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## **Ethical Gradualism, beyond Anthropocentrism and Biocentrism?**

The realm of ethics is most often restricted to man and the human world: only humans can act morally or immorally, only humans can be morally praised or blamed, only humans can have a worth or a value in themselves, only humans can be holders of rights; all other beings can merely be ascribed rights or values indirectly, relative to man. In short only humans can be moral agents and only humans can be moral subjects.

To which extent is this ethical anthropocentrism tenable? In this paper I shall consider arguments in favor of such a paradigmatically unique ethical standing for humans, and I shall look into arguments in favor of an ethical gradualism between humans and other mammals and between man and nature.

### **A Preliminary Methodological Point**

In our ethical (or meta-ethical) thinking we tend to have some special cases in mind, sometimes without being fully aware of it, sometimes more consciously or even explicitly. I thus assume that ethical discussions could profit from a thematization of such underlying cases.

I also assume that we tend to argue either in terms of typical cases or in terms of degrees of similarity between related cases. The former way of arguing leads to paradigmatic thinking, the latter to gradualism. Each way of arguing has its virtues. The former makes us see differences; the latter makes us see continuities. In philosophy both are required.<sup>i</sup>

### **Arguments in Favor of Ethical Gradualism**

I will begin by looking at some of the arguments which come to mind in favor of ethical gradualism, but first I will briefly recall the apparent strength of ethical anthropocentrism:

Morality is located in the socio-cultural world of acting and thinking human beings, and so are other norms and values, be they juridical or aesthetic. Nature can be the object of aesthetic attitudes and evaluations. Nature can also be the object of legal regulations, e.g., in terms of the right to own and to use natural resources. And nature can be the object of moral considerations, at least as far as biological nature is concerned: the extinction of endangered species is currently conceived of as a moral concern, and the unnecessary infliction of suffering upon sentient non-human beings is in general seen as morally wrong.<sup>ii</sup>

Sentient animals, at least, are thus the subjects of human moral considerations. But these animals cannot themselves take part in these considerations. Nor can they act freely and rationally like human beings. They cannot act morally, nor immorally, only amorally, without responsibility or obligations of any kind. Animal rights are therefore asymmetrical, that is, the rights of animals entail obligations for man, without any obligations on the animal side. Not even a chimpanzee is taken to be morally responsible for its deeds.

Ethical anthropocentrism is therefore *prima facie* a reasonable position: morality belongs exclusively to man and the human world. Even when we play through a certain repertoire of cases, from physical nature to plants and sentient animals, this conclusion seems safe. Also in the more touchy case of the chimpanzee the same conclusion seems plausible.

However, there is an intensive discussion, especially in medical ethics, on the moral status of borderline cases. For instance, we have thorough discussions of the ethical status of a fetus

and of people with severe brain damage (such as anencephaly). To what extent do they have the moral status of persons? To what extent do they have human rights? There are academic discussions, there are public debates focusing on cases like abortion and euthanasia, and there are various initiatives on behalf of those who are not themselves able to participate in such discussions and debates.<sup>iii</sup>

In these borderline cases we have members of the human species, such as fetuses or severely brain-damaged people, who do not perform like the paradigm case of a human being. The question concerning their moral status and their moral rights is therefore discussed by somebody else. This kind of ‘advocatory’ representation is the standard case for minors.<sup>iv</sup> The parents are generally the first to be responsible for their behavior, for their upbringing, and for defending their interests, but other people or institutions might also be entitled to assume this role. This ‘advocatory’ responsibility and representation is supposed to be reduced gradually in accordance with the process of maturation; it formally ends at the time when the child reaches full legal age.<sup>v</sup>

The cases of advocatory representation in medical ethics are more extreme, as it were; they are located further away from the paradigm case of a mature and morally responsible human being than the cases of rearing children. We have fetuses at different stages, and we have those human beings who are still alive, but who at the end of their lives are no longer able to participate in a discussion about their own situation. We have people who are severely senile and people with severe brain damage. We have babies born with anencephaly who will never be able to participate in any such discussion.

Along the same lines, perhaps transcending the realm of medical ethics, we have the cases of an advocatory concern for the dignity of the recently deceased, and for the values and wishes they expressed while alive. And we have the cases of advocatory concern for coming generations and thus for hypothetical people, that is, for those who are not yet individualized, but who are statistically recognized, even though there are different scenarios with different numbers of people in the future.

To the extent that medical ethics and our ethical concern in general tend to include all such cases within the realm of human morality—thereby giving each of these human beings the status of a person with moral rights—we have taken a major step away from the paradigm case of human morality. With this expansion we include everyone who belongs to the human species regardless of his or her capabilities. We tend to include everybody who can become a mature human being. We include everybody who has been a mature human being. And we include everybody who once could have become a mature human being.

