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Review Essay



All Animals are Equal, but Some More than Others?

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Abstract

Does the moral badness of pain depend on who feels it? A common, but generally only implicitly stated view, is that it does not. This view, 'unitarianism', maintains that the same interests of different beings should count equally in our moral calculus. Shelly Kagan's project in *How to Count Animals, more or less* (2019) is to reject this common view, and develop an alternative to it: a hierarchical view of moral status, on which the badness of pain *does* depend on who feels it. In this review essay, we critically examine Kagan's argument for status hierarchy. In particular, we reject two of the central premises in his argument: that (1) moral standing is ultimately grounded in agency and (2) that unitarianism is overdemanding. We conclude that moral status may, despite Kagan's compelling argument to the contrary, not be hierarchical.

Keywords

Moral standing – moral status – overdemandingness – pain – unitarianism – wellbeing

Shelly Kagan. *How to Count Animals, More or Less* (Oxford University Press: New York, 2019), 310 pages. ISBN: 9780198829676. Hardback: \$35.00.¹

Until about fifty years ago, philosophical discussion of the way we treat animals was sparse. Since then, the field has burgeoned. This literature is based on a widespread, but often only implicitly made assumption that Kagan calls ‘unitarianism’, the view that “there is only one kind of moral status—a status shared by both people and animals” (p. 2). According to unitarianism, the same interests of different beings should count equally in our moral calculus, regardless of what kind of being has them. “Pain is pain”, as Peter Singer famously put the view in a slogan.² Or, somewhat more precisely: “How bad a pain is depends on how intense it is and how long it lasts, but pains of the same intensity and duration are equally bad, whether felt by humans or animals.”³

Kagan’s project in *How to Count Animals, more or less* is to reject unitarianism and develop a hierarchical view of moral status—a view on which the badness of pain *does* depend on who feels it. Kagan mentions, in the introduction, that he has considerable misgivings about this project. He risks that people take him to be defending the way we currently treat animals, which he deems a “moral horror of unspeakable proportions, staggering the imagination” (p. 5). Readers looking to find an argument for this conclusion in this new book, though, will be disappointed. The hierarchical view of moral status that Kagan develops is not (yet) detailed enough to derive practical implications from it. As he himself writes in the preface, he is in the business of normative ethics, not of practical ethics. It is, for that reason, perhaps somewhat surprising that the book is based on Kagan’s 2016 Uehiro lectures in *practical ethics*,⁴ an irony that does not escape him: “I suppose this does indeed count as a topic *within* practical ethics, but I fear that the discussion itself is about as abstract a treatment of the topic as one could offer” (p. ix, Kagan’s emphasis).

It is to Kagan’s credit that, although the argument for moral status hierarchy he develops is indeed rather abstract, the book is quite accessible—so much so, that we think it would be of interest to a wider audience than just moral philosophers. Kagan is careful to restrict philosophical jargon to a minimum and uses a host of lively examples—such as that of Tom, who is stranded on a desert island pondering the killing of fish in order to survive (p. 177) and that of

1 We thank Yvette Drissen for very insightful discussions on the book, and Shelly Kagan for his incisive and helpful comments on an earlier version of this review essay.

2 (Singer 2009, 45).

3 (Singer 2009, 49).

4 Audio recordings of the lectures can be found here: <https://www.practicaethics.ox.ac.uk/uehiro-lectures-2016>.

a teenage boy who is planning to set fire to a cat for fun (p. 254). The accessibility of Kagan's new book does, however, come at a cost. His argument is, by and large, a self-standing endeavor in positive philosophy: throughout the book, Kagan rarely engages directly with the work of other philosophers. As he puts it himself: "My goal here is not to offer a careful critical assessment of the specific theses or arguments that other theorists have put forward, but rather to try to sketch an alternative approach to animal ethics" (p. ix). This does help to make the book accessible, but it is an increasingly uncommon practice in contemporary moral philosophy—and may disappoint readers who are looking for references to philosophical literature.

