

C7

7

Directionality and Virtuous Ends

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C7.S1

7.1 Introduction

C7.P1 Kant's arguments about the moral status of animals may well be the most frequently criticized aspect of his frequently criticized ethics.¹ His view that all our duties regarding non-human animals are duties to ourselves is widely thought to capture neither the content of these duties nor their ground.

C7.P2 These objections have a variety of different sources, but we will focus on one in particular: a particular conception of what it is for a duty to run from one person to another, for duties to be, as it is sometimes said 'directional'. Our aim in this chapter is to articulate and defend an account of Kant's understanding of the directionality of duty, and to deploy it to explain and defend his notorious claim that our duties regarding animals are duties to ourselves. More generally, we seek to explain the relation between the content of a duty and its directionality. We argue that the nub of the standard objections to Kant's view on animals is not that the duties are owed to the animals (the absence of the supposed right kind of directionality), but that they are owed to ourselves (the presence of the supposed wrong kind of directionality). We then distinguish between three kinds of problems to which the supposed wrong kind of directionality is supposed to give rise: wrong content (Kant's account cannot justify duties we all agree we have regarding animals), instrumentality (Kant's account makes our concern for animals instrumental to the end of developing a virtuous disposition), and contingency (Kant's account makes our duties to our animals contingent on the obtaining of certain empirical facts).

C7.P3 We then show that 'wrong content' and 'instrumentality' can be easily set aside, once we properly distinguish the directionality and the content of the duty. 'Contingency', on the other hand, seems to present a more serious challenge.

¹ Even philosophers who have drawn inspiration from Kant's work to provide a defence of the ethical treatment of animals have rejected Kant's own views in this matter as presented in the 'Amphiboly in Moral Concepts of Reflection' (MM 6: 442–4). See, for instance, Christine Korsgaard (2005, 2018) and Wood (1998). For some notable exceptions, see Denis (2000) and Kain (2010).

However, we argue that ‘contingency’ rests on a misunderstanding of how a general principle such as the moral law applies to finitely rational agents like us.

C7.S2

7.2 Kant and Ordinary Morality

C7.P4 Kant insists that his moral philosophy does not introduce any new or surprising principle; it rather answers a philosophical question about how morality is possible. He does not suppose that most moral questions are particularly difficult, even if doing what morality requires is. His aim instead is to explain the distinctive type of interest that we take in morality, and the way in which it can be a rational constraint on conduct. As we go through his controversial, indeed notorious views about animals, we will identify philosophical misconceptions that make some of those views seem forced and implausible. Before doing so, however, we want to draw attention to the ways in which what Kant proposes about our indirect duties to animals coheres well with familiar moral ideas about those duties. There are, no doubt, people who oppose those familiar ideas, but much of that opposition can be traced to different interpretations of the indirect duty, rather than to the supposition that we owe directed duties to animals.

C7.P5 We therefore begin with several examples. Bill van der Zalm was minister of social services in the Canadian province of British Columbia. He cut social services dramatically. A cartoon in the *Victoria Times-Colonist* depicted him gleefully pulling the wings off flies. Van der Zalm sued (unsuccessfully) for defamation, drawing even more attention to his conduct than the cartoon had. His suit failed because the court did not accept his characterization of the cartoon as making a false statement. Nobody viewing it would come to the conclusion that the cartoonist was claiming that he actually pulled the wings off flies. Instead, they noted that pulling wings off flies is a familiar trope for cruelty. But why would this be so? One possibility is that we are concerned with how bad it is for the flies to be subjected to this treatment. Perhaps some people think in this way, but many people who would happily kill flies, swat them, and spray toxic chemicals that kill them slowly would regard pulling wings off them as emblematic of cruelty. This is not, we propose, because of the suffering of the flies, but rather because of the disposition that such conduct manifests. But our concern about the disposition it manifests is not, as it were, purely dispositional. It is not that most people think that pulling the wings off flies makes someone more likely to cause harm to other human beings or other animals. There’s something wrong with the person who would do that, even if we could be perfectly secure in our confidence that, although it could no longer be said of such a person, ‘he wouldn’t hurt a fly’, he wouldn’t hurt anything other than a fly.

C7.P6 Kant’s discussion of moral duties with respect to animals is accompanied by examples of the mistreatment of inanimate nature. This assimilation of

mistreatment of animals to wanton destruction of nature is not an unusual or idiosyncratic view; the person who would destroy the beautiful crystal formation displays a character that is defective in the same way, even if that person wouldn't even hurt a fly. These examples suggest that there is a special kind of defective character that is on display in the case of mistreatment of animals and wanton destruction of nature.²

C7.P7 To show this distinctive defect is not, without more support, sufficient to show that it is the only, or most significant, moral dimension of human-animal interaction. If flies and crystal formations do not suffer, perhaps a set of principles apply to them that is different from those that apply to sentient animals. Even here, however, animals seem to figure as objects of moral concern in a different way than do persons. Consider, for example, the proposal to cull some of a herd of caribou for the sake of the herd—perhaps the natural predators have been wiped out, and the herd is in danger of overgrazing its range. We are not wildlife zoologists, and so take no position over whether this is in fact a prudent idea, or good for the herd or ecosystem. We mention it here only to draw attention to the sense in which it is a moral possibility in a way in which proposals to cull a population of human beings for the good of the group is entirely outside the scope of moral acceptability. When we care about the caribou, we care about them as a group (unlike fascists, in this instance we care about a group of which we are not members). The same frame of thought is available for other sentient beings, such as flocks of birds, schools of fish, and so on.