There are certainly great differences between these different cases. And in quite a few cases there is no unanimity about the moral status of the human beings concerned; the debates on abortion and euthanasia illustrate this point. But still there is a general tendency to proceed from the paradigm case of a normal human being toward cases where moral capabilities are increasingly absent, the limiting case being mere membership in the human species.

However, the relationship between potential membership in the human species and full membership is frequently questioned. A fetus is a potential person, but in what sense *is* it a person? The same goes for past membership in the human species. A terminal patient with severe brain damage has been a person, but in what sense is he still a person?

These are important questions in a practical sense, since we run into the moral distinction between murdering humans and killing non-humans, the former being morally unacceptable, the latter for the most part regarded as morally acceptable, at least when it is done without an undue infliction of pain.

These moral questions are to some extent forced upon us, since the development of modern technology has made it increasingly possible to medically intervene into these borderline cases of human existence. When these kinds of human existence are taken into

account, we are forced to adapt a certain gradualism, namely a gradualism within the human species.<sup>vi</sup> So far it is primarily a question of an ontological gradualism, not an ethical gradualism, i.e., it recognizes the biological and psychological continuity between different individuals of the human species, but it still insists on the recognition of a moral status for them all. Their characteristics differ, but they are all human beings, with human dignity and human rights. This is a position of ethical anthropocentrism based on an awareness of the borderline cases from medical ethics.

So far we have not questioned the distinction between *Homo sapiens* and other species. However, at this point we ought to look carefully into borderline cases on the other side of the species border.

Everybody is aware of the fact that chimpanzees can act and communicate, and that they also can experience pain and pleasure. Genetically chimpanzees are close relatives to man, and they have well-developed brains and nervous systems.

Nevertheless, a chimpanzee does not possess the higher capabilities delineated above. It is not a moral agent: it is not a morally responsible being. Its use of language is neither reflexive nor creative. It is doubtful whether it can be said to have a social identity based on mutual recognition and verbal communication. But it does act, feel and communicate. It probably has some self-awareness and sense of identity. And it clearly has higher mental capabilities than some of the members of the human species that are represented advocatorily for the sake of their moral status as human beings. The latter point is a disturbing fact.

In self-defense we, the humans, could add that we do take the pain of sentient non-human beings into moral consideration. It is regarded as morally wrong to inflict unnecessary pain on sentient animals; in most countries it is even forbidden by law (although the decision as to what is necessary and unnecessary pain in each concrete case leaves room for considerable and corruptible judgment).

It is more controversial whether we have some kind of moral duty to promote well-being among sentient non-humans, in this case among higher mammals.<sup>vii</sup> And there seems to be little support of the view that we ought to help these animals to get a long life—the main exception being special pets (who have their hospitals and even their own cemeteries). On the contrary, it is for the most part considered morally perfectly all right to kill any non-human sentient being, high-ranking mammals like chimpanzees included. The painless killing of animals is regarded as morally acceptable, an underlying assumption being that none of these animals has any awareness of its own death, except when a higher animal is threatened by death (and that is one of the painful experiences which humans should try not to inflict on animals).

What started as human self-defense here ends in embarrassment: some of our patients, as well as early human fetuses, do not have any awareness of their own death. Even worse: they would probably experience even less of a trauma by being killed than most of the higher mammals probably experience when we kill them.

It seems immediately reasonable to accept the following principle: equal cases should be treated equally. If there is a moral difference between two cases, there must also be some morally relevant difference in properties between the two.<sup>viii</sup>

The decisive difference between the ‘deviant’ cases of *Homo sapiens* and the higher cases of other mammals can hardly be found on the level of *actual* properties: in some cases the nonhuman mammals rank higher in this respect than some members of the human species. In these cases we will have to argue in terms of past and of potential competence and characteristics in order to find a relevant difference: a member of the human species did have, or can develop, or could have developed such and such competence and characteristics.

These arguments *from potentiality* are partly reasonable. This is, for one thing, how

the usual catholic (Aristotelian) argumentation goes, in favor of the moral status of the fetus from the moment of conception. But biology is gradual and nature boundless. One can always go further. What about the potentialities of all human eggs, and of all human sperms?<sup>ix</sup> Arguments from potentiality are therefore only partly reasonable.<sup>x</sup> Arguments from potentiality have to be balanced against arguments from actuality: how can we consider it moral to kill (and eventually eat) a vital chimpanzee when we strictly condemn active euthanasia for terminal patients with severe brain damage and with hardly any neurophysiological activity?