Kagan's new book is nonetheless incredibly valuable to anyone interested in animal ethics: It offers a careful, nuanced, and rich defense of the philosophically controversial position that moral status is hierarchical. It is difficult, within the confines of this essay, to even provide a summary that does justice to Kagan's book, let alone to critically examine all the steps in his argument. Because we do want to at least give a sense of Kagan's full argument, we will start by offering a brief summary of the book, focusing especially on the first, foundational part (section 1)—which we will critically examine in the next two sections. We then present an argument against two of most salient arguments Kagan presents in the first part of the book. First, he argues that sentience is not necessary and sufficient for standing. Rather, besides the ability to experience pain and pleasure, agency grounds standing. In section 2 we argue against this. Second, Kagan argues that unitarianism is, for various reasons, overdemanding. In section 3, we claim that his overdemandingness argument against unitarianism can, in fact, be resisted. We conclude that moral status may, despite Kagan's compelling argument to the contrary, not be hierarchical (section 4).

1 Kagan's Argument for Moral Status Hierarchy

When do beings count, morally speaking? When, in other words, do they have moral status? This is the question that exercises Kagan in the first chapter ('Standing'). To answer it, Kagan thinks it is helpful to reflect on a more fundamental concept than moral status, that of moral standing. To say that a being has moral standing, he submits, is to say that "it counts, morally speaking, in its own right" (p. 7). Moral status, in turn, refers to the set of features that govern how we should treat things with moral standing. Whereas moral standing is not a matter of degree, moral status can vary across beings.

Now, an intuitive answer to the question when beings have moral standing, which, Kagan observes (p. 12), many philosophers subscribe to, is: when they have sentience, the capacity for experience and feeling. But Kagan disagrees. We would be hesitant, he argues, to ascribe moral standing to a being that can only experience the color blue, but does not feel any pleasure or pain, and does not have any preferences regarding its conscious experiences. Instead, agency is necessary and sufficient for standing. Kagan defines agency quite broadly, as “having various preferences and desires and acting on them” (p. 18). On this expansive view of agency, it would be possible for complex computer systems and robots—such as HAL in *2001: A Space Odyssey*—to have moral standing, even if they are not sentient, an implication that Kagan deems plausible—indeed, he uses it as an argument in favor of his account of standing (p. 21).

In chapter 2 (‘Unitarianism’), Kagan takes a more detailed look at unitarianism, the view he wants to offer an alternative to. He explains (as Peter Singer also has, famously, in his *Animal Liberation*) that unitarianism systematically favors those beings that have more welfare at stake. When we are faced with the choice between saving a mouse or a person from drowning, for instance, unitarianism would recommend saving the person: the life of a person, after all, “generally involves a significantly larger and more valuable array of goods than the life of a mouse” (p. 43). These goods, according to Kagan, include things such as the capacity for “deeper and more meaningful relationships” and “greater and more valuable knowledge” (p. 48).

Chapter 3 (‘The Argument From Distribution’) presents Kagan’s most central argument against unitarianism. He argues that egalitarian concerns should have a place in ethical theory. Kagan specifically examines the implications of combining unitarianism with four common distributive principles: egalitarianism, prioritarianism, sufficientarianism, and desertism. He argues that if all beings with standing count equally, and, typically, animals have lower levels of welfare than humans, then human beings would be required to focus (almost) all of their efforts on improving the position of other animals on all four distributive principles. This, Kagan claims, is an unacceptable implication, because it is overdemanding on human beings. In chapter 4 (‘Hierarchy and the Value of Outcomes’), he goes on to argue that when the four distributive principles are combined with a hierarchical account of moral status, then they are no longer overdemanding.

Now, as Kagan acknowledges, some philosophers reject the moral significance of distributive principles. Even they should be attracted to a hierarchical account of moral status, he argues, *provided that* they care about the value of wellbeing. Moral status also affects the value of welfare: welfare enjoyed by beings with fewer psychological capacities counts less than welfare enjoyed by

beings with higher psychological capacities. In support of this claim, Kagan asks the reader to suppose that a person and an animal are in need of help and both have the same amount of wellbeing at stake. Would it be morally better to help the person or the animal? In response, Kagan says that he really does find himself “inclined to judge that it would be better to aid the person rather than the animal” (p. 101).