C7.P8 Neither of these examples shows that there are not, or could not be, directed duties as well; they show only that at least some of our familiar ways of thinking about animals do not include directed duties, but may include indirect duties. In an Op-ed in the *New York Times*,³ Jeff McMahan suggested that the world would be better if there were no carnivorous animals. He was not proposing to eliminate them, but merely making an axiological judgment: given that being killed for food is a bad thing for an animal, it would be better if there were no animals that did this to other animals. McMahan's argument drew a lot of objections, from a variety of quarters, including those who worried that without predators the world would be quickly overrun with herbivores. A more interesting response came from a different direction: animals, this objection went, have natures, and the diversity of animal life is a wondrous thing, each animal having its own nature, even if it is bad for some animals that other animals have the natures that they do. What is most striking about this debate is that both sides have some moral

² The same point applies even to artefacts; a point made vividly in the Pixar film *Toy Story*, in which the main villain is a boy named Sid who mutilates and destroys toys. The toys in the film are alive and conscious, but none of the humans is aware of that fact, so Sid's viciousness is apparent independently of it.

³ Jeff McMahan 'The Meat Eaters', *The New York Times*, 19 September 2010, available at http://opinionator.blogs.nytimes.com/2010/09/19/the-meat-eaters/?_r=0. Accessed 25 August 2015.

coherence to them, but neither side thinks of animals as having rights. The axiological argument focuses exclusively on vulnerability to pain, and says nothing about duties (McMahan neither thinks that he provides an argument for eliminating carnivorous animals, nor that those animals wrong their prey). The argument from biodiversity finds value—action-guiding moral value—in the existence of animals but not in a way that turns on rights. These examples do not show that Kant is correct, but they do show that ordinary moral thought is more hospitable to his approach than might have been thought.

C7.S3

7.3 Some Preliminary Distinctions: Directed Duties v. Mandatory Ends

C7.P9 The issue of directionality is often confused with the issue of what my end is. One way to put the complaint is to say that on the Kantian view, we care about our own perfection rather than about the welfare of the animals. The style of objection is easily recognized; it belongs in the same family as the complaint, for instance, that even if utilitarian or social practice-based accounts of promising can deliver the result that prohibits routine promise breaking, they would be doing it for the wrong reasons: I should not break a promise because I owe it to the promisee to keep it, not because of its possible marginal effects on the institution of promising. A familiar objection to Kantian ethics more generally turns on the same strategy. Schopenhauer argued that Kant's ethics is ultimately a form of egoism,⁴ since the final object of moral attention is the consistency of the agent's own will with its proper principle. More narrowly, generations of commentators have suggested that the Kantian attention to the form of one's maxim and disdain for sympathy seems to give preference to the person who visits a sick friend begrudgingly over a more directly loving one,⁵ and so, effaces the moral attention to the friend of its fundamental role.

C7.P10 But the question of improper ends and directionality are different questions; they are fundamentally different ways in which things can go wrong morally. Kant's most developed treatment of the direction of duties comes in his *Doctrine of Right*, the first part of the *Metaphysics of Morals*. He argues that the moral concept of right:

C7.P11 ...has to do, *first*, only with the external and indeed practical relation of one person to another, insofar as their actions, as deeds, can have (direct or indirect)

⁴ Schopenhauer (1840/2000, § 7).

⁵ Schiller is probably the first to press this objection. See Friedrich Schiller and Johann Wolfgang von Goethe, *Xenien*, translated by Paton (1947: 48). Kant replies to it directly in *Religion* (Rel. 6: 23n), but his reply is often ignored by contemporary commentators who make the same point—see Stocker's well-known article (1976).

influence on each other. But, *second*, it does not signify the relation of one's choice to the mere wish (hence also to the mere need) of the other, as in actions of beneficence of callousness, but only a relation to the other's *choice*. *Third*, in this reciprocal relation of choice no account at all is taken of the *matter* of choice, that is, of the end each has in mind with the object he wants...

(MM 6: 230)

C7.P12 Directed duties of right do not focus on ends at all, they rather restrict the ways in which free beings can use means—centrally their bodies and property—to set and pursue their own ends. In the *Doctrine of Virtue*, Kant introduces directional duties of virtue, including the duty of love to other human beings (comprised by beneficence, gratitude, and sympathy) and duties of respect, which are specified by their correlate vices of arrogance, defamation, and ridicule. Directed duties of virtue differ from directed duties of right in that the former, but not the latter, presuppose an end. In order to understand Kant's distinctive position about the moral significance of animals, we must proceed in two stages. First, we will explain relational duties that are correlative to rights. We will then turn to relational duties of virtue.