This is a field of deep emotions.<sup>xi</sup> These emotions can easily be explained, just as our discrimination of other species can be explained and understood in various ways, psychologically and sociologically. But the same is true of most acts and attitudes, some of which we would hardly defend morally—like racial discrimination. And what do we have in this case but human racism on behalf of the human species?<sup>xii</sup>

There might still be some fairly good reasons for this “speciesism”. For one thing, it may serve to prevent the threat of moral deterioration. This is an argument with considerable weight, especially when we take the experience of The Third Reich into consideration. However, so far this point is primarily a sign of precaution, not a decisive argument.

The tricky point is just that biology works with continuity whereas we are used to think of morality in terms of absolute borders. Once this is said, and seen, it becomes difficult to feel intellectually satisfied with a position that largely seems to be a postulate, namely ethical speciesism—even though it is a postulate with praiseworthy intentions.<sup>xiii</sup>

However, what exactly is praiseworthy in this position? I would answer: the intention to protect the moral universe, the concern to protect human dignity. But then, are the moral universe and human dignity really threatened by a recognition of biological continuities? What about a more subtle rethinking of the relationship between paradigmatic cases and overlapping cases—would that be a better solution? We could say: human dignity would be threatened if we were to do to some humans (those lacking some faculties) what we do to animals. But the universe would be better off if we were to treat non-humans as part of the moral world. Ethical gradualism could thus either be conceived of restrictively, thereby threatening human dignity, or inclusively, and thereby ‘upgrading’ non-human animals.

Since we probably have a moral intuition in favor of ethical speciesism, how could we defend it? One attempt could be to reject any reference to actual properties in humans and in non-humans and to hold on to a purely genetic definition of humankind and of membership thereof.<sup>xiv</sup> But as pointed out earlier, so far this merely represents a position, not an argument in favor of this position.

An argument in defense of this position could be an egoistic one: we should defend ourselves! We are humans, we are the thinkers and the agents, and we define our borders and act in our defense!<sup>xv</sup> This might have some emotional impact, at least, but it is intellectually unsatisfactory. For one thing, the question remains open as to which ‘We’ should define which ‘Us’ (and how).

Such a biologically grounded speciesism runs into problems at another level too: if we are to believe Darwinism, there is no clear-cut borderline between humans and other higher mammals. There are mutations and different species, but there is also continuity. And regardless of what we think of Darwinism, we do know that *Homo sapiens* used to live side by side with less intelligent, but genetically fairly close relatives for quite some time. How should we have treated them, if by accident these creatures had survived? Would we have regarded them as morally responsible? Would we have ascribed to them human rights? Or would we have killed them with no moral remorse, and even possibly eaten them? And what

about interbreeding and possible offspring between modern man and Neanderthals? This is not merely a speculative thought-experiment. It is a fact that Neanderthals no longer exist, but in principle they certainly could. It merely so happens that they do not.

These questions seem particularly intriguing for a position that is grounded on genetics. It is hard to see how the proponents of genetically grounded speciesism can get around them. And it is hard to see how the final answer could be anything else than the recognition of some gradualism, which would undermine the core of speciesism.<sup>xvi</sup>

In this sense the great challenge is one of rethinking the interrelationship between paradigmatic thinking and gradualistic thinking, to the extent that the moral status of man is not confused, at the same time as gradualism on the biological level is not denied. This I think is feasible, as I will try to show shortly, namely in terms of discourse ethics. But a remaining question and a somewhat unpleasant task is still that of working through various cases in the borderline between man and other mammals in order to try out their moral status. It might then well turn out that we will have to reevaluate some mammals, and it might turn out that we will have to devaluate our traditional esteem of some cases of our own species—but, I suppose, without questioning the major paradigmatic differences between man and animals, and without questioning our moral intuitions in all of these borderline cases.

### **Arguments in Favor of Ethical Anthropocentrism**

Despite the gradualist arguments from borderline cases between humans and higher mammals, we uphold the unique paradigmatic position of humans: man is a moral agent, not in the sense that human beings *de facto* act morally, but in the sense that human beings are able to do so. Man does not merely act, or react, from instinct. Man acts in accordance with socially determined norms and values, and he or she is aware of his or her doing so. She has the ability to reflect upon these norms and values, and argue for or against them; and she can more or less consciously change them. Hereby human beings show his or her freedom in relation to nature.

This freedom, which sets him off from nature, is tied to his status as a social being. He communicates on the basis of his socialization into a community. He communicates with a whole spectrum of linguistic speech acts, and he can therefore reflect and discuss, reject and improve, in short, acquire better insight and knowledge.

In acting she can choose between alternatives, for one thing by taking one step back in order to be able to take two steps forward at a later stage, thus transcending the limits of immediate adaptation. She can think and choose between hypothetical alternatives and she can base her actions on long-term goals.

Humans are agents, they are conscious and thinking beings, they are social beings living in a community. They do not only have material needs, they do not only live socially in a way which requires law and order; they also have personal identity acquired through a vulnerable process of socialization and individuation.