In chapter 5 (‘Status’), Kagan develops his view of moral status, in which he suggests that degrees of moral status are constituted by psychological capacities. The specific capacities can be grounded in the capacity for welfare, or the capacity for agency, even though substantively, he argues, this makes little difference—especially on non-hedonic theories of welfare. Kagan ultimately suggests that an adequate account of moral status accommodates both ways of determining the relevant capacities.

This account of moral status seems plausible, but a more controversial idea Kagan develops is the view that potential status and modal status, or modal personhood, also raise one’s moral status. According to him, the fact that animals have the *potential* to, and/or even *would have had the potential* to further develop capacities that ground moral status is relevant for determining their current moral status. This increases the difference in status between humans and animals. Here, Kagan develops ideas from his *Society for Applied Philosophy Annual Lecture*,⁵ in which he suggests that this view can go quite far in incorporating intuitions that have often been discarded as speciesist. His further development and defense of the view is interesting, but because his view has also already attracted much critical discussion,⁶ and is relatively independent from the rest of his argument, we will not discuss it in further detail.

Kagan discusses four main objections to his hierarchical view in chapter 6. The first two—that his view is elitist, and that it could imply that beings with a higher status may enslave us—are swiftly and convincingly rejected. The other two warrant some discussion. The third objection Kagan discusses is that his hierarchical account of moral status could imply that severely impaired human beings do not have as high a moral status as other humans—and would hence allow treating impaired humans worse than ‘ordinary’ human beings (p. 157). Here, Kagan’s view that modal personhood contributes to moral status comes to the rescue. An impaired human being may not have more relevant psychological capacities than an animal, but because they *would have* developed such capacities, they nevertheless count more. This bars the objection,

⁵ (Kagan 2016).

⁶ See DeGrazia (2016), McMahan (2016), Singer (2016, 201), Roberts (2018), and Smolkin (2019).

but may grant the speciesist more than most animal ethicists are comfortable with. The fourth, and final, objection Kagan considers is the argument from normal variation. It could be that his account of moral status allows for variation in moral status *even* amongst ordinary human beings. He notes that the differences may be so small that they will not have a significant effect at all on how we treat each other, especially if we adopt the practical realism he defends in chapter 11.

In the remainder of the book, Kagan moves on to deontological views, and argues that they have strong, independent reason to be sympathetic to his hierarchical account of moral status and shows various ways in which they might accommodate it (chapters 7, 8, and 9). He then discusses what his view implies for self-defense (chapter 10), and ends the book by arguing that the epistemological and motivational limitations that we face in our everyday moral decision-making justify using a few levels of moral status in practice — perhaps four, five, or six (p. 254).

2 Salvaging Sentience as a Necessary and Sufficient Condition for Standing

In this section, we argue that Kagan's account of moral standing is too broad. As we mentioned, Kagan claims that it is ultimately not sentience, but agency that grounds moral standing. His argument for this claim is mostly intuitive. Advanced robots, like HAL, Kagan argues, may not be sentient, but the very fact that they have agential capacities seems sufficient to grant them moral standing (p. 21). Because HAL has agential capacities, turning it off forever, according to Kagan, would wrong it.

For Kagan, agency is fundamentally tied in with having desires and preferences. This, however, seems to create a difficulty in the argument. Desires, after all, are often understood as mental processes that have an experiential component: desires are the mental process of wanting something to be the case, including the sensation of this want. If that is so, any agent will also be a sentient being, and sentience is necessary and sufficient for the accordance of moral status after all. But, Kagan argues, desires need not be understood this way:

When I think about this issue, I find myself strongly inclined to think that agency does not, in fact, presuppose sentience. I tend to favor accounts of belief and desire that analyze these concepts in behavioral functional terms, where beliefs and desires interact in familiar ways so as to generate action (p. 20).

On Kagan's behavioral conceptualization, desires are "dispositions to act in ways that tend—according to one's beliefs—to bring about specified states of affairs" (p. 20). He acknowledges that the latter characterization is rough, and details need to be spelled out further. However, we believe that Kagan's suggestion that his behavioral definition of agency may itself ground standing is problematic.

