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TREATING ANIMALS RIGHT:

Introducing a New Fairness Approach

A Senior Honors Thesis Submitted in Partial Fulfillment of Requirements for the Bachelor of Arts Degree in Leadership Studies with Honors, University of Richmond, Richmond Virginia 2009

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INTRODUCTION

0. Human Beings and Animals

Animals. We care for them, we wear their skins and furs, we use them to do work for us, we keep them as pets or see them as toys for our kids, we lock them into cages, we train them to entertain us, we use them as a form of treatment for elderly or the handicapped, we breed them for their appearances or abilities, we test our cosmetics and medicines on them. And, of course, we eat them.

It should be pretty clear to everyone that animals play a central role in our every-day lives. But what is not so clear is whether the uses of animals mentioned above are morally acceptable or not. Are the animals being harmed? If yes, does that harm matter? Do we need to stop some of these behaviors towards or uses of animals, do we simply need to adjust them, or can they continue?

People vehemently disagree about this issue, and radicals are on both sides of the spectrum. Few people say it is ethically right to do whatever we want to do to animals. Most are somewhere in the middle and say that it is ethically wrong to do certain things to animals, even though these “middle people” cannot even agree on what these certain things are; and some on the other end say it is ethically wrong to do any of those things listed above to animals. Who is

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1 Humans are in fact one species of animals, but for the purpose of this thesis I will simply use the term “animals” when referring to non-human animals. I do not intend to promote the false idea that animals are one kind of being, while humans are another.
right? What is the proper approach to the ethical treatment of animals? Answering this question shall be the purpose of my senior honors thesis at Jepson. I will focus particularly on the issue of eating meat because that is one of the most common uses of animals and has been increasingly called into question in the past few decades.

Many people do not think about the issue of eating meat and its moral implications. Some do not consider it because they are ignorant; others are biased due to cultural traditions. Still others simply fail to question their behaviors. I am not implying that people who do not think about their actions always do morally wrong things, but they may fail to understand the morality and/or immorality of their actions. Regardless of what we do, we should always be aware of any relevant moral issues and be concerned with the rightness or wrongness of our actions.

The purpose of this thesis, thus, is to provide a convincing account of the proper ethical treatment of animals. I will discuss some of the most popular theoretical frameworks, utilitarianism, Kantianism, and contractarianism, and see how they apply to animals. After explaining and critiquing these theories I will provide an alternative theory for the ethical treatment of animals, which should serve as the basis for our actions and guide our behavior towards animals, especially the eating of meat.

The argument I will be defending is neither abolitionist—granting animals the same rights as human beings and therefore rejecting all institutions involving the use of animals—nor does it support the status quo. My approach is reformist. It calls for a need to re-think our treatment of animals and establishes clear restrictions involving our behavior towards them, but certainly does not reject all uses of animals.

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0.1. A Call to Leaders: Why Animal Ethics is Important

The proper treatment of animals is an ethical or moral discussion. Almost nobody would support Descartes' famous statement, claiming that animals are like machines and therefore are not deserving of any moral considerations. People generally acknowledge that animals are living beings, have some sort of emotions or psychological life, and have the ability to suffer or feel pain. These characteristics make them an important part of our ethical lives. Where they fit into our ethics is another question that I will answer in this thesis. Because of the features that animals have, everyone should acknowledge that we at least need to think about our behavior towards them, no matter how we ultimately justify it.

The ethical guidelines we have, whether concerning animals or other human beings, tend to be closely aligned with the law. Societies have, since their beginnings, transferred morality into laws in order to promote and ensure basic proper moral conduct by the citizens of a given group or country. These laws prescribe behavioral rules to people, instead of leaving it up to the individual to decide what is right and wrong, and let them know where their personal liberties end and their civil responsibilities begin. Their purpose is not just to secure order and stability, but to also prevent harm from being done to moral beings. So if it turns out that our current behavior wrongly harms animals, assuming that they are moral beings, which is what I will argue in the thesis, then we need more or better laws to protect animals and ensure proper moral conduct towards them.

Reaching a general consensus regarding the ethical treatment of animals is more relevant than ever. Given the extent of our animal practices and the increasing advances in

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3 Throughout this thesis I will use the terms, ethics and morality, interchangeably as most philosophers do.

technology and science, we need to ensure that our actions are not violating any ethical standards. It is for this reason that I call for the need of leadership, a primary component of which is ethics. If our current behaviors and attitudes towards animals are wrong, then something needs to be done as soon as possible to change the status quo, especially because of the extent to which we interact with animals on all different kinds of levels. Furthermore, proper leadership is needed to ensure that ethical judgment is determined before we act, whether these acts affect human beings or animals. Leaders are, in a sense visionaries, who can perceive the bigger picture and recognize the full implications of our behaviors. Thus, there is need for leaders not only to guide the current attitudes towards animals, but also to take into consideration how technological and scientific revolutions affect the treatment of animals.

Precisely the fact that standards should exist to protect human and non-human animals from immoral behaviors motivates me to write this thesis. In the case of the proper moral conduct of animals, it is the lack of these standards that demonstrates to me that animals both receive too little attention from the public, and are not protected from abuse by society and its leaders. Partly responsible for the lack of standards or lack of sufficient standards is that there still is no general agreement on this issue and too many people continue to underestimate the moral importance of our behavior towards animals. I want to encourage and further the discussion about animals so that a general agreement can be reached. I hope to promote a revision of current standards and emphasize the importance of the moral status of animals.

The disagreement over the animal issue has many different roots. Some ethical dilemmas, for example, are based on a general disagreement over facts, such as to whether or not some animals can think rationally and have a sense of self. Researchers have shown that elephants and chimpanzees do have these two traits, but their results are still questioned by other
Most moral dilemmas, however, are based on conflicting ethical views, where the facts have already been established and are agreed upon. For example, all mammals can feel physical pain. That is an undisputable fact. One of the many conflicting ethical views in this case, however, is to what extent this pain should matter when it interferes with our behaviors. Is the pain of these animals less important than human pleasure (in the case of eating meat) or suffering (in the case of scientific experimentation)?

This thesis will focus on ethical issues concerning the latter example: the problem of conflicting ethical views. In the twenty-first century, it is generally agreed on (at least publically) that all human beings, despite their race or gender, should matter equally in any moral issues. In other terms, all humans have equal moral status, and no philosopher who cares about his or her reputation and career would denounce that. The problem arises when there is an attempt to extend moral status to other animal species. Even though more and more people accept and call for the moral protection of animals, many still hesitate when human interests clash with the moral status of animals. So how much moral status do animals have?

0.2. What is Moral Status and Who Has It?

I have said above that the conflicting ethical views concerning the animal issue are not based on disagreement of facts, but on opposing views concerning the moral status of animals. The origin of the conflict seems to be the fact that humans stand out from other animals because they are able to use their extreme intelligence to dominate animals and put themselves at the top of the food chain, so to speak. This superiority of intelligence has caused many people to draw a moral line between human beings and other animals without considering any other factors. For

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example, roughly one hundred years ago, a distinguished American neurologist called Charles Loomis Dana argued that people advocating for the moral status of animals suffer from a mental illness, which he called zoophile-psychosis (love-of-animals psychosis).\(^6\) This might seem like a ridiculous assertion nowadays (despite people’s individual views on the moral status of animals), but at that time Dana’s assertion was part of mainstream thinking. As little as one century ago, it did not in fact occur to most people to think of animals as beings protected by any sort of moral guidelines, or even worse, possibly the same moral guidelines that humans are protected by.

As mentioned before, part of the reason for this superior attitude of humans towards animals is due to humans’ intelligence, which includes their highly developed physical (e.g. the opposable thumb), mental (e.g. rational thought and a sense of morality), and emotional (e.g. awareness of life and death) capabilities. Nevertheless they continue to be part of the natural cycle that all living beings go through—constant competition for resources in order to ensure a long, happy, and secure life, avoiding pain and deferring death as long as possible. Precisely this natural competition, along with humans’ superior abilities, brings up ethical concerns about the extent to which human beings should be allowed to interfere with and control the lives of other animals.

Ethical issues relating to the treatment of animals have become increasingly popular in the twentieth century, and the trend is continuing to grow in the twenty-first century. More and more people are beginning to question human uses and potential abuses of animals in modern day society, especially with so many alternatives not involving animals available to them. Unlike people one hundred years ago, we are more open to the idea of granting animals moral status. Even those who argue against this approach now admit that the animal issue is a legitimate and

\(^6\) Regan, *Defending Animal Rights,* 1.
inescapable ethical question.  

So, what exactly does it mean to give animals moral status? Saying that a dog has moral status, for example, implies that “the dog has moral importance in his or her own right and not simply in relation to humans.” In other words, the dog’s welfare matters and it must be taken seriously, independent of how his or her welfare affects human interests. The dog has a value despite his or her positive or negative impacts on human beings. There are many theories that address and attempt to solve this ethical question concerning moral status and animals. These theories try to establish not only what makes an action right or wrong, but also what kind of human and non-human animals are to be considered in the rightness and wrongness of these actions.

Utilitarianism focuses on beings’ interests and the consequences of actions on these interests. Utilitarians support the idea that that all sentient beings, meaning those beings that can feel pain and experience happiness, have interests and therefore matter morally. In this theory, animals are granted moral status because of their ability to experience pain and pleasure. Furthermore, utilitarians consider an action to be right or wrong depending on how the results of this action affect overall happiness. For example, it is morally acceptable to kill an animal or human being if that action increases overall happiness by, let us say, giving great pleasure to those engaging in the act. In other terms, pain to some sentient beings can be justified by payoffs of greater pleasure to others. Utilitarians disagree, however, on the importance of animals’ interests. Peter Singer, whose views will be discussed in more detail later in this thesis, regards animal interests as equally important to human interests. The utilitarian R. G. Frey, on the other

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hand, agrees that animals have interests, but does not value their interests and hence their moral status as heavily as human interests.

The German philosopher Immanuel Kant looks at the nature of an act and not its consequences to determine morality. According to his train of thought, it is wrong to kill one human, even if this would save two or two thousand other human beings, because features of the act itself, killing, is what makes the behavior always moral or, in this case, immoral. Kant, however, does not believe that animals have any direct moral significance because he believes only rational agents can have moral status and assumes that all animals are not rational beings. On the complete opposite of the spectrum is rights theorist Tom Regan, who argues that animals do not only have the same moral status as human beings, but that they also have the same inherent rights as humans do. His theory implies that animals have inalienable rights such as the right to life, to freedom, and to not have pain inflicted on them. He judges actions in relation to how they violate or protect human and non-human animals’ rights.

Clearly, the issue of animals’ moral status is quite complex and has advocates from a variety of moral theories. Nonetheless, one thing almost all people agree on is that many animals have sentient capacities and a conscious life. To what extent microbes or insects are sentient is questionable, but sentience and consciousness certainly applies to mammals, birds, and reptiles. Therefore, these kinds of animals will be the focus of this thesis. Their nature gives us reason to think about their moral status and the rightness and wrongness of our behavior towards them.9

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9 It is important to emphasize that creatures that are not considered to have moral status, may nonetheless, still matter morally because of their relationship to beings with moral status. Plankton, for example, is not sentient enough to possess any moral status at all, but we nonetheless still have some responsibilities to these beings because plankton is important for the survival of other sentient beings, such as whales. So, other creatures may have indirect moral value, depending on their importance to beings with moral status.
0.3 Introducing A New Approach to the Ethical Treatment of Animals

The purpose of the thesis is to use applied philosophical ethics to address the proper moral treatment of animals concerning mainly two main issues: pain/suffering of animals and killing/eating them. I began by giving a short introduction to animal ethics by mentioning our uses of, and behaviors towards, animals. My goal was to emphasize to what extent our actions affect animals. This fact has important implications and makes animals an important focus of modern ethical theories. I can now begin an analysis of these theories. In the following three chapters, I consider some popular theoretical frameworks that have tried to find practical answers to the questions raised by the animal issue. The three theories that I examine most closely are Peter Singer's utilitarianism, Kantianism, and John Rawls's contractarianism. Because all of these theories have shortcomings, I develop my own theory that builds upon their strengths and avoids or overcomes their weaknesses.

Chapter 1 will deal with utilitarian theory. I will lay out the basic principles behind this consequentialist theory in order to answer two fundamental questions: 1) what is utility/happiness and its counterpart disutility/unhappiness, and 2) does the happiness or unhappiness of animals matter in this theoretical framework? I will look at four different utilitarians and their interpretations of utility. The first two are pleasure utilitarians Jeremy Bentham and John Stuart Mill, both of whom ultimately have a misguided conception of what constitutes utility. R.G. Frey is properly concerned with interests, but he wrongly assumes that animals do not have interests that can be satisfied or left unsatisfied. In contrast, Peter Singer is an interest utilitarian who properly interprets and applies utility to the ethical treatment of animals. His conclusion is that many of our current attitudes and behaviors towards animals are unacceptable because they bring about more suffering. I, however, critique Singer's version and
utilitarian theory as a whole, because by focusing exclusively on overall happiness, it does not consider the value of the individual.

Kant’s theoretical framework is the focus of chapter 2. Being a deontological theory, it does not look at consequences, but rather assigns duties, which lead to the concept of rights. I start off the chapter by looking at how animals fit into his theory and how we arrive at the conclusion that we have no direct duties towards animals. In other terms, in Kantian theory, animals have no direct moral status at all. The only duties we have towards them are indirect. That is, we only have a duty to animals so that we can uphold duties towards man. His focus on rationality leads him to this conclusion; animals cannot reason and come up with universal laws.

Next, I consider the reinterpretations of three distinguished philosophers, Barbara Herman, Christine M. Korsgaard, and Allen Wood. By following Wood’s argument, we are able to see how Kant’s theory does in fact yield direct duties towards animals. I focus on his requirement to respect rationality and argue that if we are to respect reason a whole, we need also to respect features of it. This includes respecting animals who are not fully rational, but possess some features of rationality.

My critique of Kantian interpretation is that respecting only features of rationality may lead to questionable behaviors such as killing wild animals. As a result, I explore Rawls’s contractarian theory in chapter 3. His theory does not extend rights to animals. But even though animals do not have any rights, Rawls is open to the idea of duties to them. What I am more concerned with in this chapter, however, is the implication of Rawls’s assumptions concerning

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our capacity for a sense of justice. I argue that our sense of justice is sufficient to understand the notion of fairness. We are fully aware of the fact that we can act fairly or unfairly towards other beings, whether they are rational or not. Therefore, I argue that after we have established a view of justice based on the notion of fairness, we can use it in a broader sense to derive additional obligations toward animals. I show how this is done by using the example of properly raising and killing domesticated animals. A fair relationship is a mutually beneficial relationship to all parties involved.

In the concluding chapter I summarize my main points. I emphasize the fact that the ethical treatment of animals depends on upholding respect for rationality, while also applying our sense of justice to our behavior and attitudes towards beings that are not fully rational. Respecting only features of rationality is not enough to ensure proper ethical behavior. The combination of respecting rationality and making use of our sense of fairness grounds the proper moral framework for our moral behavior towards non-human animals.
CHAPTER 1

1. Utilitarianism

The first theory I will examine in detail is utilitarianism. Advocates of utilitarianism draw different conclusions about the moral treatment of animals depending on their understanding of utility. This means that not all utilitarians agree on what exactly the moral treatment of animals implies. I will analyze this theory in order to see if it can be used as a moral framework for the ethical treatment of animals. First, I will explain its basic principles. Second, I will show how it is applied to animals concerning the ethics of their suffering, killing/eating meat, and animal research. To this end, I will examine the application of four versions of utilitarianism to animals. Each view is concerned either with bringing about the most pleasure possible (for all sentient beings in this world) or with meeting the interests of sentient beings. After determining the best version of utilitarianism and considering its proper application to the ethical treatment of animals, I will examine the basic assumptions of the theory as a whole. This analysis will include an explanation of the broader shortcomings utilitarianism has and as applied to the ethical treatment of animals.

