the extended moral community or for being a moral patient. Basically, this approach does not distinguish in any substantial way between animals on the one hand and rivers and forests on the other. The only difference is that Fox acknowledges that animals are subjects by virtue of their ability to suffer and to feel pain. Nevertheless, he does not go the extra mile to claim that this entails direct duties towards animals. Significantly, having direct duties towards animals can fit in with Fox's claim that animals are not equal moral persons.

This potential reply of Fox, i.e., that being part of the extended moral community is not a sufficient condition for having rights, is problematic from another angle. I have argued that being part of the extended moral community, but not having rights, does not give much

meaning for being a moral patient. In this case, why is it that human moral patients have rights while the animals that Fox considers to be moral patients do not? On the one hand, Fox claims that human moral patients are part of the *immediate* extension of moral community, and adds that this endows them with equal moral concern (1986, 62). On the other hand, he explicitly claims that this does not grant human moral patients full moral status.¹⁴ In this case, Fox still has not provided a reason for considering human moral patients to be rights-holders, but has in fact complicated things even further. In the previous chapter we have seen that in his (1978a) Fox claims that human moral patients are part of the moral community by virtue of being part of a species in which autonomy is the typical case.¹⁵ This was also allegedly the reason for granting moral rights to human moral patients, while denying animals these rights. Now we see, however, that like animals, human moral patients are not full members of the moral community. A dubious reply might be to argue that membership in the moral community via autonomy as a collective condition makes human moral patients *equal* members in the moral community. Animals have been included in the moral community due to other reasons, and that is why they are not equal. At any rate, Fox summarises the issue by saying that it is impossible, unwise and dangerous to separate humans who have full moral status from humans who do not have full moral status (1986, 62).

Like Rawls', it appears that for Fox, too, the moral status of rights-holders has subjugated the moral status of animals. Fox is faithful to his claim that animals do not have rights, and hence that there are no correlative duties that we owe them. Accordingly, he avoids talking about duties with regard to animals. But the ambiguity of Fox's account grows even stronger when he makes the following statement:

As I have consistently asserted throughout, however, it does not follow that humans may use animals in any way they wish, that animals are merely means to our ends, or that animals' capacities and interests need not be taken into

¹⁴ Fox argues: "[A]lthough underdeveloped or deficient humans are also, like animals, not full members of the moral community because they lack autonomy, they must nevertheless fall within the most immediate extension of the moral community and as such are subject to its protection" (1986, 61).

¹⁵ In his (1986) Fox continues this line of argument, but also claims that our natural emotional response to humans is a relevant factor in that matter. I discuss this issue in chapter six.

account by us when we act. Indeed, I hold that they should be (1986, 88).

This statement appears to be reasonable with regard to Fox's claim that animals are moral patients. However, it is highly problematic when taken with Fox's claims that (1) animals do not have intrinsic value, and that (2) we do not have any duties towards them. The problem with this statement as well as with his overall account is that although Fox is definitely aware of animal needs and interests, he does not substantiate them in his moral discourse. On the one hand he takes animals' ability to suffer as the reason for their being moral patients, but on the other he does not relate to their case in terms of duties. In other words, Fox does not provide us with any clear picture regarding animals' moral status. By saying 'clear picture' I do not mean an accurate list of do's and don'ts but rather, as I did in relation to Rawls, I refer to a proposal that will enable Fox to substantiate his own claim that he does not consider animals to be merely means to human ends. If animals are not merely means to human ends, then their own needs and interests should be taken into account, at least to a minimal extent. Fox's thesis, then, is unclear on how he expects us to take animal needs and interests into account. For Fox, animals are not a significant parameter because we do not have duties towards them, and he does not provide any other standard by which we may regulate our behaviour to animals, whether as means to an end or as ends in themselves, in order not to act arbitrarily.

In the next part I argue that the source of Rawls' and Fox's difficulty regarding animals' moral status is found in their anthropocentric approach. I also suggest a general non-anthropocentric framework that can accommodate the idea of direct duties towards animals. Later on, in part IV, I suggest a conception that substantiates the moral status of animals by including direct duties towards them.

III. Anthropocentric Reasoning and the Complexity of Morality

In the previous chapter, we have seen that Kant and Carruthers claim that animals do not have moral status. The difficulty we are facing in this chapter is the incompatibility between the approval of animals' moral status that is based on their ability to suffer and to experience well-being on the one hand, and problematic accounts regarding duties towards animals on the other. In each case we face a problem with regard to direct duties towards animals and with our ability to substantiate animals' moral status.

I trace the origins of this difficulty in the anthropocentric approach to the issue of moral status which binds us to a single condition based on a human paradigm. In this part I again raise the problems of anthropocentric reasoning and suggest an alternative framework. This framework—morality as a complex concept—avoids the problems that were created as a result of establishing moral status in general, or a certain moral status, on a single condition that is shared only by moral agents.

There are common elements to Kant, Carruthers, Rawls and Fox with regard to the conditions of moral status—either moral status in general or of a particular type. First, they provide a single condition for attributing the proposed moral status. Thus, the proffered condition of the proposed moral status is very easily identified, and by and large is structured in terms of 'all or nothing': either you have consciousness to the required level or you do not; either you have reason, or you do not. In each case, this condition is supposed to tell us very quickly whether one is eligible for the proposed moral status or not. Second, in all these examples, as we have seen, the conditions for the proposed moral status are based on human paradigms—usually a mental capacity shared only by adult, normal human beings.

We have seen that in Kant and Carruthers, anthropocentric reasoning denies animals' moral status. Fox's and Rawls' accounts concerning the moral considerability of animals first appear to be entirely different from that of Kant and Carruthers, but ultimately there are aspects in which they are similar. For instance, Fox uses a human paradigm-based condition in order to exclude animals from the central group of the moral community—the community of rights-holders. He still sees animals as moral patients, but he also argues that humans do not

have any duties towards animals. In this sense, Fox's position converges into the Kantian position such that animals may benefit from moral considerations, but only accidentally; their well-being is effectively dependent upon duties towards human beings and therefore is subjugated to human needs and interests. In the case of Rawls, the condition of moral personality is also defined in accordance with the human paradigm. On the one hand, it does not exclude animals from the moral community altogether, but only from a certain part of it. Yet, on the other hand, it is unclear how direct duties towards animals may arise in Rawls' thesis. The benefit of animals is clearly desirable to all these authors. Nonetheless, even in the cases where animals are taken to be morally considerable, it does not appear to provide them direct protection. Thus, their benefit is dependent upon human needs and interests.

The simple framework that results from the anthropocentric reasoning is problematic with regard to subjects who do not satisfy the required conditions for either moral status in general or for a specific moral status. From a theoretical point of view, this problem concerns not only animals but many humans as well. As we have seen in chapter three, these authors do not provide an additional condition that would establish the theoretical basis for including human moral patients in the relevant moral domain. Rather, most of them attempt to solve the problem that anthropocentric reasoning creates regarding human moral patients by converting the explicit individual-based condition to a collective condition. Thus, the case of human moral patients who do not satisfy the required condition is linked to the paradigmatic case, that of moral agents.

This manoeuvre represents the attempt to characterise moral status in general, or a certain moral status, as a well-defined concept, i.e., a concept based on a particular mental capacity as a necessary or sufficient condition. But even if the conversion of the original condition into a collective condition might solve the problem with regard to human moral patients, it still creates a divergence from the original proffered condition. For instance, in the case of Rawls, we started with the claim that moral personality is a sufficient condition, but

eventually we discovered that even as a sufficient condition it should not always be satisfied.¹⁶ The same goes for Fox's necessary condition (autonomy) and Kant's necessary condition (reason). In other words, developing the conditions of a proposed moral status in order to grant it to human moral patients entails that the original proffered condition is not the 'real' condition of moral status, or that other conditions hover in the background. For instance, being autonomous is different from not being autonomous but being part of a species whose majority is autonomous. Thus, implicitly, other conditions arise in the background of the anthropocentric framework, and hence it is not as simple as it aspires to be.¹⁷

Moreover, the anthropocentric reasoning entails problems in classifying moral patients in the central moral community. We have seen that human moral patients are considered to be part of the moral community, or part of its immediate extension. Kant considers human moral patients to be moral entities by relating to them as rational beings, Rawls endows them all the goods of the social contract, and Fox sees them as rights-holders. However, bringing human moral patients into the moral community via a collective condition does not change the fact that many of them cannot act morally and are neither expected to be engaged in relationships of mutuality nor to have duties. In short, it does not change the fact that they are not moral agents.

According to the lines of argument based on human paradigms (reason, moral personality, autonomy, and so forth), the concept of moral patience is routinely located away from the centre of the analysis. Kant, for example, did not refer to mentally handicapped

¹⁶ In the previous chapter we saw that Rawls may reject this analysis by arguing from the circumstances of justice. Yet we also saw that this reply would be inconsistent with his explicit condition for being part of the social contract, that is, the condition of moral personality, which is based on one's abilities in accordance with the human paradigm.

¹⁷ The way in which the transition to a collective condition forces the issue can be seen very clearly in the way that Fox moves back and forth between an individualistic terminology and a collective terminology. For instance, he claims that "my argument is that the relevant features of humans (other than their capacity to suffer and enjoy) *that explain why they have rights* are their possession of a certain kind of consciousness, particular cognitive and linguistic abilities, and the capacity to comprehend, undertake, and carry out obligations and to expect the same of like beings" (1978a, 112. My italics). In this quote, the features by which humans have rights are described in an individualistic manner. But this is entirely different from having rights by virtue of being part of a species in which autonomy is the typical case. Moreover, what would Fox say about an individual (an animal or an alien) who is autonomous, but belongs to a species in which autonomy is not the typical case? It is not clear whether Fox will apply the autonomy condition in an individualistic manner or in a collective manner.

people in establishing his case for morality, nor did Rawls construct his contractarian theory with them in mind. In this sense moral patience is considered an atypical part of morality; an area of exceptional cases. This is to say that the issue of moral patience is not a co-constitutive part of the narrative of their system, but a supplement.¹⁸

The anthropocentric and seemingly simple framework with regard to the conditions of moral status stands in conflict with the conception of moral status as complex, non-anthropocentric, and not based on a single element. Providing a theoretical solution to different subjects and groups who do not satisfy the condition of moral agency becomes a possibility once moral status is viewed as a complex concept. In other words, understanding moral status as a complex concept can provide a *theoretical* account for the moral consideration of both moral agents and moral patients.¹⁹ By the same token, approaching moral status as a complex concept may accommodate the differences between these subjects and groups as well as the distinctions within them. Seeing moral status as a complex concept tells us from the outset that conditions based on human paradigms do not tell the full story. Moral status as a multifaceted concept is, of course, essential to the animal case, because such a view leaves room for the possibility that animals have a particular moral status, defined independently of conditions based on human paradigms.

Even before making reference to complicated moral resolutions, it is clear that morality is a concept undergoing construction and modification. The attempt to pin down the object of morality by using human paradigm-based conditions brings us to the situation whereby it either slips away or multiplies. For instance, taking morality to be a concept shared only by those who understand it results in the exclusion of many human moral patients from the moral community, since many of them do not share such understanding. But this result is simply unrealistic: no moral system of any significance will exclude human moral

¹⁸ Indeed, this situation is very salient in the case of Rawls: Rawls developed an insightful and seminal theory, but only towards the end of his book he presented the condition of moral personality in some detail (after mentioning it throughout the book). Once he presented the condition, Rawls briefly discussed the problem it creates to human moral patients and how can it be solved.

¹⁹ Singer and Regan (like Bentham) provide a solution regarding the case of moral patients. But we shall see in chapter five that they rely on a single foundation to moral status. See also footnote 23 below.

patients from the moral community. This situation illustrates the complexity of morality and, more specifically, the complexity of the conditions of moral status, and thus underscores that an extension of the proposed condition is required. It is reasonable to consider morality a multifaceted concept, incapable of being reduced to a scientific style of investigation, an investigation that tends to search for essences and to sterilise social, cultural, historical and, in many cases, methodological factors.²⁰ Morality, and moral status in particular, is a dynamic concept that, among other things, is a function of social reality.²¹ Furthermore, social reality itself is a concept undergoing construction and modification.²²

As a complex concept, morality can accommodate *gradual and modular levels* of moral concern that can be based on different foundations.²³ In contrast to anthropocentric reasoning, a multifaceted conception avoids the problem of being unable to justify the inclusion of human moral patients in the moral domain. This is because there is nothing in this framework that restricts us from associating more conditions in order to justify the inclusion of human moral patients in the moral domain. Associating more conditions is not meant to 'fill the gaps', but rather to justify what one is arguing for. As we have seen, Kant, Carruthers, Rawls and Fox recognise all humans as having moral status (I will continue to discuss this issue in chapter six). Thus, including human moral patients in the moral community should be justified. Once one adds another condition or develops a proffered condition in order to justify the case of non-paradigmatic humans, there should be no reason to rely on a human paradigm-based condition and there should be no barrier to develop another condition in order to justify

²⁰ Kuhn (1970).

²¹ Morality has many faces, and it is manifested from different angles in moral practice as well as moral theory. For instance, are happiness, utility, or well-being at the core of morality? Or are there some conjoined deontological principles that cannot be overridden, come what may? Or, how can we make sense of sympathy towards animals, and how do we approach the fact that many humans do not feel any sympathy towards them? Even if we agree that the well-being of humans is more important than the well-being of animals, then we are still left with a very complicated calculus and different views about the nature of well-being and its distribution across species. A simple set of principles does not guarantee simple application: the problems I am pointing at are already apparent in the formulation of the normative concepts in terms of how they should be understood.

²² A similar view is taken by Anderson (2004). Anderson's reservation in this regard is that one might solve the problem by providing a broad basis to moral status. Yet, broad basis to moral status entails other problems to which I will relate in chapters five and six.

²³ In chapter five I argue for this latter position, claiming that many pro-animal philosophers reproduce the mistake of anthropocentric reasoning in their attempt to locate a unified basis for the moral status of humans and animals.

the inclusion of animals in the moral community in general or in a particular moral domain. In other words, not relying on human paradigms is a step towards a non-anthropocentric reasoning.²⁴

Taking morality to be a complex or multifaceted concept is particularly essential for the issue of human moral patients, mainly because it is a far more realistic attitude considering our moral practice in which the mentally handicapped and the senile are considered to have moral status for all intents and purposes. The claim here is not that until now the issue of moral patient has not received any attention, but completely the opposite: precisely because the mentally handicapped, the senile and the brain damaged are taken to be morally significant, we should aim to identify the reasons by which we consider them as such. We should not be satisfied by attempting perfunctorily to manipulate the original explicit condition that is based on a human paradigm. Again, it is evident that we do not attribute to the senile the right to respectful treatment due, for instance, to their capacity for rational judgment, as they do not possess this capacity. We relate to the senile as moral persons by virtue of other conditions that they clearly satisfy.

I suggested that moral status should not be based on human paradigms, i.e., that human paradigms should not qualify one for moral status. Yet human paradigms, such as those that I have discussed in chapter three and the present chapter, may serve as conditions of paradigmatic models of moral statuses that will determine one's status as a moral agent. Once we define all humans as moral entities, such models can provide us with the do's and don'ts of moral agents at the normative level; a moral agent has many entitlements, but he or she has many duties as well. In other words, human paradigms may serve to determine the spectrum of moral agents' entitlements and duties at the normative level. Morality as a multifaceted

²⁴ I do not aim to justify animal moral status, but I rely on the assumption that they do deserve this status. Significantly, however, this assumption is not unwarranted. First, building on this assumption is justified in this project whose primary aim is to critically analyse the anthropocentric reasoning of the animal issue. Second, and more importantly, I rely on Rawls' and Fox's claim that animals are moral patients. To be sure, Kant and Carruthers argue that animals are not morally considerable. Yet in chapter three I showed that their arguments are mistaken and unwittingly exclude from the moral domain not only the animals but many humans as well. My conclusion in this regard has been that Kant and Carruthers have not managed to show that animals are not moral patients. All that they have managed to show is that animals are not moral agents.

concept is also essential to the possibility of different kinds of moral agency. For example, a 25-year-old normal human being is a moral agent, but so is a 14-year-old normal human being. Nonetheless, they are not moral agents in exactly the same sense: our expectations from them with regard to the moral practice are different.²⁵

A non-anthropocentric approach to the condition of moral status will be suggested in the following chapters, but the important point here is that once we avoid using human paradigms as the sole or main prism through which to view moral status, we thereby eliminate the need to sharply separate the human case from the animal case. Therefore, we would not need to manipulate conditions in an attempt to show why, for instance, only humans have moral rights, or why we have duties only to humans.

The focus of the next part is the possibility of substantiating animal's moral status and duties towards animals.

IV. Substantiating Animals' Moral Status

The aim of this part is to show how animals' moral status can be substantiated based on Rawls' and Fox' claim that animals are moral patients. I show that if one is committed to the claim that animals have moral status, then one should agree to direct duties towards animals. In section A, I briefly summarise the implications of Fox's and Rawls' accounts with regard to animals' moral status. In section B, I argue for direct duties towards animals. In the final section, I discuss a possible objection concerning the gap between moral theory and moral practice.

²⁵ I do not consider my position regarding morality as a complex concept to be original. In the meta-ethical level I take it to be a branch of particularism, although not necessarily of its strongest version. The particularist is mainly interested in showing that there are no basic principles that always serve as the basis of a moral action by adapting a holistic view of reasons for action. A similar position can be taken in regard to the very foundation of morality and moral status. Considering the complexity of our social existence, why should we assume that the foundation of moral status can be reduced to a single condition?

A. Revisiting the Problem of Substantiating Animals' Moral Status

Throughout this chapter, we have seen the problematic result of anthropocentric reasoning with regard to duties towards animals. Let me demonstrate this on Fox.

Since Fox does not acknowledge duties towards animals, he cannot consider the imperative 'not to inflict unnecessary pain on animals' to be a duty. Accordingly, this imperative is characterised in a way that does not provide a substantive recognition of animals' ability to experience well-being. In chapter three (part II) I claimed that moral status in the most general terms—which include those who cannot act morally and who do not have obligations—primarily concerns the entitlement of beings who belong to the moral community, to be protected. The entitlements that should be protected may vary in accordance with the specific moral status that one is endowed with, but at any rate some entitlements must be protected in order to substantiate the moral status of the being. However, lacking a theoretical standard by which we could begin to regulate our behaviour towards animals, we do not get any clear idea regarding the meaning of animal moral status.

The main problem emanating from Fox's failure to consider the imperative 'not to inflict unnecessary pain on animals' a duty is that from the outset this imperative is defined in accordance with human needs and interests instead of animal needs and interests.²⁶ That is, the potential to violate animals' well-being, and hence to violate their basic needs and interests is intrinsic to the imperative not to inflict unnecessary pain on animals. Thus, when Fox talks about refraining from causing unnecessary pain to animals, what he refers to is not the trivial point that when an animal is undergoing a medical treatment it is better to anaesthetise it so that it suffers less pain. Rather, he refers to the pain caused to animals that undergo experiments for human purposes, experiments that are painful anyway and that stand in contradiction to everything that well-being stands for. Basically, the point of such an 'imperative' not to inflict

²⁶ Here is the quote from Fox again: "If suffering can be labelled 'unnecessary,' then this is presumably by contrast with suffering which is deemed to be 'necessary.' What kind or degree of suffering is properly regarded as necessary? Within the context of laboratory animal research, the most general answer would seem to be whatever kind or degree of suffering has to be produced to obtain a particular statistically significant result within the framework of a given, ethically acceptable experiment" (1986, 166).

unnecessary pain boils down to the idea that 'if you do not have to inflict pain on animals, then you should not do it'.

In other words, this imperative commits one only in circumstances that do not impinge upon human needs and interests. Fox appears to be arguing, thus, that where such an imperative impinges upon human needs and interests, human needs and interests should prevail. Although Fox acknowledges animals' entitlement to well-being, he also refuses to acknowledge duties that correlate to this entitlement. Accordingly, the meaning of attributing moral status to animals becomes obscure, and this attribution does not seem to provide them with any clear protection. In sum, we are left with a moral status that lacks significant force. So how can we substantiate animals' moral status?

B. Direct Duties towards Animals

How can the moral status with which one endows animals have a significant force? I argued that the concept of moral status in its most general terms concerns the entitlement of beings who are part of the moral community to be protected. Indeed, not all those who deserve moral consideration have equal moral status. Still, if we consider moral status as the scope of one's entitlements, then this scope must be protected.

In this sense, a creature who has a moral status—whether agent or patient—is always guaranteed certain relevant entitlements that should be correlated by duties. Understanding morality as a complex concept enables this arrangement to fit in with the way I have characterised moral status: we define some entitlements as secured and closed units—entitlements that are so basic to the creature that one must not violate them. By defining these entitlements as minimal standards, they receive high priority. This is how our explanatory system could clarify the behaviour that we are forced to embrace given that we endow moral status to animals.

At the beginning of this section, I asked how the moral status with which one endows animals can have a significant force. The answer is by acknowledging direct duties towards animals. Once we clarified that animals, like humans, also have some basic needs and

interests that should be considered, we effectively granted animals certain entitlements. Furthermore, if animals are morally considerable not in an accidental way, i.e., not via duties to humans, then the moral theory must take them to be morally considerable in a direct way. Recall that the recognition of animals as sentient beings is the very reason for Fox and Rawls to support animals' well-being and to acknowledge them as moral patients. Accordingly, based on the recognition of animals as deserving a moral protection, the moral theory should see animals as entitled to human behaviour that supports their well-being.

The point here is that agreeing that animals are entitled to behaviour that supports their well-being amounts to an agreement that they have a moral claim on us and that we recognise this claim. Thus, again, animals' entitlements concerning their basic needs and interests should have correlative duties that must be direct in order to substantiate animals' entitlement to well-being. The reasoning behind this, as I began to explain earlier, is that the defining characteristics of a basic entitlement to well-being concern the being itself, not other beings.

To further illustrate this point, consider the example of a direct duty—in a moral system that acknowledges direct duties towards animals—to avoid inflicting unnecessary pain upon animals. Although Fox formulated this as an imperative, if it is to be more than a mere declarative statement, then it must be formulated as a direct duty. As a direct duty, it means that one must not inflict unnecessary pain upon animals because this duty is based on animals' ability to feel pain. Namely, the duty not to inflict unnecessary pain upon animals should be formulated in relation to animal needs and interests, and accordingly, one must not manipulate this duty in relation to human needs and interests. Hence, harmful experiments that are carried out without anesthesia and that leave the animal in a devastating situation, are unjustified. They are unjustified because they violate a basic entitlement of the animal by which it is recognised as moral patient. The same goes, for instance, to the case of calves in the veal industry who are confined to their cages in a way that makes them almost unable to move (including shifting between standing up and lying down). This, together with specific food that they get in order to keep their iron level low, is being done in order to produce a tender

and pale-coloured flesh, which is in the interests of many people. Caging calves in a way that almost entirely limits their ability to move and feeds them in a specific way that makes them unable to develop normally, violates their basic needs and interests, and should be banned if one is to substantiate their moral status.

What might Fox consider a violation of animals' moral status, i.e., a violation of their basic entitlements? There is no clear answer to this question, to say the least. Fox claims that we should not inflict unnecessary pain upon animals or be cruel to them without a sufficient reason. Yet he does not ground this claim in any securing status and, moreover, he establishes the moral wrongness of the imperative not to inflict unnecessary pain on animals mostly on human needs and interests. Thus, human needs and interests prevail over animal needs and interests from the outset. In the same vein of what I argued earlier, the imperative not to inflict pain boils down to the idea that 'if you can avoid inflicting pain on animals, then you should avoid it'. The crux, though, is that what one may or may not avoid is defined in accordance with human needs and interests. This is a reasoning that, from the outset, enables almost every harmful action towards animals as long as this action is not being done out of mere cruelty, but out of human needs and interests. That is, the scope of discretion is limited to the question of whether the considered action is really in the needs and interests of human beings. In this way, Fox avoids a real confrontation with his claim that animals are moral patients, and turns the acknowledgement of animals as moral patients to be relevant only when it does not impinge upon human needs and interests. This is a blatant bias against animals because it conveys the idea that human needs and interests simply prevail over animal needs and interests without providing any justification for this.

I proposed relating to animals' moral status, as well as to moral status in general, as a closed unit of security and protection that guaranties their well-being. This would provide an answer to the question of what would be considered a violation of animals' moral status. The answer is that the disregard of animals' basic needs and interests defined as the minimal standards for their well-being, would be considered a violation of their moral status. As long as the agreement for animal's well-being is not substantiated in such a way, animals'

entitlement to well-being in general and not to be inflicted unnecessary pain in particular are meaningless.

What I have proposed here is part of my critical discussion of anthropocentric reasoning in the animal issue. This reasoning conveys, among other things, the idea of a single foundation to moral status (either the moral domain in general or of a particular moral domain that subjugates others). In this critical discussion, I have argued that Fox's position regarding animals' moral status collapses into the Kantian conception of indirect duties, and that a similar situation emerges from Rawls' account. Recall that considering duties to animals as direct would be inconsistent with Rawls' account of natural duties. Rawls indeed relates to animals as moral patients, but we have seen that human needs and interests subjugate animal needs and interests. Yet my contention that we do not get a clear idea regarding animals' moral status is not based on the fact that Fox and Rawls did not suggest practical ways to deal with the issue of animals. Nor did I base this contention on the fact that they did not provide a list of do's and don'ts with regard to animals. (In the case of Rawls, these issues were not his aim to begin with). Rather, I argued this on the basis that their accounts, though endowing animals with moral status, do not appear to provide any room for substantiating animals' moral status. As I stressed throughout, my aim has not been to develop a normative moral theory that provides a list of do's and don'ts regarding our relationships with animals. In line with my critique towards Rawls and Fox, my aim in arguing for direct duties towards animals is to provide a theoretical account that will *enable the possibility* of a list of do's and don'ts in the frame of a moral theory. My account regarding direct duties towards animals illustrates the human commitment that emanates from endowing animals with moral status, even if only as moral patients.