C7.P13 In characterizing relational duties of right as abstracting from all ends, here as elsewhere, Kant is not purporting to invent a new moral principle, but rather to draw our attention to what we already understand about morality. An action can be directed towards someone without implying any kind of concern towards that person. In the case duties of right, the duty to, say, a party to a contract is owed *to the party*. So they are directed to another agent. But this, of course, does not imply any concern for the party to whom the duty is owed. If you repair my refrigerator, I need to pay you a sum of money, but I do not need to do so out of any sort of concern for you. Indeed, in the normal course of events, I will enter into the arrangement under which I have to pay you because of some other purpose of mine, such as preventing my food from spoiling. You are not my end, and your enrichment is not my end. That is not to say that in hiring you I treat you as 'a mere means'. I do not, but only because our transaction is consensual; for the sake of receiving the payment, you use your means (your skills and equipment) to repair my refrigerator. Even with my duty to avoid using or damaging your property without your authorization, I do not need to care about the fact that it is yours; I act in perfect conformity with right if I resent the fact that you have a nicer car than I do, so long as I do not interfere with it.

C7.P14 Conversely, I may be so infatuated with your beautiful vehicle that I get carried away in my attempts to avoid interfering with it in any way, so much so that I inadvertently damage it. I have wronged you, even though my end was avoidance of wrong to you. So, too, if I am vigilant about avoiding crossing into your property, but end up, disoriented, on it anyway. Again, you have a right to be beyond reproach that prohibits me from defaming you, but it does not demand that I care

about your standing in the eyes of others. That is why I can make all manner of damaging statements, provided that they are true, and under traditional juridical understandings (still honoured everywhere on the planet outside the United States) I can go out of my way to avoid saying anything false about you, but if, in spite of my diligence, I say something false and damaging, I thereby wrong you, because I interfere with your right to be beyond reproach. Duties of right do not require the adoption of any particular end (as opposed, for instance, to compliance with duties of virtue such as gratitude).

C7.P15 Not only do relational duties of right not depend on ends; the priority that Kant assigns to right over virtue, according to which non-rightful means cannot be used in pursuit of morally mandatory ends, could only be intelligible if relational duties can be comprehended without any reference to any end whatsoever. This feature of right is the hallmark of Kant's account, but is easy to miss because of the tendency in so much recent philosophical writing to imagine that the basic form of a right is a rule protecting against some type of harm. This way of thinking about rights—which has its ultimate roots not in Kant or indeed any idea about right, but rather in the utilitarianism of Sidgwick and Mill—treats them as ways of protecting particularly urgent interests. On this view, the point of the right is to protect the interest by placing some person or persons under a directed duty to perform acts conducive to the protection (or advancing) of the interest. On such an approach, the directionality of the duty is secondary to the interest it seeks to protect. If rights are viewed as instruments in this way, it does indeed appear puzzling that animals would not have them also, if we suppose animals to have pressing interests.

C7.P16 But that is not the way in which Kant analyses the directionality of duties. Kant's approach to directionality has considerable advantages. Most notably, it explains what is wrong with what might be called moral circumvention—interfering with a right so as to see to it that the rightholder benefits, as in cases of paternalism. More significantly, a characterization of familiar directional duties in terms of the interests that they serve faces a conceptual difficulty: although the relevant interest is sometimes put in terms of well-being or, at other times, autonomy, on closer inspection, the most familiar relational duties protect interests that are impossible to describe except by reference to the concept of a right that they were supposed to explain. Consider the right to be free of unwelcome caresses, or of unauthorized use of your property. As the words 'unwelcome' and 'unauthorized' indicate, these are not interests in being free of a certain state of affairs; the interests instead are in being free of certain types of violations of appropriate interpersonal relations. That is, the only thing that can set back the interest in question is the violation of the right. This is not a case in which an interest is particularly important to a person's life, and others are placed under duties to protect or promote that interest through actions likely to conduce to it. There is no conceptual space between the interest and the norm of conduct that protects it. These are familiar markers of

ordinary moral thought about rights, markers that writers have struggled to accommodate in interest-based accounts. But the view has the clear advantage of making each of these things not an outlier standing in need of special pleading, but instead a constitutive and structuring feature of the very concept of a right.

C7.P17 This way of thinking about rights has an immediate implication for non-human animals. In the ‘Division in Accordance with the Relation of the Subject Imposing Obligation to the Subject Put under Obligation’ at the end of the Introduction to the *Doctrine of Right* (MM 6: 241), Kant distinguishes between the relation in terms of right of human beings towards beings that have rights as well as duties from other possible sets of relations. Beings with duties but no rights would be slaves, a situation that is factually possible but morally impossible. Beings lacking reason, who cannot be bound and so, too, cannot bind other beings (Kant’s conception of animals), have neither rights nor duties. Those who suggest that animals have rights must slot them into what Kant regards as the fourth category, which is also vacant, that of God, a Being that has only rights but no duties.⁶

C7.P18 There is a familiar objection to so-called ‘will theories’ of rights, which might be thought relevant here. The nub of the objection is that by focusing on how things stand between beings capable of asserting and waiving claims against each other, those theories are unable to account for the rights of children or even rights of a person who is asleep or comatose. Whatever the fate of the will theory of rights (with its emphasis on the possibility of waiving as constitutive of a right), the objection fails to engage with the Kantian account. For those examples start with the thought that we have already answered the question ‘who is a person?’ in familiar ways, that is by identifying each person with his or her body, just as Kant proposes. That there are human bodies that are temporarily incapacitated (by childhood or sleep) does not make them stop being persons and so does not make them cease to be bearers of rights. There are also human bodies that are more severely, perhaps permanently, incapacitated. They are still bearers of rights because we include them in the category of persons, since the only way in which we can individuate embodied rational beings is by keeping track of human bodies. Thus we appoint guardians for such persons, charged with protecting their personality, even if we fear that it will never manifest itself.⁷ This is not an instance of recognizing rights of beings that are incapable of choice; given that they have a human body, we have the same grounds to impute the power of choice to them that we have to impute to other human beings, despite the fact that there is no immediate empirical manifestation of that power. Most significantly, it is not a

⁶ We are grateful to Jacob Weinrib for drawing our attention to this structure.