Utilitarianism, a well-known theoretical framework, has important implications for our treatment of animals. The theory is solely concerned with the costs and benefits of the outcome of an action. Hence, it is a paradigmatic consequentialist theory, which means that the right action is judged by its consequences. In this case, it is the action that maximizes overall utility (often also referred to as happiness). Other factors such as intention, rights, rationality, autonomy, or natural superiority (of the human species) do not matter in themselves to
utilitarians and their view of morality; they could at most have derivative value.\(^{12}\)

Good consequences contribute to the justification of an action, regardless of any motivational factors, while bad consequences do not. Utilitarians evaluate these consequences based on happiness and its opposite, unhappiness. Actions that maximize overall happiness are the right ones. However, it does not follow that those actions that bring about more suffering than happiness are necessarily immoral. Sometimes it may be inevitable that there will be more suffering than happiness regardless of one's actions; in this case the moral action is the one that keeps suffering as low as possible given all options. In other terms, there still is more suffering than happiness, but given the options this act was the best one possible: the lesser of two evils.

It is also important to emphasize that the right action is not one that simply causes more happiness than suffering, but that actually has the best cost/benefit analysis of all options. For example, if you are considering buying a $400 Louis Vitton bag, the benefit to you would be a lot of happiness, and the cost to you may be low. You could, however, use this money as a donation for helping starving children in Africa. $400 could save two dying children according to the utilitarian Peter Singer.\(^{13}\) No one would deny that saving a child’s life brings about more happiness or utility than the happiness or utility gained from materialistic objects, such as the Louis Vitton bag. Assuming the only two options available to you were either buying the bag or donating the $400 to save the children, the morally right act, according to utilitarianism, is the latter because it maximizes overall, not your, happiness in this world.

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\(^{12}\) Having derivative values means that individual utilitarians could use these factors in their calculations for determining the best utility. For example, an interest-satisfaction utilitarian could argue that only rational beings can have interests, which would exclude animals from being protected by morality. In this case the theory is not based on rationality; rather the proper understanding of utility, which still is the main factor of this theory, depends on certain features such as rationality or whatever the utilitarian believes to be relevant for maximizing overall happiness.

More importantly still, it is crucial to recognize that overall utility in its modern sense has far reaching implications due to the interconnectedness of the global community. This means that even if an act increases the happiness of a lot of people, say a group, society, or a country, it can still be wrong if the rest of the world suffers because of this act. For example, assume a shoe company has factories in several third world countries where the employees receive low wages and work in bad conditions; they are very unhappy in their situation. On the other hand, these conditions allow the company to sell cheaper shoes to Americans. More Americans can buy shoes and the people in the U.S. are happier. In accordance with utilitarian terms, this is unethical because even though our group (the U.S.) is happier, most other countries are affected for the worse. “From the moral point of view, the development of the world into a ‘global village’ has made an important, though still unrecognized, difference to our moral situation.” 14 It is impossible to isolate ourselves or any other group from the global sphere of morality in our modern day world.

I have mentioned above that advocates of utilitarianism arrive at different conclusions concerning the ethical treatment of animals. Two central questions create disagreement amongst utilitarians: “what is suffering or disutility?” and “do animals experience suffering like humans?” Jeremy Bentham and John Stuart Mill focus on utility in terms of pleasure, while R. G. Frey and Peter Singer are concerned with determining a being’s interests before calculating utility. In this chapter, I will answer both questions in order to determine what the correct understanding of utility is and how this correct notion of utility is best applied to animals. The first question seeks to answer whether creating pleasure or satisfying interests is the proper focus for understanding utilitarianism. Does happiness/utility involve experiencing as much pleasure as possible or does

happiness consist of having interests that are satisfied? I will argue that the latter, interests, are
the proper focus of utilitarianism. The second question deals with the proper application of the
theory to humans and animals alike. In other terms, what kind of interests do animals have, if any
at all, and how is utilitarian theory best applied to ensure the ethical treatment of animals?

1.1. Bentham’s Pleasure Satisfaction

I mentioned earlier that most moral frameworks did not seriously consider animals until
the twentieth-century, but Jeremy Bentham (1748-1832) was an exception. He included animals
in his view of morality as early as 1789. As a utilitarian, he points out that “the question is not,
Can they reason? Nor, Can they talk? But, Can they suffer?”15 Bentham answers this question
affirmatively and believes it is wrong to degrade animals “into the class of things”16 because
their suffering is enough to be taken into utilitarian calculations. He compares the enslavement
and abuse of black people to abuse of “inferior races of animals”17 and goes on to argue that “the
French have already discovered that the blackness of the skin is no reason why a human being
should be abandoned […] 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.”18 Being concerned with pleasure satisfaction,
Bentham argues that all animals, including humans, that have the capacity to suffer or experience
happiness are sentient beings and are entitled to direct moral consideration.

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15 Bentham, Jeremy. “A Utilitarian View.” In Animal Rights and Human Obligations, 2nd ed. Tom Regan and Peter
Bentham, however, also believes that it is morally acceptable to kill animals, either for food or even as a sport, if this is done with the least amount of suffering for the animal. “If the being killed were all, there is very good reason why we should be suffered to kill such as molest us.”\(^{19}\) He has two main arguments to support this view. The first argument is that killing and eating them is permissible because he assumes “we are the better for it, and [animals] are never the worse. They have none of those long-protracted anticipations of future misery which we have.”\(^{20}\) Bentham believes that you cannot harm animals by killing them because they cannot anticipate death and fear its arrival. Furthermore, his argument is that we actually reduce suffering by killing animals (with the least amount of pain possible) because death in the “inevitable course of nature”\(^{21}\) is often slower and more painful. But when he asks “is there any reason why we should be suffered to torment them?” he answers “Not any that I can see.”\(^{22}\)

The implication of his view concerning animal research for medical purposes is the same as for every utilitarian: it can be morally justified just in case it does indeed maximize utility. Every utilitarian has to accept some degree of suffering of the individual if this suffering brings about more overall happiness. As a result Bentham’s theory does grant animals moral status and allows us to argue against some, but perhaps not all, painful treatments of animals. As I mentioned before, his ideas were seen as very progressive given that few philosophers up to that time considered animals to be moral beings. His hedonistic—only what is pleasant is intrinsically good—approach to understanding utilitarianism, however, also has some important shortcomings.


\(^{22}\) Bentham, “A Utilitarian View,” 26. Italics are mine.
According to his view, “quantity of pleasure being equal, the experience of playing pushpin [is] as good as that of reading poetry.” But Bentham is missing an important point. He does not explain why humans should refrain from the pleasure of inflicting pain on animals. Bear baiting, for example, was a popular “sport” in England during Bentham’s time and attracted huge crowds of people. Such an activity involves a lot of suffering for the animals. Bentham’s understanding of utilitarianism seeks to protect animals from these kinds of cruel behaviors. Yet we must ask ourselves the reasonable question, What is to prevent a Benthamite from accepting that the amount of pleasure gained by the numerous spectators exceeds the pain suffered by the one bear and the dogs? So even if animals suffer, overall utility may not be affected if the people’s pleasure makes up for the animals’ suffering, depending on precisely how much pleasure people get from this act. The pleasure felt by the people may actually exceed the pain felt by the animals, which would mean bear baiting should be an encouraged activity. Bentham is concerned only with adding up pleasure and pain, and weighing the two against each other.

The issue at stake is that Bentham does not value experiences and the resulting feelings of happiness differently. He makes no distinctions between the diverse kinds of pleasures different beings can experience. But, the pleasure humans get from observing the violent activity called bear baiting should be less significant in moral terms than the suffering these animals experience, no matter how great the pleasure gained by the people. Bentham has a difficult time answering this question because he fails to differentiate between pleasures. As we will see in the next section, John Stuart Mill, another utilitarian focused on pleasure, gives us a slightly


24 In bear baiting a wild bear was tied on a short chain and attacked by two or three fighting dogs, while an audience of people watched and cheered as the deadly fight was in progress.
modified framework to overcome Bentham’s shortcoming. He makes an important distinction not just between quantities of pleasures, but also between qualities of pleasures.

1.2. Mill’s Higher and Lower Pleasure Utilitarianism

I am still concerned with answering the two main questions that utilitarians have to address: what is utility or disutility and do animals experience suffering like humans? My main goal is to establish which version of utilitarianism can be best applied to animals in order to be able to examine the theory as a basis for moral guidance concerning their ethical treatment. I have argued that Bentham’s concern with pleasures is insufficient for the proper understanding of utility and therefore I examine Mill’s improvement of the pleasure-satisfaction approach to utilitarianism. I will show that Mill’s version of utilitarianism improves Bentham’s approach, but his higher and lower pleasures still do not properly define utility.

John Stuart Mill, as well as Bentham, defines utility in terms of happiness. “By happiness is intended pleasure and the absence of pain; by unhappiness, pain and the privation of pleasure.” He explains that Bentham’s hedonistic approach may mistakenly be called a “doctrine worthy only of swine” because it makes no distinctions between different kinds of pleasures. According to Bentham, you could argue that a beast and a human can be equally happy by engaging in behavior that purely seeks to satisfy one’s own momentary pleasures. Mill, however, argues that humans have different sources of pleasure than swine do and “have faculties more elevated than the animal appetites.” The implications are that “a beast’s

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pleasures do not satisfy a human being's conceptions of happiness." He makes up for Bentham’s shortcomings by distinguishing between higher and lower pleasures and affirming that some kind of pleasures are more desirable and valuable than others. His concern is not just the quantity of pleasure, but also its quality.

Mill’s main distinction is between bodily and mental pleasures. The former are momentary and cannot be sustained, while the latter have more “permanency, safety, uncostliness,” and are qualitatively superior. Higher or mental pleasures include, amongst others, “the pleasures of the intellect, ... the feelings and imagination, and ...the moral sentiments.” Lower or bodily pleasures are purely sensuous. Human beings have “higher faculties” and therefore can engage more in the higher or mental pleasures. More importantly still, they need to engage in higher pleasures in order to experience a kind of happiness that constitutes the greatest utility. It is true that “the being whose capacities of enjoyment are low, has the greatest chance of having them fully satisfied; and a highly endowed being will always feel that any happiness which he can look for, as the world is constituted, is imperfect. But he can learn to bear its imperfections.” Mill goes on to make one of his most famous statements “It is better to be a human being dissatisfied than a pig satisfied.”

So why does Mill think mental pleasures are higher? The answer is that the majority of the people give them preference if given a choice between higher and lower pleasures. Mill writes “Of two pleasures, if there be one to which all or almost all who have experience of both

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give a decided preference, irrespective of any feeling of moral obligation to prefer it, that is the more desirable pleasure.”\(^{33}\) And how do we know what pleasures are more qualitative? Mill argues that if people chose pleasure A over pleasure B, “even though it to be attended with a greater amount of discontent”\(^ {34}\) and would not chose pleasure B for any quantity of pleasure A, then it is justifiable to assign greater quality to pleasure A. Should there be a difference of opinion, then the right thing to do is to appeal to the majority’s decision. Hence, there is a democratic element to his version of utilitarianism.

The implications of Mill’s utilitarianism are slightly different than Bentham’s. A Benthamite, who is only concerned with quantity of pleasures, might be more likely to justify bear baiting if the happiness gained by people equals or exceeds the amount of pain experienced by the animals. Mill’s distinction of pleasures serves as a better foundation to argue against cruelty to animals because the pleasures gained by humans inflicting pain on animals is not a higher pleasure that can justify the suffering inflicted on the victims. However, the pleasure gained by the humans and the pleasure that the animals are deprived of are both lower pleasures. According to Mill, this means that both are of lesser, but equal quality and may balance each other out. But, does our intuition not tell us that the pleasure gained from watching another being’s pain, should have less significance, than the pain felt by a being, no matter its level of “faculties”?

The problem is the following. Bentham thought all pleasures to be equal. Mill develops that theory and describes two kinds of pleasures, higher and lower. But can all pleasures be divided upon these two categories? No. There are not just higher and lower pleasures, but a


continuum of pleasures in between. There are also pleasures experienced by humans that are even lower than those experienced by animals. In other terms, most animals may be capable only of experiencing lower pleasures and pain, but pleasures gained from another being’s pain are even lower and of less quality. Only when you accept that a variety of pleasures exist, can you argue that in the case of bear baiting, the pleasure gained by the people might make up for the amount of pain experienced by the animals, but the quality of pleasure felt by the people is not in any way comparable to quality of suffering the animals undergo.

Mill’s understanding of utility in terms of pleasure is more sophisticated than Bentham’s, but it clearly still has some shortcomings. He gives greater value to higher pleasures, such as the pleasures of the mind, which many animals are incapable of experiencing due to their lesser intelligence. This means that the pleasures animals can experience matter morally, but they do not matter as much as the higher pleasures experienced by human beings. Hence, animals have moral worth, but not equal to that of intelligent, rational human beings. Mill is more sensitive to beings and the kinds of pleasures they can experience, but his understanding of utility gives preference to the higher pleasures that only humans can enjoy. Animals are seen as belonging to morality, but to a lesser morality due to their incapability to experience higher pleasures. The same principle would apply to mentally handicapped people who do not possess the “higher faculties” healthy humans have. According to Mill, some beings—humans—receive greater attention because they have greater utility potential.

Pleasure utilitarians such as Bentham and Mill include humans and animals in the same category, but assign their pleasures a different utility value depending on their individual faculties. Bentham’s approach to utilitarianism depends purely on how certain actions make us feel. Mill’s version is more sophisticated due to his distinction between higher and lower
pleasures, but this distinction points to an alternative foundation for utilitarianism—something
deeper than pleasure. For example, knowledge and wisdom are valuable independent of the
pleasure we get from them. Having them may or may not make life more pleasurable, but they
certainly make it better and more sophisticated. So the question arises: are happiness and
unhappiness, defined purely by pleasure and pain, the only factors that matter morally? Mill’s
focus on the “higher pleasures” suggests not.

Consider the following example. Lions will eat grass when their stomachs are upset.
They eat the grass (whether out of instinct or some kind of taught knowledge is irrelevant in this
case) because it will make them feel better. The lion demonstrates consideration of his interest,
whether instinctively or consciously. It is true that at the same time more pleasure is created
because by eating grass the lion will feel better and create more pleasure for himself in the long
run. Pleasure and interests are, therefore, two closely connected concepts. A purely pleasure-
focused understanding of utility, however, may be misleading at times because not everything is
in our interest just because it gives us pleasure. Some pleasures are in our interest, even though
they might not seem pleasurable at first, e.g. eating grass for the lion or getting an education for
humans. Similarly, other actions that are pleasurable simply are not in our interests such as
overindulging in unhealthy foods. Interests are more foundational because many behaviors can
better be explained and understood in these terms. Humans and animals alike engage in
behaviors that are pleasurable ultimately because they are in our interests. Interests hence are a
better way of understanding utility itself.

Mill and Bentham have narrow views of what constitutes utility, even though they apply
it correctly to the theory by acknowledging the moral significance of animals. Next, I will look at
two interest utilitarians, R. G. Frey and Peter Singer, who do in fact have the right conception of
utility. I will argue that even though Frey defines utility in proper terms, he applies it incorrectly to animals. Therefore, I will examine Singer’s version of interest utilitarianism; he correctly defines utility and applies it suitably to all beings. Having determined the right definition and application of utilitarianism, the final step in this chapter will then be to look at the theory as a whole and examine its suitability as a moral theory for the proper treatment of animals.

1.3. Frey’s Interest Utilitarianism

R. G. Frey is a modern utilitarian who understands overall utility differently than Bentham and Mill, which has important implications for the place of animals in his theory. Bentham and Mill ask “can [animals] suffer,” whereas Frey asks “Do animals... have interests in the... sense of having wants which can be satisfied or left unsatisfied?”35 Frey, unlike pleasure utilitarians, believes that overall happiness is not increased by simply reducing the suffering of sentient beings, but by being able to satisfy their interests. This means that only those beings that have interests can have direct moral significance. He then argues that animals do not have interests and therefore grants them no moral value.