Taking moral status to be a complex and multifaceted concept enables entitling different humans and different creatures gradual levels of moral concern *in proportion* to their

interests and needs.²⁷ This does not mean that humans should relate to animals in the same way as they relate to humans, or that animals and humans have the same entitlements. Indeed, to claim this is to assume that what is good or right for humans is always good or right for animals as well. But just as in the human case, granting direct duties to animals means that there are some entitlements for animals that, all things being equal, humans should not violate. In other words, a direct duty is supposed to be formulated with respect to individuals' entitlements, its definition is supposed to be formulated in a way that guarantees the entitlement of an individual, and its violation is permissible only in certain agreed-upon circumstances.

The idea that we have direct duties towards animals cannot be harmed by the claim that animals do not have any duties to human beings. This is because entitlements (like rights) correlate certain duties even if these duties are not manifested in the same being. Indeed, many duties towards humans are based on mutuality. The crucial point, however, is that these duties are paradigmatic of duties of moral agents towards other moral agents, and as such they represent only a partial list of duties. Duties that are based on mutuality (or at least straightforward mutuality) can take place only between moral agents, and therefore mutuality-based duties are entirely irrelevant to the examination of duties towards moral patients—whether they are humans or animals. Moreover, recall that Rawls and Fox support direct duties towards *human* moral patients, i.e., humans who cannot reciprocate.²⁸ That is, one must

²⁷ Singer and others claim that the reason for neglecting this possibility is speciesism. I am generally in agreement with this claim, although I try to avoid this sweeping charge as much as possible. See also footnote 5 in chapter six.

²⁸ A possible objection that *every duty presupposes mutuality* is a sort of psychological or ethical egoism. Among other things, such a claim denies that some duties are based on intrinsic value. For instance, in some cases the failure of an individual to fulfil a certain duty does not exempt her, morally and legally speaking, from fulfilling the same duty towards this individual. If there are not intrinsic value based-duties, then acting dutifully even towards human moral patients assumes potential mutuality and is accordingly based on self-interest: the real motivation to fulfil my duties towards humans moral patients would be promoting my interest that others will treat me the same way should I become a moral patient. This would imply that duties towards humans are indirect: moral patients cannot act dutifully in return, but their relatives can. Moral agents can act dutifully in return. However, in this scenario, it is self-interest that motivates the moral agent to act. In other words, the mutuality assumption also implies that direct duties are virtually directed only towards the acting agent himself, whereas others—moral patients or agents—towards whom the duty was supposedly directed, serve only as a means. The mutuality thesis also implies that there are no purely moral prohibitions and that morality is entirely instrumental; for instance, the imperative 'thou shalt not kill' would not be based on

not confuse duties that we have towards others with duties based on mutuality. In other words, the fact that animals (as much as human moral patients) cannot perform a duty in return is irrelevant as a claim against direct duties towards animals.²⁹

C. Moral Theory and Moral Practice: A Possible Objection

I have argued that once we include a creature in the moral domain, there are basic needs and interests that must not be violated. This holds true regardless of whether this subject is human or animal, because that is the whole point of granting moral status, even if it is a limited moral status. A possible objection to this idea with regard to animals is that it is likely that in our moral practice, human needs and interests would prevail over animal needs and interests. I will deal with this objection in the level of the theory in chapter six. Here I shall only relate to the gap between practice and theory in this matter.

Moral practice provides us with conflicts, but conflicts are products of circumstances that do not fall within the scope of normal situations assumed for the fulfilment of duties. Such an objection thus aims to manipulate the *moral theory* that attempts to regulate our behaviour towards animals in order to neutralise problems of application in our *moral practice*. Such an objection is usually biased against animals, taking morality from the outset to be based upon humans' well-being.³⁰ As Irvine puts it: "[W]hat is often at issue, in contemporary moral deliberation about animals, is not whether human or animal lives are

value of life and respect for living creatures, but would be conditioned by the idea that if one does not kill others, then one's chances of survival are increased.

²⁹ An attitude which is 'blind' to degrees of moral status or to the difference between moral agency and moral patience can be found in quotes from Scruton: "[I]f dogs have rights, punishment is what they must expect when they disregard their duties" (1996, 67). Or: "By ascribing rights to animals, and so promoting them to full membership of the moral community, we tie them in obligations that they can neither fulfill nor comprehend" (1996, 67). In these quotes Scruton does not seem to recognise that having rights or entitlements does not necessarily entail obligations *of the same individual*—although it may entail obligations of others. Infants do not have any obligations, but it sounds odd to say that they do not have a right or entitlement to life and to basic well-being (whatever the concept of 'right' or 'entitlement' in use). The crux of the matter is that it does not really matter whether we agree that infants have a right to life or prefer to see it as a manner of speaking. The significant thing is that we all agree that it is our duty to keep infants alive for their own sake and that it is our duty to provide them the means to flourish. DePaul suggests that moral patients can be wronged intrinsically without considering them right-holders (1988, 529-532). For distinctions concerning different kinds of rights and duties and the interrelationships between these concepts, see Feinberg (1980b and 1980c).

³⁰ For instance, see Mackie (1977, 193).

more valuable, but simply whether animal lives are valuable enough to merit some degree of inconvenience or change in practice on the part of humans" (2004, 73-74).

A similar statement to that of Irvine regarding animals can be applied to the issue of affirmative action that aims to change the distribution of resources in our society, e.g., in cases of accepting individuals from disempowered groups to universities. Often deliberations on those issues, which may entail a redistribution of resources and therefore a change in our practice, are influenced by the inconvenience to the privileged groups. The change in the rules of resources-distribution might engender protest from members of the privileged group who would argue that the new system of rules is discriminatory. In other words, such a change may bring problems of application in our social practice. The important thing here, though, is not the application itself, but the agreement that it is based upon. This agreement represents a set of regulations of behaviour of certain individuals—regulations that once they are agreed upon, the way to their application, albeit complicated, is open. In other words, setting direct duties towards animals is a step in the direction of a normative moral theory that would regulate our behaviour towards animals and would set limits to it. Setting such duties opens the way to their application in our practice.

Having a moral theory does not immediately affect the moral practice, and indeed, problems of applications in attempting to fulfil the moral theory abound. There is a perpetual gap between moral theory and moral practice. Ideal moral standards are not always fulfilled in the real world, and in our moral practice, many entitlements and duties stand in contradiction to one another. (In addition, our moral practice always invites problematic situations). This concerns not only problems between humans and animals, but problems within human society as well. For instance, all things being equal, who should we save from the fire, a pregnant woman or a young child? However, the definition of a duty should not be based upon exceptions or difficult cases; indeed, hard cases make bad law. First and foremost, moral status is supposed to guarantee and secure some basic needs and interests for a being at the theoretical level. Once we have set the ideal, we should aim to fulfil it in our moral practice (as we shall see in chapter five, in my discussion on partiality and impartiality, problems of

application in our moral practice are here to stay). In many cases the change in our moral practice cannot be implemented immediately, but the process by which applying new ideals is carried out is not in our focus. It is important to note, however, that similarly to Irvine's claim that I quoted earlier, many times the real issue is not about whether animals deserve certain entitlements but rather about our readiness to accept and to recognise of their needs and interests and to act upon them.

At any rate, if one agrees that animals are entitled to a certain level of moral status, then when a conflict arises between human and animal entitlements—in the secure realm of each—only then will one face a conflict that will have to be resolved in our moral practice.³¹ Some are disposed to claim that animals' moral worth is less than humans' moral worth. Accordingly, human needs and interests should prevail over the needs and interests of animals. Yet from such a claim, given that one defines moral status as a closed unit of security and protection, one cannot derive that human needs and interests always outweigh the latter. In other words, *the fact that a certain need or interest is human does not in itself provide a sufficient reason to violate the needs or interests of animals.*³²

In sum, direct duties are supposed to substantiate animals' moral status, a status that they have gained by virtue of their ability to suffer and to experience well-being. Setting direct duties towards animals is supposed to eliminate the ability to manipulate animals' well-being from within the *moral theory* itself, and to preclude situations in which conflicts between human and animal entitlements in the moral practice have been neutralised at the theoretical level.

³¹ Significantly, the problem I pointed out earlier, regarding the situation where there are no direct duties towards animals, does not concern problems of application in our moral practice. Fox's claim that we can use animals in painful experiments is not based on exceptional circumstances in which it is unreasonable or impossible to avoid it, nor is it a result of a possible conflict such as rescuing your child from a fire, and thus failing to save the dog.

³² This issue will be discussed in the next chapters. See also Singer (1990) and Rowlands (2002, 54-55).

V. Conclusion

Both Rawls and Fox agree that animals have a particular moral status that is based on their ability to suffer and to experience well-being. Accordingly, we find claims of the sort that animals deserve to be treated in such a way as to support their well-being. Yet at the same time, it becomes apparent that humans are under no serious obligation to ensure animals' well-being, and that animal welfare is bounded by human needs and interests. This situation does not provide us any clear idea regarding the *possibility* to substantiate animals' moral status in the theoretical level. Among other things, this situation is a result of ambiguity with regard to animals' moral status. Yet it is mainly a consequence of anthropocentric reasoning that separates humans from animals by working from the human paradigm.

Moral status sets and regulates the minimal standards that aim to protect basic needs and interests. We have seen that granting moral status, even if limited, to animals, by virtue of their ability to suffer and to experience well-being, cannot be meaningful without acknowledging direct duties towards animals. Animals' moral status should protect their well-being by regulating their entitlements in accordance with our duties in this regard. In this way, having direct duties towards animals would substantiate their moral status.

The protection to which animals are entitled as moral patients is to be understood in terms of the alternative framework that I have proposed and will further develop in the next chapters as part of my critique of anthropocentric reasoning and of the argument from marginal cases. The model of morality as a complex concept acknowledges different foundations of moral statuses. Thus, it does not force us to approach the animal issue in absolute terms of 'us' (humans) and 'them' (animals). In addition, we do not need to manipulate the conditions of moral status by a transition from an individual-based condition to a collective condition that supposedly includes all and only humans (due to this transition Kant, Rawls and Fox manage to rely on a single condition for their proposed moral status).

According to the model of morality as a complex concept, moral behaviour towards individuals within the scope of morality could be standardised in relation to the specific levels of entitlement to moral status. On the one hand, this framework acknowledges both the

entitlements and the obligations of moral agents, and enables one to distinguish between different kinds of moral agents. On the other hand, it can accommodate the entitlements of moral patients—be they human or animal, and is able to provide animals protection in proportion to their basic needs and interests (for instance, direct duties towards animals could be standardised with respect to animals' basic needs and interests in relation to their species). Clearly, some needs and interests prevail over others, but this should not entail that human needs and interests must outweigh those of animals.

A moral theory provides standards for behaviour, but it also provides the potential for change. As such, it always stands in tension with moral practice. And, indeed, acknowledging animals' moral status entails many problems of application; surely direct duties towards animals cannot always be easily applied in our moral practice. However, where there are no problems, there is no vision.

Chapter 5

The Scope of the Arguments from Marginal Cases

'[T]is a pity...that truth, brother
Toby, should shut herself up in such
impregnable fastnesses, and be so
obstinate as not to surrender herself
sometimes up upon the closest siege.¹

I. Introduction

If we agree that infants, for example, are object of moral concern, then autonomy is artificial and arbitrary as a necessary condition of moral status because infants are not autonomous to the required level. If the condition of autonomy includes potential autonomy, to enable the inclusion of infants in the moral community, then it still excludes the mentally handicapped from this community as they lack the potential to be autonomous to the required level and thus do not satisfy the necessary conditions of moral status.

This is an example of an argument from marginal cases.² While many arguments against animals' moral status centre upon the segregation of humans and animals, the AMC emphasises the similarities between human abilities (especially in marginal cases) and those of animals (particularly higher animals). The starting point of the AMC is that there must be something in virtue of which all humans deserve moral status. The AMC inherits this idea from certain premises of traditional arguments—*premises concerning the conditions of moral status that usually consist of certain mental abilities* (that presumably, according to traditional reasoning, only humans possess). The AMC's strategy is to show that in any given set of conditions it appears that either some animals satisfy these conditions, or that some humans do not satisfy them.³

I start by presenting the principles behind the AMC and identifying its general structure, which emphasises the similarities between humans and certain animals. This

¹ Laurence Sterne, from *Tristram Shandy* (1759-1767, 183).

² Hereinafter: AMC. By 'marginal cases' I always refer to non-paradigmatic human beings such as infants, the mentally handicapped, the senile, the comatose, and similar cases.

³ Philosophers who have used the AMC: Clark (1977); Jamieson (1981); Regan (1983); Rachels (1986; 1990); Singer (1990); Rollin (1993); Pluhar (1995); Rowlands (2002). Here is a partial list of philosophers who argue directly or indirectly against the AMC: Nozick (1974); Benson (1978); Diamond (1978); Francis and Norman (1978); Cigman (1980); Rolston (1988).

structure, I argue, is represented in the conditional: *If all human beings deserve moral status, then so do some animals*. I then continue by discussing two main subtypes of the AMC, the *negative* and the *positive*. The *negative* AMC shows, based on abilities that both marginal cases and animals lack, that not only are animals undeserving of the moral entitlement in question, but so are marginal cases. Founded on the conditional that I stated above, the negative AMC takes the form of *modus tollens*: one denies the consequent of the conditional, and hence must conclude that some humans do not deserve moral status. The *positive* AMC is based on qualities which humans and animals share, and shows that animals deserve the relevant moral entitlement. Established upon the same conditional, this AMC takes the form of *modus ponens*: one asserts the antecedent of the conditional, and hence must conclude that some animals deserve moral status.⁴

In the critical discussion to follow, I argue that the positive AMC leads to the reproduction of a major problem of the arguments it originally aimed to refute. The positive AMC strategy is to equate marginal cases with animals in terms of the conditions of moral status. By accepting the conditions of moral status set by traditional arguments, the positive AMC aims to show that some animals satisfy these conditions. But at the same time *it embraces the methodology of establishing moral status on a single foundation shared by all individuals who supposedly deserve moral status*. This conception is based upon moral individualism, i.e., on approaching the conditions for moral status in terms of individual characteristics shared by both humans and animals. Accordingly, I argue that the positive AMC is indifferent to the idea of morality as a complex concept, and that by reconstructing the methodology of traditional reasoning, the positive AMC cannot *single-handedly* provide a satisfying foundation for moral status.

Using the conditions suggested by Regan (subject-of-a-life) and Singer (sentience), I argue that formulating a single *broad* condition also fails to provide a satisfying foundation

⁴ Each version of the AMC is an argument for moral consistency. But in each version there is also the possibility to refute the conditional. In the latter case, the reasons for this refutation lead one to uncover speciesism. In order to maintain continuity in the presentation of the argument, I shall present this possibility in this chapter. However, its critical examination will take place in the next chapter.

for moral status. I demonstrate that moral individualism-based conditions are indifferent to important elements in our society and thus cannot provide justification for some of our moral practices. Possible objections to my examples are examined in detail. While responding to the objections, I develop extensive discussions concerning the issues of intuitive convictions and the debate about partiality and impartiality.

II. The Background Principles of the AMC

Many arguments against animals' moral status focus on the segregation of humans and animals. A major aim of the AMC is to show that this separation is artificial and arbitrary. The general strategy of the AMC is to equate all humans with animals in terms of the conditions for moral status by embracing existing premises in favour of human moral status. These premises concern proffered conditions of moral status, and typically consist of mental ability or certain properties which presumably only humans possess. The principles behind the AMC can be described as follows:

- (a) All humans deserve moral status.
- (b) No property or set of properties can make a morally relevant difference between humans and animals that would follow the boundaries of the human species.
- (c) Like cases should be treated alike.

Regarding principle (a) both opponents and proponents of animals' moral status would agree that, with the exception of controversial cases and subsidiary circumstances, all humans (paradigmatic as well as non-paradigmatic) fall within the moral domain. The idea is that there are some properties which are relevant to moral status, or a particular moral entitlement, that humans possess but animals do not. Accordingly—as we have seen in chapters three and four—all humans, and only humans, deserve the moral status in question (whether moral status in general or of a particular type).

Principle (b) takes on the similarities between humans—especially non-paradigmatic humans, but paradigmatic as well—and some animals. The idea is that it is simply impossible

to locate a morally relevant difference that will follow the boundaries of the human species. This is because for every property (such as language, self-consciousness, autonomy, rationality, reciprocity and others) that is supposed to make a morally relevant difference between humans and animals there are always some humans who lack it, or some animals who have it.⁵

Principle (c)— that like cases should be treated alike—means, for instance, that if X and Y satisfy the conditions of moral status, then both deserve this status, whether they are humans or animals. It relies on moral individualism, i.e., on the idea that morality is primarily based on the individual's characteristics.⁶ Thus, this principle makes the AMC species-neutral. At least at first approximation this principle is indifferent to the species into which one falls, since it primarily refers to one's abilities and properties, whether human or animal. Accordingly, it circumvents the species barrier, extricating the similarities between humans and animals on a scale of their abilities.⁷

Usually philosophers agree on principle (a), namely, that all humans deserve moral status (although they may differ with regard to the moral rights of children and the mentally handicapped). Those who maintain the AMC accept principle (a), and also hold principle (b). Hence, as long as there is no set of properties that can isolate all humans from animals, one cannot simply make a division between all humans and some animals. Along the lines of principle (c), as long as humans and animals are alike, they should be treated alike. Thus, one

⁵ For instance, Rowlands presents such an argument: "Whatever feature is proposed, ask yourself: 'Do all humans have it?' If they don't, then ask yourself: 'What about those humans who don't have it?' This argument, almost single-handedly, rules out most of the suggested relevant differences between humans and animals. Differences there may be, but, as the argument from marginal cases shows, these differences are almost certainly not morally relevant ones" (2002, 45).

⁶ There is no clear claim, however, for supervenience of the moral on the mental.

⁷ Singer makes it clear: "Whatever criteria we choose, however, we will have to admit that they do not follow precisely the boundary of our own species. We may legitimately hold that there are some features of certain beings that make their lives more valuable than those of other beings; but there will surely be some nonhuman animals whose lives, by any standards, are more valuable than the lives of some humans. A chimpanzee, dog, or pig, for instance, will have a higher degree of self-awareness and a greater capacity for meaningful relations with others than a severely retarded infant or someone in a state of advanced senility. *So if we base the right to life on these characteristics we must grant these animals a right to life as good as, or better than, such retarded or senile humans*" (1990, 19. My italics). Rachels argues the same: "If we think it is wrong to treat a human in a certain way, because the human has certain characteristics, *and a particular non-human animal also has those characteristics*, then consistency requires that we also object to treating the non-human in that way" (1990, 175).

must actually draw a line from all humans to some animals. In other words, the AMC delivers the idea that if we do not have any prior reason to privilege the moral status of humans, the lack of species-specific moral properties shows that there is no non-arbitrary way of restricting moral status to humans alone. This way of reasoning is represented in the following conditional: *If all human beings deserve moral status, then so do some animals.*

In the next part, I demonstrate how this conditional that I have identified operates in each subtype of the AMC. We shall see that this conditional has not appeared independently, but is based on the main narrative of traditional reasoning.

III. Two Versions of the AMC

A. The Negative AMC

The underlying idea of the negative AMC is that if denying moral status to animals is justifiable on a certain basis, then denying it to marginal cases on the same basis is also justifiable. I characterise this AMC as negative since its purpose is not to establish a sound ascription of moral status to animals, but to invalidate the original argument against animals' moral status.

Different kinds of negative AMCs are based on different properties. As long as some humans do not possess the relevant property, one can make the negative AMC.⁸ The crucial point, though, is that the same principles that I recounted earlier are employed by all negative AMCs. Hence, there is no need to examine each suggested criterion individually because one can simply work with the general conditional that *if all human beings deserve moral status, then so do some animals.*

In its negative version, the conditional of the AMC takes the form of *modus tollens*:

If all human beings deserve moral status, then so do some animals

No animals deserve moral status

Therefore,

Some human beings do not deserve moral status

⁸ Singer (1990, 14), for instance, develops a negative AMC in relation to the claim that non-linguistic creatures do not feel pain, and in relation to the claim that without language one does not have substantial evidence that animals feel pain.

If the statement that all humans deserve moral status is true, then it must be that some animals deserve moral status as well. This is because the consequent of the conditional is a necessary condition for its antecedent. Thus, 'some animals deserve moral status' is a necessary condition for 'all humans deserve moral status'. Let us examine the possibilities within this argument.

1. Moral Consistency

One way to understand this AMC is as an argument for moral consistency. It asserts that if one accepts principles (a), (b) and (c), then moral consistency requires us to accept the conclusion that either some humans do not deserve moral status or some animals do. The conclusion that some humans do not deserve moral status creates a problem for anyone holding an original argument that grants moral status to all humans.⁹ Therefore, in order to create moral consistency, one must either accept that some humans do not deserve moral status, or disregard the capacity in question as a necessary condition for moral status.

The philosopher who argues on the basis of the AMC invokes situations in which the conclusion that some humans do not deserve moral status is counter-intuitive and contradicts basic moral practice. Although the moral practice, like any other practice, does not necessarily justify the theory, nonetheless, to regularly exclude some humans from the moral domain (that is, without special, extreme or unrepeatable circumstances) seems unrealistic, and can be very costly. Support of this conclusion implies, for instance, that only moral agents or normal humans deserve moral status, and dismisses the important question regarding humans who are not agents (or who are not paradigmatic). A possible reply that the main conditional of the AMC is false brings us to the other horn of the AMC.

⁹ Some philosophers may agree with this type of conclusion. Singer (1990, 19-20) discusses this possibility. Frey, for instance, argues the following: "[...] I have and know of nothing which enables me to say, *a priori*, that a human life of any quality, however low, is more valuable than an animal life of any quality, however high. [...] In the absence of something with which to meet the above need, we cannot, with the appeal to benefit, justify (painful) animal experiments without justifying (painful) human experiments" (1983, 115). After discussing this issue Frey concludes: "[W]e are left with human experiments. I think this is how I would choose, not with great glee and rejoicing, and with great reluctance; but if this is the price we must pay to hold the appeal to benefit and to enjoy the benefits which that appeal licenses, then I think we must pay it" (1983, 115-116).

2. Refuting the Conditional of the AMC

A denial of the conclusion that 'some human beings do not deserve moral status' while still holding that animals do not deserve moral status, entails that one must also reject the conditional. Thus, one must *deny* that *it is impossible to attribute moral status to all humans, but not to some animals as well*. In this case, one maintains that *it is possible to attribute moral status to all humans, and still not attribute moral status to some animals*.

Yet by endorsing this position one must show a morally relevant difference between humans and animals in order to justify this claim. Here, however, bait is ready: like cases should be treated alike. If individual X and individual Y both satisfy the criterion of moral status, then they both deserve moral status. Indeed, marginal cases create a situation in which some humans and animals are alike. Thus, if one denies animals' moral status on a certain basis one must also deny it to marginal cases on the same basis.¹⁰ But if one does not deny it to marginal cases, then one should not deny it to some animals without further explanation. The consequence, therefore, is that if one asserts that all humans—including marginal cases—deserve moral status, then some animals deserve it as well.

In other words, the AMC appears to create a no-win situation for the traditional arguments. On the one hand, if these arguments really support moral status for all humans and only humans, i.e., including marginal cases but not animals, they must be based on premises that include all humans. On the other hand, the problem becomes how to do this without including animals, i.e., to find a significant difference—a difference that is morally relevant—between humans and animals. This is the problem of those who deny the conditional.

The AMC aims to show that it is impossible to conclude soundly that 'all humans and only humans deserve moral status', unless the premises are speciesist, based on the fact that marginal cases are part of the human species. Once one dismisses the case for animals' moral status by claiming that 'humans deserve moral status because they are humans', or because they belong to a special species—*Homo sapiens*—one actually maintains a speciesist view

¹⁰ For instance, consider the argument that only individuals who can reciprocate deserve moral status, and that only humans fulfil this criterion, and that therefore, only humans deserve moral status. The negative AMC will show that this is not the case: namely, that some marginal cases cannot reciprocate.

that was not supposed to be included in the premises (whose content refers to abilities and properties that condition moral status—whether in general or of a specific type).

At this stage, no attempt to refine the counter-arguments will manage to demolish the message delivered by the AMC. Rather, it will simply re-open a dialectic that will end in formulating the same conditional. For instance, if the counter-reply to the claim that infants' qualities of a-rationality, non-autonomy and reciprocal inability, render them undeserving of moral status, is that they have these qualities in potential, then one can still argue that there are marginal cases—such as the senile—who lack even this potential. The only possible remaining claim that humans are more than animals is not only a speciesist view from the perspective of the AMC, but it also shows that either the original argument or the reply to the AMC is not really based on the suggested properties that were said to set the criterion of moral status. Namely, the suggested properties that were used to separate humans from animals are not the real basis of this separation. Accordingly, unless one accepts the counter-intuitive conclusion that some humans do not deserve moral status, the negative AMC manages to show that the traditional arguments eventually converge into speciesism. At this stage the issue might turn around the question of the significance of species.

B. The Positive AMC

Based on existing premises in favour of moral status, the positive AMC shows that some animals deserve to be included within the moral domain. So if a certain trait is said to be a sufficient condition of moral status, then the claim is that at least some animals share this trait, and therefore should be included in the moral domain. Whereas the negative AMC has taken the form of *modus tollens*, the positive AMC takes the form of *modus ponens*:

If all human beings deserve moral status, then so do some animals

All human beings deserve moral status

Therefore,

Some animals deserve moral status

Thus, if it is true that 'all humans deserve moral status', then this is a sufficient condition for some animals to be deserving of moral status as well.

1. Moral Consistency

This argument supports the conclusion that some animals deserve moral status, and thus achieves moral consistency. The positive AMC in the form of an argument for moral consistency provides an elegant way of showing that animals should be included within the moral domain from which they are usually excluded. As in the case of the negative AMC, the positive AMC does not pretend to be a new argument, but to extract a part of the original conclusion that was 'hidden' in the premises of the original argument.¹¹ Thus, the positive AMC establishes a possible case for animals' moral status, or other particular moral entitlement, based on existing premises regarding the sufficient conditions of the moral entitlement in question. Accordingly, this argument brings to light the arbitrariness and artificiality of the separation between humans and animals.

2. Refuting the Conditional of the AMC

As a consequence of the negative AMC, the holders of the traditional argument need to offer new premises that would include all humans, but not animals. The positive AMC creates exactly the same problem for its counter-arguments. If one denies the conditional, then one must *deny that it is impossible to attribute moral status to all humans, but not to some animals as well*. In this case, one actually claims that *it is possible to attribute moral status to all humans, but still not attribute moral status to some animals*. Yet again, in this case one must demonstrate a morally relevant difference between humans and animals in order to justify this position. This is where marginal cases come into play.