⁷ For a detailed discussion of the grounds to attribute personality to all human beings (and to no other animals), see Kain (2009, 2010).

case of imputing rights to a being because of an interest that can be expressed in terms of anything other than concepts of right.

- C7.P19 This robustly relational conception of rights also explains Kant's juridical interpretation of the traditional theological idea that the Earth was given to human beings in common. Shorn of its biblical origins, such a view might be thought to draw an arbitrary distinction between humans and other animals inhabiting the Earth. Kant sees things differently, however: he suggests that prior to the appropriation of land as property, human beings were in what he calls 'disjunctive' possession of the Earth's surface. That is, each person is entitled to be wherever he or she happens to be, and does no wrong by occupying space; conversely, one person wrongs another by displacing that other from the space he or she happens to occupy at that time. Thus the idea of possession in common is subordinated to the idea of reciprocity. Each person is entitled to be wherever another person is not. The advantage of this way of thinking about it is clear: the Earth is not 'given' to human beings in order that they may meet their needs (leaving other needy beings out of the picture). Instead, each person is restricted only by the rights of others.

C7.S4

7.4 Directionality and Ends

- C7.P20 Duties of virtue are fundamentally different. As Kant explains in the introduction to the *Doctrine of Virtue*, they are always duties to adopt an end. Outward conformity does not qualify as virtuous conduct, because the virtue consists in the end for which you act, rather than the action you thereby perform. Outward conformity is beside the point. The duties of love and respect are always directed to other specific individual human beings, because the only way in which love or respect for others can be an end is if it is directed to some particular person. In the case of duties of love, another person can only be your end in his or her particularity. You do not owe humanity in general an undifferentiated duty to love them (at least not in a pathological sense). Instead, the concrete way in which you make another person your end depends upon the relationship in which you already stand with that person.
- C7.P21 This structure is completely familiar in the case of friendship: the duties that you owe to your friends are owed to them in particular. You may also have a further duty to make friends, but this is not owed to everyone; it is instead a duty owed to yourself. In case of duties of respect, the humanity of another person only constrains your conduct in its particularity: in interacting with others, you always interact with someone in particular, and must make that person's humanity your end. That is why duties of respect are negative, characterized in terms of their opposed vices of arrogance, defamation, and ridicule, each of which is always directed at someone in particular. On Kant's understanding, the arrogant

person wants to be superior to others—particular others; defamation is finding fault, which is by its nature always particular, and ridicule is always ridicule of some particular person.

C7.P22 Even though duties of virtue are duties to adopt an end, the directionality of the duty is distinct from its end. For just in the case of right, directionality of virtues of justice does not pertain to the object of the will, but to how my will (rather than my conduct) is constrained by the will of others. An end, according to Kant, is ‘an object of choice (of a rational being), through the representation of which, choice is determined to an action to bring this object about’ (MM 6:381). Of course, the object represented could be a human being, or more specifically, the state of a human being. My end might be the well-being of a friend or happiness of other agents in general; yet this says nothing about the directionality of the action. I have a duty to myself not to lie to you even if the lie is harmless or for an otherwise good end; in this case, both you and I are represented as the object of my will (a relation in which I express the contents of my thoughts to you). But the duty in this case is a duty to myself (MM 6:429-30), as it is a constraint that my own will imposes on itself.

C7.P23 In general, the directionality of the duties of virtue depends on how the universalization of my maxim is constrained by the will of others. In the general case of beneficence, my need for the help of others in the unavoidable pursuit of my own happiness can only be universalized as mutual constraint of all our wills by the wills of each other. If you are to make the object of my choice also the object of your choice, I must constrain my choice so that the object of your choice can also be its object. But the directionality is determined by the source of constraint (your rational will), not by the nature of the resulting object of choice. So, for instance, in the specific case of gratitude, gratitude owed due to your past action might require that I take an interest in the welfare of your children. It would be wrong to say that my gratitude for you requires that I take an interest in the welfare of your children only as a means to something else, like your happiness. I would be strange, to say the least, if my interest in the welfare of your children was only sensitive to how happy you would be as the result of my actions on behalf of your children; gratitude requires that I care for your children for their own sake. Yet the duty is a duty to you, as the object of my choice here is constrained by your will.