Frey argues that you can have an interest in something only if you want something. “By ‘wants,’ [Frey] understand[s] a term that encompasses both needs and desires.”36 He gives an example of the need of a tractor to be oiled. The tractor needs oil to function, but it cannot actually want to be oiled or have any other kind of wants at all. He compares this example to the need of a dog to have water to function normally. The dog will die without water, just as plants will die if their need for water is not satisfied. Frey uses these examples to show that “needs do


not require the presence either of consciousness or of knowledge of the lack which makes up the need." Hence, according to Frey, the dog’s needs cannot be the sense of ‘want’ on which having interests will depend, since it does not exclude things from the class of want-holders. [...] Just as dogs need water in order to function normally, so tractors need oil in order to function normally; and dogs will die unless their need for water is satisfied, so trees and grass and a wide variety of plants and shrubs will die unless their need for water is satisfied. Though we should not give the fact undue weight, someone who in ordinary discourse says “The tractors wants oiling” certainly means the tractor needs oiling, if it is not to fall away from those standards which make tractors good of their kind. Dogs, too, need water, if they are not to fall away from the standards which make them good of their kind. It is perhaps worth emphasizing, moreover, as the cases of the tractor, trees, grass, etc., show, that needs do not require the presence either of consciousness or of knowledge of the lack which makes up the need. If, in sum, we are to agree that tractors, trees, grass, etc., do not have wants, and, therefore, interests, it cannot be the case that wants are to be construed as needs.

But Frey writes that interests are based on wants in terms of “both needs and desires.” So, the next question he addresses is whether or not animals can have desires. Frey believes that they do not. He bases this assumption on animals’ inability “to have awareness of ... how language connects with, links up with the world” and their inability to distinguish between true and false beliefs. He gives an example of a human desiring to own a rare Guthenberg Bible. The person can only desire to have this bible because he/she believes that he/she does not presently own such a bible. The person can distinguish between the two assertions “My collection lacks a Guthenberg Bible” and “My collection contains a Guthenberg Bible.” Frey then gives the


example of a cat not being able to hold the following declarative sentence to be true or false: “The door is locked.” He argues that creatures can have concepts of beliefs only if they have an awareness of linking language with the world and if they are “possessed of language” in the first place.

So even though animals have certain needs, these needs are morally irrelevant for the wants with which Frey is concerned. Furthermore animals do not have desires, due to their inability to hold beliefs, and as a result they cannot have interests. The implications of Frey’s view are that animals do not “have interests in the … sense of having wants which can be satisfied or left unsatisfied.” And if a being’s wants cannot be satisfied, then that being cannot experience more or less happiness. If we understand utility as interest-satisfaction, animals cannot be harmed by any human actions because they have no interests, which is Frey’s factor for calculating utility. As a result, humans are free to eat animals, even if they are raised in factory farms and to perform any research on them, whether for scientific, medical, or cosmetic purposes. These actions only increase overall happiness because anything done to animals does not contribute to overall suffering. According to Frey, the unrestrained use of animals is not only moral, but necessary in order to maximize utility. Animals have no moral significance due to their lack of interests.

Frey’s comparison of inanimate objects to animals is questionable because he fails to consider that animals, unlike tractors, have sense-organs and perceive things quite similarly to how humans perceive their environment. Ultimately, animals are more like humans than

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mechanical things. René Descartes’ (1596-165) claim that animals are like little machines has long been disproved by scientists. In fact some animals, such as chimpanzees, bonobos, gorillas, and orangutans are cognitively so similar to humans that using them as test subjects is deemed unethical in the Netherlands, New Zealand, the United Kingdom, Sweden, Germany and Austria. Austria is the only country in the world where experiments on lesser apes, the gibbons, are completely banned as well. What matters morally is that the being has a social, emotional, and cognitive life, no matter how primitive these experiences are. These functions cause a being to have interests that matter morally. If you disrespect an animal’s interest, you cause it harm because you affect its social, emotional, and cognitive life. A tractor is not capable of any of the functions mentioned above, whereas a dog or any other animal can engage in or experience all of them. Hence comparing the need of a tractor to be oiled to the need of an animal for water is not a suitable example to point out that animals have no needs in terms of interests.

Secondly, Frey wrongly argues that animals do not have desires. Frey assumes that animals lack concepts because they lack language. This is rooted in Descartes’ claim that only language, a “universal” instrument as he called it, “can evidence mind and go beyond immediate particularity.” But Bernard Rollin points out that claims like Frey’s and Descartes,’ which equate thought and language, need to address how humans ever acquired language in the first place. At some stage humans had experiences and thoughts without the ability to articulate

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them. Before they named a sign, they had to have an idea or concept of it. So, just because animals cannot articulate their ideas, does not mean that they do not have concepts. A dog that was abused by a man, for example, and now fears men, cannot articulate this concept. But he/she may have a concept that allows him/her to distinguish between men and women and link his concept of pain to men.

Furthermore, just because animals have different, say more primitive, concepts does not mean that they have no desires. Even instinctual yearnings for food, reproduction, and safety represent a form of desire, indicating that the being has an interest in these things. This demonstrates that a being does not need to have a clear concept of all of its desires. After all, humans cannot always conceptualize their own desires. Desires for love, spirituality, and avoiding death do not only have diverse meanings to different people, but they also tend to be abstract sensations that are difficult to conceptualize/define by those who experience them.

Frey does not evaluate the nature of animals correctly when determining whether or not they have interests. Animals have conscious thought-processes that lead to desired outcomes. As a utilitarian, R. G. Frey’s ultimate goal must be to increase overall happiness. He wrongly believes that animals do not matter in overall happiness and therefore does not give them any moral status. I have demonstrated, however, that animals do have interests that can or cannot be satisfied and, therefore, must be included in utilitarian calculations of happiness. More importantly, the utility of non-human animals could contribute a lot to overall happiness. Frey has a better understanding of utility—in terms of interests—but misapplies his own theory by failing to grant animals their necessary moral significance.
1.4. Singer’s Equal Consideration of Interest Utilitarianism

Peter Singer also uses interest-satisfaction to determine overall utility, but his definition and application of interests support a view that opposes Frey’s. Unlike Frey, Singer recognizes that animals have interests, just like humans do, and he weighs these interests equally with human interests in utilitarian calculations. Singer moves away from Mill’s pleasure distinction by arguing that animals have interests not in higher things necessarily, but by virtue of being animals. Interests vary based on a being’s capabilities, whether human or non-human.

In “All Animals are Equal” (meaning human and non-human animals), Singer develops his idea to make an important distinction between actual equality and equality based on interests. He calls his fundamental principle of equality, “equal consideration of interests,” which he uses as the basis for arguing for better treatment of animals. This principle argues that a proper moral approach does not depend on inherent equality because “if the demand for equality were based on actual equality of all human beings, we would have to stop demanding equality. It would be an unjustifiable demand.” Humans and animals come in different shapes and sizes so to speak; they have different appearances, physical strength, moral capacities, levels of sensitivity, and hence, different interests. Actual equality would demand that the right to vote is extended to children and pigs just because this right is extended to adult human beings. Such a view would be silly because the child and pig do not have an interest in voting. They do not have the required abilities to make use of that right. Instead, their actual interests should be taken into equal

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50 Singer, “All Animals Are Equal,” 77.

51 Singer, “All Animals Are Equal,” 75.
consideration among adult human interests. Children have an interest in being protected, fed, and taken care of; pigs have an interest in not feeling pain, in eating and drinking, and in wallowing in dirt. Neither one has an interest in voting. And precisely the interests that matter to a being should be taken into moral consideration, no matter how much they differ from healthy adult human interests.

As Singer points out, the differences between human and non-human beings are differences of degree. He gives two arguments as to why choosing one clear distinctive trait to create moral differences is wrong. Firstly, chasing the trait, whatever trait it is, would be totally arbitrary. Secondly, this approach would, in fact, exclude certain human individuals.52 For example, many theories dealing with the animal issue are based on the idea that human beings are the only rational animals and therefore, may abide by a different morality or have different rights. This is a wrong assumption because as recent scientific research has discovered, some animals can in fact think rationally. Furthermore, some humans are so severely handicapped that they cannot think rationally and actually have less intelligence than a pig or a chimpanzee. This example emphasizes the differences of degree between animals from different species, including human beings, and shows that an arbitrary factor such as rationality or species is not sufficient to determine moral inclusion for beings.

Singer, being a utilitarian, cannot rule out all suffering, but he uses the difference of degree example to emphasize that if we conduct scientific research on animals then we should also conduct research on human beings whose capacities do not go beyond those of animals, such as mentally disabled humans. If we conduct research only on animals and under no circumstances on any humans then we have an example of "speciesism," a common fallacy made

52 Singer, "All Animals Are Equal," 79.
by humans.\textsuperscript{53} Singer defines speciesism as “a prejudice or attitude of bias toward the interests of members of one’s own species and against those of members of other species”\textsuperscript{54} and believes that most human beings are speciesists.\textsuperscript{55} In other terms, speciesism is the discrimination of non-human animals based on the simple and random fact that they are a different species. Speciesists draw a sharp moral distinction between humans and all other animals.\textsuperscript{56} They believe in human superiority simply because human beings belong to a different species. Speciesism is very problematic, because as Singer and Dunayer point out, if the term “species” is replaced with terms such as gender or race, it is no different and just as arbitrary as sexism and racism. If belonging to the human species could justify superiority, then potentially so could skin color, nationality, size, or SAT scores.

Speciesism cannot justify human superiority over other animals, when in fact, they are not relevantly different from human beings. After all, animal research is done because animals such as mammals are considered to be very similar to human beings. So similar in fact that the results obtained from experiments where animals suffer emotional and physical pain can be transferred and applied to human beings. If animals and human beings were not similar in crucial respects such as organ functioning and the ability to suffer pain or emotional distress, scientists surely would not waste their time with conducting research on animals. Speciesism arbitrarily discriminates against these animals because they belong to a non-human species. Philosophically, this hard line between humans and animals is indefensible on this view because species is a morally arbitrary factor.

\textsuperscript{53} Singer, “All Animals Are Equal,” 79.


\textsuperscript{55} Singer, “All Animals Are Equal,” 79.

Singer’s equal consideration of interests view is a much better approach to the animal issue and grants all animals, human and non-human, moral significance. He properly understands utility based on interests and, unlike Frey, applies this theory correctly to all beings. His principle of equal consideration of interests grants animals moral significance for who they are. Bentham and Mill also granted them moral significance, but treated them second class by valuing their pleasures less than those humans are able to experience. Singer, on the contrary, rightly argues that animals may have interests very different from our own, but that does not make their interests morally less significant. We should take animals’ interests equally into consideration with our interests and not give them less value just because their interests may be different in nature.

We have finally answered the two main questions of this chapter: 1) what is suffering or disutility and 2) do animals also experience suffering? I have demonstrated that Singer is the philosopher who understands utility correctly based on its proper definition, namely interest satisfaction. Secondly, I have shown that the nature of animals is that they have morally relevant interests that can be satisfied or left unsatisfied. Hence, utilitarianism based on interest-satisfaction is applied correctly by Singer because it equally takes human and animal interests into consideration.

Being a utilitarian, however, Singer must admit that any potential cost is in principle permissible, meaning it may be morally acceptable to sacrifice or inflict pain on one or several animals if this is to the benefit of the collective. That is the nature of utilitarianism, a theory based on a cost and benefit analysis, which leads us to a more general critique of this theory.
1.5. A Critique of Utilitarianism

Utilitarianism as applied in the last section certainly is a theory that grants animals the same moral significance as human beings. Singer argues that animals are sentient beings, and their interest in not experiencing pain makes it wrong to cause them pain and even to eat them because the consequence is more overall suffering in this world. The issue with utilitarian thinking, however, is that it is entirely focused on the consequences of an action. I have stated before that if it would be necessary to torture one primate in order to save one hundred human beings, even a pro-animal utilitarian such as Singer would find it hard to argue against this act from a utilitarian point of view. Utility, not the inherent value of an individual being, decides moral rightness and wrongness. “Utilitarians believe that duty is determined by the comparative value of consequences: the right thing to do is whatever causes the best results.”57 This theory fails to take the individual seriously because it is so focused on how consequences fit into the overall suffering and happiness in the world.

Philosopher John Rawls supports this criticism by saying that “[t]he most natural way, then, of arriving at utilitarianism (although not, of course, they only way of doing so) is to adopt for society as a whole the principle of rational choice for one man. [...] Utilitarianism does not take seriously the distinction between persons.”58 Rawls points to the importance of “separateness of life and experience”59 in ethics. Utilitarianism does not take this “separateness of persons” into consideration and thus also cannot take the separateness of animals into considerations. All beings, human and non-human, are seen as members of one collective group,


whose moral responsibility it is to maximize its utility. This means that any being may be
sacrificed for the well-being of that one entity. Robert Nozick words the criticism like this: “You
hold utilitarianism inadequate because it allows an individual to be sacrificed to and for another
[...], thereby neglecting the stringent limitations on how one legitimately may behave toward
persons.”\(^{60}\) This naturally applies to animals as well.

Ends are not all that matter. Means are an important consideration in ethics as well
because they focus on the actions that are done to the individual, which leads into a second
criticism of utilitarianism, namely the issue of moral boundaries that lead to rights. Does a being
(human and non-human) have inherent rights that can never be outweighed against any other
factors such as utility? It is not a tough test of our intuition to say that murdering an innocent
young child, just because his/her death would increase utility, is wrong. Consider an animal
example. A growing trend is keeping wild exotic animals as pets. People get lots of pleasure out
of this activity at the cost of the animals. Yet, there is something related to the nature of animals
that should be taken into serious consideration. Perhaps animals, like humans, should have moral
boundaries based on the kind of being they are; they all have a social, emotional, and cognitive
life of their own. These factors would be the determinants for moral boundaries, regardless of
their complexity or any other features of the situation. Beings have individual interests unrelated
to their use to society in terms of maximizing utility. This major criticism questions the
foundations of utilitarianism.

Without a conception of rights, the contingent nature of utilitarianism makes it impossible
to set universal ethical standards because everything will always depend on the situation. Take
factory farming as an example. According to utilitarianism factory farming can only be justified

if the suffering caused to the animals is less than the happiness felt by the people. Using Singer’s understanding of utility, we have established that the suffering of the animals has more utility value than the happiness gained by the humans of being able to eat a lot of cheap meat. This implies that factory farming can be ethical only if people gain more happiness than animals suffer pain. If this is not the case, then the animals’ suffering along with the failure to increase overall utility makes this act unethical, meaning that enough of the lowest pleasure experienced by many people can outweigh extreme pain felt by a few individuals. Utilitarians admit that factory farming involves serious suffering, but depending on the contingency of utility, they may judge this act unethical at times and ethical at other times. They sacrifice parts to the whole; utilitarian morality is all about a being’s contribution to overall utility. Ethics, however, should instead be concerned with making consistent judgments about actions, despite their consequences, especially when we are dealing with individual beings such as animals and humans.

In conclusion, the main criticism of utilitarianism is the failure to consider the value of an individual and set equal ethical boundaries for individual moral beings. An innocent being has moral worth in and of itself. Killing an animal thus has moral significance despite the consequence it has on the rest of the world’s utility. Individuals and their treatment should matter morally. Singer himself writes that “[i]f a being suffers, there can be no moral justification for refusing to take that suffering into consideration.”61 He then, however, weighs suffering and happiness against each other in order to make it acceptable in certain situations. Utilitarianism does not go far enough. I have argued that some kinds of suffering cannot justified by an appeal to overall utility because of moral boundaries that protect humans and animals from certain

actions. Inflicting pain matters morally because it crosses that moral boundary. As a result utilitarianism, including Singer’s version, “is not itself a fully adequate theory.”

I have tried to apply the theory of utilitarianism to the ethical treatment of animals. In doing so, I have examined the approach of four different utilitarians and determined which version is the better of them. After I established what the proper version of utilitarianism and its correct application is, I examined the theory as a broad approach to practical ethical issues. I came to the conclusion that this theory is not suitable for the ethical analysis of our actions concerning the proper treatment of animals or our actions in general. My next step will be to look at deontological theories, which determine morality based on intentions and the nature of actions, and to establish if these kinds of theories guarantee adequate moral boundaries for the treatment of animals. In the next chapter will look at Kantian ethics.