For every refinement of a property that is supposedly morally relevant and that may make a difference between humans and animals with regard to the moral domain, it is possible to show that some marginal cases do not possess this property. This takes us back to the negative AMC. In order to establish an argument in favour of humans' moral status and

¹¹ Singer, for instance, maintains that some animals, like humans in general—not only marginal cases—can feel pain (and also that they can suffer). Hence, he claims that the conclusion of an argument that is based on sentience applies not only to humans, but to many animals as well. Note that in associating criteria such as autonomy or consciousness it is also possible to claim that some humans—marginal cases—do not meet the requirements, while some animals do. This option reproduces the counter-intuitive result of the negative AMC.

against animals' moral status that is not based on speciesism, it must be shown that there is a property, or set of properties, shared by all humans but not by animals, which is morally relevant. Furthermore, in order to avoid a problem for marginal cases such a property or set of properties also cannot be based on paradigmatic cases. This will take us back to the problem of working from the human paradigm, such as basing moral status on moral agency rather than associating the case of moral patience as well.

In conclusion, a denial of the conditional leads to the same problem that we faced earlier. That is, if one attributes moral status—whether in general or of a particular type—to all humans based on the possession of certain properties, one must demonstrate how marginal cases not possessing these properties deserve this status. However, since there is no morally relevant difference that follows the boundaries of our species, then it is very likely that such an explanation will be associated with speciesism.

* * *

There are two main points, then, that emerge from this part: (1) In each subtype of AMC the conditional is based on the premises of a traditional argument. The negative AMC is used to invalidate the original argument by showing its counter-intuitive conclusion and its typically anthropocentric premises which cannot account for non-paradigmatic humans. The positive AMC embraces the original premises in order to establish a case for animals' moral status (or for other moral entitlement such as moral rights). (2) Each subtype of AMC can also work on the basis of denying the conditional by the opponent who holds that 'it is possible that all humans deserve moral status, but animals do not'. From the perspective of the AMC, however, this path will converge into speciesism (this latter possibility will be at the centre of the next chapter).

In part IV, I examine the first option with regard to the *positive* AMC. I argue that as a consequence of being bound by traditional anthropocentric reasoning, the positive AMC does not provide a satisfying condition for establishing a case for animals' and humans' moral status.

IV. The AMC and its Argumentative Framework

A significant feature of the arguments that I critically examined in chapter three is also found in the two subtypes of the AMC:

Moral status is established on a single foundation shared by all individuals who supposedly deserve such status.

My aim in this part is to show that as a consequence of embracing this pattern of traditional arguments, the *positive* AMC, but not the *negative*, reproduces a major problem of the arguments it was originally designed to refute. Consequently, as we shall see in the upcoming parts, the positive AMC cannot account for all those who supposedly deserve moral status, and does not always provide the relevant basis for moral status.

The significant contribution of the AMC is in extricating the 'hidden' content of the premises of traditional arguments with regard to either marginal cases or animals. The premises of traditional arguments usually concern common denominators of mental abilities and sometimes physical as well—shared by all who supposedly deserve moral status. Searching for a common denominator is a general philosophical aspiration, but in the case of the AMC it is also a consequence of inheriting the traditional premises and more specifically, of being bound to a connection between 'all humans' and 'some animals'. This connection, which is represented in the conditional of the AMC, is the AMC's main tool to show that for every proposed condition that is said to endow moral status to humans and only humans, there are some humans and some animals that equally share or lack these conditions.

In section A, I briefly point to an advantage of the negative AMC against traditional anthropocentric reasoning, and in section B I expand on the problematic result of the positive AMC in relation to traditional anthropocentric reasoning.

A. The Negative AMC and Traditional Anthropocentric Reasoning

The traditional arguments that are relevant to our current concern share the idea that moral status can be reduced to one rigidly defined set of common denominators shared by all those who are deserving of moral status that serve as conditions for moral status.¹² This pattern, which was presented in chapter three, has obscured the issue of animals' moral status through its use of anthropocentric reasoning: it uses human paradigms as the only standard for attribution of moral status, and therefore characterises moral status in terms of moral agency. Accordingly, it cannot account for marginal or non-paradigmatic cases (although there is no intention to exclude them from the moral community in general, or from a particular moral community, such as that of rights-holders). Note that this is closely related to the rationale of the negative AMC.

Indeed, the negative AMC is a successful argument as long as its aim is to undermine traditional types of premises.¹³ The negative AMC does so by exposing their anthropocentric nature and revealing their inconsistencies. In endorsing the anthropocentric premises of the original arguments, the negative AMC proves their falsity by showing that they cannot account for many humans. The negative AMC serves as a counter-example, and as such is only capable of exposing inconsistencies in the arguments that it criticises. The significant point is that the aim of the negative AMC is not to construct a new basis for moral status, but to show the problematic results that one arrives at once one accepts the premises of the original argument in favour of attributing moral status to all humans and only humans.

In this sense, the main function of the negative AMC can be seen as creating a provocation against traditional reasoning in order to prepare the ground for a comprehensive positive theory that will *justify* the inclusion of moral patients—humans and some animals—in the moral community.¹⁴

¹² For instance, we saw earlier that for Kant, moral status can be attributed only to subjects of reason (or rational agents), under the specific characteristics of Kantian reason (or Kantian rationality).

¹³ However, it does have a problematic aspect when its aim is to uncover speciesism (to be discussed in chapter six).

¹⁴ As we saw earlier, in some cases it is possible that one will actually endorse the conclusion of the negative AMC; that is, that some humans do not deserve moral status (See footnote 9). However, it is

The main difficulty in the AMC concerns its positive subtype. This is the problem of sustaining traditional anthropocentric moral reasoning.

B. The Positive AMC and the Sustenance of Traditional Reasoning

The problem of sustaining traditional moral reasoning takes place while relying solely on the reasoning of the positive AMC to lead to the real condition of moral status—a condition that is supposed to include animals. By contrast with the negative AMC, the positive AMC does not inherit the premises of traditional arguments merely in order to show their inconsistency, and hence to destroy them. The positive AMC aims to be a *constructive* argument, i.e., to establish a basis upon which one can soundly attribute a moral status to animals. It does so by accepting the premises of the original argument regarding the conditions of moral status, and by extricating their 'hidden' content into the conclusion. To put it in the formula of the conditional: the positive AMC shows that 'all humans deserve moral status' is a sufficient condition for some animals to deserve it as well.

However, the positive AMC, by reconstructing the premises of the arguments it was designed to refute, cannot contain the thesis of moral status as a complex concept. It is just as indifferent as anthropocentric arguments towards altered foundations of different types of moral status. Namely, it is indifferent to a system that would constitute different bases for moral status. Consequently, the positive AMC leads its proponents to base the attribution of moral status on a single foundation—a common denominator concerning mental and physical abilities—shared by all those who supposedly deserve moral status.¹⁵ Thus, the positive AMC does not deconstruct or outflank the traditional argumentative pattern, but preserves the problem of arbitrariness and artificiality in the original arguments: it preserves the

very likely that this endorsement will remain at the theoretical level, because practical considerations will be associated.

¹⁵ For instance, while arguing for animals' right to liberty, Rachels argues as follows: "First, we select for discussion a right which we are confident that humans do have. Then we ask whether there is a relevant difference between humans and animals which would justify us in denying that right to animals while at the same time granting it to humans. If not, then the right in question is a right possessed by animals as well as by humans" (1976, 123). In part V, I discuss the common denominators offered by Singer (sentience) and Regan (subject-of-a-life criterion).

oversimplified nature of the inquiry into moral status in general and animals' moral status in particular.

To expound, let us examine Rowlands' claims:

[T]here is a profound logical problem with the claim that a difference in, say, intelligence, is a morally relevant difference. The problem is that it seems impossible to non-arbitrarily settle on any relevant level of intelligence. Suppose, for example, there were a species of extraterrestrials, vastly more intelligent than us. And whereas the average human intelligence on the IQ scale is around 100, the aliens' level of intelligence, on the same scale, averages over 500. Accordingly, they suggest 300 as the cut off point for the possession of moral rights: any individual with an IQ of 300 or above should be treated with equal consideration and respect, anyone who falls below that threshold should not. Presumably, we would all be very unhappy with their choice of threshold level, since we all fall below it. We would probably claim that 300 is a morally arbitrary figure. But what makes 300 any more arbitrary than, say, a level of fifty? Or ten? Once we set our own likely scores aside, all seem equally arbitrary. And this strongly suggests that intelligence is not a morally relevant feature, but a morally arbitrary one. (2002, 46-47)

As Rowlands recognises, the intelligence example can be applied to other properties or capacities that are supposed to make a difference between humans and animals. Along the lines of principle (b), he continues by arguing that a morally relevant difference is not only difficult to identify, but that there is no such difference (2002, 47). However, the logical problem that Rowlands points to is also a problem within the positive AMC.

In order to explicate my claim, let us go back to the preceding stage of formulating the general form of the AMC which is represented by the conditional. Principle (b) concerning the impossibility of differentiating all humans from animals in a way that will follow the boundaries of the human species is typically underpinned by the possession of mental abilities as a criterion of moral status. Demonstrating his claim through the case of intelligence, Rowlands argues that for every suggested level of intelligence or other mental ability, the positive AMC can show that some animals satisfy the criterion. But note that if this criterion (be it intelligence or some other) is arbitrary and artificial, as Rowlands claims, then the conclusion of the positive AMC is arbitrary and artificial as well. Thus, using such criterion in the positive AMC means that one does not step out of the pattern that perpetuates

the problem of arbitrariness and artificiality of the proposed conditions of moral status, but rather inherits its problems.¹⁶

On the one hand, by accepting criteria based on individual abilities such as intelligence, reciprocity, or autonomy to justify animal moral status, one may expand the moral circle and show that some animals deserve moral status. On the other hand, this foundation is not reliable because the positive AMC is vulnerable to counter-examples. In every case where one succeeds in including animals in the moral domain, we are still left with a problem concerning some marginal cases. Not all humans can reciprocate, for example, or have the potential to reciprocate, and not all humans are sufficiently autonomous, if at all. Ultimately, this very rationale underlies the negative AMC as a critical device.

This situation shows that the attribution and the possession of moral status cannot be based solely on intelligence, or on any other individual property or fixed set of individual properties such as consciousness, reciprocity, autonomy or the ability to participate in moral discourse. Recalling my line of argument in the preceding chapters, all these properties and others may be sufficient conditions for moral status, and necessary conditions for some specific types of moral status, but they do not, and cannot, exhaust the issue. Moreover, these properties are always exposed to counter-examples.

In sum, the acceptance of mentally and/or physically-based criteria such as intelligence, reciprocity, or autonomy as the single foundation of moral status—in humans or animals—perpetuates the problem demonstrated by the negative AMC. Namely, *each condition, or set of conditions, that functions as a single foundation of moral status is vulnerable to counter-examples: there are always some humans who do not have the potential to satisfy the proffered condition.* Based on a common denominator, the positive AMC is also indifferent to morality as a complex concept. At the same time, it is very likely to perpetuate

¹⁶ I agree with the rationale of Rowlands' argument, which is a version of principle (b) in the frame of a *negative* AMC: no matter how one defines intelligence, there will always be some humans who will not satisfy the required level of this property. At the same time, there is even a possibility that some animals will satisfy the required level of intelligence (see the other quote from Rowlands, in footnote 5 above).

the conception that mental and/or physical abilities are the only possible parameters to serve as conditions of moral status.

Importantly, the condition of moral status offered by the positive AMC is usually a sufficient condition—'all humans deserve moral status' is a sufficient condition for some animals to be deserving of moral status.¹⁷ As such, it does not contradict the possibility of associating other conditions for moral status. Note that throughout this chapter my criticism only concerns the employment of the positive AMC *exclusively*; namely, I have argued that the positive AMC cannot alone provide a reliable foundation for moral status. However, the more important point here is that due to the connection between 'all humans' and 'some animals', the positive AMC leads one to hold the proffered condition as the only relevant condition, and to practically ignore other relevant conditions.¹⁸

In the next part, I critically evaluate a possible solution to this problem—formulating a single *broad* condition for moral status. I argue that this attempt fails.

V. A Broad Condition for Moral Status

I argued that the negative AMC instructs us that for each proffered condition for moral status, one can provide counter-examples regarding humans—usually marginal cases. I also argued that the negative AMC, which reveals the arbitrariness and artificiality of the original condition, can work against the positive AMC, which inherits an original condition that is (supposedly) shared by all humans, and therefore inherits its arbitrariness and artificiality. Nonetheless, this problem can purportedly be solved by constructing a broad enough condition that is common to all those who supposedly deserve moral status. Indeed, the proponent of the positive AMC must find such a common denominator in order to link 'all humans' with 'some animals' because its very rationale, based on principle (b), is to equate *all humans* with *some animals*. If such a broad condition can be found, then my claims against a single foundation for moral status may be dismissed.

¹⁷ Although, as we shall see in part V, Singer takes the condition of sentience to be necessary.

¹⁸ See, for instance, the quote from Rachels (footnote 15) with regard to rights as an example to my claim.

Following Bentham, and with principle (b) in mind, Singer identifies such a broad condition as sentience. While arguing for animal rights, Regan offers a new condition—the subject-of-a-life-criterion.¹⁹ The proposals of Singer and Regan take the form of a positive AMC: excluding specific and exceptional cases, they both agree that all humans deserve moral status.²⁰ For instance, Singer's idea is that all humans are sentient, that sentience does not distinguish humans from animals, and accordingly that the cases of human and animals are alike (in the relevant sense).²¹ The conditions that Singer and Regan offer are supposedly broad enough to include all humans and some animals in the moral domain, and thus appear to solve the problem of moral patience in general and marginal cases in particular. Also, the conditions of sentience and subject-of-a-life are not afflicted with the cut and dried separation of humans from animals, but show the commonality between humans and some animals.²²

However, I argue that such broad conditions do not exhaust the question of the basis of moral status, and that they are indifferent to the complexity of moral status. First, pain,

¹⁹ Regan distinguishes between 'being alive' on the one hand, and 'having a life' on the other. The latter represents the criterion of 'subject-of-a-life': "[I]ndividuals are subjects-of-a-life if they have beliefs and desires; perception, memory, and a sense of the future, including their own future; an emotional life together with feelings of pleasure and pain; preference and welfare-interests; the ability to initiate action in pursuit of their desires and goals; a psychophysical identity over time; and an individual welfare in the sense that their experiential life fares well or ill for them, logically independently of their utility for others and logically independently of their being the object of anyone else's interests" (1983, 243). Regan takes this condition to identify the similarity between moral agents and moral patients (1983, 245), and claims that all subjects-of-a-life have inherent value (1983, 233 & 243-244). He is aware of the fact that some humans do not satisfy this condition, and hence considers it as a sufficient condition. He also offers the condition of inherent value, as an independent criterion in an attempt to cover for these cases. However, he hesitates to determine whether 'being alive' (in contrast to 'having a life') is a sufficient or necessary condition for inherent value. Accordingly, he is very ambiguous about considering some marginal cases as having an inherent value (1979, 141; 1983, 242-243 & 246). Therefore, practically, Regan relates to the condition of subject-of-a-life as a broad condition for moral rights. Notice that in contrast to Fox, Regan's use of the expression 'moral rights' does not mean moral rights as a particular moral domain, but a specification of moral entitlements.

²⁰ It is well known that Singer (1994) has some reservations in this concern, and thus for instance, he supports euthanasia. But, whether justifiably or not, euthanasia is an act based on mercy, and thus an act that presupposes sentience. In this sense euthanasia should be seen as a moral act (whether it is indeed a moral act is a different question). But the more important thing to our concern is that Singer takes sentience as a condition of moral status which connects the human case in general with the animal case. Note that Singer's condition is subjected to utilitarian considerations.

²¹ Singer takes the condition of sentience to be necessary: "If a being is not capable of suffering, or of experiencing enjoyment or happiness, there is nothing to be taken into account. So the limit of sentience [...] is the only defensible boundary of concern for the interests of others" (1990, 8-9).

²² Rachels (1990, ch.5) emphasises the connection between humans and animals by relying on a Darwinian approach concerning the continuation between animals and humans. A similar idea regarding this continuation is maintained by Macintyre: "To acknowledge that there are these animal preconditions for human rationality requires us to think of the relationship of human beings to members of other intelligent species in terms of a scale or a spectrum rather than of a single line of division between 'them' and 'us' " (1999, 57).

suffering and being the subject-of-a-life cannot account for our moral behaviour towards the dead; in this case—as well as in others—these conditions are irrelevant to moral status. In other words, these broad conditions are vulnerable to criticism by a negative AMC. Secondly, even if all those who supposedly deserve moral status satisfy these conditions—assuming, for the sake of argument, that our decent behaviour towards the dead cannot be considered moral—practice still shows that these conditions are not always taken into consideration. They are not taken into consideration not because of neglect or ignorance, but because in some cases they are irrelevant, a point I explain in the coming sections.

In sections A and B I demonstrate my claims using two examples concerning our behaviour towards the dead and the element of relational value. I concentrate on the broad conditions offered by Regan and Singer.

A. Example A: Behaving Morally towards the Dead and Human Corpses

Based on the claim that either sentience or subject-of-a-life are the conditions of moral status or moral rights (as I stated in footnote 19, Regan uses the expression 'moral rights' as a specification of moral entitlements) one cannot include the dead and human corpses in the moral domain, and therefore cannot justify the moral treatment of human corpses and the dead. It is clear that the dead in general and human corpses in particular are not human beings in the relevant sense of the concept, as they can neither feel pain nor suffer, and they are not subjects-of-a-life. They do not even satisfy the minimal condition for Regan's ambiguous lower-limit criterion—the criterion of inherent value (1983, 246). Not only does a human corpse not have a life, but in contrast to future generations, it does not have the potential to be alive or to have a life. A corpse is a former being who once had a life. Nevertheless, we behave morally towards human corpses and the dead.

Most of us hold that one should pay due respect to human corpses and the dead; this is a well-embedded (moral) practice. We feel repulsion towards the abuse of a corpse, and, all things being equal, denounce speaking ill of the dead. Assuming that the dead deserve a minimal moral status, this example shows that the conditions of sentience and subject-of-a-

life cannot include the dead in the moral domain.²³ From the perspective of such a negative AMC, sentience and being a subject-of-a-life are no less arbitrary and artificial than intelligence, rationality, autonomy and other possible conditions, although they support bringing more individuals into the moral domain. Furthermore, the example shows that these conditions cannot justify attributing moral status to all those who supposedly deserve it.

Indeed, it seems that there is no reason—aside from the aim of simplifying things—that a single condition should be shared by all those who supposedly deserve moral status (or most of them). One may suggest an extra principle, a kind of local theoretical framework, that would include human corpses and the dead in the moral domain (although this alternative is not open to Singer, who takes sentience to be a necessary condition). But then once again we do not get a single condition for moral status, and doing so requires stepping into a complex theoretical framework.

B. Example B: Relational Value

It appears that concerning certain relationships between individuals, sentience and being the subject-of-a-life are irrelevant as conditions for moral status. Accepting sentience as the sole basis of moral status means that parents relate morally to their child because she can suffer and feel pain (and to experience pleasure). The same goes for subject-of-a-life as a sole basis of moral status. But can each of these conditions be the real or sole reason that they hold her to be morally considerable?

The condition of sentience cannot account for certain relational values that have an enormous impact on our lives and our obligations towards others. Indeed, while both Smith's daughter and her friend, for example, share the ability to feel pain, to suffer and to experience pleasure, Smith has a unique relationship to his daughter. This relationship cannot be measured by the parameters of mental abilities—parameters that define her abilities, and hence define *what she is*. Rather, such a relationship is based on a scale which classifies

²³ In section 1 below I consider a possible objection that human corpses and the dead do not have moral status.

Smith's daughter in terms of kinship (and in other cases in terms of rapport), a scale that defines her in accordance with *what she is to him*.

It is reasonable to say that in times of trouble, as an ordinary and normal man, Smith will not take into consideration the fact that his daughter can feel pain and suffering. Smith would help or save his daughter *because she is his daughter*; namely, because of *her value to him* as her parent.²⁴ The fact that Smith's daughter can feel pain and suffering is irrelevant *as a condition* in this case. It is also irrelevant as an *absolute condition* that she is the subject-of-a-life who has inherent value, because it does not encapsulate her value for him, as her father.

VI. Possible Objections

I offered two examples to show that a single broad condition cannot exhaust the question of the basis of moral status, and that using a single condition is indifferent to the complexity of moral status. In this part, I consider possible objections to my examples. In section A, I consider objections to the example concerning moral behaviour towards the dead and discuss the relationships of this practice to our moral feelings on the matter. In section B, I consider objections to the example of relational value: my main focus is on the objection that the element of relational value invokes problems that stand in conflict with an impartial perspective. Section C summarises this part.

A. Objections to Example A

1. *The Moral Relevance of Respecting the Dead*

A possible objection to my counter-example concerning the dead and human corpses is the claim that both our ideals and practice of behaving in a dignified way towards them cannot be said to be moral. In other words, human corpses and the dead do not have moral status, although this does not mean that we are welcome to defame the dead or to abuse corpses. With regard to human corpses such a claim might first appear reasonable, because corpses—in the purely rational sense—are just material. In contrast to other inanimate things such as

²⁴ The possible objection that relational value becomes relevant only in the framework of the basic conditions offered by Regan and Singer will be discussed in part VI, section B.

memorial monuments or the natural world to which one may suggest attributing moral status,²⁵ a corpse is a material that is about to disintegrate. To be sure, the bones will last for many years, and so do our memories of the dead person, but they are a poor 'representation' of the late person. Using such an argument can be very useful to archaeologists as well as to medical scientists, because it paves the way towards a justification for using ancient graves, corpses' remains, and body organs without any potential disturbance to the research.

However, consider the rituals of 'traditional' societies. For many societies, the issues of burial ceremonies, the corpse's interment in the grave and its remaining in the grave, are considered to be of extra importance to the peacefulness *of the dead* (as opposed to that of his descendants). Such last rites are considered as having a direct influence on the spirit of the dead. Significantly, in these cases, this faith had been shared by the late person. In one way or another, even in our scientific age, such customs are widespread, crossing continents, cultures, and nations. Thus, it appears to be important to find a justification for this well-embedded practice (for the existence of such practices does not mean that they are necessarily morally relevant). But if one objects to seeing them as morally relevant, then an explanation is needed for discounting these practices, or for considering them morally irrelevant. Either way, they cannot be dismissed as primitive customs, or as religious matters to be dismissed from the outset in formulating the conditions of moral status, without providing a proper explanation. The broad conditions of sentience and subject-of-a-life, which are based on mental and/or physical abilities of subjects, do not provide such an explanation.

However, even if one does not consider such rituals to be connected with morality, we are still left with the case of the dead *person*, who may have had wishes to be fulfilled after his death. It is reasonable to a certain degree to think that we cannot harm the dead, or to view his moral importance in relation to his descendants.²⁶ However, we do have some duties

²⁵ Rolston (1988) suggested an environmentalist approach concerning our duties to insentient objects such as the biospheric earth.

²⁶ Partridge claims that the dead can have no interests, and thus argues that posthumous events cannot harm the dead. He argues as follows: "After death, no events can alter a moment of a person's life. Nothing remains to be affected" (1981, 248-249). The dubious nature of this sort of claim was recognised long time ago by Aristotle in his discussion about change of fortune after death

towards the dead person himself. For instance, all things being equal, it is one's duty to execute the will of a dead person. It is not clear whether one should always execute a will, but exactly for the reason that it is considered an obligation there is a legal process in which such matters (as well as patrimony in general) are resolved. All things being equal, to avoid respecting a will is to wrong the person who wrote it.²⁷

Another way to wrong the dead that appears to be related to morality is defamation. We have seen earlier that Kant relates to individual humans in terms of humanity. He continues to do so with the dead as well. While discussing the good reputation of the dead, Kant argues as follows:

[...] I can and must abstract from whether he ceases to be entirely at his death or whether he survives as a person; for in the context of his rights in relation to others, I actually regard every person simply in terms of his humanity, hence as *homo noumenon*. So any attempt to stain someone's reputation by falsehood after his death is suspect, because it is at least ungenerous to spread reproaches against one who is absent and cannot defend himself, unless one is quite certain of them. (1798, 111)²⁸

Thus, Kant considers the dead part of the moral community. Consequently, we have direct duties towards the dead. Earlier, I criticised Kant's use of his condition for moral status. However, whether or not Kant is justified in the way he includes the dead in the moral domain is not my concern in the present discussion. Rather, I am concerned with Kant's moral intuition in this regard.²⁹ Even if Kant fails to convince us that his condition is sufficient to count the dead within the moral domain, most of us would agree with his intuition regarding

(*Nicomachean Ethics*, Book 1, chapter 10). For an argument in favour of dead persons' interests, see Wilkinson (2002).

²⁷ Feinberg attributes interests to the dead, and claims that posthumous harm is possible: "Because the objects of a person's interests are usually wanted or aimed-at events that occur outside his immediate experience and at some future time, the area of a person's good or harm is necessarily wider than his subjective experience and longer than his biological life" (1984, 86). A similar view is held by Nagel (1970, 76-77).

²⁸ See also the following quote from Kant: "Someone who, a hundred years from now, falsely repeats something evil about me injures me right now; for in relation purely of rights, which is entirely intellectual, abstraction is made from any physical condition (of time), and whoever robs me of my honor (a slanderer) is just as punishable as if he had done it during my lifetime [...]" (1798, 112n). Scarre (2003) argues that to wrong the dead cannot be reducible to doing wrong to their descendants or successors, and reaches a similar conclusion to that of Kant in the quote in this note.

²⁹ It is significant that in contrast to his lack of direct account regarding marginal cases, in the case of the dead Kant sees the need to provide an account.

defaming the dead. This does not mean that Kant is correct, but such an agreement is noteworthy, and cannot be dismissed without a good reason.

Under normal conditions, most of us would consider breaking a promise or a failure to execute a will immoral, and most of us would agree that we have a duty to carry out those *commitments towards the dead person*—even though other duties might prevail.³⁰ Along the lines of my argument in the preceding chapter, duties towards the dead (such as the duty to execute a will or to keep a very important promise) can be substantial duties only within the framework of moral status—even if minimal—to the dead.