C7.P24 Since non-human animals do not have a rational will, they cannot constrain the possibility of our maxims having the form of universality. Notice that Kant’s distinction between directionality and the object of one’s choice (one’s end) is also confirmed by ordinary morality. Kant says that in pursuing the happiness of someone else ‘I can benefit him only in accordance with his conception of happiness’ (MM 6:454). Even I think your life will be much improved by listening to concerts instead of playing video games, I cannot discharge duties of beneficence by dragging you to the theatre hall or destroying your game console. My choice

must be constrained by your will and thus by the specific objects of your choice, not by a general desire for your well-being. In the case of the non-human animals, the opposite is true; the relevant ends are fully determined by my general desire for their well-being. But just as in the case of my concern for the well-being of the children of my benefactor, the fact that the duty is not to the non-human animals does not imply that the well-being of the animals is not the immediate object of choice; here too, we care for the well-being of the animal for its own sake. For the same reason, animals cannot stand in anything more than weak analogues of relations of friendship and love. Because they do not set their own ends, they cannot stand in relations of mutual adoptions of ends characteristic of friendship between human beings.

C7.P25 Another example that Kant gives in the amphiboly section is our duties regarding inanimate objects—in particular, beautiful nature. Kant argues that we have a duty to refrain from the ‘wanton destruction of nature’, a duty not to uproot a disposition to love things ‘even apart from any intention to use it’ (MM 6: 443). This emphasis on the absence of intention to use plainly marks the subject matter of the disposition: it is a duty to adopt an end. In characterizing this as a duty to adopt an end, Kant is presupposing his more general conception of purposive action. In the Introduction to the *Metaphysics of Morals* he distinguishes between choice and mere wish. Choice necessarily involves the taking up of means. Only if the faculty of desire is ‘joined with one’s consciousness of the ability to bring about its object by one’s action is it called choice; if it is not joined with this consciousness its action is called a wish’ (MM 6:213).

C7.P26 Secondly, it is also the duty to develop the inclinations to have the preservation of beauty in nature as an end. The duty to develop those inclinations is indirect because it is a way of having the end in question; developing inclinations is the means you use to have that end. If Jane refrains from such a destruction of nature to avoid fines from the Department of Forestry, her actions, as far as we have described them, cannot be the expression of any action done from duty. In this way, she’s no different from Kant’s honest shopkeeper example: they lack moral worth due to the fact that the wrong end is being pursued. As Kant makes clear in his discussion of the shopkeeper, that does not mean that either the shopkeeper or Jane does the wrong thing; Kant passes over ‘all actions that are already recognized as contrary to duty’ (G 4:397). Importantly, they also could not be expressions of the relevant virtuous disposition given that they do not involve an immediate liking of nature.

C7.P27 Notice that this is true even if having enough money is also useful to the ends of morality. The pursuit of one’s own happiness is an indirect duty, and this duty certainly implies that one should adopt the end of saving money. For most of us, avoiding hefty fines is certainly necessary for this end. But that is not the sense in which the duty is indirect. The virtuous disposition is not an inclination that happens to generate actions of preservation of nature that are useful to the

- development of a virtuous character; the virtuous disposition is a disposition to develop a particular inclination that has the preservation of nature as its end.
- C7.P28 In the *Groundwork*, another well-known character acts in accordance with duty but not from duty. The sympathetic person has an ‘inner satisfaction’ to pursue the welfare of others; the sympathetic person has towards other people’s happiness the same ‘immediate inclination’ we all have towards our own current well-being. The sympathetic person, we know, does not pursue the welfare of others from duty, at least when this natural inclination to pursue the well-being of others determines the action. Thus, such actions lack, a fortiori, the proper directionality as they are not pursued from our practical cognition of our duties to others. However, as Kant points out, beneficence towards someone will give rise to love, as ‘an aptitude to the inclination of beneficence in general’ (MM 4: 402). Moreover, Kant recognizes in the duty of friendship a moral ideal; thus the cultivation of sympathetic feelings towards one’s friends is morally required.
- C7.P29 A virtuous person will thus have sympathetic feelings much like those of the *Groundwork* character, but as she acts from these feelings, she acts from inclinations that were themselves determined by virtuous agency and thus her act has a (possibly indirect) moral worth that cannot be found in the sympathetic person. These acts then have the proper directionality, not by the way that the virtuous person does, but the sympathetic person does not, care for the recipients of her beneficent acts. Both care for the recipient, but the virtuous person cares about the recipient as a person; the virtue consists in making the other an end, rather than just the object that will satisfy the agent’s inclination. That is, the proper directionality comes from the determination, in the case of the virtuous agent, of her sensibility by the cognition of moral law. More particularly, her benevolent inclinations are the effect of an agency guided by the moral law and by the practical cognition of the humanity of other agents.
- C7.P30 Of course, the virtuous agent who has developed her friendships and cultivated neighbourly love is not the only agent whose actions of helping others have moral worth. The *Groundwork* sympathetic character is contrasted with his possible later self, when his mind has been ‘overclouded by his own grief, which extinguished all sympathy with the fate of others’ (G 4: 398). If in this case he ‘nevertheless tears himself out of his deadly insensibility’ and acts ‘from duty’, then, as we all know, his actions have for the first time ‘genuine moral worth’ (G 4: 398).
- C7.P31 Let us say that the actions of the benevolently inclined virtuous agent have indirect moral worth, while those of the unsympathetic agent have direct moral worth. It is important to note that ‘indirect’ and ‘direct’ here do not distinguish between lower and higher grades of moral worth, but between more and less direct effects of the consciousness of the moral law. Helping others can have direct or indirect moral worth, and those who have no benevolent inclinations can still help others from duty. This is, at least in some sense, not true in the case of animals. An agent can act from the virtuously cultivated inclination to prevent

animal suffering (and other similar inclinations), but there seems to be no room for the corresponding agent who, perhaps overclouded by grief of losing her own pet, would tear herself out of her indifference for the fate of her neighbour's cat and help him down a tree from duty. Kant seems to be committed to the view that if she were to act in this way, she would be acting on a misconception of what duty requires; she would have fallen prey to an amphiboly of concepts of reflection, and her actions would not have any moral worth.