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CHAPTER 2

2. **Kant’s Moral Theory**

In the previous chapter I explored various possibilities of applying utilitarianism to the ethical treatment of animals. My argument points out that utilitarianism is not an adequate theoretical basis for our behavior towards animals. In this second chapter, I will look at Kantian ethical theory and its implications for the proper ethical treatment of animals. The reason for looking at this theory is that it takes a fundamentally different approach to ethics than utilitarianism does. Whereas utilitarianism is a consequentialist theory, Kantian theory takes a deontological approach.

My first step will be to explain the role of animals and our “duties” towards them in Kant’s moral theory. Next, I will explain how Kant arrives at that conclusion by closely examining his argument and, especially, the morally relevant feature that his theory is based on: rationality. Then I will give a detailed account of the implications of Kant’s moral theory for the ethical treatment of animals as interpreted by other Kantians. To that end, I show that his theory can and must in fact be extended to animals. I adopt Allen Wood’s view arguing that Kant’s requirement to respect rationality as a whole forces us to include animals as long as they possess parts of rationality. Still, respecting a being’s features of rationality alone is not sufficient for determining moral behavior. I will use the final chapter of this thesis to introduce the last parts of the moral framework that I see as vital for determining ethical behavior. This chapter focuses on contractarianism and John Rawls’s theory of justice. The conclusion of that chapter is that our duties to animals are based on our rationality and ability to have a sense of fairness.
2.1. Kant and Animals

Immanuel Kant, a German philosopher (1724-1804), provides us with a theory that is fundamentally different from utilitarianism. In *Grounding for the Metaphysics of Morals*, he takes on a deontological approach to ethics, which, unlike utilitarianism, is concerned with individual beings and their features. Only beings that are fully rational have direct moral significance and this feature does not apply to animals on Kant’s view. Yet even though his theory is not primarily concerned with animals (due to reasons that I will explore in more detail throughout this chapter), he addresses the ethical treatment of animals and suggests that human beings have certain “indirect duties” to animals.

Kant’s only criterion for moral status is rationality. He thus argues that only rational beings, meaning beings that can act autonomously, have moral worth or “dignity” in Kant’s terms. This approach rejects all non-rational beings from morality, including, amongst others, animals. Rationality, or the cognitive capacities for self-rule, is the central feature of Kant’s theory and a prerequisite for any being that is to have moral worth. Animals do not fully have these abilities (even though some species of highly developed mammals such as apes and elephants seem to be capable of some rational thought) and hence have no direct moral worth according to Kant.

I emphasize the term *direct* because Kant does not fully disregard the ethical treatment of animals. The fact that animals have no rationality, and hence no dignity, does not mean that we can do whatever we want to them. He believes that we do have at least indirect duties towards animals. “Our duties towards animals are merely indirect duties towards humanity” because, as

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64 Kant, “Duties in Regard to Animals,” 23.
Kant argues, the nature of animals is similar to that of humans in various aspects. By upholding our indirect duties to animals, we cultivate human values and moral actions. Thereby we indirectly do our duty towards humanity "for he who is cruel to animals becomes hard also in his dealing with men." Acts of animals, such as the loyalty of a dog to his master, are thus analogous to human acts. As humans we should respect the dog’s loyalty and treat the dog courteously because in doing so, we promote similarly good behavior towards other human beings. If the master decides to shoot his loyal dog "he does not fail in his duty to the dog, for the dog cannot judge," but he acts inhumanely and fails to cultivate the kind of behavior he has to show towards mankind. So the duties rational human beings have towards animals are not direct, but "indirect duties towards mankind."

In order to be able to understand how animals fit into Kantian ethics and why we have the kind of duties to them that are described above, we need to take a closer look at his general theoretical framework. The first questions that seem to arise are: 1) Why does Kant make morality solely dependent on rationality and 2) Is this feature sufficiently morally relevant to be the determinant for moral status? Answering these questions shall be my next step in this chapter.

Kant begins in *Grounding for the Metaphysics of Morals* by saying that "There is no possibility of thinking of anything at all in the world, or even out of it, which can be regarded as good without qualification, except a good will." He makes it very clear from the beginning that

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65 Kant, "Duties in Regard to Animals," 24.
66 Kant, "Duties in Regard to Animals," 24.
67 Kant, "Duties in Regard to Animals," 24.
his theory is not at all concerned with the consequences of any actions or the consequences at which we aim (as is the case in utilitarianism), whether in terms of happiness and pleasure or success and failure (of the ultimate goal that was attempted to be reached through the action). The only thing that matters is that the nature of the act—or in his terms what is being "willed"—is good.

Other human features such as intelligence and courage can, of course, be good as well, but they are good only if the will, which makes use of these qualities, is good. The will, or more precisely the good will, needs to guide our actions and control our decisions. In other terms, being an intelligent person is often good, but if this individual uses his/her intelligence in order to take advantage of the weak, then this trait is no longer good. Intelligence, then, is good only as long as it is applied through a good will. Hence features such as intelligence, courage, power, and wealth are not good in themselves, but good only in so far that certain conditions are met. The good will, on the other hand, is always good, despite and circumstances or conditions; it is the only thing that is good in itself. As Kant says, "[a] good will is good not because of what it effects or accomplishes, nor because of its fitness to attain some proposed end; it is good only through its willing, i.e., it is good in itself."  

We can see that the good will is central to Kant's theory. So our next question is concerned with "what exactly makes the will good?" The answer is that the good will can exist and function only when guided by rationality, making this feature necessary for moral consideration. Therefore, according to the most important aspect of his theory, reason, or rational thought, makes the will good. As he puts it, reason's "true function must be to produce a will

which is not merely good as a means to some further end, but is good in itself.”71 This means that the will is good if a person does not act out of any inclinations, but rather because he/she recognizes the act to be his/her “duty.” In other terms, reason makes the will good by telling it what its duties are.

The dependence in Kant’s theory on the use of rational thought for determining one’s duties has significant implications for the moral agency of animals and thus for their treatment. As J. Skidmore writes, “Kant was committed to the idea that any duty we have is a duty to some specific rational being.”72 Thus, there are two major implications of Kant’s view: 1) animals are not rational beings because they cannot construct duties and act on a good will and 2) we have no direct duties to animals because they are not rational. Kant argues that direct duties can be only towards other rational beings.

But what exactly does Kant mean by being rational? I have stated above that the role of rational creatures is to use their reason in order to determine what their duties are. This is important because Kant believes that morality can be expressed in one principle, which should serve as a law to guide our moral behaviors and help us to determine our duties. This principle is the categorical imperative: “Act only according to that maxim whereby you can at the same time will that it should become a universal law.”73 The maxim of an action is the abstraction of the principle of an action. We need to think about it as a generalized statement and ask ourselves if we will for everyone to do the same. In doing so, Kant’s theory forces us to be consistent and reasonable. We cannot do what we do not want others to do, and we are never allowed to make


exceptions for ourselves or someone else.

Ultimately, we need to assess every one of our actions in light of this categorical imperative and make sure that our behavior can be universalized. As a result, the ability to reason is so important for Kant’s theory because it allows rational creatures to determine duties and morally right actions by referring to the categorical imperative. Yet, it is important to emphasize that not all actions that are consistent with our duty have moral worth. Just acting in line with the categorical imperative does not make our actions morally good. The categorical imperative is a law that tells us what our duties are. However, the motivation for the action must be respect for the law and not any other inclinations. If the motivation is anything other than pure respect for the law, such as to feel good about oneself or to earn recognition, then the act was “in accordance with duty” and deserves no moral appraisal. Even acts that are benevolent and are in fact our duty have no moral worth if the agent was “impelled to thereto by some other inclination.” As Kant would say, in that case “[the action’s] maxim lacks the moral content of an action done not from inclination but from duty.” A duty needs to be void of any inclinations and done only because it is the right thing to do if it is to have moral worth.

After having determined why reason is so central to Kantian theory, we can see why Kant does not include animals in morality. They cannot be called rational beings on Kantian terms because they lack the ability to reason according to the categorical imperative or any other law as a matter of fact. All of their actions are motivated by instincts, desires, emotions, reflexes, etc., but not pure respect for any law. They are not able to derive duties and hence cannot engage in acts that are from duty. Because of this lack of ability to reason, animals have no intrinsic moral


75 Kant, *Grounding for the Metaphysics of Morals*, 11.
worth. This means that, according to Kant, even if an animal, such as a dog, can feel pain, he/she
is not entitled to direct moral consideration.

Kant also gives a second version of the categorical imperative, which states, “Act in such
a way that you treat humanity, whether in your own person or in the person of another, always at
the same time as an end and never simply as a means.”\(^76\) This law, just like the first one, also
requires respect for reason. If you bypass someone’s rationality (for example by doing something
against their will such as inflicting pain), you use them as a mere means to end, which is
prohibited by this law. Rational beings deserve full respect as rational agents at all times. But in
the case of non-rational beings, such as animals, this does not apply. They are not part of
“humanity” and therefore do not have to be treated as ends in Kant’s sense. In other terms,
animals and all other non-rational beings are beyond the scope of the second version of the
categorical imperative.

There is yet another version of the categorical imperative introduced by Kant. He calls
this the “kingdom of ends by which [he] understand[s] a systematic union of different rational
beings through common laws.”\(^77\) Here too it seems as though in the kingdom of ends, animals
still cannot be considered to have direct moral consideration. “A rational being belongs to the
kingdom of ends as a member when he legislates in it universal laws while also being himself
subject to these laws. He belongs to it as sovereign, when as legislator he is himself subject to the
will of no other.”\(^78\) In other terms, all rational beings in this kingdom are makers and followers
of the law. They determine what moral law is through their use of reason, and at the same time

\(^{76}\) Kant, *Grounding for the Metaphysics of Morals*, 36.

\(^{77}\) Kant, *Grounding for the Metaphysics of Morals*, 39.

\(^{78}\) Kant, *Grounding for the Metaphysics of Morals*, 40.
are obliged to follow their own laws.

Members of this kingdom must be rational because only rational beings can make and follow universal laws. Thus, all non-rational beings are simply objects to the members of the kingdom of ends. In this kingdom "everything has either a price [to the members of the kingdom] or a dignity."\(^79\) Naturally whatever has a price is replaceable, interchangeable, and usable. But all beings that are an end in themselves, i.e. rational beings that can legislate universal laws, have “not merely a relative worth, i.e., a price, but has an intrinsic worth, i.e., dignity.”\(^80\) Hence the only things that have dignity are “die Sittlichkeit und die Menschheit,”\(^81\) usually translated as morality and humanity (assuming of course that humans are the only rational beings), “for the legislation of universal law distinguishes him as an end in himself.”\(^82\) This means that humanity has dignity only because of its capacity to create laws and abide by them at the same time.

We have seen that according to Kant humans cannot use themselves or any other rational being as a means to an end because of their intrinsic worth and dignity. Animals, due to their lack of rational thought “are not self-conscious and are there merely as a means to an end. That end is man.”\(^83\) Rational human beings have a value above all price, while animals have value only insofar as they serve human purposes.

Yet, at the same time, Kant’s view also “depends crucially on the existence of a strong

\(^79\) Kant, *Grounding for the Metaphysics of Morals*, 40.

\(^80\) Kant, *Grounding for the Metaphysics of Morals*, 40.


\(^82\) Kant, *Grounding for the Metaphysics of Morals*, 43.

\(^83\) Kant, “Duties in Regard to Animals,” 23.
contingent relation between our treatment of animals and our treatment of human beings."\(^{84}\)

Keep in mind that our duties towards animals are indirect duties towards humanity "for he who is cruel to animals becomes hard also in his dealing with men."\(^{85}\) So how can there be such a clean distinction between humans and animals, given that our attitudes towards animals affect our behavior towards other humans? Must Kant not admit that there is in fact a certain moral similarity between human and non-human nature? I believe there is and in the next section I will show why this similarity between humans and animals does in fact matter morally.

2.2. Kant Reinterpreted

It is interesting to note that even though Kant did not derive direct duties towards animals from his theory, his intuition seems to be that non-rational creatures deserve at least some moral consideration. For example, Kant himself comes up with conclusions about how nonrational beings, animals in particular, should be treated, regardless of the fact the we have no direct duties towards them. He does not think, for example, that domestic animals can be treated as mere things. He explicitly says they cannot be overworked and their effort and work should be recognized with gratitude and respect.\(^{86}\) He also thinks killing animals for sport or fun to be morally wrong. Kant does allow that animals can be killed for more serious human ends such as for food, but insists that this should be done with the least amount of pain possible. And he approves of the work of vivisectionists—people who perform painful experiments on living animals—only if this is done for sufficiently important human ends. He condemns vivisections

\(^{84}\) Skidmore, “Duties to Animals: The Failure of Kant’s Moral Theory,” 557.

\(^{85}\) Kant, “Duties in Regard to Animals,” 24.

\(^{86}\) Kant, “Duties in Regard to Animals,” 23.
for trivial ends as morally wrong. Kant even mentions that beautiful non-rational nature deserves our respect at times as well.\textsuperscript{87}

The fact that Kant had these moral intuitions about animals, but had difficulty deriving \textit{direct} duties towards them with his own theory, hints at a possible shortcoming of Kantian theory. He seems to want certain duties and/or behaviors towards animals but can defend this claim only in relation to duties towards rational persons or humanity. As a result, the best conclusion he can arrive at is that we have some indirect duties towards animals.

A number of philosophers have accused Kant of misinterpreting his own theory and have argued that even Kantians should accept direct duties towards animals. Therefore, this section is devoted to the analysis of the arguments given by some of these philosophers. Where did Kant go wrong, if he went wrong at all? Specifically, I will take a close look at Kantian interpretations of our duties towards animals by Barbara Herman, Christine Korsgaard, and Allen Wood. These Kantian philosophers, with the exception of Herman, derive direct duties towards animals from Kant’s theory. Wood’s reinterpretation in particular will serve as the basis for my argument concerning Kantianism and duties towards animals. I will explain that Kant’s theory is broader in scope than he assumes and that you can in fact derive direct duties towards animals through the application of his theory.

All Kantians acknowledge the difficulty of applying Kant’s moral theory to animals because animals are not fully rational, or autonomous beings. Nevertheless, many tend to find ways around the problem and manage to extend moral status, or at the least direct moral consideration, to beings that are not fully rational. Barbara Herman, for example, reinterprets Kantian theory and comes to slightly different conclusions about the proper ethical treatment of

beings that are not fully rational. She argues that from Kant’s first version of the categorical imperative we can derive broad duties towards non-rational human beings, but not to animals. 

Broad duties do not have to be fulfilled all the time, but they nonetheless yield direct duties (versus merely indirect duties).

Let me give two examples to make the distinction more clear. Strict duties are derived from the categorical imperative by asking if the action can be universalized. Take lying as an example. Is it possible to imagine a world where everyone lied? The simple answer is no, this action cannot be universalized because no one would trust anybody and lying would no longer be effective. According to the universalization aspect of the categorical imperative you cannot lie and expect other people not to lie. The contradiction in conception means you have a strict duty not to lie. Having a strict duty means that it is always wrong to do that action. Broad duties are also derived from the categorical imperative. Again, we have to ask if an action can be universalized, such as helping someone in need, without thereby endangering our own life. Is it possible to imagine a world where no one helped someone in need? In this case the answer is yes, we can indeed imagine such a world. So there is no strict duty to do this action. However, you cannot will such a world because you might be in need one day and would want someone to help you. This gives you a contradiction in will, which establishes a broad duty and only has to be carried out some of the time.

Along those lines, Herman argues that as rational agents we need to set ends that are necessary for our own wellbeing and existence. As human beings we are vulnerable to losing our

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90 Kant, *Grounding for the Metaphysics of Morals*, 32.
ability to reason, either through an accident, dementia, or another unfortunate event. We need to take that possibility into consideration and must will that we receive help when in that state. So according to Herman we have broad duties to non-rational humans.