What constitutes belief states if not conscious mental states? Kagan rough definition of a belief is that it is a representation of the world. However, simple machines, such as thermostats, also use representations of the world, in the form of, for example, temperature measures. See for instance Daniel Dennett description of desire and belief:

A thermostat, McCarthy and I claim, is one of the simplest, most rudimentary, least interesting systems that should be included in the class of believers—the class of intentional systems, to use my term. Why? Because it has a rudimentary goal or desire (which is set, dictatorially, by the thermostat's owner, of course), which it acts on appropriately whenever it believes (thanks to a sensor of one sort or another) that its desire is unfulfilled. Of course, you don't have to describe a thermostat in these terms. You can describe it in mechanical terms, or even molecular terms. But what is theoretically interesting is that if you want to describe the set of all thermostats (...) you have to rise to this intentional level.⁷

If we follow Dennett, a behavioral definition of agency—that is, belief and desire—will take us quite far afield. If he is right, and thermostats can be said to have beliefs and desires, then Kagan's agency criterion would be much too inclusive. A thermostat may *act*, but it clearly does not have moral standing. In fact, if this is the notion of belief and desire at stake, in all plausibility, plants possess this ability too. Moss grows away from the direction of the sun, because it flourishes in moist dark areas. Moreover, more sophisticated plants have cognitive capacities that are far more complex than tendencies to be directed to places in which they are more likely to flourish. For example, they communicate, both within and between different plant species, and act upon this information.⁸ Kagan, however, explicitly denies the moral standing of plants (and would probably do the same for thermostats), and we believe rightly so.⁹ The

⁷ Dennett (1995, 114).

⁸ Calvo Garzón and Keijzer (2011).

⁹ More precisely, we believe the moral standing of plants should not be based on their agential capacities, but on their sentience. If plants have sentience, they have moral standing. While

problem is that his behavioral definition of agency does not seem to allow him to do so.

Kagan may, at this point, object that he only intends to include beliefs and desires *as mental states*, and even if thermostats and plants have beliefs and desires in a behavioral sense, they do not have a mind. This move, however, does not help Kagan. It is not clear what it means to have a mind without referring to conscious experience. And if we understand agential capacities merely behaviorally, it is not clear how having a (non-conscious) mind helps to distinguish HAL from thermostats, besides being more sophisticated.¹⁰

A final suggestion we can find is that Kagan argues that plants do not *care* about their harm, while animals do. This seems highly plausible to us, but we also think that the reason this is plausible is that *caring about* in the ethically relevant sense necessarily involves the *experience of caring*. If not, it is not clear what the *caring about* involves, so that a thermostat or plant cannot *care* about anything.

Kagan builds on an example of non-sentient, extra-terrestrial robots, who express deep concern about their offspring (p. 28). This, Kagan suggests, is reason in itself to count them, even if they are non-sentient. But if this expression of deep emotional anguish is a mere behavior, does it really matter? Them *caring* about something is a mere behavior, without it being *like* anything for them to care about something. These robots, to use a term by Tom Regan,¹¹ are not subjects of a life. There is nothing like it to be them. Is someone who is swayed by the robot's plea not, in a sense, fooled by the behavior?

At this point, Kagan faces a dilemma. A purely behavioral understanding of agency does not seem to capture the gravitas of moral standing, nor result in plausible demarcation of entities with moral standing, and entities without. However, a more substantive, and ethically plausible notion of agency, on the other hand, does not extend beyond sentient beings.

Kagan's argument against sentience cuts two ways: sentience is not only not necessary, but it is, by itself, also not sufficient for standing. Philosophers, he suggests, have been confused about the significance of sentience. What they

it seems unlikely to us that they do have sentience, we would like to direct interested readers to Andrew Smith (2016, chap. 2)'s interesting defence of plant sentience.

10 In personal communication, Kagan has indicated to us that one way to draw the distinction is to require a higher level of "complexity of representation and interaction with varying circumstances" in behavioral terms to count as having beliefs and desires. Plants and thermostats would not meet it, whereas HAL would. We are not (yet) convinced that a principled line can be drawn between levels of complexity in an ethically relevant way.

11 Regan (1983).

must have really meant was the ability to experience pleasure or pain. After all, anhedonic experience, such as merely experiencing the color blue, without any hedonic tone, is not sufficient for standing. But we believe that this is not a convincing argument against the view that sentience is necessary and sufficient for moral standing. After all, a being merely capable of having anhedonic experiences is also a being whose welfare levels cannot be altered.¹² So, even if it has standing, there are other reasons it cannot be harmed.