C7.P32 Before we address this issue, we should note that at least some of Kant's critics are already in a bind. Kant's treatment of the sympathetic agent is notoriously controversial; many find it counterintuitive not to accord the actions of the sympathetic agent more moral worth than the actions of the person who acts from duty; actions from duty are supposed to be 'alienated' or 'repugnant'. However, in Kant's picture, the motivational structure of the virtuous agent is, in the relevant respects, like the one of the sympathetic agent. In her pursuit of the welfare of non-human animals, she does not act in the absence of, let alone contrary to, inclination. She is moved by her properly cultivated predispositions to care for the pain and pleasure of the brutes. So, surprisingly, the usual critic of Kant should think that his treatment of animals is the highlight of his work—the one issue in which Kant seems to put moral worth where it belongs. Of course, we don't point out this fact as a way to sell some portion of Kant's views to non-Kantians; rather, this surprising conclusion should show that there is nothing obviously counterintuitive that follows directly from the claim that duties regarding animals are not duties to animals.

C7.P33 But, of course, it is imprecise to say that a Kantian needs to acquiesce on the uncaring action of the agent saddened by the loss of her pet. Cultivating inclinations or preventing their destruction is nothing other than acting in the way determined by such inclinations. Inclinations just are habitual desires. Someone who acts cruelly to non-human animals is thereby destroying the inclination to be kind to the brutes. The view does imply that the correct way to describe the reason to perform this action in the case of the lack of inclination is that one should not allow one's cold insensitivity to cats to develop further (or one should cultivate whatever care one still has for the brutes). But is it counterintuitive to say that the agent helps the cat because she understands that she should not be insensitive to the plight of cats? It is interesting to compare what Hume has to say about the agent that acts from the motive of duty:

C7.P34 When any virtuous motive or principle is common in human nature, a person who feels his heart devoid of that principle, may hate himself upon that account, and may perform the action without the motive, from a certain sense of duty, in order to acquire by practice the virtuous principle. (Hume 1738/1978: 3.3.1)

C7.P35 Of course, Kant must say that Hume is completely wrong in his general understanding about what it is to act from duty. But he does describe a recognizable

form of the attempt to cultivate a virtuous inclination, when that inclination is lacking: a form of second best for those who do not have the appropriate virtuous motivation. Although Hume's general view cannot capture the way in which a benevolent action done from duty expresses respects for the humanity of the recipient of help, its more specific version correctly describes the motivation of the agent who recognizes she fails to have virtuous inclinations regarding animals.

C7.P36 Kant does seem to have a 'harsher' view of our relations to animals in some of his writings; one might suspect that we are hiding under the carpet the extent to which Kant would allow us to treat animals in whichever way would advance whichever end we might have. Kant himself seems very close to saying exactly that in *Conjectural Beginnings*:

C7.P37 [After making use of a sheep's skin, humans] became aware for the first time of a prerogative that he had by his nature over all animals, which he no longer regarded as his fellow creatures (*als seine Mitgenossen an der Schöpfung*), but rather as means and instruments given to his will for the attainment of his discretionary ends. (Con. 8: 114)

C7.P38 This passage suggests that Kant seems to have a much less kind view of our treatment of animals than we've been claiming. After all, he is in fact saying that they are means and instruments (*Mittel und Werkzeuge*), and there seems to be no limitation to the discretionary ends that animals can be put to use for. But what exactly do such passages show? First, it would be surprising that *Conjectural Beginnings* should be in such stark contradiction with writings, such as *The Metaphysics of Morals*, in which Kant so explicitly restricts the range of permissible actions in our relationship with animals; and indeed, read correctly there is really no conflict. *Conjectural Beginnings* claims that humans distinguish themselves from the animals as they realize that the latter can be treated merely as means. That animals can be treated merely as means should come as no surprise; human beings must be treated as ends in themselves in virtue of their humanity; in fact, the claim that animals can only be treated as means is inseparable from the claim that we have no duties to them—we owe duties to those whom we must treat as ends. But the fact that animals must be treated as means does not contradict in any way the claim that a virtuous person has the welfare of the animals as her end.