In relation to animals, Herman argues that “as Kant pointed out, even activities that are directed at animals or the environment are still matters of dutiful concern insofar as they also have an effect on our moral sensibilities.”91 She admits that we can have duties only to rational beings,

but from the fact that we cannot have ‘duties to’ something, it does not follow that we are morally free to act toward it in any way we wish. Being indifferent to pain, wasteful, insensitive to the beauties of nature are not ways of acting that can be included in sound courses of reasoning. They are not kinds of activity (as aims or as means) that are, in the obligatory sense, good for us. This is not because if we are insensitive to animals we will be insensitive to persons (though that may be so) but because indifference and insensitivity are hostile to reason, to getting things right, and therefore not part of justified ways of acting. Animals do suffer; old-growth forests are beautiful. This doesn’t settle questions about the use of animals or things; it is possible that for this or that purpose we must steel ourselves against the pain we must cause, or the loss of a forest. It brings these considerations into our reasoning about what we may do.92

She grants animals moral consideration not because of the animal itself or any other feature about it, but because of the threat to reason that ignorance and insensitive behavior poses.

Herman makes a distinction between the moral treatment of non-rational human beings and the moral treatment of non-rational animals based on the fact that a human will never be an animal, but might be non-rational at some point. She refers to this concept as our “vulnerability.”93 However, she does not consistently apply her argument. Non-rational human

92 Herman, Moral Literacy, 272.
93 Herman, The Practice of Moral Judgment, 49.
beings and animals are both unable to set ends for themselves. There is no relevant moral
distinction according to Kantian theory; both are non-rational. Kant’s only distinction for
morality is rationality and not species or any other feature. Thus, Herman must either reject her
theory because it is inconsistent by including non-rational human beings, but not animals, or she
must apply it to non-rational humans and animals alike.

Herman derives broad duties towards non-rational humans and argues that animals, the
environment, and things deserve at least some moral consideration. But even these
considerations depend not on the animals themselves, but on the threat to reason that indifference
and insensitivity poses. Her argument, however, is not strong enough because as Allen Wood
puts it,

If it happened to be a quirk of human psychology that torturing animals would make us that much kinder toward
humans (perhaps by venting our aggressive impulses on helpless victims) then Kant’s argument would
apparently make it a duty to inflict gratuitous cruelty on puppies and kittens so as to make us that much kinder
to people.\textsuperscript{94}

This reinterpretation, thus, still fails to justify the proper ethical treatment on animals in Kantian ethics. My next step will be to look at another famous Kantian and her reading of duties towards animals.

Christine Koorsgaard reinterprets Kant’s theory to demonstrate that we do in fact have
duties towards animals. She introduces the notion that just as rational nature, i.e. humanity, is
and end in itself, so is life an end in itself. She bases her account of what an animal is on
Aristotle’s definition. Aristotle thought of things as the arrangement of its parts that give it is
nature and allow it to exist and do what it is made to do. A \textit{living} thing is different because it is
designed to maintain and reproduce itself. It has its own end because its purpose, whether

\textsuperscript{94} Wood, “Kant on Duties Regarding Nonrational Nature,” 4.
consciously or not, is to preserve its nature and its identity.⁹⁵

Korsgaard uses this account to argue that because animals are living things with a certain degree of consciousness, part of the way in which they preserve their identity is through their sensations, in particular the avoidance of pain. She then relates the notion of pain to the motivation to act.

A living thing is an entity whose nature it is to preserve and maintain its physical identity. It is a law to itself. When something it is doing is a threat to that identity and perception reveals that fact, the animal finds that it must reject what it is doing and do something else instead. In that case, it is in pain. Obligation is the reflective rejection of a threat to your identity. Pain is the unreflective rejection of a threat to your identity. So pain is the perception of a reason, and that is why it seems normative.⁹⁶

So the perception of pain gives beings a reason to act and signals its desire to change its condition to ensure the preservation of its identity. As humans we cannot disregard this reason.

When you pity a suffering animal, it is because you are perceiving a reason. An animal’s cries express pain, and they mean that there is a reason, a reason to change its condition. And you can no more hear the cries of an animal as mere noise than you can the words of a person. Another animal can obligate you in exactly the same way another person can. It is a way of being someone that you share. So of course we have obligations to animals.⁹⁷

Her point is that human beings share their animal nature with animals. In fact, apart from our humanity, we also value our animal nature and therefore, must value animals and their identity.

“And this further stretch of reflection requires a further stretch of endorsement.”⁹⁸ Korsgaard is demanding consistency of action. We cannot limit our consideration to humans because animals

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⁹⁶ Korsgaard, *The Sources of Normativity*, 150.


⁹⁸ Korsgaard, *The Sources of Normativity*, 152.
share many aspects with us—we and they are sentient. Thus the only way of valuing our animal nature is by respecting animals's experience of pain as its reason to act to preserve its life.

Through this line of reasoning, Korsgaard seems to be able to derive direct duties towards animals. She assumes that in addition to reason and humanity, life is an end in itself as well.\(^99\) As a result she extends the kingdom of ends to all beings that feel pain and act in order to preserve their nature. The desire for self-preservation requires some kind of reason sufficient for an animal to be taken into direct moral consideration. But Korsgaard's assumption concerning the idea that life is an end in itself is a far stretch from Kant's original focus on rationality and does not work. If life is an end in itself, then Kant's theory would have to reject the notion of respecting rationality and, instead, respect every rational and non-rational living thing, including plants. And this is surely not what Kant intended; his theory can be reinterpreted only by staying true to the notion of respecting reason. J. Skidmore also critiques Korsgaard's argument for making the assumption that all living things by their very nature have certain goals or ends, such as self-preservation. He writes, "it is unclear how [such a conception] automatically gives rise to reasons."\(^100\)

Philosopher Allen Wood takes Kantian moral theory a step farther, but, unlike Korsgaard, successfully argues that a Kantian does in fact have strict direct duties towards animals.\(^101\) He points to what he calls the personification principle: "This principle specifies that rational nature is respected only by respecting humanity in someone's person, hence that every duty must be

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\(^99\) It is important to note that Korsgaard does not think that pain or suffering is an intrinsic evil. This distinction is important to differentiate her theory from a utilitarian account. She does admit that pain is nearly always bad, but we do not always object to pain. For a more detailed account see her book *Sources of Normativity*, pp. 154-155.

\(^100\) Skidmore, "Duties to Animals: The Failure of Kant's Moral Theory," 548.

understood as a duty to a person or persons."^{102} Wood argues that if we hold the personification principle to be true then there can be no duties toward non-rational nature, including children, non-rational adults, and animals. His critique of Kant's view is not concerned with its "logocentric"^{103} focus—grounding all duties on the value of rational nature—but with its acceptance of the above-mentioned personification principle. Wood sees a more plausible explanation of our duties towards animals, for which we need to abandon the personification principle. This way respecting rational nature is not restricted just to persons.

Wood argues that "we should also respect rational nature in the abstract."^{104} The term abstract indicates that we can have duties towards animals that are not rational, but "bear the right relations to rational nature."^{105} It results then that simply having "fragments" of rational thought is enough for a being to have moral significance. These fragments or right relations include "having rational nature only potentially, or virtually, or having had it in the past, or having parts of it or necessary conditions of it."^{106} So according to Wood, if the personification principle is rejected, then we are compelled also to have duties towards beings that can be considered rational only in an abstract sense. In other terms, beings that are not fully rational could not be excluded from morality without thereby disrespecting rational nature itself.

When Kant's personification is rejected, and according to Wood it needs to be, we overcome some serious issues of Kantian ethics, such as the moral standing of children, mentally handicapped human beings, and animals. Wood argues that animals have capacities which

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^{103} Wood, "Kant on Duties Regarding Nonrational Nature," 1.


should be valued as the "infrastructure of rational nature."\textsuperscript{107} By fragments and infrastructure he is referring to, amongst other features, the ability to experience pleasure or pain and the ability to have desires. According to this view, inflicting pain on an animal or not respecting its desires "is to treat with contempt that part of rational nature which animals share with human beings."\textsuperscript{108}

Animals are similar to human beings in many respects. Their desires, preferences, and sensibilities are even analogous to the rational capacities that humans possess. Hence, "our conduct toward these animals can therefore be approved or condemned by Kantian ethics based on what it expresses toward the value of rational nature."\textsuperscript{109}

Furthermore, Wood refers to what philosopher Tom Regan calls "preference autonomy."\textsuperscript{110} This means that animals have preferences, including the ability to initiate actions that can deliberately be satisfied. He admits that this is not the same as rational autonomy, at least the way Kant saw it, but preference autonomy is an infrastructure or necessary condition for rationality. And again, if we are to respect rational nature, we need to respect all aspects of it. In other terms we need to respect all beings that possess fragments of it in order to respect reason as a whole.

In conclusion, all of the reinterpretations I examined above—Herman’s, Korsgaard’s, and Wood’s—attempted to derive direct (broad and/or strict) duties towards animals by extending the scope of Kant’s theory to beings that do not fulfill the requirements for personhood, but only Wood was able to do so successfully. If we are to respect rationality as a whole, we have to respect all features of it, even in beings that possess only a few of these features and are not fully

\footnote{Wood, "Kant on Duties Regarding Nonrational Nature," 8.}
\footnote{Wood, "Kant on Duties Regarding Nonrational Nature," 8.}
\footnote{Wood, "Kant on Duties Regarding Nonrational Nature," 8.}
rational beings. This is especially important because even though we are rational beings, not all of our decisions, actions, and/or desires are understood by all of us all the time. As Korsgaard writes

The human mind is self-conscious. Some philosophers have supposed that this means that our minds are somehow internally luminous, that their contents are completely accessible to us—that we can always be certain what we are thinking and feeling and wanting—and so that introspection yields certain knowledge of the self. Like Kant, and many philosophers nowadays, I do not think that this is true. Our knowledge of our own mental states and activities is no more certain than anything else.¹¹¹

Despite the fact that rational being cannot find the answers to everything using reason, it remains important to respect rational beings even if their decision or action is simply a reflection of a part or parts of their rationality. Thus, it seems pretty clear that by disrespecting an animal’s desire to not feel pain, we disrespect the same feature of rationality that compells us not to inflict pain on other human beings.

I have expressed that there is reason to think that Kant has drawn the wrong conclusions from his theory. The reinterpretations of Herman, Korsgaard, and Wood show that Kantian ethics is much broader in scope than is often assumed. Even by staying true to Kant’s sole focus on respect for rationality, can we derive direct duties towards animals. More importantly, we need to respect every being’s desire to avoid pain in order to respect rational nature as a whole. We thus have direct duties towards animals.

2.3. Animals and the Categorical Imperative

So far I have advocated a broader approach to Kantian ethics by upholding what seems to be a central aspect of his theory, namely respecting rational nature. We have seen that we can

¹¹¹ Korsgaard, *Sources of Normativity*, 92.
and must in fact include all beings that are not fully rational as long as they possess any feature related to what makes up rationality. In other terms, we need to respect animals to the extent that they are rational.

Kant's theory, however, is not just concerned with respecting the rationality of autonomous and dignified moral agents. His theory also includes the necessity to create laws and subject oneself to them. As we have seen, Kant gives us several versions of the categorical imperative, which he expects rational beings to use in order to determine moral actions. So, to apply Kantianism to animals, we not only have to see how rationality is respected as a whole, but also determine the implications the categorical imperative has for beings that are not fully rational, i.e. beings that are not moral agents. Therefore, I will now explain how the three main versions of the categorical imperative that I already addressed in section 2.1 can be applied to the ethical treatment of animals, in light of the requirement that we respect the features of their rationality.

Doing so we need to differentiate between moral beings and moral agents. Moral agents are fully rational beings that are protected as well as bound by morality. Moral beings are only protected by morality. As Price notes “it is false that meriting the protection of morality implies being bound by it.” For example, a fully rational adult is expected and required to create and abide by universal laws derived from the categorical imperative. A moral agent comes up with these laws through the process of proper reasoning, as explained in detail in section 2.1. But not all beings can reason in ways to create universal laws. Moral beings, therefore, can be protected by morality (as the name implies), even though they cannot create laws that tell them what

morality is. Although we cannot expect all moral beings to act morally, they can nevertheless be protected by it.

I will now re-examine the implications of the three most known versions of the categorical imperative for animals in order to demonstrate that they do not, as Kant argues, exclude from morality animals and all other beings that are not fully rational. The first version of the categorical imperative states that you should “Act only according to that maxim whereby you can at the same time will that it should become a universal law.”\(^\text{113}\) This version is often referred to as the formula of universal law. As with all versions of the categorical imperatives, its purpose is to respect rationality. But the purpose is not to respect moral agents per se, but to respect what the rational mind can conceive of. That is because when you act only so that you can universalize your action, you respect reason itself and not any particular rational agent. The process through which we arrive at these laws is reason and if we act in ways that cannot be universalized, we are disrespecting our own ability to reason and are not making proper use of this faculty that defines our moral agency.

Kant cares about moral agency because that is the highest possible expression of autonomy. Now if we abuse an animal, we can certainly universalize that action without getting a contradiction in conception or will. But in doing so, are we not contradicting the moral purpose of the categorical imperative, which is to respect reason itself? Remember that in the previous section I have established that in order to respect rationality, we must respect its features as well, even in beings that only possess some feature of these and are not fully rational. I have also explained that the whole moral purpose of the first version of the categorical imperative is to respect rationality in a more abstract sense. This means that even if certain actions can be

\(^{113}\) Kant, *Grounding for the Metaphysics of Morals*, 30.
universalized, they can still be wrong if they disrespect a being’s features of rationality.

Many Kantians have tried to argue that beings that cannot universalize their own actions are not protected by morality. This would imply that we have no direct duties towards animals. These Kantians, however, overlook the fact that in this case it does not matter whether or not a being can reason in ways to create laws. They fail to differentiate between moral beings and moral agents. True, animals cannot reason in the way this version requires, but they are nonetheless moral beings because strict duties toward animals are in the spirit of this version of the categorical imperative. In order to respect reason and the moral purpose of the first version of the categorical imperative, moral beings need to be protected by morality, even though they are not bound by it.

It might seem wrong at first that moral agents are protected and bound by morality, while moral beings are not bound, but protected by it. But moral beings cannot reason in ways as to follow, let alone create, universal laws. A dog injuring a fully rational human being, for example, is not necessarily aware of the wrongness of his/her action. He/she cannot be held accountable for his/her actions because he/she is not fully rational. But I argue that moral agents are superior because of their sense of morality derived through reason. I will return to this idea in the next chapter. The ability to reason gives us the responsibility to apply and respect reason, something animals cannot do. So moral agents are superior beings in the sense that they, unlike moral beings, have a sense of morality in the first place. Hence they are required to make use of their ability to reason and to respect rational nature, while this cannot be expected from moral beings such as animals.

Next I will re-examine what is generally referred to as the formula of the end in itself.

“Act in such a way that you treat humanity, whether in your own person or in the person of another, always at the same time as an end and never simply as a means.” ¹¹⁵ As touched upon in the previous section “Menschheit” or humanity in Kant’s terms may include more than human beings, and it certainly ignores some human beings because not all human beings are always rational (i.e., children or mentally handicapped people). As a result not every human is automatically included in Kant’s term “humanity.” What Kant is referring to is all beings that are fully rational. He never refers to the species of homo sapiens, implying that not the species matters for the term “humanity,” but rather the extent to which any being is rational, whether human or not. Kant’s theory does not rest on human nature.

So the second version of the categorical imperative explicitly refers to fully rational human beings. Its moral purpose is to ensure that the rationality of all moral agents or fully rational beings is respected; thus it respects reason in a more practical sense. In order to see how this version is compatible with the inclusion of animals in his moral theory, notice that it simply does not address beings that are not fully rational, such as children and animals. Kant states that only fully rational beings can never be used as a means only. The principle says nothing about the treatment of animals or children. Thus it applies to animals only in the sense that they, along with all other beings that are not fully rational, may be used as a means. But this statement certainly is not enough to determine the ethical treatment of animals. For this outcome, we have to refer back to respecting features of rationality in order to respect reason as a whole. From the fact that we must treat fully rational agents as ends in themselves, it does not follow that we have no direct duties to non-rational beings.