2. Respecting the Dead and Moral Intuitions

Earlier, I claimed that most of us hold that we should pay respect for human corpses and for the dead. This practice, I also claimed, is well-embedded. Nonetheless, it may be argued that this position relies on intuitive conviction that needs to be explained and cannot be taken for granted. Usually, implicit in our moral intuitions are some basic moral principles. For instance, consider the anti-abortionist's conviction that it is immoral to kill a fetus deliberately because it is immoral to kill human beings deliberately. A critical examination of this moral conviction aims to identify and to challenge its implicit assumptions, namely, that human beings have a certain moral status that makes it wrong to kill them and that a fetus is a human being.

On the one hand, moral intuitions vary between individuals and between societies, and thus are not reliable. On the other hand, if one's ideal is to entirely abandon moral feelings, then it is unclear how it is possible to construct a moral theory while giving up this important element of what makes us moral creatures. Tooley offers a view that combines these two extremes. He claims the following:

If ethical knowledge is possible, then it seems reasonable to expect that people will gradually arrive at moral beliefs that are epistemically justified. If, on the other hand, ethical principles are neither true nor false, but can be non-epistemically justified, then there is reason to believe that people will gradually arrive at ethical principles that are non-epistemically justified. In either

³⁰ Grover provides an example of posthumous harm with regard to keeping a promise (1989, 351).

case, then, even if moral feelings or intuitions are not initially good grounds for accepting certain ethical principles, over a period of time there will come to be a closer and closer correlation between moral feelings and objectively justified moral principles.

If this argument is right, then one can plausibly adopt the position suggested above. That is to say, one can hold that agreement with the moral feeling of people makes it at least somewhat more likely, other things being equal, that a given moral principle is correct, while denying that moral feelings have any ultimate or basic evidential significance. (1983, 27)

As an alternative to moral intuitions or feelings as a worthless matter of taste on the one hand, and as objective hallmarks on the other, Tooley offers a combined approach. This approach enables one to simultaneously respect and suspect our moral intuitions. Namely, one may consider our moral feelings seriously, but without necessarily seeing them as representing morally objective principles. So, for instance, the fact that many people are convinced that abortion is wrong does not indicate the moral correctness of this position.

Tooley offers three factors to consider in measuring certain moral feelings and critically weighing their appeal (1983, 27-29). Let us examine these factors in relation to the morally shared feeling that the dead should be respected.

The first factor concerns the pervasiveness of a moral feeling. The idea is that the more a moral feeling is shared by people across cultures and time, the greater the chances that it corresponds to an objectively justified principle. As I mentioned earlier, customs of respecting the dead as well as last rites are widespread phenomena in human society, as they can be found in almost every human culture and nation since long ago.

The second factor concerns the way people came to agreement on a certain moral feeling. There is no problem, the claim goes, where a certain moral intuition was developed or adopted by many people and cultures as a result of its intrinsic appeal. Such adoption of a moral intuition, however, stands in contrast to what Tooley titles a 'package deal'. In these cases certain principles were adopted *only* because they are part of total view of the world that the agent is attracted to. The idea is that this total view of the world cannot be accepted

without accepting the principles in question, and so the agent virtually compromises in accepting them.³¹

Our attitudes towards burial ceremonies and our respect to the dead have been influenced by our total views of the world, especially by religious views. Recall that what is important to our concern is not the acceptance of a specific custom, but rather that each custom represents the shared feeling that one should respect the dead, or at least avoid its abuse. Achilles' dragging of Hector's body around the walls of Troy did not lack religious meaning. Yet people who do not believe in afterlife, i.e., do not believe that this act has any affect on Hector's afterlife, feel repulsion towards this act as well. The repulsion is partially due to the fact that Hector, though dead, is not just an object. It is probably impossible to provide a purely rational explanation for this feeling, but one can definitely see our attitude towards the dead as having an intrinsic appeal. To support this, one may view the case of respecting the dead in contrast to Tooley's example regarding pre-marital sex (see footnote 31). In our present era, fewer and fewer people believe that pre-marital sex is wrong. One reason for this concerns the level and sort of influence that religion has on people in contemporary society. Nevertheless, the attitudes regarding respect to the dead have not changed, at least not in such a clear way as with the case of pre-marital sex, or even as with the status of the institute of marriage.

Another significant issue here is that our intuitive convictions about cases such as pre-marital sex, marriage, abortion or euthanasia, have consequences that are potentially of tremendous influence on one's life. For instance, one's moral feeling regarding abortion may determine whether or not one will have a child. However, in the case of the dead, there do not seem to be any immediate influences on our life choices (excluding religious considerations—

³¹ As an example Tooley brings the case of considering pre-marital sex to be wrong (1983, 28). He claims that in many cases people considered pre-marital sex wrong only because it was an essential part of Christianity, and thus in order to become Christian, it was necessary to accept this principle. Note that Tooley does not argue against religious beliefs in general, and thus he does not argue against those who truly believe that pre-marital sex is wrong. He points at those beliefs that are adopted as a result of accepting other beliefs.

which are important for their own sake). Yet people still share the idea that we should pay respect to the dead.

What make intuitive convictions problematic (and interesting) is the conflicts that they produce. In the case of euthanasia of severely mentally handicapped infants, for instance, one may claim that society spends money and other resources on these human beings in vain, instead of investing them in normal infants who will grow up to be happy and productive adults. At the same time, these severely mentally handicapped infants and their families suffer. This position stands in tension with the claim that even severely mentally handicapped infants are innocent human beings who deserve to be alive. Any solution, it appears, will not eliminate the conflict and will involve a compromise, even if an emotional compromise. This dynamics does not exist in the case of respect to the dead, although people may disagree about what would be considered respect to the dead or its abuse. For instance, for some, cremating is the proper way to respect the dead, while for others it is a sin. This disagreement, however, rests on the shared assumption that the dead should be respected.

The third factor is that an appeal to moral intuitions "should in general be confined to intuitions concerning *basic* moral principles" (1983, 29). A moral principle is basic, Tooley claims, if its acceptance is independent of non-moral facts. A basic moral principle stands in contrast to a derived moral principle. A moral principle would be defined as a derived principle if its acceptance is entailed by a more basic principle as well as non-moral facts (1983, 62). Tooley's claim that accepting basic moral principles should not be dependent upon non-moral facts is not trivial. This is because it is unclear that morality can be entirely independent of non-moral facts. It is also unclear that there is an objective way of separating moral feeling and beliefs from non-moral facts. The problem is not that principles such as 'it is wrong to inflict unnecessary pain on human beings' are subjected to the possibility that they are derived principles, since the whole point is to critically examine the status of such principles. The problem is that according to certain interpretations of 'non-moral facts', basic moral principles are unattainable.

The rationale of this third factor is to pinpoint the most basic moral intuitions that are able to correlate with objectively justified moral principles by neutralising moral intuitions that lack independent status and that depend upon non-moral facts. Although the attempt to be critical towards moral feelings is significant for creating reflective discussion on moral theory, the appeal to objective justification is problematic. It is true, as Tooley claims, that until quite recently, most people felt that pre-marital sex was morally wrong. Yet the question of what makes it objectively right these days, remains. Many still feel that it is morally wrong and at the same time, many others feel that it is morally right. From our current standpoint it is possible to locate retrospectively the influence of religion on our moral beliefs and feelings in general and of pre-marital sex in particular. However, it is a far more complicated task to locate what *currently* influences our moral beliefs and feelings at this and other matters.

A critical stance towards moral intuitions is significant for Tooley, in light of his cautious permission to use moral feelings. This critical stance underlies the three aforementioned factors he proposed for considering the weight one should assign to moral feelings. In this sense Tooley, conveys the idea that although moral intuitions are not objective hallmarks, at the end of the day there is no clear alternative to appealing to moral intuitions of some kind, whether they be more abstract or more concrete.

At any rate, the issue of respecting the dead and avoiding its abuse appears to be entirely uncontroversial in relation to issues such as abortion, euthanasia, equality for women, or homosexuality, for example. Tooley claims that "even if moral feelings or intuitions are not initially good grounds for accepting certain ethical principles, over a period of time there will come to be a closer and closer correlation between moral feelings and objectively justified moral principles" (1983, 27). Compared to the cases I brought above (including pre-marital sex), respecting the dead has proven over time to be a far more stable moral conviction. Therefore, if one accepts Tooley's claim, then one should also accept that the moral feeling discussed here with regard to the dead has become more closely correlated with objectively justified moral principle.

The important issue to our concern is whether or not basing morality on a single broad condition of moral status, which refers us to mental and/or physical abilities of subjects, can account for the case of respecting the dead. The criteria offered by Singer and Regan cannot do the job of including the dead in the moral domain. Indeed, the fact that most people hold that one should pay due respect to human corpses and the dead, and the fact that we have different practices that represent our moral beliefs in these matters, does not mean that this is necessarily the way it should be and that it should preclude critical examination. Yet after examining objections and seeing this issue in the mirror of the factors provided by Tooley, the shared beliefs and the practice in this matter appear to be significant enough to be considered. Thus, if one claims that respect to the dead is based on a moral intuition that should be discounted, then one should provide a strong argument for this claim. Now, it might be the case that Singer and Regan did not mean to include the dead in the moral domain, but then they would have had to provide an argument for this exclusion, especially as there is broad and strong agreement on this issue across cultures and times.

B. Objections to Example B

1. The Status of Relational Value

A possible objection to my example regarding relational value is that although the element of relational value might indeed be very powerful, it assumes either the conditions of sentience or of being the subject-of-a-life. That is, the objector might agree that the element of relational value that I have described, i.e., the intimate kinship between Smith and his daughter, conditions Smith's course of action. But it conditions Smith's actions, so the claim goes, only because his daughter is a sentient being or the subject-of-a-life who has inherent value. Had she not satisfied one of these conditions there would be no point in trying to save her. In other words, the element of relational value is an element of a second order that only concerns prioritising possible courses of action.

The immediate reply to this objection is that I have not suggested the element of relational value as a condition of moral status. Like in the examples regarding the dead, I used

this example in order to point to the deficiency of the conditions for moral considerability offered by Singer and Regan, namely, to point at significant exceptions to these broad conditions. (In the next chapter I suggest the element of bond-forming as a condition of moral status. The relationships between the example of parents and children to bond-forming will be discussed as well).

Nonetheless, following my purpose in giving the example of relational value, let us take this example further in order to see why the objection I presented fails—namely, why the broad conditions offered by Singer and Regan are deficient. Consider an example of humans not considered subjects-of-a-life, or whose sentience is debatable—specifically, the comatose in a terminal state. It is unclear to what extent humans in a terminal vegetative state have a life and to what extent they can suffer, or even feel pain.³² These people do not satisfy Regan's condition of subjects-of-a-life, and, in fact, Regan himself doubts whether it is right to consider beings in a vegetative states as human beings (1975, 14) and as creatures who have inherent value.³³

With this example in mind, one may reconsider whether sentience and the subject-of-a-life are the real conditions for considering people in a vegetative state to be morally considerable. In such circumstances it is only natural for one to behave morally towards this individual because of respect to the life *he once had* (since such individual is no longer a subject-of a-life according to Regan). Such behaviour is entirely *independent* of the unfortunate individual's ability to feel pain and to suffer.³⁴ The closest that this can get to Regan's criterion is that the *gap* between the present inability of the comatose person and his

³² A dispute over the sufficient level of pain, the ability to suffer, and different interpretations of the subject-of-a-life condition entails a negative AMC; for instance, for every proposed characterisation of pain one presumably can show that there are some humans who do not meet this refined characterisation. Also, analgesics can eliminate pain and suffering, and thus can circumvent the condition of sentience. Once again we can see the effectiveness of the negative AMC. Nevertheless, as we shall see in the next chapter, once one removes the single foundation, thus stepping out of the single foundation strategy that is based on mental ability—the AMC's methodology (both the negative and the positive) collapses.

³³ Regan argues as follows: "[I]t is radically unclear how the attribution of inherent value to these individuals [permanently comatose human beings] can be made intelligible and nonarbitrary" (1983, 246).

³⁴ It seems that respect for one's life *in such situations* is the reason that organs would be removed from one's body only once one is dead.

abilities in the past grants his moral status. Namely, the relevant condition here cannot be that he is the subject-of-a-life, but rather that he *used to be* the subject-of-a-life.

Thus, if we agree that the person in a permanent comatose state is part of the moral community, then we cannot locate the basis of this agreement in the conditions offered by Regan and Singer. In other words, their conditions, although broad, cannot account for all cases. Now, even if Singer and Regan can produce a successful reply to my example concerning the comatose, we are still left with the first example concerning human corpses and the dead in which a negative AMC can be formulated against their conditions.

Another line of objection to my example regarding relational value can be drawn from the impartial viewpoint. I will examine this issue in the following section.

2. Impartiality and Partiality

I argued that Smith has a special relationship to his daughter and that such a relationship is based on a scale which classifies Smith's daughter in terms of kinship and defines her in accordance with *what she is to him*. Thus, all things being equal, it appears that if Smith would have to choose in a time of trouble between his daughter and her friends, he would choose to save or help his daughter, and not her friend, because of her value to him, as her parent. The idea is that the value of one's child is higher, indeed, much higher, than the value of others' children. Therefore, when one approaches the example of relational value from the normative perspective, it emerges as a classic example of partiality and of a personal standpoint, which collides with the impartial viewpoint and the values that it delivers.

The impartial viewpoint considers every moral entity in an equal way, and thus avoids seeing certain moral entities as intrinsically more significant than others. Impartiality in its general form relies mainly on an impersonal standpoint that asks us to relate to all moral entities in an equal way.³⁵ Consider, for instance, Bentham's famous slogan that "everybody to

³⁵ In Piper's view, this is not necessarily so. She argues as follows: "Proponents of this criticism assume that there is an intimate connection between the impartiality of the principles of moral theory and the impersonality of the point of view one must take as a consequence of adopting it. But this assumption is false. One may adhere to impartial moral principles without adopting an impersonal point of view, and one may adopt an impersonal point of view without adhering to impartial moral principles" (1987,

count for one, nobody for more than one".³⁶ In contrast to the impartial system, the general approach of the partial viewpoint is that one cannot relate to all moral entities in an equal way, and this is because some moral entities are more significant than others *in relation* to certain moral being. For instance, the partialist would claim that there are some favourable treatments to certain moral entities—such as one's family or community—that are morally justifiable.

The impartial viewpoint attempts to neutralise implicit and explicit discriminatory acts. In a profound sense, this attempt is at the heart of morality because it is supposed to neutralise people's personal needs and interests, and hence to avoid biases. A potential example for such a bias is the favourable treatment that parents provide to their children. Nonetheless, although impartiality is central to morality, it has some drawbacks. These drawbacks are relevant for us as a reply to the impartialist's potential claim that my example concerning relational value undermines the central theme of morality and allows unjustifiable biases.

Becker stated the followings with regard to perfect impartiality: "Not only would we then be required to prosecute our fathers as if they were strangers, but to donate every spare nickel, lung, or ounce of bread at our disposal to those who can make better moral use of it than we" (1991, 699).³⁷ Impartiality, thus, appears to be too demanding a system. This problem is a result of the viewpoint that the moral agent should not give any priority to her personal standpoint, and that this standpoint must not have a special role in her deliberations (for instance, this is the case in Kant's system). This claim for impersonality in our moral deliberations, which is significant for the impartial viewpoint, promotes an instrumental and indifferent attitude towards morality (Henberg, 1978). It is unclear that such an approach is realistic.

104). I will not develop this debate. Still, it is important to notice that usually, impersonality is required to maintain impartiality, since impartiality supports the idea of considering equally all moral entities whether or not one has a personal connection with them.

³⁶ Quoted in Mill's *Utilitarianism*, chapter 5 (an online text). And Sidgwick claims: "The good of any one individual is of no more importance, from the point of view (if I may say so) of the Universe, than the good of any other" (1907, 382).

³⁷ And Cottingham argues: "When I sit up all night with my sick child, the impartiality thesis tells me that I am not acting morally; or at least, if my action is to be justified morally, I have to show that I could not be making a greater contribution to human welfare by helping any other child who may be in greater need of care and attention" (1983, 88).

A famous critique of impartiality is conveyed by Williams, who emphasised the importance of the personal standpoint and the agent's character that conflicts with impartial values. Williams claims:

[S]omewhere [...] one reaches the necessity that such things as deep attachments to other persons will express themselves in the world in ways which cannot at the same time embody the impartial view, and that they also run the risk of offending against it.

They run that risk if they exist at all; yet unless such things exist, there will not be enough substance or conviction in a man's life to compel his allegiance to life itself. Life has to have substance if anything is to have sense, including adherence to the impartial system; but if it has substance, then it cannot grant supreme importance to the impartial system, and that system's hold on it will be, at the limit, insecure.

It follows that moral philosophy's habit, particularly in its Kantian forms, of treating persons in abstraction from character is not so much a legitimate device for dealing with one aspect of thought, but is rather a misrepresentation, since it leaves out what both limits and helps to define that aspect of thought. Nor can it be judged solely as a theoretical device: this is one of the areas in which one's conception of the self, and of oneself, most importantly meet. (1981, 18-19)³⁸

The impartial viewpoint acknowledges the fact that each of us has individual needs and interests, and it assumes that we are able to recognise all these in other people as well. But it also requires us to consider others' needs and interests in a way that is detached from our personal standpoint. The requirement to suppress the personal standpoint is not trivial because it asks us to ignore to a large degree what we favour and prefer as persons. But people's nature is that their personal needs and interests, such as favouring their friends and relatives, often prevail over the needs and interests of others. Williams' claim, however, is far stronger than this.

Williams claims that morality that does not seriously recognise the special role of the personal point of view in moral deliberations is absurd. This is because such an approach threatens the 'ground projects' of our lives, including our commitments, loyalties, and attachment to our friends and families. Williams claims that the impartial system undermines the substance of life itself as well as our identities as persons. To put it in his words, which I

³⁸ Williams discusses an example similar to the case of parents-children. The relational value in his case concerns a rescuer and his wife (1981, 17-18).

quoted earlier: "[U]nless such things [attachments to other persons] exist, there will not be enough substance or conviction in a man's life to compel his allegiance to life itself" (1981, 18). The problem that Williams points at, thus, concerns not only the application of the impartial viewpoint in cases of conflicts, but also the very requirements of impartiality, requirements that according to his claim, neither support nor enable a normal and meaningful way of life. When it concerns personal relationships, it is clear that Williams claims that it is improper to be guided only by the standards of the impartial viewpoint while rejecting motives that stem from the personal perspective:

A man who has [...] a ground project will be required by Utilitarianism to give up what it requires in a given case just if that conflicts with what he is required to do as an impersonal utility-maximizer when all the causally relevant considerations are in. That is quite an absurd requirement. But the Kantian, who can do rather better than that, still cannot do well enough. For impartial morality, if the conflict really does arise, must be required to win; and that cannot necessarily be a reasonable demand on the agent. (1981, 14)

Williams' position appears to be radical, and to rely heavily on personal character. His position conveys that the ideal of the good life cannot exist under one roof together with the ideal of moral life. Mendus criticises Williams in claiming that:

[I]t is a huge exaggeration to suggest that all cases in which I fail to fulfil an obligation of impartial morality are cases in which my identity is threatened. There are cases (many cases) in which obedience to the requirements of impartial morality would force me to sacrifice something I care about very deeply, and would therefore result in deep disappointment, but disappointment is a very long way from loss of identity. (2002, 75)

Formulating Mendus' claim in Williams' terminology, it can be said that disappointments, sacrifices and conflicts are also part of our character and part of what establish one's identity, and thus should be taken into account. As a matter of fact, Mendus criticises the way Williams presents the conflicts between impartial considerations and partial considerations.³⁹ At any rate, even if Mendus is right, the core of Williams' contention is still disturbing and demands serious consideration.

³⁹ For another criticism in this regard, see MacIntyre (1983, 120-123).

Nagel's position concerning the interplay between impartial standards and personal relationships within a moral theory also recognises the importance of the personal standpoint:

There is a venerable tradition in ethics, fully developed by utilitarians, according to which we should attempt to become, so far as possible, instruments for the realization of those impartial values that appear from the impersonal standpoint—living, in effect, as if we were under the direction of an impartial benevolent spectator of the world in which we appear as one among billions. But this radical claim would have to be defended, it cannot simply be assumed; and I shall defend the alternative view that the personal standpoint must be taken into account directly in the justification of any ethical or political system which humans can be expected to live by. (1995, 15)

Nagel attempts to depart from the ongoing debate by combining aspects of the personal standpoint into ethical and political theory. Note that in saying 'ethical theory' Nagel refers to a theory according to which we are expected to live. Formulating the end of Nagel's quote in Brad Hooker's idiom, it may be said that by 'ethical theory' Nagel refers to a real code rather than to an ideal world (Hooker, 2000). The real code is not detached from our abilities and limitations as human beings. Accordingly, Nagel suggests that:

The response to that problem is the third stage in the generation of ethics, and it is the point at which ethics must assume a Kantian form. That is, it must go beyond the question "What can we all agree would be best, impersonally considered?" to address the further question "What, if anything, can we all agree that we should do, given that our motives are not merely impersonal?" (1995, 15)⁴⁰

In other words, Nagel offers to approach the impartialist-partialist debate in terms of the Copernican revolution that Kant adopted in his *Critique of Pure Reason*: we should take into account in ethics not only people's ideal moral abilities, but their moral flaws and moral disabilities as well. In other words, one cannot simply ignore people's natures, especially if one's aim is to establish a moral theory that will be applicable in practice. This also concerns the favourable treatment that parents give to their children in that it represent part of what we, human beings, are. As Nagel puts it in an earlier book: "The good, like the true, includes irreducibly subjective elements" (1986, 8). All things being equal, this is why it would be

⁴⁰ See also Nagel (1986, 8).

wrong, at least for the parent, not to prefer his child over the children of others. Only when exceptional circumstances occur is such a preference no longer trivial.

A striking example of this point is found in the film *The Good Son*,⁴¹ in which a mother must decide whether she will save her son or his friend who is staying with the family. Both boys hold her hands while hung over a cliff from which they are about to fall. At that stage the mother knows that her son—whom she had thought was a very good boy—is actually a very bad boy who has killed his sister, has tried to kill her as well, and has committed many other evils. She also knows that his friend—whom she was led to think is the bad boy responsible for most of the atrocities that took place—is actually innocent. Under normal circumstances one would expect her to save her child, but in this case we face exceptional circumstances. Now, in this extraordinary state of affairs, she must make a moral decision—she must decide who to save. It is no longer about saving her son automatically or instinctively. Eventually the mother drops her son and saves his friend.

This example represents the interplay between considerations that concern the impartial system and those that concern the partial system. It conveys the idea that something very radical must happen in order for a parent to bypass values that stem from the personal standpoint. What Nagel says is that the integration between these considerations is always complicated. Of course, one might think about less radical examples in which it would be less obvious that a parent should save his child and not another child, and to ask whether it would be justified to act in accordance with the personal standpoint in such states of affairs. The general question here is actually 'what would be considered a relevant case for at least a temporary suspension of impartial consideration?' It is unclear that one could answer this question in a sufficient way without associating a personal perspective. At any rate, the answer for these sorts of questions will be problematic because even if we decide on the relevant cases, the result will always associate the lesser evil: as a consequence of two conflicting systems of values, someone will have to lose. In a profound sense, in most cases, *at least for the parent*, it will always be just to save his child, although from the perspective of

⁴¹ Directed by Joseph Ruben, 1993.

the impartial viewpoint it is not necessarily so. This is why Nagel claims that "[i]n the case of the single life jacket, there is no reasonable solution, and neither parent is unreasonable to try to grab it for his child as against the other" (1995, 172).

In his discussion of Williams' challenge, Nagel acknowledges the problems seriously. Yet he also claims that the dilemmas that Williams brought up concerning the gap between the good life and the moral life "can arise for most ethical theories, and in particular for theories with a significant impersonal element. Whether the dilemmas are not only possible but actual will depend on the way the world is, and the way we are" (1986, 205). In order to see why Nagel is right in claiming that the tension between the impartial viewpoint and the partial viewpoint concerns most ethical theories, it might be enough to notice that Williams criticised not only Kantianism, but Utilitarianism as well—two entirely different approaches to morality. The issue is so common and complex according to Nagel that besides the third stage concerning what can we agree on given that our motives are not only impersonal (1995, 15-17), he offers a fourth stage in the generation of ethics, a stage that involves political institutions:

Political institutions can be regarded as in part the response to an ethical demand: the demand for creation of a context in which it will be possible for each of us to live a decent and integrated life, both because the effects of our actions are altered by the context and because we ourselves are transformed by our place in it. Political institutions serve some of the same purposes as moral conventions, though our participation in them, unlike obedience to moral requirements, is not voluntary but coercively imposed. This together with their much greater complexity and role differentiation gives them exceptional powers of transformation, for better or for worse. (1995, 17-18)

Without delving deeply into Nagel's argument, which will shift us far from our main concern, the main idea worth noting here is that political institutions have the power to create another layer of balance between the partial viewpoint and the impartial viewpoint. Nagel is definitely aware, though, that in many cases there is no reasonable solution, and that Williams still has good reasons to argue again that "[t]here can come a point at which it is quite unreasonable for a man to give up, in the name of the impartial good ordering of the world of moral agents, something which is a condition of his having any interest in being around in that world at all"

(1981, 14). In other words, it seems nearly impossible to resolve these dilemmas in a way that will be free of any substantial conflicts.

The impartial viewpoint allows us to treat others differently, but our different treatment should be justified in a generalised manner, i.e., the justification is that in like circumstances, others will act in a similar way. This approach is supposed to neutralise all sorts of biases that may be caused by associating the personal perspective, but one may also see it as a beginning of a solution that contains the personal perspective. Consider the following scenario: in the case of parents and children, all parents might agree that in time of trouble it would be best to help and save their children before attempting to help and save other children. Yet even this line of thought, which is not free of problems, is a questionable compromise for the impartialist. This is because it threatens the idea of impartiality that no one person is more important than another. Nevertheless, note that by agreeing that they should save their own children, the parents will not be saying that their children are intrinsically more valuable than other children, only that their children are more important in relation to them as parents. Another problem with this line of thought is the slippery slope that it can be said to sustain: the critic may ask, and for good reason, 'to what extent should we take into account personal considerations?' Notice, however, that a similar question can be asked with regard to the impartial system as well: 'to what extent should we let impartial considerations prevail over personal considerations?'