Moreover, the argument presupposes what we believe is a false dichotomy. Either experiences have a hedonic character, or they are void of value. This seems based on a simplistic view of the value of experience—namely the view that the value of experience is fully constituted by pleasure and pain.¹³ This narrow picture of the value of experience makes sentience seem narrow as an account to ground moral standing. Consider, to build on Kagan's account of agency, the experience of wanting, dreaming, or longing for the world to be a certain way. This experience need not be pleasurable, or unpleasurable, but seems ethically salient. Regardless of how pleasurable this wanting is, the experience of wanting seems to make a difference to how others treat you. Even an anhedonic creature that experiences this kind of wanting seems to have standing in virtue of it. And, again, it seems unclear why we would care about a creature that has desires and beliefs in a behavioral sense, without having such an experience.

If that is right, sentience may incorporate more than Kagan makes it seem. And if our earlier point is correct, it seems dubious that any agential capacity matters without this experience. So, sentience may be necessary and sufficient for standing after all. While it is not clear whether the difference between the sentience account and Kagan's pain, pleasure, and agency account is significant in real life situations, as Kagan acknowledges, it lays the foundations for the account of degrees of moral status that he develops in his book. After all, if only sentience would ground moral standing, it needs to be explained why agential capacities determine *degrees* of moral status. If agential capacities determine moral standing, it is no stretch that degrees of moral status are determined by degrees in agential capacities.

12 That being said, it is plausible to construe of such a being as having a neutral welfare, and such a being may still have right to life.

13 See Kauppinen (2015); cf. Van der Deijl (2019) and Shepherd (2018).

3 Resisting the Argument from Distribution

In chapter 3, Kagan presents his main objection against utilitarianism: the argument from distribution.¹⁴ According to this objection, utilitarianism cannot plausibly incorporate distributive concerns – be they in the form of egalitarianism, prioritarianism, sufficientarianism, and desertism (henceforth: distributive principles) – because doing so would generate overdemanding moral obligations on human beings. Here is an overview of the argument:

The Argument From Distribution

- 1) Typically, many animals (mice, flies, rattlesnakes), even ones that live relatively good lives, have (much) lower levels of wellbeing than humans.
- 2) If utilitarianism is correct, and if any of the four distributive principles is correct, then this would imply that 1) is a significant moral concern, which may even be more morally significant than the significant inequalities in welfare between humans.
- 3) If 1) is indeed a morally significant concern, morality demands that we direct many resources into improving the lives of smaller animals.
- 4) 3) is deeply implausible.
- 5) So, either utilitarianism or all the distributive principles are false.
- 6) The distributive principles are not false
- 7) So, utilitarianism is false

We take the argument from distribution to be highly compelling. It is one thing to say that mice count, but it seems implausible that morality demands that we should be “leaving expensive cheeses around for the mice to eat”, for example (p. 64). Nevertheless, we think that the argument from distribution can be resisted, by denying premise 3.

First, while the utilitarian claims that similar interest should be weighted in the same way regardless of who has them (the principle of equal consideration of interest), utilitarianism is compatible with the view that the interests of human beings are almost always more significant, for example, because of “the systematic ways in which a person almost always has more welfare at stake than an animal does” (p. 54). Kagan, however, suggests that response is not

14 He builds on McMahan (1996) and Vallentyne (2005).

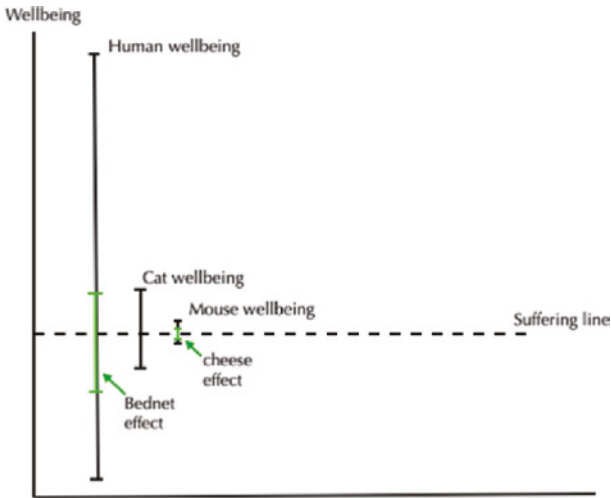


FIGURE 1 levels of wellbeing of different individuals

enough to resist premise 3: the very fact that humans have more welfare at stake, after all, is explained by the fact that most humans have more welfare than most animals. It seems to us, however, that it is possible for the unitarian to resist Kagan's response here.