C7.P39 It is worth here looking at what the *Formula of Humanity* requires from us. As we said above, we do not fail in our duties to others when we hire their services without being particularly concerned with their well-being. For the same reason, we also do not treat another merely as means if we, for instance, hire a cab without any thoughts about the well-being of the cab driver. And just as in the case of complying with duties of right, the fact that you have someone's happiness as your

end in no way guarantees that you are not treating her as means. If I drag someone into my car without her consent and drive her to the baseball game because I am confident that it will be great fun for her once she's there, I treat her as means no matter how correct I am in my confidence that she will enjoy it and how careful I was not to cause her any pain or harm. Although it is beyond the scope of this paper to put forward an interpretation of the *Formula of Humanity*, there is no question that the prohibition of treating other as means is largely independent of the end I am pursuing; although there are ends that I could not pursue without treating you as means (the infliction on pain for its own sake, for instance), there are many ways in which I can interact with you that are not particular caring but that do not amount to treating you merely as means. But more importantly, I can easily act in the pursuit of your happiness in a way that treats you merely as means to my end of pursuing your well-being. The requirement expressed by the *Formula of Humanity* is a requirement to engage the rational will of others in a certain way (in a nutshell, the requirement to regard their will as a condition of goodness), and a corresponding prohibition to act in ways that are incompatible with this kind of engagement.

C7.P40 All of these constraints on using others as mere means turn on the thought that humanity is an end in itself. By contrast, it is simply unintelligible to treat non-rational nature as an end in itself. The distinctive status of humanity is not an open-ended permission to subordinate everything else, including animals, to human desires; it is rather that there is a mode of interaction that is available among human beings (as fellow citizens of the kingdom of ends) that is simply unavailable with regard to other creatures. You cannot have a duty to engage the rational will of a being that lacks one; but treating the brutes as means is compatible with having their well-being as our end. In fact, when I take my dog into the car without (pointlessly) trying to secure her consent because I am correct in my confidence that she will enjoy the baseball game (or at least the discarded hot-dogs!), I clearly do something admirable, unlike the case in which I drag my friend. The kind person who takes the thorn from the lion's paw unconcerned by the lion's uncomprehending stare is obviously treating (rather bravely) the lion as means to her end of helping the lion; had she done the same to a rational agent without securing his consent, she would be assaulting him. But interaction with a lion is neither consensual nor nonconsensual on the lion's part. The virtuous disposition must care for the welfare of non-human animals without the thought of any further end, but it can only secure the object of its concern by treating these same animals as means.

C7.S5

7.5 Contingency

C7.P41 If we are right so far, then the Kantian virtuous agent who has developed the proper inclinations will have the well-being of animals as her end; she will not be

taking care of Tibbles in order to develop her own moral character. Rather, the development of her moral character has ensured that she cares for Tibbles for his own sake. However, one might complain that there are still some seriously objectionable aspects to Kant's understanding of our duties regarding animals. After all, on Kant's view, it seems a matter of contingency that animal cruelty is not permissible; were human nature a bit different, it might have turned out that our dealings with animals were irrelevant to the development of our moral character, and Kant seems to be committed to the view that if this were the case, we would have no duties regarding animals.

C7.P42 The charge of contingency can be sharpened with a comparison. We have a duty to take care of our children. There is certainly a similar duty not to interfere with and to develop one's disposition to love one's children. There is no doubt that we find in human nature an inclination to love one's own children, and it would be hard to understand the content of our duties to and regarding our children in abstraction from these inclinations. We could imagine a possible world in which such inclinations are absent from human nature, but instead, adult human beings have benevolent feelings that are indifferent towards all children; the ties of affection in such an imagined world would be like the ones that we would ideally find in a Platonic city. Such adults would perhaps organize child rearing in the manner suggested by Plato's *Republic*; perhaps in such a world specific groups of professional caregivers would be in charge of specific life stages of the community's children, and would develop inclinations of love towards whoever was in their charge that day, but, when their shift ended, feel nothing.

C7.P43 Although parents in such a world would not particularly love their children, there is nothing morally objectionable in such a world. However, in such a world there would be, arguably, no duty to cultivate feelings of parental love or emotional dispositions towards one's own children. By contrast, a world in which children are left to fend for themselves is not one that the 'judgment of impartial reason' could deem as good. However we try to imagine other ways in which our duties to others can be fulfilled, they must be compatible with the promotion of our children's happiness and the development of their rational faculties. But it seems hard to separate this constraint on acceptable specifications of duties from the fact that we owe these duties to the children or at least that the happiness of others is an end that is also a duty.

C7.P44 Given that neither of these things is true in the case of animals, wouldn't it be possible to imagine a configuration of human sentiments such that our duties to ourselves demand nothing regarding animals? Couldn't there be colonies of rational beings on Saturn, whose moral perfection was completely disconnected from any concern for animal welfare? The contingency objection says that this very possibility shows that Kantian ethics does not give animal welfare its due. Our duties to animals is simply the by-product of empirical features of our nature; the very possibility that there are morally acceptable worlds in which animals are

cruelly treated, or that their welfare receives no consideration, shows that there is something wrong with this conception of our duties to animals.