My aim in examining the broad conditions that Singer and Regan proposed has been to show that their approach to the foundation of moral status is not satisfying because it sustains the problems of traditional reasoning. In particular, it does not take into account the complexity of our social reality—and this complexity also includes the personal standpoint.

In bringing the case of parents and children and allowing acts of partiality of that sort, I have not argued that such relationships are immune to impartial considerations, or that partial considerations always prevail over impartial ones. Also, note that I have not argued that some moral entities are intrinsically more significant than others, but that some moral

entities are more significant than others in relation to a third party as a consequence of relational value.

Partiality in general and relational values in particular create biases.⁴² But as we have seen, impartiality, just like partiality, also creates problems for individuals and for society in general. All things being equal, a parent who will save another's child instead of his own because of impartial considerations will bear a heavy burden for the rest of his life. But more importantly, society will pay the price of weakening its internal bonds that, as I will argue in the next chapter, are essential for its existence. In other words, if parents should not be more committed to their children than to children of others, than it would be unclear for the children on whom they may rely. Thus, one cannot simply assume that impartiality is preferable to partiality, for the impartial system demands justification no less than the partial system. At any rate, conflicts of the kind described above are part of any moral theory that aims to be practical, i.e., a moral theory that sets ideals by which most of us can live. In one way or another, such a theory will have to associate both the impartial and the partial viewpoints.

C. Summary: Reconsidering the Relationship between the Positive AMC and Traditional Reasoning

I argued that the AMC is bound by traditional anthropocentric reasoning and that consequently, the positive AMC does not provide a satisfying condition for moral status. Singer and Regan reconstruct the strategy of the positive AMC. They accept principle (b) according to which there is no possibility to find a morally relevant difference that will follow the boundaries of our species. Thus, they search for a single condition, for either moral status or moral rights, that is satisfied by both moral agents and moral patients—be they human or animal. However, this methodology perpetuates traditional reasoning, even though it avoids its anthropocentric nature.

⁴² The problem is not as much with biases as with unjustified biases. I deal with this in the next chapter where I also explain how my position in this regard does not lead to rampant biases against humans or animals.

The main narrative of traditional reasoning is to emphasise the uniqueness of humans and their superiority over animals by finding a common property—paradigmatic of humans—that supposedly all humans and only humans share. The positive AMC highlights the similarities shared by humans—especially marginal cases—and some animals, showing what both humans and animals have in common (recall that Rowlands claims that there is no morally relevant difference between humans and animals). Singer and Regan follow the positive AMC while offering their broad conditions.

One main characteristic of traditional reasoning is to work only in accordance with the differences between humans and animals. This characteristic is one-dimensional in that it ignores the similarities between humans and animals. But note that the positive AMC sustains the same reasoning, only it concentrates on the similarities and ignores the differences.⁴³ It also inherits the idea that moral status is determined by certain mental and/or physical abilities. We have seen that the simplicity and anthropocentric nature of traditional premises do not provide a sufficient account of marginal cases and animals. The positive AMC is also one-dimensional: it is indifferent to important patterns of behaviour that cannot be justified within its framework. Both reasonings are one-dimensional as a result of using a common denominator as a basis for moral status. Accordingly, the positive AMC reconstructs an indifferent approach to the complex nature of our moral reality. This is the sense in which the positive AMC reconstructs the main problem of traditional arguments that it was designed to refute.

Singer and Regan refer to a broad condition, a common denominator of all those who supposedly deserve moral status. The conditions of sentience and subject-of-a-life are more comprehensive than anthropocentric conditions. Thus, they can definitely lead to expansion of the moral circle. Moreover, these conditions provide a simple framework to work with—especially in the case of sentience. Such a simple framework is essential to practical ethics—ethics that Singer and Regan have sustained.

⁴³ This rationale is reasonable to a certain degree, given that creating different foundations for human moral status and that of animals may preserve the separation between the species—a separation that the AMC aims to deconstruct.

The AMC, impressively, attempts to refute the idea that 'only humans deserve moral entitlements of any sort', and to show that the common notion that there are morally relevant differences between humans and animals that can be traced in our biological species is mistaken. Nonetheless, we have seen that the common denominators offered by Singer and Regan cannot account for all cases, e.g., the case of the dead and the case of relational value. Indeed, the common denominators support impartiality, but they appear to enforce it in such a way that we are left with situations in which the proffered conditions appear to be irrelevant. At any rate, precisely for the reason that the practices in these issues are widespread and pervasive, they should have received more attention.

The attempt to reduce the concept of moral status to a single element reproduces a scientific-like inquiry, and is based on the working assumption that it is possible to establish the complexity of our moral practices and theories and their conflicting nature upon one foundation. We have seen that our diverse moral practices within society do not appear directly, and sometimes cannot appear at all, on 'the AMC balance sheet'. Thus, the solution which is offered by the positive AMC may bring more creatures into the moral community, but it cannot single-handedly be a *constructive* argument in the sense of *constructing a new argumentative framework that outflanks the problems of the traditional framework*.

The solution should be found in a non-simplified set of conditions in accordance with their relevance to different cases. The similarities between humans and some animals are important and should be emphasised, but the differences are important as well. There is a middle way between the speciesist idea that being human is important in itself or, at the same extreme, the anthropocentric idea that the conditions of moral status should be formulated on the basis of the human paradigm, and between the opposite extreme advocated by the AMC that what really matters is the similarities in individual characteristics between humans and animals. In the next chapter, in examining the possibility of refuting the AMC's conditional, I will offer such a middle way, of creating different foundations for moral statuses. As we shall see, this should not necessarily follow the boundaries of species.

VII. Conclusion

At the beginning of this chapter I identified the general structure of the AMC, which is represented by the conditional: *If all human beings deserve moral status, then so do some animals*. I argued that both positive and negative types of AMC have played a significant role in showing the problematic premises of traditional reasoning in favour of human moral status and against animal moral status. Inheriting the premises of traditional arguments makes the negative AMC an elegant argument to show their falsity. The negative AMC undermines the anthropocentric premises of traditional arguments by showing that they cannot account for many humans, and in fact uncovers double standards in this moral reasoning. As such, it challenges our approach to the issue of animal moral status, and also potentially challenges our approach to the issue of moral status in general.

However, I also argued that the positive AMC reconstructs a major problem inherited from traditional arguments. The line that it draws between 'all humans' and 'some animals', although reasonable to a certain degree, oversimplifies the inquiry into moral status, and sustains the idea that if certain creatures deserve moral status then all of them should satisfy the same condition. This line of reasoning makes the positive AMC vulnerable to criticism by a negative AMC. A broad condition, as we have seen, sustains the same reasoning and hence cannot resolve these problems. Another flaw of the positive AMC that is inherited from traditional reasoning is the reliance on mental and/or physical abilities as conditions for moral status.

This conception cannot account for some of our practices, which are considered to be moral and are anchored deeply in society. In order to demonstrate the flaws within the conditions for moral considerability that Singer and Regan have offered, I provided examples regarding respectful treatment to the dead and relational value. Importantly, the example of respectful treatment of the dead represents a practice that one has no urgent reason, if any, to abandon. This practice also survived a critical examination in the mirror of intuitive convictions. If one claims that this practice should be abandoned, or has nothing to do with morality, then this should have been explained. On the one hand it is not trivial that every

embedded practice should be considered moral, but on the other hand, it cannot be excluded from the moral domain without a satisfying explanation. My example deserves an answer for the same reason that the AMCs—both negative and positive—offered by Singer and Regan deserve an answer from those who support anthropocentric reasoning. However, the single broad conditions that Regan and Singer offered, conditions that are based on mental and physical abilities, cannot lead to including the dead in the moral domain.

A similar problem occurs with regard to the example of relational value. The example I discussed supports partiality to a certain degree, but there is no point in ignoring the importance of relational values to individuals and to our society. Impartiality is an ideal that humans, as moral creatures, have come to establish in order to prevent certain biases. But this ideal must be related to our social reality in order not to create biases even greater than those it was originally designed to prevent. In other words, as with traditional reasoning, the positive AMC continues to sterilise social and cultural factors. This, as we shall see in the next chapter, has a significant impact on the validity of the AMC's conditional in uncovering speciesism.

The AMC's methodology encapsulates the potential to deconstruct the traditional pattern that excludes animals from the moral community into a complex explanatory system. Indeed, it is possible to avoid reconstructing the problems of traditional moral reasoning. In order to do that, the positive AMC can be used not so much as an argument that aims to show that some animals are deserving of moral consideration, but as an argument that uncovers moral inconsistencies in the original arguments. Thus, it can have the same function as the negative argument. In this sense, not only the negative version of the AMC can operate as a critical philosophical tool, but so can the positive version. The negative version invalidates the original arguments by extricating their problematic conclusions and the anthropocentric nature of their premises—that is, excluding some humans from the moral domain is, by all means, very costly. The positive version can uncover inconsistencies in some arguments with regard to certain animals, showing that in order for the original argument to be consistent, some animals must be included in its conclusion. Still, at this stage one should not necessarily

endorse the conclusion as providing a satisfying condition for moral status. The significance of such a positive AMC is in showing that the presumed difference between humans and animals with respect to the given premises is mistaken. However, since one can hardly base moral status on a single foundation, this situation invites us to re-examine the foundation of moral status. In this sense, both subtypes of the AMC can show that there is no point in continuing the dialectic of refining arguments and counter-arguments as long as one maintains the framework of a single foundation for moral status.

Chapter 6

Humans, Animals, and Human Society

[M]orality is founded in a sense of the contingency of the world, and it is powered by the ability to envisage alternatives.¹

I. Introduction

The rationale of the AMC entails that the denial of moral status to animals must be considered speciesism. This is a consequence of the connection between 'all humans' and 'some animals', based on the notion of a single basis for moral status, a connection represented by the AMC's conditional. In this chapter, I continue to critically examine the AMC, focusing on the possibility to refute this conditional.

I argue that the connection that the AMC emphasises between 'all humans and 'some animals' is usually unjustified. Specifically, I argue that being part of human society—for which being human is a sufficient condition—makes a morally relevant difference that can distinguish between the human case and the animal case. This distinction, though not absolute is very significant. In other words, my aim is to refute principle (b) without refuting principle (c): that is, to show that 'all humans' and 'some animals' are like cases, although there is a morally relevant difference that distinguishes them. Thus, I also argue that a refutation of the AMC's conditional is not necessarily equivalent to speciesism; that is, the charge of speciesism is not necessarily justified if moral status is based on more than a single foundation. I propose that the foundations of different types of moral status should be determined in terms of their relevance rather than in terms of unity. By 'relevance' I mean the pertinence of the criteria used in attributing moral status. By 'unity' I refer to the idea of single foundation, or a set of fixed individual characteristics, which can supposedly account for all possible cases. That is to say, I attempt to depart from the methodology that seeks a single foundation, even if a broad one, of moral status. The methodology that I offer undermines not

¹ Colin McGinn, from "Apes, Humans, Aliens, Vampires and Robots" (1993, 147).

only the strategy of the AMC, but anthropocentric moral reasoning as well. Thus, it could lead us towards a system of morality that *is not* detached from our social reality.

I establish my claims by relying primarily on two elements: (1) the different background theories in the human case and the animal case, which are relevant to moral reasoning; and (2) the notion of humans as bond-forming creatures as a possible grounds for moral status for humans. Bond-forming is generally irrelevant as a grounds for moral status in animals. First, I briefly re-introduce the rationale of the AMC regarding speciesism. This is followed by an exposition of the background theories. In the next stage, I show that the consideration of oneself as part of human society plays a significant role in moral reasoning, particularly insofar as the bond between humans is concerned. Finally, I explain how my position is not speciesist, and does not introduce rampant biases towards either humans or animals. Although a moral theory that aims to be practical must take into account the partial viewpoint, it also must not dismiss the impartial viewpoint. Biases are part of any moral theory, but a moral theory that aims to be practical must also set minimal standards to secure the basic needs and interests (of both humans and animals) in order to prevent unjustified biases.

II. Revisiting the Refutation of the AMC's Conditional

For a traditional moral reasoning to truly support moral status for all humans and only humans, it is not enough that it merely declares such moral status, but it must be built upon premises that include marginal cases. The problem is how to do this without including animals—that is, how to find a morally relevant difference to separate all humans from animals.

In the previous chapter, we saw that a denial of the negative AMC's conclusion that 'some human beings do not deserve moral status' while still holding that 'animals do not deserve moral status' entails a refutation of the AMC's conditional. The same goes, of course, for a denial of the positive AMC's conclusion that 'some animals deserve moral status', while still holding that 'all humans deserve moral status'. In both cases one maintains that it is

possible to attribute moral status to all humans, and still not acknowledge that the relevant animals deserve moral status.

Yet in order to present this position within a non-speciesist framework, one must show that there is a morally relevant difference between humans and animals. According to principle (b), however, there is no morally relevant difference that follows the boundaries of the human species. Thus, it appears to be impossible to justify a refutation of the conditional, unless there are prior reasons for giving special consideration to the moral status of humans and for withholding moral status from animals. However, since moral status is taken as having a single foundation, such reasons must be infected with speciesism. Thus, a denial of moral status to animals but not to marginal cases must be based on the fact that animals are not members of the human species.² In other words, the original characteristics suggested are not the real criteria used in drawing the distinction between humans and animals.³ These characteristics, the claim goes, only camouflage the real (and implicit) condition, that is, being part of the human species.

However, as I stressed throughout the preceding chapters, we could take moral status as having more than one foundation. I also suggested that there could be different foundations for humans' and animals' moral status. Operating with this rationale, the problem of speciesism *does not necessarily* arise through refutation of the conditional. Such a manoeuvre undermines the very idea of the AMC's conditional. It suggests that it is possible to hold that 'like cases should be treated alike' while denying that 'no property or set of properties can make a morally relevant difference between humans and animals that will follow the boundaries of the human species', and still not maintain a speciesist position. In other words, it suggests that it is consistent to accept principle (c) while refuting principle (b). That is,

² Regan, for instance, argues that: "Some there are who resist the idea that animals have inherent value. 'Only humans have such values,' they profess. How might this narrow view be defended? Shall we say that only humans have the requisite intelligence, or autonomy, or reason? But there are many, many humans who fail to meet these standards and yet are reasonably viewed as having value above and beyond their usefulness to others. Shall we claim that only humans belong to the right species, the species *Homo sapiens*? But this is blatant speciesism" (1986, 112).

³ Traditional moral reasoning uses these characteristics to separate humans from animals; the AMCs use them to form the conditional.

humans and animals can be like cases and thus be treated equally (in the relevant sense, i.e., in proportion to their needs and interests) in that both deserve moral status. This situation, however, which is based on principle (c)—does not mean that the entitlement of humans and animals to moral status is always based on the same foundation. Thus, acknowledging humans' moral status while denying that of animals would be associated with speciesism only when both attributions of moral status are based on the same foundation.

Accordingly, my main concern in part III to follow is to show that principle (b)—when it is linked to the issue of moral status—is not necessarily true. I point at our different background theories in the human case and the animal case. These background theories have a constitutive role in establishing our social reality as well as our moral practice. Presenting them will serve us as the first step in showing that individual characteristics upon which principle (b) is established cannot capture the complexity of social reality.

III. The Background Theories

Different background theories underlie the arguments for animal and human moral status. Understanding these theories is important for two reasons. One reason is to highlight the authoritative presence of human society in our lives. The second reason is to show that principle (b) is not always justified; specifically, that being part of human society can, in most cases, make a morally relevant difference between humans and animals.

Being part of the human species is important not as much for biological reasons as because it is the basis of human society. The fact that we are part of human society influences the background theory in the human case. The background theory in the animal case underlies speciesism, and may sometimes be considered one of its causes. The AMC, however, is indifferent to both background theories. This indifference is a consequence of the AMC's methodology which attempts to anchor moral status in certain mental and/or physical abilities and thus this methodology underlies the AMC conditional, which has been inherited from traditional moral reasoning.

Stated otherwise, when the proponent of the AMC claims that no property or set of properties can make a morally relevant difference between humans and animals that will follow the boundaries of the human species, he refers to individual characteristics. However, positing individual characteristics as conditions of moral status (by both traditional reasoning and the AMC) cannot provide a justification for many interrelationships between individuals within society. I argue that the inconsistency that the AMC exposes in many arguments is just a symptom of a larger situation. Mistakenly, the AMC recognises the inconsistency, arbitrariness and artificiality that underlie the employment of double standards vis-à-vis the conditions of moral status as the main problem plaguing the animal issue. However, these charges could be seen in a different light once the background theories are explicated. In that case, let us be clearer on the different background theories that underlie the human case and the animal case.

A. The Moral Convictions Embedded in Anthropocentric Reasoning

A major feature of our approach to the animal issue concerns the background theory about the 'place' of animals in nature and society. Orthodoxy usually takes it for granted that animals are either beyond moral consideration, or morally less important than humans. Many who argue on the basis of the AMC have not seriously considered the historical fact that many who exclude animals from the moral community have not paid much attention, if any, to the issue of infants and marginal cases. Namely, they did not investigate why the issue of infants and marginal cases was never seriously discussed.⁴ Investigating this issue would reveal a background theory in favour of humans in that respect, a background theory that receives wide expression in our social practice.⁵

⁴ This matter becomes very interesting when one recalls that the link between infants and morality is not an unfamiliar subject in Western and Christian thought; consider the controversy in early Christianity concerning the destiny of infants who died before baptism.

⁵ Some philosophers who use the AMC have raised the issue of favouring humans, but located the causes in speciesism. The charge of speciesism, however, although true in many respects, has limited explanatory value once the philosophical debate has progressed with increasingly delicate distinctions.

In contrast to the animal case, the task of founding morality upon human paradigms is much less problematic when we consider humans who fall short of the standards. In a profound sense, it is not problematic at all. In the case of marginal cases, we have a positive background theory concerning their entitlement to moral status, namely that all humans are entitled to moral status. By analogy to the idea of methodological doubt versus actual doubt in chapter two, the idea here is that we usually approach the question of such individuals' moral status from a methodological perspective, but not from a practical or actual perspective.

In other words, our basic moral convictions have already granted moral status to marginal cases. Indeed, in ordinary life, we do not relate to infants and mentally handicapped humans in an amoral manner. We hold that we should behave towards them in a moral way, regardless of the fact that they are moral patients who lack basic mental capabilities. In the *relevant respects*, we do not even distinguish between types of humans (race, gender, age and physical or mental abilities). For that reason, it is possibly not a coincidence that many philosophers fail to mention the cases of infants, mentally handicapped humans or future generations when they formulate the conditions for moral status.⁶

The positive background theory that grants moral status to all humans, including marginal cases does not stand as a justification for endowing them and all human beings in general with moral status. Nonetheless, in many cases it is of the last consequence. For instance, in his early writings, Carruthers posited consciousness (in its full-blown sense, i.e., self-consciousness) as a necessary condition of moral concern. I will demonstrate how bizarre Carruthers' approach would appear if extended to severely retarded human beings. What follows is a passage from his book with some changes that *I have inserted*—the expression 'severely mentally retarded humans' in italics replaces the term 'animals':

[S]ince there is no reason to believe that any *severely mentally retarded humans* are capable of thinking about their

⁶ It does not mean, however, that they were unaware of failing to address these issues. For instance, we have seen that Rawls included marginal cases within the scope of his principle of equality (1971, 510). However, Rawls provided a very ambiguous reason for this, and appeared to draw on practical considerations that have nothing to do with the condition he offered for moral personality. See also footnote 11 below.

own thinkings in this way [reflexive thinking], none of their mental states will be conscious ones. If this account were acceptable, it would follow almost immediately that *severely mentally retarded humans* can make no moral claims on us. For non-conscious mental states are not appropriate objects of moral concern. (Based on Carruthers 1992, 193)⁷

It is hard to imagine a philosopher who would argue for such a view concerning humans in such a cut and dried way, and with such an absolute tone.⁸ Now, with regard to Carruthers' *original claim*, if infants, the comatose and severely mentally handicapped humans are included in an extension of this principle, then it should have been explicit, and this extension would have had to have been examined in accordance with this principle (and maybe even in accordance with the animal case). I am not trying to develop an AMC against Carruthers here, but rather seeking to demonstrate the dominance of what I claim is a background theory in favour of human beings. As we saw in chapter three, the same goes for Kant's condition of reason which is based on human paradigm. It is also true with regard to Rawls' conditions of moral personality as well as Fox's conditions concerning the status of rights-holders.

Let us be more accurate with regard to the conviction that all human beings, including marginal cases, deserve moral status. According to the common assumption that all humans, in one way or another, fall within the scope of morality, the philosophical concern is to find a principle that will justify such well-established assumption and practice. It is the same matter that we faced in the example regarding the dead; we are not re-examining the need for this practice (since we take it for granted), but asking on intellectual grounds what principle could possibly support it. A good example for this practice is Fox's argument for being a moral rights-holder that I examined in the preceding chapters. To be sure, human moral patients fall short of Fox's proffered condition and they do not have full moral status, but Fox supports

⁷ See part III, section B in chapter three for the original quote and for my discussion on Carruthers.

⁸ Some philosophers deny 'marginal humans' moral status. However, to the best of my knowledge, and with the salient exception of Peter Singer and Helga Kuhse (concerning their views on severely disabled infants with regard to euthanasia), I do not know of any philosopher who commits himself to the implication of such a statement in the way he may commit himself to similar implications in the case of animals. Even Singer and Kuhse provide a set of reservations regarding their view, and are aware of the gap between their theory and the moral practice. See Kuhse and Singer (1985) and Singer (1994).

moral rights to human moral patients by claiming that it is impossible and dangerous to separate them from humans who have full moral status.

In other words, the implicit reasoning is that if the principle we have in hand concerns most humans, but not all, then the presumption is that this principle represents at least the core of morality, while the marginal cases represent a 'remainder'. This 'remainder' may be included in an extension of the principle.⁹ When this is the case—i.e., when one is aware of such a 'remainder'—then an argument in favour of the extension is *sometimes* made and the reason in virtue of which animals are excluded is *sometimes* given.

However, note that if marginal cases cannot be included in an extension of the principle, we can still live with this result, because it will not entail, in practice, their exclusion from the moral community.¹⁰ *Practically*, we almost always did, and still do, behave morally towards marginal cases, or at least we hold it necessary to behave morally towards them. If one cannot include marginal cases in an extension of the principle for moral status, then this is usually when practical considerations are brought in to eliminate the 'remainder' of marginal cases.¹¹

B. The Case of Humans versus the Case of Animals

I am not arguing that one should not question the conviction—whether explicit or implicit—that marginal cases should be included in the moral domain. My aim, however, is to pin down the moral convictions embedded in anthropocentric reasoning. Namely, my objective is to trace the reasons that enable one to simultaneously hold that marginal cases are morally

⁹ For instance, Mackie claims: "The claims of these classes, then, lie outside what I must regard as the core of morality. It is only extensions of morality that cover them" (1977, 194). By "these classes" Mackie refers to mentally or physically disabled people who will never be independent and active participants in society.

¹⁰ Or, to put it bluntly, not providing an extension of the principle to include the dead in the moral domain will not stop us from executing their wills.

¹¹ For instance, consider again the quote from Rawls: "That moral personality suffices to make one a subject of claims is the essential thing. We cannot go far wrong in supposing that the sufficient condition is always satisfied. *Even if the capacity were necessary, it would be unwise in practice to withhold justice on this ground. The risk to just institutions would be too great*" (1971, 506. My italics). And Fox claims: "[I]t appears that drawing a line to separate human beings who are full members of the moral community from those who are not is probably not only an impossible task but also, even if feasible, extremely dangerous and unwise" (1986, 62).

considerable and generally enable one to take it for granted that animals are either beyond moral consideration, or morally less important. Thus, my identifying of the different background theories should be understood as an explanation for including marginal cases in the moral domain and for some of our presuppositions regarding moral considerability.

My idea is that since the issue of marginal cases has essentially been grasped as a methodological matter of no pressing practical consequence, then *it is usually not approached as a matter of attributing moral status* to marginal cases. Note that the question of whether marginal cases should be included in the moral domain is rarely addressed in the context of a general moral theory (in contrast to more specific questions in applied and practical ethics, such as 'to what extent is one obligated to marginal cases?'). Rather, moral theories are usually concerned with *justifying the principle with regard to the general case, that of paradigmatic humans*.

For instance, we have seen that although Kant redefined the meaning of 'moral' by drawing on the idea of acting from within duty, he still did not challenge his intuitive conviction that all human beings deserve moral status. Yet, the justification of the principle for moral considerability in moral systems such as Kant's is important in order to square the moral theory with 'how things are' *with regard to the ordinary human being*—the creature of reason, in the case of Kant. Yet, it does not appear to provide a justification of moral status for marginal cases. For all intents and purposes, we generally treat marginal cases as having moral status, and the theory is concerned, from the outset, with the ordinary, paradigmatic human.

One consequence of this methodology in the case of humans is that the justification of the proffered principle supports the standard social practice with regard to marginal cases, but does not change them or question them, at least not in any revolutionary way. Specifically, if this principle neither questions the social practice of behaving morally towards marginal cases, nor offers a good enough reason for this practice, then it must be based on the assumption that all humans deserve moral status. Thus, every possible change that the moral

theory offers would be a change within the context of agreement that all humans deserve moral status.

What is the situation with regard to the animal case? In contrast to the human case, the animal case brings forth *conflict* that threatens our practice. For some, considering animals as deserving moral status is about revolutionising the world.¹² Less dramatically put, the crux of the matter is that, if animals are entitled to moral status, then humans have committed grave misdeeds in treating them. This claim stands in conflict with the common conviction that animals are either beyond moral consideration, or morally less important. Accordingly, this claim may entail an uncomfortable transformation of our basic practice regarding animals; and we—humans—do not easily welcome such a change, especially if it does not square with our moral convictions.

Helpful examples of the complexities involved in changing moral practices are the civil rights movements, which involved black liberation and women's liberation. The fact that these struggles for equality are far from over illustrates that changes in human morality are often slow and complex.¹³ Similarly, as long as the animal issue is a matter of welfare—in the common meaning of the term—it does not substantially threaten our current practice. This is largely because it is commonly understood that *qua* welfare it is a matter of choice, compassion, and good will. However, moral status is not a matter of compassion or good will. Rather, among other things, it is a matter of principled commitment to certain values.