Consider unitarianism combined with prioritarianism, the view that, in providing welfare, we should give priority to those who have the lowest absolute levels of wellbeing. Whether premise 3 is true for this unitarian prioritarian view depends not only on the level of wellbeing that animals have at stake, but also on the welfare gains that can be obtained. To see this, suppose that we have \$10 available to spend on either improving the welfare of a person by buying her a malaria net, or of a mouse by giving it an expensive cheese. And also assume that these interventions will provide the person and the mouse with the highest welfare gains *possible*. If the level of welfare of the person is not that much higher than that of the mouse, and if the person can gain much more welfare from the \$10, then prioritarianism could, in fact, require that the \$10 be spent on the malaria net for the person.

Figure 1 above illustrates our argument. As this figure makes clear, the range of wellbeing that a mouse can experience may simply be much lower than the range of wellbeing that a person can experience—and, concomitantly, the welfare gains that can be realized for a mouse are much lower than the welfare gains that can be realized for a person. To see this, consider that although the cheese effect is much larger *relative* to the range of wellbeing that a mouse can

experience than the bednet effect is relative to the range of wellbeing that human can experience—it is still the case that bednet effect is larger than the cheese effect in absolute terms. The prioritarian weighs the wellbeing difference of the mice as more important in virtue of them having less welfare. But because the welfare at stake for the human will typically be much larger than the welfare at stake of the animals, it is not at all obvious that the interests of the animals will always win out. Whether they do, depends on how the prioritarian trades off these two considerations.¹⁵

Also, while animals, especially lower animals such as mice and rattlesnakes, may not be capable of experiencing as high levels of wellbeing as humans, they might also not have the capacity to suffer as much as humans can. One reason to think that this is so, is that humans can remember past suffering and anticipate future suffering to a much greater extent than, for instance, mice and rattlesnakes can. Consequently, a suffering human may get a higher prioritarian value over mice after all.

A second way in which unitarian defenders of the four distributive principles could deny premise 3 of the argument from distribution, is to argue that it not only is the case that the capacity for welfare and suffering is much larger for humans—but there may also be practical constraints to how much we can do to improve the welfare of especially animals with lower psychological capacities, such as mice or fish. In particular, we may simply lack the knowledge and/or the capacity to effectively improve the level of wellbeing of the mouse. It is, of course, true that the wellbeing of animals on our planet would improve significantly if humans were to stop eating them. But stopping to actively inflict harm on animals is not overly demanding—in fact, Kagan suggests at various points in the book that it is likely that his framework, when it is worked out in greater detail, will, at the very least, require us to become vegetarians (p. 229) and stopping to hunt for pleasure (p. 220).

The issue on which unitarianism and Kagan's hierarchical view diverge is how demanding our obligations to other animals would be: How much should

15 It seems to us that unitarians who are drawn to egalitarian distributive principles could advance a similar response. In particular, we think that pluralistic views on which both equality and welfare are intrinsically valuable could hold that losses in equality (by improving the welfare of human beings relative to other animals) are compensated for by gains in welfare. We thank Shelly Kagan for pushing us to clarify under what conditions egalitarians can reject premise 3. We think that similar arguments could be made for desertism, but demonstrating this would take us too far afield. We think our argument may not work for sufficientarian principles, however.

we do to improve the wellbeing of other animals? If we believe, as many philosophers do, that we can only be morally obligated to do something if we can, actually do it (ought implies can), then the demandingness of unitarianism turns on how much can be done to increase the wellbeing of these other animals. As Kagan himself admits, there may actually not be “all that much we can do to improve the well-being” of animals with lower degrees of psychological capacities, such as mice (p. 64).