C7.P45 The cultivation of inclinations is part of the development of a virtuous character. A divine will would have no inclinations and thus would act from the moral law on each occasion. A holy will might have inclinations, but they would be themselves determined by the moral law and never conflict with it; the pursuit of the moral law encounters no resistance. Now if the contingency objection is heard as saying that the duties of a divine being might not involve caring for animals in the ways we find appropriate and morally correct, it is certainly unanswerable. We know nothing about how the moral law applies to a divine will; whenever Kant derives a duty, he appeals to some limitation of human agency—‘someone feels sick of life because of a series of troubles’, ‘another finds himself urged by the need to borrow money’, ‘many cases could occur in which one would need the love and sympathy of others’—and although Kant does not say this explicitly in the case of developing one’s talents, obviously the derivation depends on the fact that we find ourselves in need of these various talents; they are given to us ‘for all sorts of possible purposes’; a being with intellectual intuition has no need of any other talent. We do not know whether a divine will would help others, and one does not imagine that she would incur many debts (not to mention that self-destruction is out of the question for a necessary being and that her talents are already fully developed); the notion of a maxim does not even apply to an infinite will (CPrR 5: 79).

C7.P46 We can also imagine other forms of finitely holy wills for which we know very little about what kinds of duties they have. But if the ‘contingency’ objection needs to appeal to these facts in order to explain the relevant sense in which our duties to non-human animals are merely contingent, it is not particularly worrisome. The fact that we do not know how the moral law would guide radically different beings merely shows a limitation of our moral imagination. For the contingency objection to have any force, it has to show at least that it is compatible with human nature, understood as that of a finitely rational being with sensibility (or even a sensibility that has the same general characteristics as ours) that the cultivation of virtues will involve, or at least permit, the cruel treatment of animals (or other obviously impermissible treatment of animals), but this possibility can be at least partly ruled out.

C7.P47 Although our will could not be brought to conform to the ideal of a holy will in this life, we have a duty to approximate such a holy will, to become more virtuous and to progressively conform our inclinations to the commands of duty. Our inclinations, qua habitual desires, are part, of course, of our sensible nature. Desires are effective representations, and some of these representations involve concepts of the understanding; they are representations whose origins are in experience. The representation brings about its object, and, of course, the object in question is an object of experience (unlike pure willing that modifies only itself). But

inclinations cannot be guided directly by representation of the moral law; they must be desires formed in response to sensible representations.

C7.P48 We can now see how the objection that Kant's view of our duties to animals is based on a dubious empirical claim can be avoided. The duty to cultivate inclinations that conform to our duty to others is a duty to develop those aspects of human nature that respond to the 'analogue' of actions from duty; ideally the actions done from duty will not find in our sensible desires any obstacles. Our sensibility cannot respond to virtue, freedom, or any ideas of reason. But it can respond to the sensible aspects of the highest good: pleasure and the absence of pain in beings that have an animal nature. Natural dispositions whose ends are analogous to those of the moral law (in that they also forego the pursuit of one's well-being in the pursuit of the welfare of another creature) and whose development, by its very nature, conform to the ends that the moral law requires us to adopt, are dispositions that we must cultivate. They constitute at least one specific form in which we can approximate the ideal of holy will. There thus are empirical assumptions that are required to make the case that we have an obligation to cultivate the relevant inclinations, but they are much weaker than claims about the conduct of butchers, farmers, or lab workers. The empirical assumption is that we have the capacity to develop a general, natural disposition for sympathetic pain or pleasure, but we do not need to await the result of psychological research to accept the correctness of this assumption. If we act under the idea of freedom, we conceive of our own character as subject to our choice, and so must suppose ourselves to be able to develop a sensibility that is compatible with the demands of morality.

C7.P49 Of course, this does not rule out the possibility that empirical research would find out that cruelty to animals is correlated with a greater likelihood that people will help others. We might find out that slaughterhouse workers tend to be nicer to children or that those who are indifferent to the fate of their pets are particularly kind to strangers. But if any of these putative facts could be shown to obtain, they would remain irrelevant to our conclusion. The virtuous inclinations in questions are specifications of what counts as a virtuous disposition for the kind of finitely rational agents that we are; they are not instrumental means by which we cause ourselves to acquire the dispositions that are in fact independently virtuous. Someone who used these empirical generalizations in deciding their behaviour would be engaged in self-manipulation rather than in proper moral agency.

C7.P50 As we said earlier, Kant's view cannot rule out the possibility that there are beings whose sensibility does not include the general capacity for sympathetic pain or pleasure of any sort, beings that have a sensibility, and the ability to represent the sensibility of other sensible beings but who are entirely unmoved by that representation. Such beings would not be under a duty to treat non-human animals in any particular way. In fact, we know very little about what duties they would be under until we know more about their sensibility. But is the possibility of such a

being enough to underwrite a plausible version of the contingency objection? It is far from clear that it is. It is hard for us to imagine that virtue can be compatible in any possible world with treating animals badly. Of course, insofar as we are virtuous, given our ends, we cannot but contemplate such possible worlds, or any possible worlds in which animals are mistreated with sadness. But to say that we cannot rule out the possibility that such a virtuous existence is possible is not to say that we can have any understanding of what it would be like; we have no idea what the duties are of beings that are so different from us.

C7.P51 Of course, the threat to Kant's view is not so much the bare logical possibility of beings that do not have duties regarding non-human animals, but that such a possibility might illustrate that we have missed the true grounds of our duties to animals. However, we hope that the rest of the paper has done enough to assuage these worries.⁸

⁸ This paper was presented at the Kant on Animals Conference, Kruger Park, South Africa, July 2013. We are very grateful to the helpful comments from the participants on this occasion.