In other words, in the case of animals, the principle formulated in favour of their moral status could imply that, ideally, we should change our ways. As Narveson puts it in his critique of Regan's (1983) conclusions in favour of animals, such as that vegetarianism is obligatory: "These are radical conclusions; few of us would be unaffected by them, and most

¹² In that sense, women's liberation, black liberation, and the liberation of slaves also revolutionised the world.

¹³ By saying that these struggles are far from over, I refer to both the theoretical aspect (concerning legislation) and the practice. For instance, in regard to women's liberation, it is well known that sexual harassment and the rape of women are commonplace (although social awareness of these issues is on the rise). Here is an example concerning legislation from Jennifer Jones: "In 1878, Susan B. Anthony proposed a right to vote amendment to the Constitution that would grant women full citizenship but it took over forty years for the Nineteenth Amendment to become law" (1998, 99).

of us, indeed, would be in for a terrific alteration in various aspects of our lifestyles" (1987, 31). Thus, the proffered principle regarding animals' moral status encapsulates a form of imperative that does not square with daily life as it stands; such a principle would establish what we *ought* to be doing. By contrast, in the case of humans, the principle in favour of their moral status tells us how things *are*, not so much how they ought to be, thus merely expressing an already implicit imperative. Thus, offering a principle of moral status in the human case does not formulate a new imperative as we already live our lives in accordance with it; it is already embedded in our way of life.

C. How does all this Concern the AMC?

As I argued in the former chapter, the AMC is a counter-intuitive argument. In its negative form, the AMC's conclusion that some humans do not deserve moral status contradicts a basic moral practice. It is counter-intuitive in its positive form as well because it says that some animals deserve moral status. Thus the AMC is a provocative device that challenges the moral conviction of traditional anthropocentric reasoning with regard to both marginal cases and some animals.

However, although the AMC challenges our moral convictions, it does no explanatory work in confronting the background theories that I have pointed out; it is indifferent to the significantly different background theories underlying the moral considerability of both animals and humans, whether these background theories are justified or not. The AMC recognises the main problems as the inconsistency, arbitrariness and artificiality in the counter-arguments. Indeed, these are problems related to anthropocentric moral reasoning, but they are not the main issue at stake. They are only a symptom of the background theories. The AMC's indifference is a consequence of inheriting the problem of anthropocentric moral reasoning, i.e., employing parameters of individual characteristics as the only possible conditions of moral status, and basing moral status on a single foundation. This sort of reasoning, which is insensitive to the background theories—and especially the background theory in the human case—is what enables the AMC to connect the case of 'all

humans' to 'some animals'. Thus, the denial of moral consistency that is created by refuting the AMC's conditional is interpreted as speciesism. This manoeuvre, however, again neutralises the circumstances of our social reality that I have just described.

In the next part, I argue that our background theory concerning the moral status of humans becomes understandable once one brings in a basic element of our social structure, namely, our being bond-forming creatures. Recognising this element shows that animal moral status and human moral status do not necessarily rest on the same foundation. Thus, a denial of the AMC's conditional does not necessarily express speciesism.

IV. Bond-Forming as an Element Underlying Human Society

The AMC is species-neutral because it is based on individual characteristics. Hence, from the perspective of the AMC there is no morally relevant difference between humans and animals. In other words, the AMC is established upon a formal approach that cancels out the relevance of species, and thus relates to beings—both humans and animals—as one big group. This reasoning leads to the conclusion that denying moral status or equal consideration of interests to animals while simultaneously granting it to humans is defined as speciesism. However, at the same time, by embracing this formal approach the AMC cannot see the woods for the trees; it fails to notice the possibility that being a part of the human society makes a significant difference to the attribution of moral status.

Principle (b) states that 'no property or set of properties can make a morally relevant difference between humans and animals that will follow the boundaries of the human species'. I argue that being a part of the human society does make a significant and relevant moral difference that could be partially framed in terms of our bond-forming inclination. The idea is that the bond between humans cannot be measured in terms of individual characteristics (such as self-consciousness, autonomy, rationality and others). Following this line of thought, refuting the AMC's conditional does not necessarily express speciesism.

Here I am taking a similar line of argument to that which I took in previous chapters against traditional moral reasoning concerning the differences between moral agents and

moral patients. I argued that although the issue of moral patience is well-established in the literature, this reasoning either ignores the issue of moral patience, or does not provide a satisfying account in that respect, because it concentrates on moral agency and human paradigms-based conditions. Yet, human paradigms-based conditions are irrelevant to the attribution of moral status in the case of moral patients. Note, however, that a similar problem results from the AMC's emphasis on the connection between the case of 'all humans' and that of 'some animals'. Like anthropocentric reasoning, the AMC takes moral status to be based on a single foundation and concentrates on individual characteristics as conditions for moral considerability. As we saw, the characteristics of an individual—his abilities and disabilities—may be irrelevant for moral considerability. Thus, also like anthropocentric reasoning, the AMC oversimplifies the nature of inquiry into moral status. I argue that the relevant criterion for the moral status of humans is our bond-forming inclination. This bond is one of the foundations of human society, and it explains our background theory with regard to human beings.

I develop my proposal gradually through the following sections of this part. In section A, I begin to develop the idea of humans as bond-forming creatures. In section B, I use the metaphor of the Russian doll to establish the idea of bond-forming as an element that underlies human society. In section C, I support my proposal by replying to a possible objection. In section D, I explain how pets can be seen as part of human society. Based on my proposal, in section E I show that refuting the AMC's conditional does not necessarily signify speciesism.

A. Humans as Bond-Forming Creatures and the Context of Human Society

I argue that being a part of human society has a constitutive part in our lives as human beings, and that it makes a morally relevant difference between humans and animals. The notion of humans as bond-forming creatures underlies human society. This claim is not intended to be exhaustive or to exclude animals from the moral domain, but rather to explain and clarify the reason for which we tend to separate humans from animals when it concerns morality. This

claim is also meant to show that in contrast to the reasoning of the AMC, there is no necessary cut and dried connection between the case of 'all humans' and 'some animals'. Our concern, therefore, is to make sense of my claim concerning the importance of being part of human society to moral considerations, while avoiding a speciesist account. Let us begin, then, to explicate the notion of humans as bond-forming creatures.

Mary Midgley claims that "[t]he special interest which parents feel in their own children is not a prejudice [...]. We are bond-forming creatures, not abstract intellects" (1983, 102).¹⁴ The issue here is that parents have a legitimate preference of their children over other children. Parents love their children more than other children, and this does not entail prejudice against other children. Society does not condemn this behaviour but rather encourages it.¹⁵ Midgley's concern here is with the normative level of preferring one's child over other children. I would like to develop Midgley's statement by arguing that a similar connection to the one at which she points occurs within human society in general, but on a much deeper level. My concern, however, is not with our normative behaviour, but rather with explicating the force that human society has on our lives. In other words, I do not relate to our bond-forming inclination as a normative recipe for moral action, but rather as a notion that explains our basic attitude towards other people. By explaining this, I aim to show that our approach to human moral status is entirely different from our approach to animal moral status. Specifically, I argue that human moral status is not founded on individual abilities such as autonomy, reason and so forth, but on the bond between humans. This will eventually lead us to conclude that refuting the AMC's conditional does not necessarily rest on speciesism.

¹⁴ See also Becker (1983) and Almond (1988).

¹⁵ As Becker claims: "When hard choices have to be made, I am ordinarily expected to rank the interests of my family above those of my friends, friends' above neighbors, neighbors' above acquaintances', and acquaintances' above strangers', and so on. In general, the expected preference ordering follows typical differences in the intimacy, interdependency, and reciprocity in human relationships. Such differences are constitutive of what may be called 'social distance'—an imprecise amalgam of relevant facts about tolerable spatial arrangements, the frequency and nature of permissible social interactions, and roles in social structure" (1983, 89).

In response to Midgley's claim about the natural and emotional preference of one's own species over others, as well as to Fox's claim that natural emotional responses should play a role in moral judgement,¹⁶ Pluhar claims that:

Instead of arguing that "we prefer individual A to individual B because it is right to do so," one is claiming that "our preferring A to B makes it right to do so." Let us now consider this very different kind of attempt to justify speciesism. (1995, 171)

According to Pluhar, the 'natural emotional response' is relevant to moral judgment just as speciesism is. In addition, Pluhar actuality characterises the appeal to emotions as speciesism.¹⁷ She approaches the issue in terms of justification of this preference. It can be replied that the very point here is that we do not ask parents to justify the fact that they love their children more than others, and, more importantly, that *it is unclear here what could be considered a justification of this practice*. To ask for justification for the special treatment that a child gets from his parents is to overlook the crucial point that preferring our children over others is a constitutive part of our nature as human beings.¹⁸ Defining it as an emotional response does not seem satisfactory, but at any rate it should not cause one to underestimate the high significance of this practice, as I shall explain.

In contrast to Pluhar's claim, it is not that 'the preference of A over B makes it right to do so', and not even that 'one prefers A over B because it is right to do so'. It is not so much about what is right or what is wrong, as it is about 'what is'. We saw in part III that in the case of humans we usually take our moral status for granted. Taking our moral status for granted is the reason that many times we do not make a distinction between different kinds of humans while establishing a moral theory. In that sense, assuming that it is right to prefer my child over other people's children, this preference is not subjected to justification in the 'pure' sense of the concept, because it is taken to be self-evident. That is, 'right' is not seen here as the opposite of 'objective wrong'; rather, it stands as a moral valuation in relation to how it works

¹⁶ Midgley (1983, 124); Fox (1986, 60).

¹⁷ Pluhar confuses speciesism and discrimination. I discuss this in part V.

¹⁸ As Wittgenstein claimed: "Justification by experience comes to an end. If it did not it would not be justification" (1953, §485).

in society. That is to say that the normative level is not detached from the descriptive level of 'how things are' in human society.

The case of parents-children is significant because it very clearly highlights the authoritative presence of human society in our lives as well as the bonds between humans that underlie our social reality. I have claimed that parents have a legitimate preference of their children over other children, and that society encourages parents to behave that way. Indeed, in contrast to what Pluhar suggests, the relationships between parents and children do not distil down to simple emotions. Nor can they be described solely as emotions (which may also allude to a relaxation of philosophical restraint). It is a special bond that is not only relevant to this type of relationship, but *helps establishing it as such*. Humans relate to their offspring, even if their offspring is mentally handicapped, in certain ways and on the basis of certain reasons (and emotions) that cannot be fully articulated. These elements become meaningful mostly in the context of human society.

In other words, there are considerable forces underlying our social reality, and they cannot be reduced to individual capacities. We prefer our children over other people's children because it is right to do so, but to a large degree it is right to do so because one is expected by society to behave that way. In contrast to Pluhar's approach, we do not have two separate equations here (namely, 'preferring individual A to individual B because it is right to do so' in contrast to 'preferring individual A to individual B makes it right to do so'). Not to prefer my child over others is wrong in the sense that it is in contrast with a structure of gradual preference in families in particular and in society in general. As we saw in the former chapter, only when a conflict arises is the preference for one's own child not self-evident, and becomes subject to consideration that may result in a decision to favour the other child over one's own.

In a slightly different formulation, what I argue is that 'right' stands here as the opposite of 'wrong' with regard to the existing moral conception in human society. This claim is similar to Nagel's suggestion (that I quoted in chapter five, part VI), that we should aim to find what we can agree upon, given that our motivations are not merely impersonal (1995,

15). Pluhar does not relate to the authority of our social reality, but rather relates to 'right' and 'wrong' as if they are entirely objective.¹⁹ At any rate, my idea is not to replace the statement 'we prefer individual A to individual B because it is right to do so' with the statement that 'our preferring A to B makes it right to do so'. The idea is that to a certain degree we prefer individual A to individual B because it is right to do so, but at the same time it is right to do so also because our preferring A to B makes it right to do so.

Once the power and authority of our social and moral reality is taken into account, it is almost impossible to separate the two equations on purely intellectual grounds. Note that in contrast to Pluhar, I do not approach the issue in terms of justification of this preference, but in terms of a genealogical explanation. First, again, it is entirely unclear what in the case of parents and children could be considered a justification of the sort that Pluhar is seeking. Second, while parents do love their children far more than other children, they are also expected to do so by society. It is a necessary condition for the strength of society (some may go even further by arguing that in its basis this practice is embedded in natural selection).

It does not mean, though, that every practice is taken for granted. For instance, although rape and murder are widespread phenomena in our society, we consider them to be wrong. We cannot detach this normative consideration from the social reality that defines them as wrong. So, although we consider murder and rape as acts that one should not perform because it is wrong to do them, our consideration of murder and rape as acts that one should not perform is what makes them wrong acts to commit. It is significant that the same society in which rape and murder occur everyday as widespread phenomena is able to classify them as evil. It shows that we do not accept every practice as it is, and that we are able to act in order to change some practices. In other words, our society is capable of acting in order to eliminate practices that weaken its strength, while supporting others at the same time.

Pluhar provides a counter-example to Midgley's notion of natural emotional response. She claims as follows:

¹⁹ I do not argue against the legitimacy of such a claim. Yet Pluhar takes this position for granted and does not justify it.

This appeal to *aggregate* emotion [i.e., the attempt to generalise the appeal to emotion] (for oneself as well as for others) also fails [...]. It would be easy to institute rules protecting humans who lose their capacity for full personhood through mishap or age. Similarly, marginal humans whose families care for them could also be protected from exploitation. Congenitally marginal humans who have never been loved be out in the cold. Moreover, societies in which the abnormal are shunned and scorned even by their own families, and in which persons accept the prospect of death should they lose their personhood, would simply not encounter the "side effects" a more compassionate society might experience. Neither self-love nor sentiment can be relied upon to provide the results speciesists desire. (1995, 172)

It is important to note that the appeal to emotions, sentiments, or to special cases for humans does not necessarily stand for speciesism. Pluhar, from the outset, defines such an approach as speciesist. However, as Midgely states, "[a] belief is not a prejudice simply because it indicates a difference" (1983, 101).

Pluhar's counter-examples quoted above are a form of a negative AMC. She tries to show that emotions cannot be generalised, and hence that some humans are not deserving of moral status on these grounds. These AMCs gain their force because Pluhar pursues the idea of single foundation for moral status, a foundation that should be generalisable. Significantly, Midgely does not argue that emotions are the foundation of moral status (although Pluhar interprets her claim as if she does). However, the point here is that even had one argued that emotions to kin or others are the condition for moral status, then only while considering such emotions as the *only condition* for attributing moral status can one claim that the mentally handicapped (or animals, or even orphans and isolated people) "who have never been loved", to use Pluhar's phrasing, be left "out in the cold". The use of a single condition is what enables Pluhar to define this as speciesism.

For my current concern, I would like to focus on animals, leaving aside momentarily the issue of inclusion of marginal cases in the moral domain (to be addressed in section B below). It is possible to refute the conditional of the AMC provided by Pluhar on the basis that humans and animals *do not* always satisfy *the same condition* for moral status. For instance, it is possible that all humans, but not all animals, deserve moral status on a basis X

while animals that do not deserve moral status on this basis may deserve moral status on basis Y. Thus, the possibility that a certain criterion cannot be generalised to all those who supposedly deserve moral status, should not necessarily lead to the conclusion that those who cannot satisfy this certain criterion are not deserving of moral status—and hence that this is a speciesist position. This makes sense only if we do not define moral status as resting on a single foundation.

In any event, it is important to emphasise that my purpose in presenting the notion of bond-forming is not to replace a single foundation for moral status by another. My purpose is to show that the notion of bond-forming can, to a significant extent, separate the human case from the animal case. However, the significance of bond-forming in the human case should not discount other potential criteria for justifying the attribution of moral status to animals.

I now continue to delineate my proposal in more detail, and show that the notion of bond-forming may explain why Rawls and Fox do not separate the case of human moral patients from that of moral agents.

B. The 'Russian Doll Effect'

The human interrelationship can be illustrated using the metaphor of the Russian doll. The Russian doll is a set of puppets of different sizes in which each puppet contains a smaller and almost identical puppet. All these puppets, in a sense, are part of the 'notion' of the Russian doll, but not because they are all made of wood, or because they were all made in Russia. Rather, they are part of the same 'notion' because they relate to each other in a certain way. It does not matter what size the puppets are, and it is irrelevant that certain characteristics of the biggest puppet cannot be found in the smaller puppets. By analogy, a similar type of interrelationship is found within human society. The issue is not that we humans are biologically the same, nor that some of us are less or more competent in terms of individual characteristics, such as rational judgment, autonomy and so forth. My point is that humans are simply interrelated in the same way that the puppets of the Russian doll are interrelated—that is, all humans, together, as a whole, constitute social reality.

Let us be clearer about the idea of humans as bond-forming creatures within society: I relate to bond-forming as a term of art that represents our deep affiliation to our fellow humans. Our bond-forming inclination concerns the shared history of our evolution and our ability to reflect not only on ourselves as individuals, but also on our being part of the human species and part of human society. Our bond-forming inclination also concerns our development into creatures who are able to live according to cultural rules and moral rules. Most animals, and definitely most social animals, have a tendency to associate and to mate with members of their own species. In the human case it is the same. Like non-human animals, we are part of nature and obey its rules, but our ability to live according to cultural and moral rules has the potential of transcending our beastly nature. A crucial point here is that we do not live neutrally and indifferently among people. We are born into human society, grow up in human society, start families with beings of our own species and live our lives within a human culture and within many kinds of social interactions that mostly concern other humans. Naturally, therefore, our social reality constitutes a much deeper affiliation to humans than to animals. This affiliation is a basic situation that comes with being part of human society, and it concerns not only a shared set of biological similarities, but a shared set of social and cultural similarities as well. In contrast to what Pluhar suggests on behalf of her opponents, this affiliation cannot simply be reduced to emotions such as affection or love.

In Section A I demonstrated the authoritative presence of human society in our lives, using the example of children and parents. To continue this discussion, I would like to address the issue of experimentation. Most of us oppose experimenting on human beings—whether they are mentally handicapped or not—at least insofar as it concerns experiments that are similar to animal experimentation in their invasiveness and harm. This is true not only with regard to cosmetics experiments, but also with regard to medical experiments. Because of the biological similarities of humans, experimenting on people should increase the validity of the experiments and to increase the likelihood of finding solutions to many illnesses. Nevertheless, we think very negatively of subjecting people to experiments of the kind that many animals have experienced, even if those people express their consent. I do not argue

that this example shows that experiments on animals and the killing of animals are justified, and I definitely do not aim in this direction. As in the background theories that I described earlier, the purpose of this example is to show the different ways in which we think about humans and about animals. It supports the idea that our inclination is to be far more attuned to people than to animals.

Continuing the metaphor of the Russian doll, the point is that even if one of the puppets of the doll is defective or very different (e.g., a mentally handicapped), it is still part of the Russian doll. Throwing this part away may eliminate the defective or different part, but it will also damage the entirety of the Russian doll, whose parts, by definition, are different from each other. The different puppets of the Russian Doll represent the different kinds of humans. Humans differ from each other in sex, race, age and mental abilities as well. But all humans together establish our society and make our society what it is. In other words, we relate to human society as a whole, and thus one cannot simply exclude marginal cases from the moral community because they are different from most people. The reason for including the mentally handicapped or the senile in the moral community cannot be conditioned by individual abilities, such as those we critically explored in the previous chapters. Therefore, the reason one includes marginal cases in the moral domain and even struggles to include them in a particular moral domain that is defined in terms of moral agency, must exceed individual characteristics. I offered the notion of bond-forming as an element that creates the deep affiliation of humans towards fellow humans, a notion that points at the entirety of society and its Gordian knots, and thus can explain why we include all human in a the same moral domain.

Let me demonstrate the explanatory value of the notion of bond-forming on Fox's and Rawls' accounts.

The idea of bond-forming explains why Fox does not exclude human moral patients from the *central* moral community of rights-holders, although they do not satisfy the condition for full moral status. That is, it explains the reason that underlies Fox's claim that it is impossible, unwise and dangerous to separate people who have full moral status from

people who do not have full moral status (1986, 62). The same goes for Rawls' claim that it would be unwise in practice to withhold justice from marginal cases even though they do not satisfy the conditions of moral personality, and that it would be a great risk for just institutions (1971, 506).²⁰ I do not claim that Fox and Rawls had the following explanation in mind, but rather, as I shall clarify, that this explanation explicates the background theory of their commitment to marginal cases.

In chapter three I examined Rawls' potential reply to my critique. Based on the circumstances of justice, I claimed that Rawls could have argued that human moral patients are included in the social contract because they are part of human society. Rawls agrees with this idea, but his explicit condition of moral personality is based on individual abilities and hence, in itself, cannot bring marginal cases into the scope of the theory of justice. Rawls is clearly aware of this problem in his account and is not interested in excluding marginal cases from his theory of justice. I claimed that in order to compensate for this, Rawls ambiguously diverges from the original condition of moral personality by converting it to a collective condition, adding that it will be unwise to withhold justice from humans who cannot satisfy the condition of moral personality.

Significantly, despite the salient exceptions regarding the inability of marginal cases to fulfil Rawls' condition of moral personality, even as a sufficient condition, he brings forward a perfectly comprehensible idea: all humans are part of human society and not merely as individuals. Moreover, it appears that Rawls' awareness of the cost of excluding certain individuals from the particular scope of *equal justice* is based on the consideration of all humans as part of human society, in that such exclusion would be dangerous not only to just institutions, but to the stability of society as well.

It is worth mentioning that Fox, like Rawls, struggles to include marginal cases in the particular moral domain that is defined in accordance with the human paradigm and is not satisfied in giving them an inferior moral protection. This is why Fox includes human moral

²⁰ For Fox's and Rawls' relevant quotes, see footnote 11 in this chapter.

patients not only in the moral community, but in *the community of rights-holders*. Considering all human beings as part of human society also explains why Kant and Carruthers do not exclude human moral patients from the moral domain, and why they do not distinguish between moral patients and moral agents.

The philosophers I dealt with in chapters three and four do not always have the same aims, but they all include humans who do not satisfy the required conditions in the proposed moral domain while this domain is defined on the basis of a human paradigm. At the same time, the conditions that they offer exclude these humans either from the moral domain in general, or from the particular moral domain that they argue for. We saw that in some cases, the reason for including humans who do not satisfy the required conditions in the moral domain is unexplained, and in other cases the suggested explanation is highly unsatisfying.

In all these cases there must be a reason by virtue of which, as Fox and Rawls claim, it would be unwise and dangerous to exclude certain groups of humans from the moral community. There must be something that qualifies those humans to be members of the moral community, something beyond the individual abilities by which all these philosophers include humans who do not satisfy the required condition in the proffered moral domain, although it is defined in terms of moral agency. The notion of bond-forming explains this situation, but without the need to manipulate the suggested condition. Namely, the notion of bond-forming explains why Rawls sees human moral patients as entitled to equal justice and explains why Fox sees them as rights-holders. Fox's and Rawls' commitment to marginal cases indicates their approach to human beings as part of a whole and not merely as individuals²¹ (this may sound trivial in the case of Rawls, but recall that the condition he suggested, the condition of moral personality, is based on individual characteristics). Excluding certain groups of humans from the moral domain of most humans would weaken the fabric of society. Similar to what I

²¹ In that sense, as Warnock claims in his discussion on naturalism in ethics, some facts of human life are definitely relevant to moral evaluation (1967, 68). Accordingly, some of our moral practices such as being more attuned to humans than to non-humans is not necessarily speciesism, but is concerned with our very nature as *individuals within society*.

argued earlier, this is not only a risk to just institution, but a risk to the very existence of society. This is why it would be dangerous and unwise.

We saw that the notion of bond-forming has great explanatory value for our background theory concerning humans' moral status in general and human moral patients in particular. Nonetheless, one may argue that what I have proposed until now in regard to our bond-forming inclination points to a sort of a *social instinct* of commitment.²² But even if there is a *natural* commitment between humans, then it still does not mean that we cannot change our moral practices, or that we are enslaved to the societal *status quo*, because the practices are allegedly biologically-based. In this case it is significant that society manages to change its practices, and classifies practices in terms of right and wrong. As I have illustrated using the example of rape and murder, practice does not necessarily justify moral theory. I claimed that we consider rape and murder to be wrong, and that we cannot detach this consideration from our social reality that defines them as wrong. The crucial point here is that these unfortunate practices destabilise our social order and undermine the Gordian knots of our society.

C. An Objection and a Reply

We have a strong commitment and connection to our families and friends. But do we really have any commitment to someone in the other side of the world who is not part of our society or our culture? Does the metaphor of the Russian doll, which is supposed to demonstrate how people are interrelated and the notion of bond-forming, apply to such cases?

The objection, thus, is that the notion of bond-forming cannot bear the weight of relationships between humans. The objector may agree that our bond-forming inclination plays a major role in the relationships between parents and children as well as within other kinds of relationships. But at the same time the objector would argue that our connection with people who are beyond our immediate social and cultural circles of family, friends and even

²² Post (1993, 295-296), for instance, claims that species loyalty is anchored in human evolution, which in turn is shaped by natural selection.

our nation and religion, is very loose. Thus, he would claim that it is doubtful whether one can be justified in describing our relationships with those people in terms of our bond-forming inclination.

Indeed, the case of parents and children is different from other kinds of connections between people, and it is also true that commonly we care more for our families and friends than for others. In general, the more one steps out of one's local social circles, the less one feels committed to others beyond those circles.²³ It also seems that in our daily lives most of us, in that way or another, are indifferent to what happens or will happen to other people around the world. Usually, most of us will develop a deep concern to such 'others' only when an exceptional event takes place. For instance, most of us have become aware of the destitute life of Iraqis only in the wake of the second Gulf war.

Nonetheless, as I shall explain, these tendencies of human concern are versions of our bond-forming inclination. Recalling the background theory in the human case, our main concern is whether we consider 'others' (like the people of Iraq, for instance) to have moral status, whether we experience a profound affiliation towards people around the world and see them as part of a whole to which we all belong. As I have already argued with respect to Pluhar's contention, I do not refer to the element of bond-forming as representing emotions such as love and affection, although these emotions are important for their own sake and clearly play a significant role in the interrelationships between parents and children. My main concern lies with our pre-conceptions regarding other humans—pre-conceptions that point at a bond between humans, a bond that usually does not take place in our relationships with animals. Most of us do sympathise with the Iraqi people who have miserable lives. Many people in the West (and clearly the vast majority) who sympathise with the people of Iraq are not part of the Iraqi society in terms of family, culture, nationality or religion, and clearly in

²³ Or as Hume puts it: "Sympathy, we shall allow, is much fainter than our concern for ourselves, and sympathy with persons remote from us much fainter than that with persons near and contiguous [...]" (1751, 229).

most cases they do not even know them. The same goes for the profound sympathy and affiliation that we share towards the tsunami victims in the Far East.