The last version of the categorical imperative is the formula of the kingdom of ends: “a

systematic union of rational beings through common objective laws, i.e., a kingdom that may be called a kingdom of ends (certainly only an ideal), inasmuch as these laws have in view the very relation of such beings to another as ends and means.”¹¹⁶ What this version specifies is that in order for a being to be a member of the kingdom of ends, he/she needs to be able to think of, and abide by, universal laws. Any being that is not capable of this kind of legislation, is not part of this kingdom. In other terms, animals cannot be members of the kingdom of ends because they are not rational enough to extract the maxims of their actions and think in terms of universal laws. As a result, animals are not moral agents and cannot determine moral behavior. In the next chapter, I will argue that our reason gives us a sense for right and wrong and that we can be expected to behave in moral ways, even towards beings that cannot reciprocate our morality.

Having direct duties to animals is not just compatible with all three versions of the categorical imperative discussed in this section, but in the case of the first version it is actually a necessity. The second version deals with the treatment of fully rational beings, but again, that does not imply that beings that are not fully rational are excluded from morality. It simply implies that we do not have to get the consent of animals and non-rational human beings. Still, in using them as means, we could be required to respect the features of rationality that they possess. The third version of the categorical imperative tells us the nature of the relationship between fully rational beings or moral agents, specifically, in their creation of moral laws. But again, just because animals are not addressed, we should not infer that they therefore have no moral status at all. Keep in mind that in the previous section I established that the underlying notion of all our behaviors consists in respecting rationality, which includes respecting the features of rationality that a being possesses. In this section I simply confirmed that the notion of respecting rationality,

¹¹⁶ Kant, Grounding for the Metaphysics of Morals, 39-40.
even in beings that are not fully rational, is compatible with the spirit of the categorical imperative. Hence I showed that we can use Kantian ethics to yield quite different kinds of duties towards animals than Kant was willing to admit. In the next section, I will therefore provide a summary of the implications of Kantian ethics on this interpretation.

2.4. Rationality and the Harm of Death

When Kant’s moral theory is properly interpreted and applied, there are indeed direct duties derived towards animals. This conclusion has important implications for the ethical treatment of animals. Kant’s main principle in his theory is respecting reason. This respect can be shown in a more abstract sense by respecting the process of good reasoning, and it can be shown in a more practical sense by applying the categorical imperative to one’s treatment of individuals. I have emphasized that in order for rationality to be respected, you have to respect all beings that possess any aspect of rationality, even if they are not fully rational on Kant’s terms. Rationality as a whole can be respected only if the individual parts that make up a fully rational being are treated with respect as well.

Secondly, as I have argued in the previous section, Kant’s principle is clear in the first version of the categorical imperative. The other versions of the categorical imperative simply do not address non-rational agents, but that does not make Kant’s theory incompatible with having direct duties towards animals. It simply points out that Kantian ethics does not grant animals rights in the sense that they should be treated as ends in themselves. Their moral protection only goes as far as to the features of rationality that they possess. In order to point out what duties towards animals Kantian ethics does not cover, I will take a closer look at the implications of my interpretation of Kant.
If we are to respect the features of rationality that a being possesses in order to respect rationality as a whole, then we are limited to only having direct duties towards beings that have those specific features. Let us use a dog as an example. A dog is clearly not a fully rational being that can be considered a moral agent. But a dog certainly is a moral being because he/she possesses many features of rationality such as sentience and “a set of psychological capacities (for example, the capacities to desire, remember, act intentionally, and feel emotions).” A dog acts in ways that seek to preserve his/her well-being and existence. Thus we have direct duties not to cause the dog pain or not to keep him/her from doing what is in his/her interest, e.g. eating, drinking, sleeping, etc. We have to respect the features of rationality that he/she has and seeks to preserve (whether he/she does so consciously or not). On the other hand, we have no responsibility whatsoever to respect those features of rationality that the dog does not possess. For example, a dog does not have a concept of life or death. It certainly acts in ways that seek to preserve his/her nature or life, but he/she does so without having a consciousness of death itself.

Michael Tooley supports this view and also argues that animals may be killed because they are not self-conscious; they cannot think about themselves as an entity existing over time. “An organism possesses a serious right to life only if it possesses the concept of a self as a continuing subject of experiences and other mental states, and believes that it is itself such a continuing entity.” While I give the example of not inflicting pain on a dog, Tooley contrasts killing a kitten with inflicting pain on it.

The reason a newborn kitten does not have a right to life is explained by the fact that it does not possess the concept of a self. But how is one to explain the kitten’s having a right not to be tortured? The answer is that a desire not to suffer pain can be ascribed to something without assuming that it has any concept of a continuing entity.

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self. For while something that lacks the concept of a self cannot desire that a self not suffer, it can desire that a given sensation not exist. The state desires—the absense of a particular sensation, or of sensations of a certain sort—can be described in a purely phenomenalistic language, and hence without the concept of a continuing self. So long as the newborn kitten possesses the relevant phenomenal concepts, it can truly be said to desire that a certain sensation not exist. So we can ascribe to it a right not to be tortured even though, since it lacks the concept of a continuing self, we cannot ascribe to it a right to life.119

Thus, according to my interpretation of Kant, we have no direct duty not to kill animals painlessly. A being has moral significance only in so far as it possesses certain features of rationality. That is, beings that are not fully rational only need to be protected to the extent that they are rational. And animals lack the rational abilities to conceptualize death because they do not have a concept of themselves as existing over time. Therefore, animals cannot be harmed by being killed painlessly and, in doing so, no feature of their rationality is disrespected.

2.5. Conclusion on Kant

As a quick reminder for why I examined Kant’s theory in the first place, I will recall the most important points of my thesis so far. In chapter one I dealt with the limitations of utilitarianism. Utilitarians are concerned with happiness and pain, meaning they look at the sentient abilities of any creature in order to determine their moral status. Yet the major shortcoming of this theory was the failure to consider the value of an individual being due to the notion of sacrifice for the greater good. Thus I examined Kant’s deontological ethical theory that focuses on the individual. In doing so I hoped to overcome this shortcoming of utilitarianism and to find a theory that can be applied to the ethical treatment of animals.

Throughout this chapter I then showed that Kant’s original moral theory is not at all

concerned with a being's sentience; instead his sole criterion in determining moral worth is rationality, despite of a creature's sentient capabilities. Kant's view of morality is very well summarized in the following statement: "morality is the relation of actions to the autonomy of the will, i.e., to the possible legislation of universal law by means of the maxims of the will." Thus moral law is the law of reason and rational beings are the embodiment of the law itself. Kant's morality excludes all non-rational beings, including animals, children, mentally handicapped, and people who have lost their ability to reason at one point in their life. But one of the problems of Kantian ethics is explaining definite moral distinction between the suffering of animals and the suffering of rational beings; the former has no direct moral significance, whereas the latter does.

Animals and human beings are similar in crucial ways, and you cannot value the suffering of one, while disregarding the suffering of the other. Therefore I argue that Kant comes to the wrong conclusions about animals. If he wants to ensure respect for reason, then he has to respect all the features of reason that a beings possesses, including the desire not feel pain. But even according to my interpretation of Kant's theory, it is solely concerned with rationality and respecting this feature or parts of this feature in moral beings. Does this make it morally right to kill animals, say, squirrels, birds, dogs, or wild wolves, whenever or however we want? The intuitive answer is no. It seems wrong to kill animals just because they do not have a concept of death, but Kant's theory cannot provide a proper defense against these kind of behaviors.

We have stretched Kantian ethics to its limits of scope and exhausted its possibilities for inclusion. It certainly is a more satifying ethical approach in general and to the treatment of animals because it is focused on individuals and not their relative value to overall happiness, as

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120 Kant, *Grounding of the Metaphysics of Morals*, 44.
is the case with utilitarianism. Yet, we still encounter some shortcomings that cannot be overcome by Kantian theory. Using Wood's interpretation I have been able to overcome one of the greatest shortcomings of Kantian ethics and showed that human beings in fact have direct duties towards animals. Because there is still something lacking in this theory, in the third and final chapter I argue that we need to apply our sense of fairness to our behavior towards beings that are not fully rational. To that end, I will introduce Rawls’s contractarian theory, which is closely related to Kantian ethics. Rawls comes up with a theory of justice and I will extrapolate from the assumptions Rawls makes about our capacities for having a sense of justice and show how these also have implications for the proper treatment of animals, regardless of their inability to reciprocate just behavior. Though they cannot reciprocate morally, they do reciprocate in other ways that create limits on how we can fairly treat them.
3. The Fairness Approach to the Ethical Treatment of Animals

In the previous chapter, I established that in order to respect rationality as a whole, we need to respect all beings to the extent that they are rational. In other terms, we owe full respect for the rational features a being possesses. This conclusion gives us a reason not to inflict pain on any sentient beings and implies that it is wrong to torture them or prevent them from developing their capabilities and/or desires. I argued, however, that in accordance with this Kantian reasoning, it is morally acceptable to kill any creature that has no conception of death, which applies to virtually all non-human animals.

Now let me present you with an example to point out that there is something wrong with an approach to morality based solely on respect for rationality or its features. Imagine that I am thinking about going outside and shooting a wild animal (whether for sport or for food is an irrelevant factor in this argument). I am a moral person, who cares about doing the right thing. According to this Kantian approach, it is morally acceptable to kill any animal, assuming, of course, that this is done painlessly. So I go out and hunt. I see a wolf and shoot it dead with one shot.

Even though we do not disrespect rationality or any aspect of it when we kill a wild animal painlessly, I will argue in this chapter that there is, nonetheless, something wrong with this behavior. Shooting the wild wolf, for whatever reason, is not fair to the animal from a human point of view. To point out my concern, I will give a counterexample of a case where we kill an animal and, both, respect rationality and act fairly towards the animal. Therefore, my next step will be the introduction of the fairness approach concerning the proper ethical treatment of
animals. I will use the example of domestication and the killing of farm animals for their flesh to demonstrate an ethical relationship based on mutual benefit. This relationship constitutes a perfect example of my fairness approach and helps us understand why the example above (killing the wild animal) is unfair and thus unethical.

To that end, I will discuss Rawls’s theory, which is an attempt to establish just terms for a society. Like Kant, he includes only rational beings in the scope of morality. Other contractarians see more potential for his theory and try to argue that it also applies to beings that are not fully rational, such as animals. I agree with Rawls that the theory of justice does not apply to animals. The theory can, at most, extend full moral status only to non-rational human beings full, meaning they have the same rights that fully rational human beings have. But I take the assumptions Rawls makes about our abilities to have a conception of justice and show how these assumptions have implications for our treatment of animals. Finally, return to the relationship between domesticated animals and human beings, and show how and why it is fair by using some of the concepts and ideas Rawls assumes in his theory. This approach implies that it is morally acceptable to kill domesticated animals because they benefit from this relationship and are not harmed in any way,\(^{121}\) whereas it is unfair and hence wrong to kill wild animals, who are not benefitted in any way, for whatever reason.

3.1. A Fair Relationship: Domestication

I mentioned above that eating meat from domesticated animals is, or at least can be, a perfect example of fairness applied to the ethical treatment of animals. The argument is based on the idea that this reciprocal relationship benefits both parties, the animal and the human. Using

\(^{121}\) Keep in mind that because animals do not have a concept of death, they cannot be harmed by being killed. Thus, killing them painlessly does not disrespect any of the features of rationality that they possess.
this example I will argue that the fairness approach is a necessary consideration that needs to be applied in addition to just respecting a being’s rational features.

Over the past millenniums, most societies have created species of farm animals based on man’s domestication of certain wild animals. In Europe and North America these animals tend to be cows, pigs, sheep, and hens. (Other cultures may have domesticated different species of animals.) For thousands of years now, man has bred these animals and used them as a source of food, clothing, labor, etc. As a matter of fact, most domesticated animals have depended on humans for so long that they would not be able to survive in the wild on their own at this point. (The one exception seems to be pigs, who have proven that they can, in fact, survive on their own without relying on human care.)\textsuperscript{122}

Originally wild cows, pigs, sheep, and chicken were drawn in by an easier life under the protection and care of human beings. Humans cared for them and gave them food in order to protect them from predators, the weather, starvation, and diseases. In return humans used the animals’ milk, fur, labor, and/or flesh. In that way these animals did not constantly have to face death in the wild, which often was slow or very painful.\textsuperscript{123} Human beings, in return, did not have to risk their lives hunting or searching for other sources of food. The relationship was mutually beneficial and desired. Similarly, Michael Pollan describes it as a process that took place when a handful of especially opportunistic species discovered, through Darwinian trial and error, that they were more likely to survive and prosper in alliance with humans than on their own. Human provided animals with food and protection in exchange for which the animals provided the humans with milk, eggs, and—yes—their flesh. Both parties were transformed by the new relationship: The animals grew tame and lost their ability to


\textsuperscript{123} Political philosopher Thomas Hobbes says that a society that has no morals at all, is in a “state of nature,” where life is “nasty, brutish and short.” In order to better life, a moral code is established that makes life easier and better for all. For more information see Hobbes’s book \textit{Leviathan}. 
fend for themselves in the wild (natural selection tends to dispense with unneeded traits) and the human traded
their hunter-gatherer ways for the settled lives of agriculturists. 124

Both parties make sacrifices and give up something in order to achieve greater gains.

More importantly, “without us eating them [these animals] wouldn’t exist at all.” 125 The
deliberate human action of breeding domesticated animals brings them into life. This assumes, of
course, that their life is better than no life at all. And in traditional farming, it is actually the case
that the life domesticated animals lead because of this relationship is better than life in the wild.
But what exactly does it mean for an animal to lead a good life? And secondly, why does
traditional farming ensure that the domesticated animals live a good life? In order for any being
to be able to lead a good life, its interests need to be taken into account and respected. By
respecting its interests, we are also respecting its features of rationality, which continues to be
the foundation of my theory. So a good life constitutes in being able to express one’s nature and
act out one’s natural behaviors.

Let us take a chicken as an example. Chickens are flock animals that live together in
groups with a social order. “Studies have shown that a flock of up to 90 chickens can maintain a
stable social order, each bird knowing its place.” 126 So in order for a chicken to live a good life it
needs to be with other chickens in an environment where they can create such a social order.
They need to be able to express their nature in terms of natural behavior. Some of these
behaviors for chickens include a social environment, taking dust baths, and being able to spread
out their wings and move about freely. Animals’ rational abilities are generally much less than

124 Pollan, The Omnivore’s Dilemma, 320.

125 Pollan, The Omnivore’s Dilemma, 310.

126 Singer, Peter. “Down on the Factory Farm.” In Animal Rights and Human Obligations, 2nd ed. Tom Regan and
our own abilities. Thus it is fairly easy for us to allow them to satisfy their interests and respect their rationality. In traditional farming, the animals are taken care of in a way that ensures proper treatment. The cows get to graze on green pastures in a herd, sows and their piglets are kept together, and chicken and/or geese freely roam the farm. What matters is that the animals do not suffer and are able to satisfy their basic needs and instincts.

Where the fairness approach comes into play will be made clear later in this chapter. First, let us look at a few counterexamples in order to make my point very clear. One example of institutionalized farming is force feeding geese in order to create pâté de foie gras, a paste made from goose liver. Naturally geese would never eat as much as to have livers that develop the amount needed for this paste. Therefore these animals are force fed through a funnel. This goes against the natural tendencies of the geese and inflicts great pain on them. Its disrespects their features of rationality, such as the ability to feel pain, and is unacceptable.

Another example is veal—the flesh of a young calf. The purpose of this industry is to produce meat that is paler and more tender.