Even leaving expensive cheeses around may not, or at least not significantly, improve the wellbeing of mice. Mice may enjoy the cheese, but it may also disturb their natural habitat. Moreover, we cannot do much to lengthen the life of mice (a significant limitation on their welfare), and expand their capacities for complex aesthetic experiences. We can attempt to make their lives safer, but this may also come at the cost of the welfare of other animals. Additionally, there is a significant epistemological gap here: because mice cannot express their considered judgments and communicate their experiences to us, it is not clear which specific interventions we would be obliged to undertake, even if there is a *prima facie* duty to improve their welfare.

Third, as mentioned above, Kagan acknowledges that unitarianism, at least without counterweighing distributive principles, does weigh the interest of humans more heavily in virtue of the fact that they typically have more welfare at stake. But, on his own view, they weigh even more, because their moral status is higher. The grounds for moral status largely overlap with the capacity for welfare (Kagan’s view is more nuanced, see our discussion of chapter 5 above). This raises a troubling bipartite concern: it either double counts capacities for welfare, or mismatches capacities for welfare.¹⁶

Consider having to distribute funds to either saving the life of a human or an animal. In this case, unitarians agree with Kagan that humans have more welfare at stake, because they have higher capacities for welfare. But, for Kagan, the same psychological capacities that drive this difference also count towards a difference in moral status between the human and the animal. This not only seems unfair, but it also seems unnecessary. If the capacities for welfare drive both the difference in moral status that amplifies the difference in welfare at stake, why not simply weigh this difference in welfare heavier, compared to the distributive concern?

Double counting the same capacity seems problematic for cases in which psychological capacities make a difference to the welfare at stake, but in cases

16 We here restrict our attention to unitarian consequentialist accounts. In the chapters on deontology (chap. 7, 8, and 9), Kagan suggests that moral status may enter our moral calculus in yet a third way: by determining the size of the threshold on harming a being.

where the difference in psychological capacities do not play this role, the difference psychological capacities make to the weight of the individuals is even more dubious. If a villain forces us to distribute a fixed amount of pain to a human and an animal (who will, for the sake of the argument, forget the pain right after), what does it matter that the human has the capacity to appreciate fine arts?

The problem is thus that if moral status is grounded in the same capacities that ground capacities for welfare, they either count twice, or seem irrelevant to the situation.

Finally, and most fundamentally, readers familiar with Kagan's previous work may be somewhat surprised to learn that his main argument against utilitarianism is that it would be overdemanding. Kagan is, after all, well known for defending consequentialism against the charge that is an overly demanding moral theory in his first book, *The Limits of Morality*.¹⁷ As he notes in the conclusion to that book:

Ordinary morality judges our lives morally acceptable as long as we meet its fairly modest demands. It is not surprising that this view should be so widely—and uncritically—held: it is not pleasant to admit to our failure to live up to the demands of morality. But the truth remains that we are morally required to promote the good and yet we do not. Faced with this realization what we must do is change: change our beliefs, our actions, and our interests. What we must not do—is deny our failure.¹⁸

There is no denying that utilitarianism is a demanding view. But given that it systematically favors the wellbeing of animals who have more wellbeing at stake and that there may be limits to how much we can do to improve the wellbeing of especially animals with lower degrees of psychological capacities, we are not convinced that it is an overly demanding view. The truth may well be that we should, in fact, do much more to actively improve the lives of other animals than we are currently doing.

4 Conclusion

Kagan's project is innovative and promising. He develops an account that attempts to strike a balance between disregarding the interest of animals, and

¹⁷ Kagan (1991).

¹⁸ Kagan (1991, 403).

being overly demanding on humans when it comes to respecting the interests of animals. Kagan's analysis of unitarianism—an important ethical assumption that deserves more philosophical attention—is timely, and his argument against it is highly compelling. Nevertheless, if our arguments are correct, Kagan's cases against the two central targets of his argument—sentientism about standing, and unitarianism about status—ultimately are unsuccessful. Nevertheless, Kagan's analysis of status and standing and their role in ethical theory, we hope, will encourage much future discussion about these topics, at the frontier of ethics.

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