These types of affiliations between humans stand in contrast to the animal case. Daily controversies and/or disasters that concern animals usually only re-open the question of whether animals deserve moral consideration. However, at the same time, we consider the people of Iraq and the tsunami victims, whom we usually do not know, as deserving moral status. In the human case we clearly face disputes with regard to the normative level. For instance, we may wonder whether it is our job (for instance, as people from other countries) to help the people of Iraq or the tsunami victims. Nonetheless, in contrast to the animal case, we have no doubt that it is someone's job to help them: there is a solid agreement that those people have moral status, and the disputes usually concern 'how we or others should act, given that they have moral status'.

Nagel claims that "[e]ach of us begins with a set of concerns, desires, and interests of his own, and each of us can recognize that the same is true of others. We can then remove ourselves in thought from our particular position in the world and think simply of all those people, without singling out as *I* the one we happen to be" (1995, 10). Nagel's concern here is with the possibility of impersonality in ethical theory, and this explicates our ability to sympathise with other people. The ability to be impersonal has a significant role in enabling us to identify with other people, *especially with people whom we do not know* and even with our enemies. If our identification with others were based only on the personal standpoint, then we would have identified only with people we know and to whom we are closely related. The ability to be impersonal makes it possible for us to see things from the perspective of other people by shifting ourselves from the centre of the issue. That is to say that in order to sympathise with other people, we do not necessarily need to employ a personal standpoint.

In other words, my reply to the objection is that *de facto* people are attuned to problems of other people—including nations—even if they represent the perfect 'other'. It is true that we feel less committed towards those who are not included in our social circles, but at the same time we do share a profound affiliation with them.

The objection that we have dealt with is a version of Pluhar's contention. Pluhar interprets the bond between humans as an emotion, and accordingly expresses the worry that people such as the lone mentally handicapped who have never been loved would not be endowed with moral status. In doing so she ties the attribution of moral status with the personal standpoint. However, again, our bond forming inclination should not be understood as an emotion such as love or affection (although these emotions have a significant role in motivating one for action). Indeed, my example concerning the bond between parents and children is very different from other types of bonds between humans, but it should be understood as a salient case of our bond-forming inclination, and for that reason I chose it as a main example. Recalling my account on the authority of human society and our bond-forming inclination that constitutes its strength, the foundation of the relationships between parents and children cannot be reduced to love. This, of course, is not meant to deny the special emotions that take place between parents and children, that are connected with the personal standpoint, but these special emotions are not proposed here as conditions for moral status.

As we saw in the preceding chapter, the personal standpoint has a significant impact on our lives and cannot be easily dismissed. Conflicts in this matter will never disappear. At any rate, our ability to sympathise with other people whom we do not know undermines Pluhar's claim that nobody will take care of the lone mentally handicapped. In this respect it is important to emphasise that the notion of bond-forming should not be understood as an individually applied criterion of moral status. Relevant to our case is not 'who loves this baby', or 'who cares for this mentally handicapped baby', but rather, the affiliation between humans, which is an element that takes part in establishing us as a human society. As I have argued earlier, this affiliation that represents our bonds with other humans, is not based on the personal standpoint, but rather on the impersonal standpoint.

The unique human tendency to care even for unrelated humans may also be demonstrated with the example of orphans. A female cat will not take care of stray kittens, but people do take care of orphans. Cases of 'adoption' in the animal kingdom are the exceptions on which one reports as an anecdote, whereas in human society helping orphans is

a matter of routine. The relevant issue here is whether we relate to orphans as morally considerable beings, and the fact is that we do. This routine is not established only upon love and affection, or only upon acquaintance with orphans, but mainly by our sense of commitment to creatures *like us*. In other words, in contrast to non-human animals, we find that human society usually takes care of individuals who were left alone.²⁴ This is one form of humans as bond-forming creatures. Thus, Pluhar's example concerning individuals who have never been loved fits mostly with the animal kingdom, but usually not with human society. In human society, such individuals have very good chances of survival. The same goes for marginal cases. In contrast, an abnormal animal usually will not survive, because the mother, or the group, ignores it.

The element of bond-forming separates the human case from the animal case to a large degree. In most cases, animals are not part of our social reality in a way that would be relevant to the notion of bond-forming. Thus, bond-forming is generally irrelevant as a criterion for moral status to animals, although, as we shall see in section D, it is fairly relevant in the case of pets. Indeed, the case of pets supports my argument because many humans relate to pets as an integral part of our social reality. It is highly significant that the pressing moral problems in regard to animals usually do not concern pets, but have mostly to do with wild animals, animals in farm factories, and animals that are being raised or captured for experiments. Problems such as killing animals for food, or harming and killing them during experiments, usually do not apply to pets.

In section D, I elaborate on my claim that pets can be seen as part of human society.

D. The Case of Pets and Bond-Forming

Allegedly, the possibility of seeing pets as part of human society weakens my claim for a separation between humans and animals. However, as I mentioned earlier, the main problems of animal ethics do not concern pets. I argued that one often relates to marginal cases as the

²⁴ Some may claim that we do not help orphans enough, but this issue is irrelevant to our concern, because we do not deal with the extent to which our norms are applied successfully.

'remainder' of a principle that supposedly represents the core of morality. I also argued that this does not entail any pressing practical consequences for marginal cases. Like marginal cases, even if we relate to pets as a 'remainder' of the moral theory in use, by and large it will not affect their situation. As with the marginal cases, for all intents and purposes, pets are considered moral patients. For instance, people spend a huge amount of money on their pets' needs, they do not consume pets, and are against using pets in research laboratories. Moreover, most people would condemn pet abuse. A lot fewer, though, would condemn animal abuse of non-pets at the research laboratories. Again, exceptions may apply, but this is not an exact science. At any rate, this definitely does not mean that animal experimentation is justified. My aim is to show that our background theory regarding humans is also true regarding pets. Indeed, in that sense, the case of pets validates my theory with regard to the importance of being part of human society: in the relevant sense we do consider pets as part of our society, and that is the reason that we treat them so differently from other animals. The main moral problems, such as cruel experiments that cause pain, irreversible physical damage or death, hunting for sport and trade, or exclusion from the natural habitat, do not concern pets, but rather concern animals in factory farms, in research laboratories, and in the wild.

At this stage, it is apparent that the case of pets does not harm my argument, but in fact makes it stronger. The separation of the human case from the animal case is a general one, but it is not a mere formality. The reason for the separation is that we have different relationships with animals and people on the basis of different background theories—theories that affect our lives. In the case of humans, the background theory highlights the importance of society in our lives. Earlier I argued that via my identification of the background theories, I explain why we include marginal cases in the moral domain. The same applies in the case of pets, since the inclusion of pets in our social reality is loyal to our background theory in their case. In that sense, my explanation is appropriate to the ways we think about pets. Since we see pets as part of our social reality, then the relevant criterion for moral status in their case is bond-forming, as I shall explain.

As we saw in chapter four, my view is that granting moral status to animals in general, not only to pets, is of extra importance in order to secure their well-being. For that reason, the criteria for their moral status should be relevant to their case. I disputed the idea of a single condition as a sole foundation for moral status in the preceding chapters, arguing, among other things, that this idea does not enable us to approach the foundation of moral status in terms of relevance, namely in a way that is far more related to our social reality. Treating the criteria of moral status in terms of *relevance* is meant to replace the approach to moral status in terms of *unity* (namely, the notion that there is a single foundation for moral considerability, based on set of fixed individual characteristics, that is allegedly applicable to all possible cases). By 'relevance' I refer to the extent to which the criteria used in attributing moral status fits our social reality. The criterion of bond-forming is relevant mostly to the human case, but it is irrelevant to most animals. However, sentience and being a subject-of-a-life are very relevant criteria for the case of most animals. In the frame of my proposal, these kinds of criteria can be applied only to the relevant animals, i.e., animals that have the ability to feel pain and that are not pets.²⁵

Seeing bond-forming as the relevant criterion in the human case does not mean that one does not consider whether an action will cause another human to be in pain. Yet the issue here is what establishes one as a moral entity. Indeed, in the human case, or in the case where the criterion of bond-forming applies, sentience might condition a certain moral behaviour, *but in a context that from the outset grants moral status to humans on the basis of bond-forming*. The core idea here is that once we draw on additional criteria, we should no longer have to force a criterion for moral status where it appears to be irrelevant. The separation

²⁵ It is possible, however, that as a consequence of social change, some animals, aside from pets, such as apes, will be part of our social reality in a way similar to humans. As a matter of fact, there is a growing movement that aims to increase people's awareness about apes. At the beginning of "The Great Ape Project", edited by Paola Cavalieri and Peter Singer, the editors provide a declaration on great apes, as follows: "We demand the extension of the community of equals to include all great apes: human beings, chimpanzees, gorillas and orang-utans. 'The community of equals' is the moral community within which we accept certain basic moral principles or rights as governing our relations with each other and enforceable at law" (1993, 4).

between humans and animals that are not pets seems to complicate the conditions of moral status. However, providing simple theories does not guarantee their successful application.²⁶

In section E, I reconnect my account concerning bond-forming to my contention that refuting the AMC's conditional does not necessarily entail speciesism.

E. The Outcome of Refuting the AMC's Conditional

After presenting the notions of bond-forming and being part of human society, lets us re-examine the rationale of the AMC.

On the basis of his moral individualism thesis,²⁷ Rachels claims as follows:

[O]ur treatment of individual creatures, human or non-human, should be adjusted to fit the *actual characteristics* of those creatures. A being's specific characteristics, and not simply its species membership, will then be seen as providing the basis for judgments about how it should be treated. (1990, 175. My italics)

Rachels provides us with a claim that is based on principle (b), the principle which stands at the centre of this chapter.²⁸ This principle usually concerns biological traits in relation to individuals. The difference between Rachels' position—a position that represents the reasoning that underlies the AMC—and my proposal, is that by 'actual characteristics' of humans I also take into account the human society to which they belong (but not simply their

²⁶ Singer takes sentience to be the criterion for demarcating the realm of equal consideration of interests. The application of the principle of equality is proportional to the creatures' needs (1990, 7-8). Practically, however, Singer draws on extra criteria—higher-order criteria—for determining levels of consideration of interests or moral concern (and sometimes animals can be at higher levels than humans, especially when it concerns marginal cases). Yet sometimes these other criteria prevail over the criterion of sentience, especially in Singer's utilitarian approach. Thus, although an animal belongs in the moral domain, or the domain of equal consideration of interest, it may not benefit from this, because the interests of humans may prevail. For instance, consider animal experimentation whose aim is to find a cure for AIDS. Even if one experiments on animals in a painless way, one cannot guarantee that the consequence of the experiment will not be painful or terminal. Some developed this line of argument against Singer's utilitarian approach (for instance, Regan 1980 and 1983), but I am concerned with a different issue. Singer's appeal to sentience aims to simplify the issue of moral status in general and the issue of animals' moral status in particular. But practically, he does not manage to simplify the issues, because higher-order criteria are involved. Thus, if things are complicated anyway, and if the criterion of sentience can be superceded by other criteria, then there is no real barrier for Singer, not even his utilitarianism, to draw on other criteria at the stage that precedes classification to levels of moral concern (here I am referring to the basis of moral status).

²⁷ Rachels (1990, 173-175).

²⁸ Principle (b): No property or set of properties can make a morally relevant difference between humans and animals that would follow the boundaries of the human species. Singer and Regan, as we saw earlier, provide a similar line of argument concerning individual characteristics.

species). The element of society, which is the context in which humans live their lives, introduces a trait that cannot be easily reduced, if at all, to biology. It also cannot be reduced to individual traits. This element, I argued, makes a morally relevant difference between humans and animals, and usually separates the case of humans from the animal case as much as it concerns the foundations of moral status.

Recall that a denial of the AMC's conclusion—both the negative and the positive—entails a refutation of the AMC's conditional. In both cases, therefore, one maintains that it is possible to attribute moral status to 'all humans' but still not to attribute moral status to 'some animals'. The idea is that in order to present this position within a non-speciesist framework, one must show that principle (b) is not always justified, i.e., that there is a morally relevant difference between humans and some animals. However, in contrast to principle (b), we saw that there is a morally relevant difference between humans and most animals. Being part of human society makes a morally relevant difference between humans and animals and this difference can be framed in terms of our bond-forming inclination. Thus, since usually the human case and the animal case are based on different foundations, then refuting the AMC's conditional does not necessarily signify speciesism. Again, the notion of bond-forming is not based on individual characteristics and cannot be measured in terms of individual characteristics, but the AMC is insensitive to this. The AMC is also indifferent to the idea that there could be different foundations for humans' and animals' moral status. As I argued earlier, this manoeuvre undermines the very idea of the AMC's conditional.

Now, if pets are part of human society, then the only case where refuting the conditional would signify speciesism is when 'some animals' stands for pets. In all other cases, refuting the conditional would mean that 'some animals' do not deserve moral status on the particular basis that 'all humans' deserve moral status. Principle (c) states that like cases should be treated alike. Indeed, if one establishes animals' moral status on a different foundation than humans' moral status, then both 'all humans' and 'some animals' deserve moral status, and therefore should be treated alike (in the relevant sense, namely, in proportion to their needs and interests). In other words, operating with this rationale, one can

hold principle (c), while denying principle (b), that 'no property or set of properties can make a morally relevant difference between humans and animals that will follow the boundaries of the human species', and still not maintain a speciesist position.

In section D, I claimed that the main moral problems regarding animals, such as cruel experimentation and hunting, usually do not apply to pets, but to other animals. Accordingly, the AMC's proponent is supposed to be mainly concerned with securing moral status for animals who are not pets. On the basis of the positive AMC he aims to provide a broad basis that includes both humans and animals. Nonetheless, we saw that once the idea of a broad basis for moral status is removed, then refuting the AMC's conditional entails a speciesist view only with regard to pets, and thus this argument misses its main target.

In contrast to Kant, Rawls, and Fox, I have not suggested the notion of bond-forming as a collective condition, i.e., as a condition that compensates for incompetence of some individuals in relation to a proffered condition of moral status. The notion of bond-forming explains why we relate to all humans, not only moral agents, as morally considerable. At the same time I claimed that pets can be seen as members of our social reality. Thus, I did not aim to create an absolute separation between humans and animals. At any rate, from a claim to a strong commitment between humans, and from the idea that usually we do not experience to animals the same commitment that we do to humans, it cannot be derived that animals do not deserve moral status. First, other criteria aside from bond-forming are available for the animal case. Second, it is possible to relate to pets as part of our society. Finally, it is a fact that society manages to change its practices with regard to animals in order to improve their well-being.

Some may consider my separating the animal case from the human case to be speciesism, especially since I criticised the AMC that aims to connect these cases. Accordingly, my aim in the next part is to explain how my position cannot be described as speciesist, and does not create a bias against animals or humans.

V. Speciesism and Discrimination

The view that I described here concerning the separation between humans and animals does not represent speciesism, although it is discriminatory to a certain extent. Discrimination in itself, however, is not necessarily a prejudice, or else affirmative action would be considered prejudice.²⁹

Singer defines speciesism as "a prejudice or attitude of bias in favor of the interests of members of one's own species and against those of members of other species" (1990, 6). Rachels distinguishes between several types of speciesism.³⁰ He characterises radical speciesism as the view that every human interest prevails over that of animals. Mild speciesism states that when comparing trivial interests of humans to a substantial interest of animals, the latter may prevail. Rachels also describes two other possible speciesist approaches: unqualified speciesism and qualified speciesism. Unqualified speciesism, which constitutes a possible logical basis of radical speciesism, is the view that membership in a certain species is alone sufficient to grant one certain treatment. In this case, moral significance lies in the species alone. Qualified speciesism is the view that human interests are more important than animal interests because the latter lack some morally relevant characteristics.

Although my account does not square with any of these definitions, rather than attempt to answer specifically to each definition of speciesism, I will show that my overall thesis cannot be classified as speciesism. First and foremost, my primary aim was not about the normative level. Rather, I focused on different foundations for moral status and, as a result of my attempt to refute the AMC's conditional without speciesism, I focused mainly on the foundation of human moral status. Moreover, I argued that my proposal for different foundations for moral status results in the idea that all humans and the relevant animals are entitled to moral status. Thus, I did not argue that animals do not deserve moral status, but

²⁹ Affirmative action aims to compensate for injustice that is usually based on prejudice. It is an act that intends to eliminate injustice by the redistribution of resources. This act might be unjust in the narrow sense, but it aims to prevent injustice in the broader sense.

³⁰ Rachels (1990, 181-194). Pluhar (1995, 173) makes partial use of Rachels' distinction.

rather accepted Rawls' and Fox's claim that animals deserve moral status. Second, I did not argue that humans deserve moral status only because they are part of the human species. Nonetheless, I did argue that their being part of human society is of much relevance to the basis upon which humans deserve moral status, and I offered an explanation that underlies this claim: I argued that because humans are part of human society, the criterion of bond-forming is available mainly to them. Finally, I argued that the criterion of bond-forming is also relevant to pets, even though pets are not part of the human species. This also shows that my separation between the human case and the animal case is not speciesist.

Let us clarify the distinction between speciesism and discrimination recalling Pluhar's characterisation of speciesism. Here is the quote by Pluhar again:

Instead of arguing that "we prefer individual A to individual B because it is right to do so," one is claiming that "our preferring A to B makes it right to do so." Let us now consider this very different kind of attempt to justify speciesism. (1995, 171)

Pluhar's confuses discrimination and speciesism, and this confusion is a consequence of her raw conception of speciesism. According to this conception, it seems that every preference for humans over animals is classified as speciesism. But surely one can justify some preferences, and this is what I tried to do.³¹

Speciesism is a far more delicate and complicated concept than what Pluhar, Rachels and the rationale of the AMC take it to be. Ultimately, even pro-animal philosophers claim that in many circumstances, human interests prevail over the interests of animals. For instance, all things being equal, if one must choose between the death of an animal—even a pet—and the death of a human, it is very likely that the human interest to stay alive will prevail. This is discrimination. Yet under certain circumstances this discrimination can be justified on the basis that human life is more valuable than animal life.³² Note, however, that

³¹ Basically, this is also what Midgley tries to do when referring to natural emotional preference. If I am correct then, at worst, Pluhar may claim that Midgley's sort of justification is unsuccessful, but not speciesist.

³² Singer agrees with this: "[A] rejection of speciesism does not imply that all lives are of equal worth. While self-awareness, the capacity to think ahead and have hopes and aspirations for the future, the

in this latter claim I do not suggest that animal experiments are justified in order to avoid human death or suffering. My claim should be understood in the context that exceeds the animal's specific level of moral status, as I shall explain.

Regarding human entitlements versus animal entitlements and which one prevails, I attempted to provide a solution that would not render animal moral status meaningless. Therefore, in chapter four, I claimed that substantiating animals' moral status means that humans have direct duties towards animals, i.e., duties that are directed to the animals themselves. Human needs and interests may prevail over animal needs and interests under certain circumstances, but not as a routine practice that lacks restrictions. This is because if we are to relate to animals as moral patients, then some of their entitlements concerning their basic needs and interests must be secured to a certain extent. All things being equal, with regard to this secured realm of needs and interests, human needs and interests should not prevail over the needs and interests of animals.³³ This is the sense in which one substantiates the recognition of animals as having a moral status.

Here we should recall that Fox and Rawls do consider animals as deserving moral status, even if minimal or different from that of humans. Nonetheless, their accounts create an *inherent* bias against animals. In the case of Rawls we saw that, on the one hand, even if people are asked to take animal welfare into consideration in the original position, their interest for doing so is entirely unclear. On the other hand, taking animals' interests into account at a later stage means that the animal case would be subjugated to existing and protected human interests. Moreover, in that latter stage people are still self-interested, and hence even if they would have an interest to provide some protection to animals, then it is hard to imagine how it will be carried out towards animals in an unbiased manner. All this relies on Rawls' claim that animals do not satisfy the conditions for moral personality. The

capacity for meaningful relations with others and so on are not relevant to the question of inflicting pain—since pain is pain, the being may have—these capacities are relevant to the question of taking life. It is not arbitrary to hold that the life of a self-aware being, capable of abstract thought, of planning for the future, of complex acts of communication, and so on, is more valuable than the life of a being without these capacities" (1990, 20).

³³ The same is true with regard to relationships between humans. I discuss this issue in due course.

subjugation of animals to human needs and interests means that the protection that one can accord animals is very limited from the outset. The bias in the case of Fox is more salient. We saw that Fox claims that although animals' ability to suffer makes them morally considerable, they do not have a moral status equal to human beings (1986, 70). Accordingly, in many cases, human needs and interests would prevail over animal needs and interests.³⁴ Thus, Rawls and Fox consider it legitimate and justifiable that human interests prevail over animal interests. The main problem, as we saw at chapter four, is that humans seem to be under no serious obligation to secure animals' well-being, which is bound by human needs and interests.

The problem of the circumstances under which it is legitimate to favour human interests over animal interests occurs in Singer's account as well. Singer claims that we should give equal consideration to the suffering of all creatures capable of suffering. In that sense, his principle is unbiased and impartial because it considers all moral beings in an equal way. This is the formal aspect of Singer's principle. But equal consideration of interests does not entail equal treatment, because different creatures clearly have different needs and interests. Thus, Singer claims that the principle should be applied proportionally, i.e., in accordance with the needs and interests of each creature—whether human or animal. I do not wish to dispute this, but, as I have already mentioned, aside from the ability to feel pain, there are other considerations to be taken into account. For instance, Singer claims the following:

The evil of pain is, in itself, unaffected by other characteristics of the being who feels the pain; the value of life is affected by these other characteristics. To give just one reason for this difference, to take the life of a being who has been hoping, planning, and working for some future goal is to deprive that being of the fulfillment of all those efforts; to take the life of a being with a mental capacity below the level needed to grasp that one is a being with a future—much less make plans for the future—cannot involve this particular kind of loss. Normally this will mean that if we have to choose between the life of a human being and the life of another animal we should choose to save the life of the human; but there may be special

³⁴ Allegedly, Kant avoids bias towards animals since from the outset he does not view animals as moral entities. We saw, however, that he applies the condition he offers for moral concern in a problematic manner.

cases in which the reverse holds true, because the human being in question does not have the capacities of a normal human being. (2002, 20-21)

Indeed, the characteristics that Singer mentions may not affect the evil of pain in itself, but they do appear to influence the experience of pain, and to create more suffering (both in humans and the relevant animals). Under the relevant circumstances, fear of pain is a great evil, as is as the trauma that one may suffer as a result of pain (for instance, people who expect to be in pain suffer more than people who do not expect to be in pain). The same goes for the mental experience that for some people accompanies pain. Accordingly, following Singer's claim in the last paragraph above, it appears that if we have to choose between inflicting pain on a human being and inflicting pain on an animal, we should choose to inflict pain on the latter. It means that although animals deserve equal consideration of interests, they still may not benefit from this since human interests may prevail. Singer's utilitarian approach does not prevent this possibility.

Singer's account is by all means highly friendly to animals and it is hard to exaggerate his contribution to the animal debate. Moreover, his account is clearly far more friendly to animals than Rawls' and Fox's accounts. Still, especially since Singer's account is utilitarian, it is unclear under what circumstances we may inflict pain on animals. It is also unclear under what circumstances we should prefer human interests over animal interests. This is a problem not only for Singer, but for any account that aims to re-slice the cake rather than leaving it all for human beings; indeed, a moral theory based on my proposal will be no different.

However, I have not offered a moral theory here, but rather examined potential foundations for being morally considerable. I proposed a general structure for a moral theory that attempts to grant minimal protection to animals as well as humans. Regarding the issue of human needs and interests versus animal needs and interests and which one prevails, my attempt was to provide a better solution that would continue neither anthropocentric reasoning on the one hand, nor the reasoning of the AMC on the other. According to my suggestion in chapter four, we should aim to define certain entitlements as secured and closed

units—entitlements that are basic to the being, whether human or animal—and that under normal circumstances must not be violated. The idea, to recap, is that seeing moral status as a unit of security and protection means that, all things being equal, this secured realm should be protected. Developing this idea to a comprehensive moral theory may entail that not all morally considerable beings will have equal moral status, but if we consider moral status as the scope of one's high priority entitlements (based on defining these entitlements as minimal standards), then this scope must be protected.

For instance, consider the entitlement to be inflicted with unnecessary pain. As I argued in chapter four, in order to substantiate this entitlement regarding animals one must define the duty not to inflict unnecessary pain upon animals as a direct duty. As such, this duty would be based on animals' ability to feel pain and would be defined in relation to animal needs and interests, and, thus, we must not manipulate this duty. Manipulating this duty on the basis of human needs and interests will violate animals' moral status. In other words, defining moral status in the way that I proposed prevents the possibility of frustrating animals' moral status on the basis of human needs and interests, and thus avoids biases against animals.

Therefore, in contrast to Rawls and Fox, my account clearly restricts cases of well-reasoned preference in favour of humans to entitlements that are not part of the secured realm. Although Fox and Rawls consider animals as deserving moral status, their accounts do not substantiate this consideration. Accordingly, from the perspective of their accounts, it is entirely unclear how animals can potentially be protected, even in a minimal sense. Granting moral status to a creature, even if it is only minimal status, means that its basic needs and interests in the relevant aspects should be protected.

My approach is meant to protect animals in a way that Singer's account cannot, because my account aims to formulate minimal thresholds that will secure animals' basic needs and interests. Since we formulate types of moral statuses as minimal standards, then those standards are of high priority. Accordingly, these minimal standards should not be frustrated on a regular basis. In the frame of this proposal, the needs or interests of a

creature—be it human or animal—that exceed the secured realm can be frustrated relative to other human or animal needs or interests. It is in these circumstances that it is most likely that some human needs and interests would prevail over those of animals. This proposal can be justified on the basis that humans have characteristics that affects their lives in ways that are not available to animals. These characteristics establish the complexity of human mental life. When there is a confrontation between human entitlements that are part of their secured realm and animal entitlements in their secured realm—which is provided by their specific moral status—only then will one face a conflict that will have to be solved in our moral practice.