The trick depends on keeping the calf in highly unnatural conditions. If the calf were left to grow up outside, its playful nature would lead it to romp around the fields. Soon it would begin to develop muscles, which would make its flesh tough. At the same time it would eat grass and its flesh would lose the pale color that the flesh of newborn calves has. So the specialist veal producer takes his calves straight from the auction ring to a confinement unit. The calves are forced to be away from their mothers and are kept in an unnatural environment. They are not able to act out their urge to suck on something, or to be in a herd, or to eat a natural and healthy diet. Those features of rationality that they do possess are not considered at all and thus these calves are exposed to physical and psychological suffering.

Just as animal suffering can be identified and scrutinized, so can animal happiness be identified and praised. Factory farming causes great suffering to the animals and disrespects their nature by treating them as mere things that have no aspects of rationality at all. In contrast, farmers who raise cattle, pigs, or chicken and treat them with respect throughout their life-span, contribute to the good of those beings and their lives. And as a matter of fact, domesticated versions of species have thrived, while many of their wild counterparts have become extinct or are endangered species.\(^\text{128}\)

I have described the relationship between domesticated animals and human beings claiming that this is a perfect example of a fair relationship. But what is still unanswered is how do we know that this is a fair relationship and how is fairness determined in the first place? In order to answer these questions I will introduce John Rawls's theory of justice.\(^\text{129}\) This theory is based on morality as a hypothetical agreement between rational contractors. I will focus my discussion on the main features of his theory, from which I will then extrapolate and use to understand fairness for domesticated animals.

3.2. Rawls's Theory of Justice and Its Implications for Animals

In order to better explain and defend the fairness approach for the ethical treatment of animals, I will examine Rawls's contractarian theory of justice. Although I will begin with a discussion of how Rawls derives the concept of justice and how he applies it to society, I will argue that it is the assumptions of the theory that are most important for the understanding of the

\(^\text{128}\) Wolves, the wild ancestors of dogs, for example, were close to extinction. Their populations are now slowly recovering due to a conscious human effort, but their numbers are still only a fraction of the numbers of dogs, their domesticated counterparts, that exist in the United States. "And have you ever seen wild chickens?" Pollan, *The Omnivore's Dilemma*, 322.

fairness approach for the ethical treatment of animals.

A contractarian himself, John Rawls seeks to overcome the major shortcoming of contractarianism. Contractarian theories see morality as a voluntary agreement between rational beings. This view of morality is based on the assumption that the contractors are fully rational human beings who act only in ways that best serve their self-interest. Thus individuals who have more bargaining power—"whether this power be a function of her capacities to benefit us [...] or of her ability to harm us [...]"—are able to create better terms for themselves. As Terry Price writes, "The rules themselves, as well as their application, are determined by the contract itself. Outcomes will therefore reflect extreme power disparities in the contracting situation."131

In A Theory of Justice Rawls grapples with the issue of bargaining power by introducing a modified version of contractarianism. He is aware that morality based on actual contracts can lead to great inequalities due to a vast difference in the distribution of bargaining power. This makes it difficult to find a fair method of accommodating these differences when creating a social contract, considering that every individual is born into different economic, social, and political circumstances and has different natural abilities. Therefore Rawls argues that justice is a concept that should be defined and agreed upon from a point of view that equalizes power. These principles of justice "are the principles that free and rational persons concerned to further their own interests would accept in an initial position of equality as defining the fundamental terms of their association."132 Thus, the original agreement in this contractarian theory is set in an initial situation that is fair. His theory asks people to imagine that they are behind a "veil of


132 Rawls, A Theory of Justice, 11.
ignorance.”

“This ensures that no one is advantaged or disadvantaged in the choice of principles by the outcome of natural chance or contingency of social circumstances.”

In other terms, persons have no knowledge about their race, class, gender, age, religion, educational level, etc, when they come up with moral principles that govern the structure and regulate the practices of basic institutions. These people know only that they have a rational interest in having a good life, need social goods, and are aware of sociological rules.

Also, all “free and equal persons” should have equal basic liberties and substantive equality of opportunity, where inequalities are acceptable only if they benefit the least well off. He calls this contracting situation the “Original Position.” Whatever the morals, values, and rules are that these people in this state come up with is justice for Rawls. By creating this original position, Rawls forces all persons to agree on terms that are acceptable to all fully rational human beings because no one knows where he/she will end in the created society. In other terms, Rawls seeks to create a society where, thrown in at random, every contracting member would be satisfied.

The original position, Rawls states, never has and never will exist. “It is understood as a purely hypothetical situation characterized so as to lead to a certain conception of justice.” He believes it is vital to assume this hypothetical situation in which rational people come together in


order to determine a fair definition and application of justice. Due to reasonable pluralism, people differ in their social, political, and economic interests and theories. Hence, Rawls seeks to discover an underlying basis of philosophical cooperation, despite all the other differences. This idea helps clarify what is meant by justice because it provides fair conditions, treating all citizens as free, equal, reasonable, and rational, in order for them to come up with just terms of social cooperation. He argues that only if people can set external and arbitrary influences aside will they be able to perceive and come up with a clear and fair system of justice. Thus, the original position should make people rethink their views of justice trying to set aside personal advantages in order to clarify their judgments.

In summary, Rawls argues that the rational persons are behind a "veil of ignorance" and deliberate from the so-called "original position" in order to assure just terms for the society that is created by this mutual contract. The original position is a hypothetical situation with certain essential features. Morally arbitrary factors are unknown to anyone behind the veil of ignorance; they could be rich or poor, famous or socially alienated, intelligent or mentally disabled, strong or weak, male or female, black or white, or anywhere in between. The purpose of the original position is to ensure that no one is privileged in the deliberation process by having knowledge of social circumstances that could create biases and threaten the creation of just terms for all contractors.

Clearly Rawls's theory is a major improvement from traditional contractarian theory. However, it leaves no room for animals or any other beings, including human beings, that are not


140 Throughout his text Rawls refers to persons as being free, equal, reasonable, and/or rational.

fully rational and able to enter into contracts. Animals, children, or mentally handicapped human beings cannot express their interests or negotiate with others and therefore are not counted as part of the contractors. The principles of justice that are deliberated “are the principles that free and rational persons concerned to further their own interests.”\footnote{Rawls, \textit{A Theory of Justice}, 11. Italics are mine.}

He connects his “theory of justice with the theory of rational choice,”\footnote{Rawls, \textit{A Theory of Justice}, 17.} which makes it closely aligned with Kantian thought. His sphere of justice is concerned only with persons in the Kantian sense, which is limited to fully rational human beings that are also moral agents.\footnote{Sandel, Michael. \textit{Liberalism and the Limits of Justice}. Cambridge: Cambridge University Press, 1982.} This of course means that Kantian ethics and Rawls’s contractarianism are two moral theories that are closely related: both rely on rationality. Kant needs rationality in order for moral agents to come up with universal laws that eventually give us our rights and duties. And Rawls relies on rationality for coming up with agreements from a hypothetical point of view that also determine rights and duties.

Interestingly, his book \textit{A Theory of Justice} is well over 500 pages long, but it almost never directly addresses the issue of animals. And if Rawls does mention them, he does so with caution and tentativity: “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.”\footnote{Rawls, \textit{A Theory of Justice}, 512.} Rawls’s ambiguity has left open a window for contractarian theorists to find more resources for animals than Rawls himself overtly admits. Therefore, in the next section I will look at how Rawls has been reinterpreted by other philosophers to explain how animals may or may not fit into his account of justice.
3.3. Rawls Reinterpreted

The fact that animals are excluded from the scope of justice points to a major shortcoming of Rawls's theory. This weakness leads me to consider some philosophers who have reinterpreted Rawlsian contractarianism so that it also applies to non-rational human beings and even animals. I will argue, however, that even though the theory can and must be extended to include humans that are not fully rational, an application to animals is much more problematic. Unlike non-rational human beings, animals cannot be ends in themselves. However, I see potential for the implications of Rawls's assumptions concerning our capacity for a sense of fairness, which humans are assumed to have on his theory, as something that can be applied to non-human moral beings, such as animals. I thus develop my analysis by explaining how, after we have a sense of justice, it ought to be applied to the proper treatment of animals. I use the example of domesticated animals to demonstrate a fair relationship. This argument leads me to conclude that morally right behavior towards animals goes beyond just assuring respect for their rationality. Using Rawls's theoretical assumptions, we can understand the notion of fairness, which ought to guide our behavior towards animals in addition to respecting rationality as a whole.

Ruth Abbey writes, "The relationship between animal ethics and Rawlsian thought has been debated for a quarter of a century." This debate is mainly sparked by Rawls's limitation of justice to fully rational human beings, which seems to go against some of our moral intuitions. Contractarian theorists thus reinterpret Rawlsian theory to make it broader in scope to include non-rational humans. Mark Bernstein, for example,

suggest[s] that the most favorable interpretation to one who believes that [contractarianism] precludes non-human

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animals from obtaining [...] moral status is to understand Rawls are claiming that since the temporal location of this hypothetical initial situation is purely arbitrary, it is equally arbitrary which stage of a moral person’s life intersects the contractual situation.  

Children develop into moral persons at a later point in time, assuming it is a healthy child of course. And there is no reason to assume a certain point of time of one’s life during the deliberation process in the original position. Behind the veil of ignorance the deliberators do not know whether they will be adults or still a child. Bernstein also argues that “we need not appeal to the notion of sentimental attachments to account for our favorable considered beliefs about the deceased [because] those humans who are dead at some arbitrarily picked time set for the contractual meeting would have been alive if the hypothesized time had been earlier.” Bernstein also argues that “we need not appeal to the notion of sentimental attachments to account for our favorable considered beliefs about the deceased [because] those humans who are dead at some arbitrarily picked time set for the contractual meeting would have been alive if the hypothesized time had been earlier.” It would be just as arbitrary that a contractor would be dead or alive, as it would be for him/her to be a child. As a result dead people are deserving of justice just as much as children and rational adult human beings. Bernstein extends this train of thought to future generations, who also need be considered moral beings deserving of justice.

In this interpretation Bernstein grants all rational or potentially rational human beings moral status, while excluding animals. Animals will never develop into a fully rational being that is able to participate in the deliberation process, regardless of temporal location. Thus, this interpretation allows children and dead people to be moral beings, but still excludes animals. But by pointing out that some children are born with mental disabilities that prohibit them from ever becoming or having been a moral person, he highlights that not all Rawlsian problems are overcome.


Far from being tangential to his conception of ethics, it shows, I believe, what many find deeply troubling about it.

It should first be noted that, if we consider non-human animals as among those who are incapable of moral personhood, far from discussing a small minority, we are now speaking about an overwhelming majority. Yet, he defends Rawls by claiming that animals are not discriminated against because of their species per se, but because of their lack of a sense of justice. Their rational abilities do not enable them to live according to any agreement or contract; they could not stick to its terms. The contractors could not possibly make any sacrifice for them without getting anything in return, such as reciprocal and just behavior in accordance with the contract. They have no interest in extending justice to animals.

On the other hand, the contractors do have an interest in coming up with just terms for disabled human beings. All human beings are not fully rational when they are children and may lose their personhood again because of age-related circumstances, such as Alzheimers. Thus they have an interest in coming up with just terms for non-rational human beings—children, old people, and the permanently disabled—because the temporal location is not known from behind the veil of ignorance.

Other theorists such as Robert Garner and Tom Regan argue that knowledge of one’s species is just as arbitrary as other factors that are hidden behind the veil of ignorance. And precisely because we cannot know if we will be born as an animal or not, we must have an interest in granting moral status to animals, even if they cannot reciprocate. These criticisms are taken up by the Rawlsian philosopher Mark Rowland, who attempts to argue that this theory requires the inclusion of animals. He uses Rawls’s contractarian idea in a broader sense as

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149 Bernstein, “Contractualism and Animals,” 57.

providing a theory of morality and not just of justice. If successful, Rowland's reinterpretation would have drastic implications for the moral status of animals in contractualist theory.

Rowlands tries to defend his view by arguing that "the fact that the framers of the contract must be conceived of as rational agents does not entail that the recipients of the contract, that is, the individuals protected by the principles of morality embodied in the contract, must be rational agents." This distinction is very similar to the Kantian approach from chapter 2, where I argued that moral agents have different moral responsibilities than moral beings. Rowland refers to the moral agents as being the "framers," and he calls moral beings the "recipients." He points out that this distinction may also play an important role in Rawls's theory. He lays out Rawls's argument as being the following orthodox contractarian argument with respect to animals (OCAWA):

P1. The occupants of the original position are rational agents.

P2. It is these rational agents who are responsible for formulating the contract and the principles of morality embodied in them.

P3. Therefore, the contract and its embodied principles of morality apply only to rational agents.

P4. But, non-human animals are not rational agents.

P5. Therefore, the contract and its embodied principles of morality do not apply to non-human animals.

The difference is that Rawls uses his theory mainly to assign political rights, whereas Rowlands and I will use it as a theory to assign general moral rights.


P6. But, direct moral rights are possessed only by those individuals subsumed by the contract and its embodied principles of morality.  

C. Therefore, non-human animals do not possess direct moral rights.

According to Rowlands, the fallacy made by Rawls is the leap from P2 to P3: just because moral beings cannot formulate principles of morality, it does not follow that he can exclude them from any moral protection.

Rowlands bases his criticism on Rawls’s distributive justice argument, which is better known as the idea of equality of opportunity. This idea is concerned with deserved and undeserved properties. Amongst the factors that Rawls considers morally arbitrary or undeserved are economic and social inequalities that we are born into. But he also argues that the same applies to natural talents, such as athleticism or intelligence. Rowlands continues saying that the distributive justice argument goes as follows

If a property P is undeserved, then it is morally arbitrary and one is not morally entitled to it. If one is not morally entitled to P, then one is also not morally entitled to whatever benefits stem from the possession of P. However, rationality seems to be an undeserved property if any property is. A person plays no role in deciding whether or not she is going to be rational; she either is or she is not. The decision is not hers, but nature’s. Therefore, according to the terms of the intuitive equality argument, it is a morally arbitrary property, and one is not morally entitled to its possession. Therefore, also, one is not morally entitled to whatever benefits accrue from its possession. Therefore, to restrict the beneficiaries of the protection afforded by the contract to rational agents would be to contravene the intuitive equality argument. But it is the results of this argument which, in large part, determine the description of the original position, and hence the principles we derive from the original position. Therefore, it is a restriction we cannot legitimately apply.

In other terms, if the contractors do not know whether they will be rational or a moral agent, then

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they will, in the original position, formulate agreements that take this into consideration. We have no choice over the property of being human; this is just as arbitrary as properties of race, class, or gender. Thus, it is necessary for the contractors to accord moral status to beings that are not fully rational, such as animals.

Rowlands argues that "[t]he veil of ignorance is neither an expression of, nor does it entail, a metaphysical theory of the person. Rather, it is an intuitive test of fairness. [...] Rawls is not even committed to the conceptual possibility of a self existing behind the veil of ignorance."\textsuperscript{156} Thus, if Rowland's interpretation of the original position is correct, then assuming that we could be someone else is no harder than assuming that we could be something else. The property of being human is just as morally arbitrary as having economic advantages, especially if Rawls's idea of distributive justice (the idea of equal opportunity), which Rowlands refers to as the intuitive equality argument, is to be consistently applied: "Therefore, according to the intuitive equality argument, we are not morally entitled to whatever benefits accrue from possession of this property [being rational]."\textsuperscript{157} His conclusion forces us as the framers to extend our sense of justice and create just terms not just for the human species—who tend to be the only fully rational beings that are able to act as contractors—but also for animals. Thus according to Rowlands's reinterpretation, justice and the intuitive equality argument must be thought of as something that applies not only to the framers, but also to the recipients.

Nonetheless, Rowlands's argument that the contractors in the original position need to imagine themselves as possibly being something else, namely an animal, is not theoretically sound. Rawls's theory is contractarian in nature, meaning that the contractors are rational and

\textsuperscript{156} Rowlands, "Contractarianism and Animal Rights," 239.

\textsuperscript{157} Rowlands, "Contractarianism and Animal Rights," 243.
self-interested. They do not think of themselves as hypothetical people, but rather they think of themselves as being themselves, but in a different and morally neutral situation. For this reason, Rawls argues that the framers can be the only recipients of the idea of justice. Even in the original position, they have no incentive to think about what other people, let alone other beings, would want. “[T]hey are conceived as not taking an interest in one another’s interests.” Rawls’ perception of justice is concerned with thinking of yourself in a different position and not thinking about yourself as someone, much less something, else.

So far in this chapter it was my intention to explain Rawls’s theory and how he derives this conception of justice. His theory has been criticized for being too limited in scope. Therefore, I discussed how it has been reinterpreted by other philosophers to include beings that are not fully rational, such as children and animals. I concluded that Rawlsian theory can be extended insofar as to treat all human beings, fully rational or not, as ends in themselves. I have yet to apply assumptions of his theory to animals in order to explain the fairness approach exemplified by the relationship between domesticated animals and human beings.

In this next section, I will use the assumptions that Rawls makes about our capacity for a sense of justice and relate that to our treatment of other beings that are not moral agents. Thus, I rely on the moral mindset that people ideally have according to this notion of justice and argue that our ability to distinguish between fair and unfair treatment can and ought to be applied to animals. This will help me explain why the relationship between domesticated animals and human beings is fair. As a result I will conclude that making use of our conception of fairness in addition to respecting rationality is an essential part of all moral relationships, and not just those relationship involving rational persons only.

158 Rawls, Theory of Justice, 13
3.4. The Ethics of Eating Meat

In the beginning of this chapter, I argued that the domestication process is an example of a fair relationship where the rationality of both parties is respected. Of course we never disrespect an animal's rationality by killing it, but our behavior nonetheless can be unfair towards these beings, as is the case with killing wild or young animals. Using the conception of fairness Rawls assumes we have, we can see that it can be unfair to take the life of a being that has no concept of life or death. Why is that the case? That is the case because even though we may have a reason to do something, such as killing a wild wolf, it is unfair to act on that impulse in that particular context. That is the case because after we have a conception of justice and are ready to apply it in the world, we are able to distinguish between fair and unfair actions, even towards beings that do not have the same sense of fairness that we do. In other words, we are now ready to apply fairness in a broader sense. Rawls himself says that "a society is well-ordered when it is not only designed to advance the good of its members but when it is also effectively regulated by a public conception of justice." So people need a sense of justice in order to maintain an orderly and stable social system. My main conclusion in this chapter is that once moral agents have a sense of justice, they can and ought to use the foundational idea of fairness to govern their treatment of non-human animals as well.

We are unique because of the ability to have a sense of justice; this makes us different and morally superior to animals. By engaging in the same sorts of brute behaviors that animals engage in, such as killing outside of the context created by domestication or mindlessly inflicting

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159 Rawls, *A Theory of Justice*, 5. Italics are mine.
pain, we are not differentiating ourselves from them. Once we have a conception of fairness, it would be wrong not to apply it in a broader context because we know that non-rational beings can be treated unfairly by our behavior. Rational persons are able to put themselves into a moral mindset and can differentiate between fair and unfair treatment. Unfair treatment takes advantage of non-rational beings by benefitting ourselves without benefitting them. This idea should encourage us to extrapolate the idea of fairness and apply it to beings that are not included in the original agreement.

Let me point out a few examples to clarify my argument. Killing a wild animal is not fair to the animal. When we kill it, whether for fun or for food, we have done nothing to benefit that being. Its existence did not depend on human action, and it is perfectly capable of surviving on its own. True, the animal’s rationality is not disrespected, but at the same time, the only party that benefits is us. Killing a domestic animal for its flesh, on the other hand, is compatible with the fairness approach. In proper traditional farming, we are respecting the animal and have cared for it all its life. The animal benefits from this relationship and is able to express its natural behavior as well as develop its full rational potential, meaning it is allowed to grow up and reach adult age. They are assured a good life under the protection of human beings. More importantly, their life and their good life depends on us eating them because domesticated animals, at this point, exist only because of our breeding and our desire to eat meat; most of them cannot survive on their own. Humans in return use their products and services. The relationship is based on reciprocal benefits. Of course the humans are in a more powerful position and could theoretically kill wild and young domesticated animals without benefitting them, but that would completely

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160 Animals do not only kill for food. For example, cats are known to hunt mice and birds without eating them. Male lions joining a new pack of females usually kill the cubs from the former male. And monkeys are known to raid other groups or families.
disregard our sense of fairness.

At this point it is important to emphasize yet again that the relationship between domesticated animals and human beings is fair only if the domesticated animals do in fact get to live a good life. So apart from not being tortured or abused, the animals need to be able to express their nature, which implies that the animals get to live lives that satisfy their needs and desires. For example, cows get to graze on green pastures, pigs get to roll in dirt, hens get to take dust baths, etc. Humans benefit from their meat and other bi-products, but in order for the fairness argument to work, the animals need to benefit by being guaranteed a good life corresponding to their nature.

This approach has important implications. For example, I have mentioned earlier in this chapter that eating veal is not morally acceptable because these animals have to endure emotional and physical suffering. But there is another reason for why it is unethical to eat any baby animal such as veal calf, baby lamb, and baby pig. Killing these animals at such a young age does not allow them to live a good life. They are not able to unfold their full nature. Animals need to be given the chance to grow up and act out their natural behaviors. Our general conception of fairness prohibits a transaction that is so dissimilar in terms of the exchange of benefits. When we kill a baby animal, we do not disrespect rationality, but our actions would not be fair because the benefits gained by one party (us) is so much greater that the benefits gained by the baby animal. In other terms, in order for the relationship between domesticated animals and humans to be fair, the benefits gained by both parties need to be somewhat similar. This is the case only when humans assure that their domesticated animals have a long enough and good/happy life. Veal calf is not granted either of these conditions; therefore, it is not a fair relationship.
Now some people might argue that the relationship is still not fair because the animals are killed. Pollan considers this objection by raising the issue of whether it could be argued that domesticated animals did not just trade one predator for another.\textsuperscript{161} This objection assumes that they have the same quality of life in nature as they have on traditional farms and that the fairness approach introduced here does not guarantee a moral improvement. I reject this objection based on the idea that the relationship between domesticated animals and human beings is mutually beneficial, meaning, of course, that it also benefits the animals. As a reminder, animals themselves cannot be harmed by being killed because they lack certain rational features, but they can be treated unfairly based on the conception of fairness that rational people can have. But, if the fairness approach is upheld, domesticated animals can only gain by this relationship with human beings. They are protected from so much more suffering than they would be living in the wild and they would not exist otherwise.

Respecting beings to the extent that they are rational is one requirement for human beings. But I argue in this section that there is more to morality as we understand it, and one aspect is fairness. Rawls seems to have similar intuitions when he writes that his theory "presumably [...] excludes animals; they have some protection certainly but their status is not that of human beings."\textsuperscript{162} He writes that animals are not rational persons that are part of any original agreement, but he acknowledges that they deserve some protection and must have some status in our moral deliberations. My argument is that their moral status needs to be considered by applying the fairness approach outlined in this section.

\textsuperscript{161} Pollan, \textit{The Omnivore's Dilemma}, 321.

\textsuperscript{162} Rawls, \textit{A Theory of Justice}, 505.
3.5. **Conclusion on the Fairness Approach to the Ethical Treatment of Animals**

The purpose of this chapter was to introduce a notion of fairness as a guiding principle for the ethical treatment of animals. By pointing out the intuitions we have concerning the immorality of killing wild animals, I intended to show that respecting rationality cannot be the sole basis for a moral theory. I use the example of the relationship between domesticated animals and human beings to show a relationship where rationality is respected and the notion of fairness is upheld. Then I go into a thorough discussion of Rawls’s contractarian theory in order to understand how rational human beings come up with the notion of justice. Rawls, like Kant, does not include animals in his conception of justice because animals lack full rationality. Many contractarians have tried to argue for the inclusion of non-rational human beings and animals, but despite all efforts, the scope of Rawls’s theory can at most grant non-rational human beings the status of contractors.

I nonetheless argue that we can apply the assumptions Rawls makes about fairness more broadly. In other terms, once we have a conception of fairness, we can apply it to animals, despite their inability to understand fairness the way we do. We are moral agents unique in our ability to have a sense of fairness. We do not harm animals by killing them, but we know that we can behave in ways towards them that are unfair. Limiting our sense of fairness to moral agents, who are able to reciprocate fair behavior, would undermine that conception that makes us unique.

So how does the fairness approach fit into the overall argument? I want to emphasize that the basis of my thesis is still based on respect for rationality. We need to respect all those features of rationality that a being possesses. I went into the discussion of Rawls to show why all human beings, rational or not, are always ends in themselves, whereas animals cannot hold this
right. But our moral intuitions show us that sometimes our behavior can be wrong, even when we respect rationality as whole. You may recall the example of killing a wild animal. I compared that example to the killing of a domesticated animal and argued that there is something intuitively wrong with the first example.

In order to address that shortcoming, I apply the assumptions Rawls makes about our capacity for developing and maintaining our conception of justice. I extrapolate the notion of fairness that people can come up with and have them think about it in a broader context. As a result, the argument extends beyond solely respecting an animal’s features of rationality because we are now aware that we can treat them fairly or unfairly. Thus, it is important for us to combine our moral intuitions about fairness with the Kantian notion of respect for rationality and its features. Domestication is one example of a fair relationship that respects rationality and is in accordance with our moral intuitions.
CONCLUSION

In this thesis, I have defended a theoretical framework should be used in order to assure the proper ethical treatment of animals. Respect for rationality is a key feature of moral conduct. In order to respect rationality as a whole we need to also respect its features, even in beings that are not fully rational. But my argument goes further than that. I give the example of killing a wild animal in order to demonstrate that our conduct towards animals can be wrong, even if we respect a being’s features of rationality. Therefore I introduce the fairness approach. This notion appeals to the sense of fairness that we as fully rational beings can conceive of given the assumptions Rawls makes. I call for the need to apply this concept to not only beings that are moral agents, but also the ones that are simply moral beings (i.e. beings that cannot reciprocate our just behavior). To that end I use the relationship between human beings and domesticated animals as an example of a moral and fair relationship. If raised properly, the animals are greatly benefitted without having harm done to them, which upholds the notion of fairness that moral agents can conceive of.

During the process of arriving at this conclusion, I presented an analysis of the most popular theoretical frameworks that have tried to address the issue of animals. In the twenty-first century, any moral framework that completely excludes animals from the scope of morality has difficulty being accepted as adequate. It is clear that we interact with animals in many different ways on a daily basis and thus our actions towards them need to be thought of in ethical terms. Even those individuals that argue for scientific research or factory farming must admit that animals have some sort of moral status. They might disagree over the significance of their moral status, especially in relation to human wants and needs, but they cannot disregard it all together.
Therefore in chapter 1, I discussed utilitarian theory and its application to animals. Jeremy Bentham was the first philosopher to apply this consequentialist theory to animals. He focused purely on pleasure satisfaction. But the most obvious shortcoming of his version is that not all pleasures are equal and have the same utility value. John Stuart Mill improves Bentham's version by making an important distinction between higher and lower pleasures. The lower pleasures, or the pleasure of the body, have value, but are not as valuable as the higher pleasures, or the pleasures of the mind. This means that utilitarianism is not just about quantity of pleasures, but also about their qualitative values. Even though Mill is able to overcome the major shortcoming of Bentham's version, both still fail to properly interpret utility because they miss the importance of interests.

Utility is better understood in terms of interests, which led us into the discussion of R.G. Frey and Peter Singer. Both are interest-utilitarians, but apply this theory quite differently to animals. Frey admits that animals have needs, but not in the sense that these needs create interests can or cannot be satisfied. Thus, animals have no utility value. He argues that animals' interests are at best comparable to a thing's interest (such as a tractor's interest to be oiled) because animals cannot have sophisticated concepts or the ability to understand their desires. Thus, Frey argues, their interests cannot be satisfied and their condition cannot contribute to overall happiness or unhappiness. Singer interprets interests quite differently and argues for the inclusion of the interest-satisfaction of animals in utilitarian theory. He sees animal suffering as a major contributor to disutility and argues for an extreme reduction of animals used for scientific research and the complete abolition of factory farms. Even though Singer properly interprets and applies utility, utilitarian theory as a whole cannot be used as a general framework for morality because of its lack of focus on the individual.
Kant's deontological theory seeks to overcome this objection by focusing on duties that we have towards other individual persons (that is, beings that are fully rational). I explain why according to Kantianism animals are not included in his theory. For one thing, they lack the rational abilities to come up with universal laws. However, I point to the fact that just because animals are not moral agents, does not mean that they also are not moral beings. I outline the reinterpretations of other Kantian philosophers (Barbara Hermann, Christine Korsgaard, and Allen Wood) and follow Wood's argument to show that Kantianism has more potential for the ethical treatment of animals than Kant himself admits. Wood points out that if Kant's theory, which is built on respect for rationality, is to be consistently applied, then rationality as a whole can only be respected if its features are respected in beings that are only partly rational. 163 In other terms, animals that lack the rationality required for personhood still have moral status as long as they possess some feature of rationality.

Additionally, I demonstrate how this argument is also compatible with Kant's categorical imperatives. The first version of the categorical imperative applies to animals because its moral purpose is to respect rationality. Thus by disrespecting animals we are also disrespecting rationality as a whole and defeating the moral purpose of that version of the categorical imperative. The other versions of the categorical imperative simply do not address animals; they only tell us how moral agents are to treat other moral agents. But again, just because they do not apply to animals, it does not mean that they therefore have no moral status at all. Respecting features of rationality in beings that are not fully rational is not only compatible with Kantian theory, but is actually a requirement in order for the theory to be consistently applied.

I then go on to emphasize that limiting our moral behavior to just respecting features of

rationality is not sufficient. I give the example of killing a wild animal and point out that there is something intuitively wrong with that kind of behavior. I argue that even though this behavior does not violate animals' rationality because they have no concept of death, it nonetheless goes against our notion of fairness. And in order to better understand the notion of fairness I introduce contractarian theory and focus my discussion on the assumptions made by John Rawls that lead to us having a conception of justice. He argues that morality is based on agreements made by persons (in the original Kantian sense, meaning they are fully rational beings) from a situation called the original position. This assures that human biases are overcome and truly fair terms can be agreed on.

I draw on the implications of this notion of justice and apply them to the proper ethical treatment of animals. Rawls's theory demonstrates that people can have a notion of fairness and are able to distinguish between fair and unfair actions. Whereas Rawls limits fairness to moral agents, I use the general idea behind this concept and apply it to the ethical treatment of animals. If we accept his theory and the idea that people can have a sense of fairness, then it follows that people can think about their actions in terms of fairness, even if they does not involve other persons. Thus, as is the case with killing wild animals, we are aware of the fact that we can treat animals unfairly, even though we do not neccesarily disrespect their features of rationality.

This approach to the proper ethical treatment of animals, I conclude, has many implications. For example, I explain why it is wrong to kill wild and young domesticated animals. In the former relationship nothing is done to benefit the animal and in ther latter relationship the gain by one party are far more than the gains of the other party. I also explain why the killing of domesticated animals is acceptable only if the animals are able to live a good

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life. Living a good life means not killing them as babies, allowing them to satisfy their interests, and having their features of rationality respected. Again, the relationship between animals and human beings constitutes a perfect example of a fair relationship that is beneficial for all involved.

The purpose of this thesis has been to provide a theoretical framework that ensures the proper moral treatment of animals. As our interactions with animals continue to grow, I see it as an increasing need to consider the proper ethical treatment of animals. Unfortunately this need is far from being met, and I hope that this thesis will encourage us to rethink our behaviors and attitudes towards animals.
A visual illustration of my argument. The circles represent the scope of morality.

**KANT**

- Fully rational human beings
- The features of rationality a being possesses that is not fully rational

Implications: Non-rational human beings have NO right to life
Animals have NO right to life

**RAWLS**

- All human beings (rational or not)

Implications: Animals have NO moral significance at all

**FAIRNESS**

- All human beings (rational or not)
  - The features of rationality a being possesses that is not fully rational
  - Wild Animals
  - Young domesticated Animals

Implications: Only domesticated animals can be killed
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