Formulating minimal thresholds is also meant to prevent biases of partiality, such as in cases where relational value is involved. All things being equal, when someone's basic entitlements are at stake, considerations of relational value should not prevail. This is the sense in which formulating minimal thresholds represents the impartial viewpoint. However, when there is a conflict between the secured realm of Smith's daughter and the secured realm of another's child, then indeed, Smith might face a very hard decision. Nagel, as we saw at the previous chapter, claimed that "[i]n the case of the single life jacket, there is no reasonable solution, and neither parent is unreasonable to try to grab it for his child as against the other" (1995, 172). Now, one may even think about more complicated scenarios in which the reasonable decision for the parent is less obvious. These kinds of problems and conflicts, however, are part of every moral theory. A moral theory cannot solve all the problems and conflicts in this matter, but may reduce them. The important thing here is that formulating minimal thresholds is supposed to prevent a bias in favour of humans or animals in the secured realm. Bias in conflicts such as the one described above may occur, but such bias might be justified, depending on the context of the situation.

It is clear by now that the claim that some interests prevail over others is not limited to conflicts between the species. Under certain unfortunate circumstances, when we would have to choose between the lives of a normal human and a mentally handicapped human, we would probably choose the former. This discriminatory act, however, is not an act of prejudice against the mentally handicapped. Again, the point is that in this case, we would

take into account the complex mental life of the normal human and the greater value of her life in relation to the life of the mentally handicapped. At the same time, such a choice would definitely not make us feel content; it would just be the lesser evil.

The claim that in many cases human interests prevail over animal interests—because humans have abilities that give their lives greater value—is a legitimate way to explain the preference of their interests over that of animals. It would have been a speciesist claim had I argued that human life is more valuable simply because it is human. This explanation, therefore, does not express speciesism. However, this explanation does express speciesism according to Rachels' (and Pluhar's) notion of qualified speciesism: namely, the view that human interests are more important than animal's interests because the latter lack certain morally relevant characteristics. The problem with this view is that it conveys the idea that the complexity of human mental life and human society is irrelevant to moral considerability. The only thing relevant to moral considerability, in this view, is the similarity concerning individual characteristics between humans and animals. It is according to this line of thought (that I rejected) that discrimination in favour of humans, on the basis of the moral characteristics that animals lack, is defined as (qualified) speciesism. In any case, note that the conception that Rachels entitled 'qualified speciesism' leaves room for animals' interests to prevail over the interests of marginal cases, which may lack the morally relevant characteristics. Therefore, this view cannot be a speciesist view.

Finally, in contrast to Singer's conception of speciesism, which is broad enough to stand independently, the conceptions of qualified and mild speciesism described by Rachels should not be labelled speciesist before they are located in the context of moral theory. As I suggested earlier, a moral theory can set secure thresholds for every grade of moral status in order to protect the basic needs and interests—of both animals and humans. This means that the question of whether and when human needs and interests or animal needs and interest should prevail is relevant only beyond this secure threshold.

To sum up, I have not argued that human needs and interests always prevail over animal needs and interests, nor that what we owe to animals should be carried out within the constraints of human needs and interests. The claim that the criterion of bond-forming cannot be applied to most animals, and that most animals deserve moral status on a different ground, does not mean that our commitment to human beings should prevail over our commitment to animals. The aim of separating the animal case from the human case (although this separation is not absolute) has been to depart from anthropocentric reasoning and to create a theoretical structure that is related to our social reality, in which the concept of moral status does not rely on a single foundation, consisting of individual characteristics. Accordingly, my dispute with Singer is not about the proportional distribution of needs and interests (and recall that I did not attempt to refute principle (c)—like cases should be treated alike). Rather, my dispute with Singer as well as with the other philosophers that I have discussed concerns the idea that there is a common denominator, based on individual characteristics, that is shared by all those who deserve moral status. This dispute is in line with the main debate discussed throughout this dissertation, which is between anthropocentric reasoning and the AMC supporters on the one hand, and my non-anthropocentric account on the other hand, concerning the relevant foundation of moral status.³⁵

VI. Conclusion

The primary aim of this chapter has been to demonstrate that the AMC's conditional, which entails that a denial of moral status to animal must be defined as speciesism, is not necessarily true. We saw that this conditional is a consequence of the AMC's rationale, namely, of the connection that it emphasises between 'all humans' and 'some animals', based on the notion of a single foundation for moral status. The emphasis on the similarity aims to show that 'all humans' and 'some animals' are like cases and hence should be treated alike. The AMC definitely challenges the anthropocentric moral reasoning by undermining the (implicit)

³⁵ And indeed, note that I have not argued against Regan's deontological approach, but was concerned with the condition that he offered for moral status.

distribution of moral status according to species—based on the paradigm case of humans—as a result of relating to the similarities concerning individual characteristics between humans and animals. In a profound sense, however, the AMC throws the baby out with the bath water by failing to address the importance of society in the lives of human beings.

In accordance with my purpose to abandon anthropocentric reasoning for a more complex system, I proposed that moral status can be seen as having more than a single foundation. I argued that the connection between 'all humans' and 'some animals' is not necessarily justified, because there is a morally relevant difference between humans and most animals that cannot be captured by principle (b). The morally relevant difference is our being part of human society, which can be framed in terms of our bond-forming inclination. At the same time, I accepted Rawls' and Fox claim that animals deserve moral status, but I claimed that in most cases the criterion of bond-forming is irrelevant to the animal case. Thus, in most cases humans' moral status and animals' moral status are grounded in different foundations. Arguing for more than a single foundation to moral status undermines the idea of the AMC's conditional, and hence the charge of speciesism in such cases is unjustified. Seeing humans as deserving moral status but on a different foundation than that of most animals, means that in spite of the morally relevant difference, their case and the human case are like cases that should be treated alike (in proportion to their needs and interests).

The notion of bond-forming has a great explanatory value in explicating our background theory regarding the moral status of humans. We live between people within society, and being part of human society creates a profound solidarity between human beings. In other words, our affiliation to human beings is an element that helps establishing the strength and stability of our society. My proposal regarding the notion of bond-forming is not independent, but a part of my critique of the AMC, and mainly the positive AMC, that I began to develop in chapter five. In contrast to the notion of bond-forming, the AMC is indifferent to our being part of human society, a whole that cannot be reduced to individual characteristics, and it does no explanatory work in confronting our background theories.

My proposal avoids blatant exceptions concerning moral patients and at the same time it is not detached from our social reality. The notion of bond-forming can explain why Rawls and Fox struggle to include moral patients in the moral domain. Also, using this notion, we do not need to manipulate the original proffered condition in order to include beings who do not satisfy the required condition for moral status in general or for moral status of a particular kind. The notion of bond-forming does not point at paradigmatic individual characteristics but rather signifies an element underlying human society. Accordingly, it enables us to approach the foundation of moral status in terms of relevance. Regarding human beings, I offered bond-forming as the relevant criterion. I also argued that the criterion of bond-forming is usually irrelevant to the case of animals, but very much in place for pets.

Finally, I argued that my position is not speciesist. It is not based on the biological fact that we all belong to the same species, or on the assumption that humans are simply superior to animals. My separating of the human case from that of most animals was not meant to exclude animals from the moral domain but rather to show that human moral status and animal moral status usually do not rest on the same foundation. At any rate, as I suggested in chapter four, considering moral status as the scope of a being's high priority entitlements means that this scope must be protected.

To sum up, the qualities of our social reality and the Gordian knots that it produces cannot be fully articulated, and cannot be analysed by a model—the AMC's conditional—that reduces our being into individual characteristics, and thus neutralises the context that helps establishing who and what we are. In other words, the sum of human society cannot be dissembled into its components while still maintaining the same value.

Conclusion

*You realize only too well you're part of the
desert generation. You can read this sordid
discovery in the eyes of children, wandering
around those bright streets which your father
might have built and which you, with some
luck, may someday destroy.¹*

In identifying and criticising the anthropocentric reasoning used in philosophical writing about animals and its implications, I aimed to point at problems that distort the debate and to lead towards different ways of thinking about the animal issue. My goal has not been one of applied ethics that sought to specify particular aspects of what we can or cannot do with animals in our daily lives. Rather, it aimed to scrutinise our ways of thinking about animal minds and animals' moral status in relation to our ways of thinking about human minds and humans' moral status. These ways of thinking have influenced our common assumptions and thus shaped both the theoretical debate and particular aspects of do's and don'ts with regard to animals. Accordingly, the main contribution of this project is in redefining the animal debate by ridding it of its predominant anthropocentric reasoning.

Towards this aim, I have shown the ways in which the animal debate is infused with an anthropocentric discourse. In analysing this discourse, I have shown that its common strategy is to take human paradigms as the only possible standard for the attribution or possession of certain properties, be they mental properties such as intentionality or regulative properties such as moral status. Identifying this anthropocentric discourse and explaining the ways in which it has influenced the development of the animal debate have been at the centre of this dissertation.

My account has recognised the value of human paradigms to philosophical analysis, but has criticised their overuse. Accordingly, I have argued that in some respects, human standards are too demanding. Indeed, with regard to mental abilities, such standards do not account for the many alleged abilities of animals (such as waylaying or hiding), and have no explanatory value in accounting for primitive cases of alleged intentionality (as in the cases of

¹ David Avidan, from the poem "The Desert Generation" (1966, 15).

animals and young children). Concurrently, with regard to morality, establishing a specific or general kind of moral status (e.g., the status of rights-holders) based on a human paradigm, i.e., moral agency, excludes from the relevant moral domain not only animals, but human moral patients as well. This outcome, I argued, is a consequence of establishing the relevant moral status on a single condition that consists of mental and physical characteristics that are applied individually. Additionally, I demonstrated that similar methodological problems occur in the use of the AMC.

The methodology that I suggested, however, undermines both the strategy of anthropocentric reasoning and the strategy of the AMC, in which similar methodological problems occur. I first suggested the idea of establishing different foundations for moral status, and then subsequently highlighted certain characteristics of human society and its authority in our lives, in order to show that moral status should not necessarily be based on individual characteristics. Although, as I explained earlier, I did not offer a normative moral theory in this project, as this has not been my aim, I nonetheless demonstrated that taking animals to be moral patients has implications for our commitment to animals in the sense that it entails direct duties towards them. As this project is nearing its end, let me recapitulate how it unfolds.

Anthropocentric standards emphasise the uniqueness of humans, thus enabling an arbitrary segregation of their case from that of animals. For instance, we have seen in the first chapter that Davidson attempts to distinguish between rational and a-rational animals, but he does so by comparing the case of normal, adult humans with the case of animals, avoiding an account of borderline human cases that are relevant to the animal case. Using the human prototype as the only possible standard leads to the development of an argument that proves what we already know: that to have a certain capacity in the human manner of that capacity, one has to be human. More specifically, in order to have a capacity in the *paradigmatic* human manner, one has to be a normal, adult human being. Arguing from an anthropocentric perspective, one has addressed the issue of animal mental capacities in an irrelevant manner and has not

addressed the relevant case at stake, i.e., that of non-paradigmatic beings—whether human or animal.

I demonstrated how arguments that are based on anthropocentric a priori reasoning facilitate the inattention to empirical findings. Indeed, empirical findings and scientific theories based on these findings may be deficient. Yet setting language as a necessary condition for certain abilities precludes from the outset the possibility of drawing on allegedly sophisticated animal behaviour. Moreover, anthropocentric a priori reasoning fails to address what the seemingly sophisticated behaviour of animals indicates. Rather, this reasoning concentrates on 'what such behaviour *cannot* indicate', namely, it concentrates on negating the possibility that animals have certain mental capacities such as beliefs. It is in reference to arguments based on this kind of reasoning that Singer writes, "they are attempts to do philosophy from the armchair, on a topic that demands investigation in the real world" (1993, 114).

The possibility of interpreting animal behaviour in multiple ways creates a problem for considering behaviour to be evidence for the existence of certain mental states in animals. This is a common claim that I have not attempted to refute. However, I did not set out to find the 'right' interpretation of empirical findings, nor to show that a certain interpretation is infallible. For that reason I argued that it is unnecessary for my argument for empirical findings to establish a high degree of certainty regarding mental capacities in animals, but rather it is sufficient that they have the potential to indicate certain mental capacities in animals. Moreover, my primary argument in this chapter was not based on empirical findings, but is conceptual in its nature. Recognising that animal behaviour is subject to different interpretations entails a significant conclusion, i.e., that we should be very cautious not only in concluding that certain mental capacities should be attributed to animals, but also in concluding that certain mental capacities should *not* be attributed to them.

My account concerning the mistakes of anthropocentric reasoning demonstrated, firstly, that anthropocentric reasoning denies certain mental capacities to animals on the basis of a standard that is suitable for normal, adult human beings. Consequently, this reasoning

eliminates in advance the relevance of empirical findings that potentially illustrate that animals might have the mental capacities under examination, even before allowing any critical discussion regarding the correct interpretations of such findings. As I stated, although empirical findings are open to multiple interpretations, they have the potential to indicate of certain mental capacities in animals. Second, I demonstrated that anthropocentric reasoning confuses first-order and second-order intentional status. We saw that this confusion conveys the idea that animals lack putative abilities such as hiding, pretending, waylaying and others. Specifically, I demonstrated that Davidson did not manage to show that animals lack beliefs. Third, I showed that the explanatory value of anthropocentric reasoning is rather low in accounting for the gradual process of acquiring certain mental states in humans, and, in the case of Davidson, even for language. Thus, the explanatory value of this reasoning is low with regard to human beings as well. Finally, I illustrated the low explanatory value of anthropocentric reasoning in relation to a competing a priori account.

In the second chapter, I demonstrated that another consequence of anthropocentric reasoning is the presence of a double standard of doubt. I argued against the asymmetry thesis between humans and animals with regard to our ability to determine the content of intentional states. Analysing this issue from both the epistemological and the conceptual perspectives, I showed that once we deal with unarticulated intentional states, there is symmetry between humans and animals with respect to determinacy of content. Here we faced again the influence of anthropocentric reasoning, in that it leads one to work with the human paradigm of 'language user', leaving unaddressed the relevant issue regarding unarticulated intentional states of both humans and animals. We saw that the actual doubt in the animal case is a consequence of working from the human paradigm, i.e., of setting the standard of language-based intentional states. This standard, however, is irrelevant to the animal case. Thus, I concluded that the actual doubt with regard to animal intentionality is unjustified. Alternatively, when comparing the animal case with the case of unarticulated intentionality in humans, I concluded that if there is a good reason to employ actual doubt in the animal case, then there is a good reason to do so in the relevant human cases as well.

The implications of anthropocentric reasoning go beyond the issue of mental capacities, and affect an arbitrary segregation between the human case and the animal case regarding moral status. As we saw in chapter three, basing moral status upon human paradigms characterises moral status in terms of moral agency. For instance, we saw that Kant takes *reason* to be a necessary condition for moral consideration, but avoids discussing the consequences for marginal cases, i.e., for humans who are not moral agents, which based on his account cannot be considered moral entities.

The distinction between moral agency and moral patience is well-established in the literature, especially since Bentham's seminal remark that what is relevant to moral consideration is not the ability to reason or to talk, but rather the ability to suffer (1789, Chapter 17, 283n). My aim in employing the distinction between moral agency and moral patience, however, was to demonstrate how anthropocentric reasoning fails to properly address this distinction. Towards this end, I pointed out that anthropocentric reasoning equates moral agency with moral status by shifting the discussion from the differences between moral agency and moral patience to the differences between human beings and animals. A main conclusion in the third chapter was that as a consequence of characterising moral status in terms of moral agency, anthropocentric reasoning has not managed to show that animals are not moral patients. Rather, once again, anthropocentric reasoning shows us what we already know, i.e., that animals are not moral agents. Not being a moral agent, however, is an insufficient reason to exclude animals from the moral domain. This is also true with regard to humans who are not moral agents, but, significantly, in the cases that I analysed, we saw that human paradigm-based conditions are implicitly converted to collective conditions and thus all people are included in the relevant moral domain, whether or not they are moral agents.

However, basing a *particular* moral status on moral agency does not necessarily exclude animals from the moral community entirely. For instance, we saw in chapter four that based on animals' ability to suffer and experience well-being, both Rawls and Fox see animals as deserving moral status. Thus, not being part of the social contract does not mean, for Rawls,

that animals are not morally considerable, whereas for Fox, not being rights-holders does not mean that animals are not moral patients. I showed, however, that according to both Rawls and Fox, it appears that humans are under no serious obligation to ensure animals' well-being. In contrast to Fox, the animal issue is not central in Rawls' theory of justice since his main and legitimate interest is in human society. However, Rawls does relate to the animal issue, and my critique focused on his arguments in this respect. The main problem that I identified in his account, as well as in Fox's account, is that animal well-being is conditioned by the needs and interests of human beings. Consequently, both positions converge into the Kantian conception of indirect duties, i.e., duties that are directed towards human beings, but are mediated via animals.

I argued that moral status primarily provides a measure of security and protection. Thus, I proposed that moral status should be formulated on the basis of minimal standards concerning basic entitlements of beings, and that consequently those standards are of high priority. Moral status thus determines the scope to which one's well-being should be considered, and if animals' moral status is to have a minimal force, then it must involve direct duties of humans towards animals. In other words, I demonstrated how the accounts of Rawls and Fox (as any account that aims to substantiate its recognition that animals are morally considerable) must involve direct duties of humans towards animals in order to secure animals' well-being.

Although neither Rawls nor Fox have excluded animals from the moral community, they separate humans and animals in an unsatisfying way via their anthropocentric reasoning. That is, they exclude animals from a particular moral domain, but not human moral patients, although neither satisfy the required conditions. Similarly to Kant and Carruthers, they do not successfully match the human paradigm-based conditions for the particular moral domain with the case of human moral patients, and thus include human moral patients in the specific moral domain using the conditions in a collective manner. For instance, for Fox, we saw that human moral patients cannot satisfy the condition for moral rights, namely, the condition of autonomy. Nonetheless, Fox considers all humans as having moral rights because they belong

to a species in which autonomy is the typical case. This transition to a collective-based condition marks a significant divergence from his original individual-based condition.

In reply to anthropocentric reasoning, the AMC aims to integrate the cases of humans and animals through an emphasis on the similarities between them by drawing upon marginal cases. In chapter five, I identified the AMC's conditional, i.e., that *if all human beings deserve moral status, then so do some animals*. Formulating this conditional, I avoided the need to examine particular AMCs, and made it possible to examine the main idea underlying this type of argument. The AMC has a significant value in enabling us to rethink the issue of moral consideration. Yet the reasoning underlying the AMC reduces the depth of morality into a common denominator, a broad criterion that is allegedly shared by all members of the moral community. In that sense, the AMC also oversimplifies the nature of the inquiry into moral status; like traditional arguments and anthropocentric reasoning, the AMC takes moral status to be based on a single foundation, and is concentrated on individual characteristics. Accordingly, I argued that relying on the AMC alone, and especially relying exclusively on the positive AMC, cannot lead us towards a satisfying explanatory system regarding the criteria of moral status.

In order to show that a single broad criterion does not account for all cases, I provided examples to demonstrate the susceptibility of such criteria to significant exceptions. In other words, the examples regarding the dead and regarding relational value were meant to demonstrate the deficiency of the broad conditions for moral considerability offered by Singer and Regan. It is possible to consider my example with regard to the dead as based on intuitive conviction. Yet, whereas I attempted to justify the moral practice of respecting the dead, the reasoning that I criticised excluded the dead from the moral domain without justification. The same goes for the example of relational value with regard to parents and children. Although this example supports partiality to a certain extent, I did not argue that these relationships are immune to impartial considerations. Also, I did not argue that partial considerations always prevail over impartial ones. However, whereas I attempted to justify consideration of the partial viewpoint, Singer and Regan did not address this issue.

As I noted earlier, traditional reasoning and anthropocentric reasoning on the one hand and the AMC on the other, both concentrate on individual characteristics as underlying the conditions of moral status, and aim to establish the proffered moral status on a single foundation—features that oversimplify the nature of the inquiry. In response to these views, I suggested a position that would lead us towards a system of morality that is not detached from our social reality. I suggested approaching moral status as complex right from the beginning; that is, to establish moral statuses on more than a single foundation in accordance with the relevance of the given foundation to our social reality.

As we saw in chapter six, the bond-forming inclination of humans underlies the background theory according to which we consider all humans as deserving moral status. This background theory is reflected in our social reality and moral practice. We live our lives in the context of human society, and this cannot be easily reduced, if at all, to individual characteristics such as reason, autonomy, or sentience. For instance, I argued that we do not attribute to the senile the entitlement to respectful treatment because of their capacity for rational judgment, since they do not possess this capacity. Thus, the notion of bond-forming provides us a new perspective regarding the conditions of moral status in that it relates to individuals within society as a whole that cannot simply be dissembled into separate components while still maintaining the same value.

Thus, in the case of human beings I suggested the element of bond-forming as the relevant criterion of moral status, and argued that this criterion is not detached from our social reality and moral practice. The criterion of bond-forming has great explanatory value in showing why we tend not to divide between human moral agents and human moral patients, i.e., in showing why we include human moral patients in the same moral community. In this regard, I demonstrated how the notion of bond-forming can illuminate Rawls' and Fox' struggle to include humans who are not moral agents in their proffered moral domain. Explaining human moral status using the notion of bond-forming also precludes the blatant exceptions that I pointed out in the views that I criticised. This is because the notion of bond-forming, in contrast to anthropocentric reasoning and to the reasoning of the AMC, does not

rest on mental and/or physical properties; properties that are never shared by all those who deserve moral status. This result is also a consequence of approaching moral status as a complex concept, a framework in which one is not committed to a single, even if broad, condition, that allegedly can be applied to all those who deserve moral status. Accordingly, animals can be included in the proffered moral domain using criteria that are different from the criterion of bond-forming. I suggested that the criteria offered by Singer and Regan might be very relevant to the animal cases, although I did not attempt to justify this (in accordance with my primary aim in this project, which was not to justify animal moral status but to critically examine the anthropocentric reasoning embedded in the animal issue and to demonstrate its implications).

In accordance with my critical approach, my main aim in chapter six was to examine the consequences of refuting the AMC's conditional. I demonstrated that in contrast to the AMC's reasoning, it is possible to refute the AMC's conditional without maintaining a speciesist view. That is, I showed that separating the human case from the animals case does not necessarily express speciesism. This became possible since I undermined the idea of the AMC's conditional by abandoning the reasoning that seeks a single foundation for moral status that is based only on individual characteristics. I claimed that being part of human society makes a morally relevant difference that can be underpinned by our bond-forming inclination.

Thus, the notion of bond-forming also explains the reason for which we tend to separate humans from animals in respect to morality. However, the criterion of bond-forming does not represent a speciesist position for two reasons: first, because this criterion is applicable to pets, and second, since my account is not bound to a single condition, the criterion of bond-forming does not exclude non-pets from the moral community. In most cases bond-forming cannot serve as the relevant criterion for the inclusion of most animals in the moral community, because usually animals are not part of our social reality in a way that would be relevant to the notion of bond-forming. At any rate, again, I argued that other

criteria are available for including non-pet animals in the moral community, a situation enabled by basing moral status on more than a single condition.

Although the criterion of bond-forming distinguishes the human case from the animal case to a large degree, my account is not biased against either humans or animals but rather, it enables protecting both humans and animals. First, my account demonstrated that anthropocentric reasoning did not manage to show that animals are not moral patients. Second, relying on Rawls' and Fox' agreement that animals are moral patients, I argued that in order to substantiate their moral status, humans should have direct duties towards animals. Finally, as I mentioned earlier, in order to substantiate any moral status of both humans and animals, I proposed to formulate minimal thresholds that would secure basic needs and interests from being frustrated on a regular basis. This is meant to prevent unjustified biases. So, all things being equal, when one's basic needs and interests are at stake, they should not be available to frustration. This also means that human moral status does not necessarily prevail over animal moral status and that human moral status does not subjugate animal moral status. In that sense, formulating minimal thresholds represents the impartial viewpoint. I acknowledged the importance of the partial viewpoint, but I also claimed that the question of whether and when certain needs and interest prevail over others is mainly relevant beyond the minimal thresholds.

Identifying the anthropocentric reasoning and its implications, including its implications for arguments that see animals as moral patients, uncovered basic mistakes that markedly shaped the common ways of approaching the animal issue. Abandoning this reasoning is significant for promoting the philosophical inquiry regarding the animal issue and moving it towards new horizons—both with regard to the theoretical debate and with regard to our moral practice. Departing from the reasoning that I criticised is important not only for the animal issue, but for the human case as well—both with regard to mental capacities and with regard to moral status.

My account provides us with new ways of thinking about the animal debate. I argued that anthropocentric reasoning distinguishes humans from animals in an unjustified way. Note, however, that my main contention was not as much against separating animals from humans as against the particular ways in which this separation was carried out. This is true both with regard to the animal mind debate and the debate concerning animal moral status. In contrast to the methodology that seeks a single condition for moral status, I suggested a framework that acknowledges different foundations for moral statuses. On the one hand, within this framework we are not forced to set a very broad condition to include both humans and animals, and on the other hand we are not compelled to approach the debate in absolute terms of 'us' (humans) and 'them' (animals). In fact, the criterion of bond-forming that I suggested manages to include human moral patients in the moral domain without separating their case from that of moral agents. In that sense, this specific part of my account can be seen as adjusting the accounts of Rawls and Fox, in that it provides a proper criterion for including human moral patients in the moral community. This was possible both because I used a criterion not based on individual characteristics, and because I am not committed to establishing moral status on a single, human paradigm-based condition. Thus, in contrast to Rawls, Fox and Kant, I did not have to ambiguously convert the criterion for moral status from an individual-based condition to a collective condition in order to include human moral patients in a certain moral domain.

My account interacts with (and hence is influenced by) social reality, and yet it is not subordinate to it. Thus, my account can accommodate social change. While I argued that the criterion of bond-forming applies to our relationships with pets, it is indeed possible that one day—following a social change—the criterion of bond-forming will be applicable to other animals, such as apes. This possibility represents another merit of my proposal: its flexibility is harmonious with a view that reflects an understanding of morality as a concept constantly undergoing construction and modification.

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