As social beings humans take part in a historical development; they participate in a process of conceptual and institutional differentiation, broadening the scope of moral capabilities (and of moral problems).

All these characteristics are paradigmatically appropriate to Man as a moral being. As a final remark I would add that these humans are us. We are the ones questioning and discussing Man and morality. Nobody else does, as far as we know. In short, Man as a moral agent is not just an external fact to observe; in seeking what is human we are inquiring into our own being.

I will leave it at that for the time being. These remarks I hold to be true, as claims within a phenomenology of Man as a moral being. They are true of Man. And in the universe

known to us it is hard to see for whom else they might be said to be true. So evidently Man is paradigmatically a moral being.

To help justify a moral distinction between human fetuses and infants on the one hand and higher mammals like chimpanzees on the other, we might choose, once again, to stress the notion of *potential properties* rather than that of *actual properties*.

(i) As an analysis of the *actual properties* of borderline cases has shown, arguments from actuality are not conclusive for a sharp distinction between man and other mammals. To begin with, there is a problem as to which actual properties should be considered. What are the relevant properties? Some major candidates are: an ability to act rationally and freely, an ability to make interest claims, and self-consciousness. But even if we should come to agreement on a clear and consistent notion of such actual properties, it is not likely that such a notion would support a moral difference between all mammals that genetically belong to the human species and all other mammals. For whatever actual properties we choose there will most probably be cases of genetically humans who fail to have these properties, and for quite a few such properties there will be some highly developed nonhumans who have more of them than some defective or less developed humans do. If for instance we choose conscious self-identity as such an ethically relevant property, we cannot include newborn human infants (thus we open the door for a legitimation of painless infanticide).<sup>xvii</sup> If we choose some basic brain functions as a morally decisive actual property, we will have a problem in making a moral distinction between a human fetus and a chimpanzee fetus, and we will have to recognize that normal chimpanzees have this actual property to a higher degree than some humans with brain damage. If we include human infants or people with severe brain damage we will have to include adult chimpanzees as well. It is therefore hard to see how any actual property could do the job of a sharp demarcation between humans and non-humans.

(ii) For this purpose arguments *from potentiality* are more promising, though not quite conclusive. If, for instance, we take the potentiality of a future self-conscious life to be the morally decisive property, we will certainly have cases of severely defective human infants with less of this potentiality than what we have in normal chimpanzee infants. However, at this point we could introduce the notion of a potentiality of second order, i.e., a potentiality of having potentialities, and on this basis we could argue in favor of a morally relevant distinction between these two cases: a brain-damaged human infant could have had a potentiality of becoming a self-conscious being in a sense which the normal chimpanzee infant could not. This is clearly an interesting point. But the twist of the argument consists in a change from considering the real potentialities of an individual to considering the potentialities of the species to which this individual belongs.

This again can be thought of in two ways, one more genetic, and the other more conceptual. The genetic approach views the notion of species in terms of genes. Each individual is merely an instantiation of the common gene pool, representing the species. The conceptual approach views the notion of species in terms of *universalia*, interpreted realistically (like in Plato). Accordingly, the idea of a species is understood as existing at a 'higher level' than each particular individual.

The problem with the former approach (in terms of genetics) is basically that the specific individual situation is underplayed in favor of the general genetic conditions. The specific realization is overlooked, implying that the dual condition of individuation—heritage and environment—is reduced to heritage alone. Thus we disregard all deviant forms of development, and thereby we exclude a large part of the difficult borderline cases.

If we want to maintain a sharp ethical distinction between humans and all other beings it is therefore tempting to choose an ethical anthropocentrism based on genetic membership to humankind, that is, we define the difference between humans and nonhumans in terms of

genotype, not in terms of phenotype. The following question therefore remains: if two creatures, for instance a human being and a chimpanzee, are basically the same as to their actual properties and thus as to their phenotype, why should this fact be regarded as morally insignificant, whereas a genotype difference between the two is regarded as morally decisive? This question becomes even more acute, since there are genetic deviations among individuals born and raised as humans (as in the case of Down's syndrome).<sup>xviii</sup>

The problem with the latter approach (that of conceptual realism) is well known: the strength of this argument depends on our willingness to talk in terms of *universalia*. The more we are willing to conceive the notion of a species not in nominalistic but in realistic terms, the more convincing this version of the argument from potentiality becomes.

However, there is something to be said in favor of taking different theoretical positions seriously (and not only dwell on different cases). As we know, there is no such thing as a brute fact or a theoretically neutral description. In this connection, though, we are taking a big step away from a quasi-descriptive analysis of cases and their properties toward a high-level theoretical reflection. This reflective insight is an indication of a need to overcome the kind of quasi-concrete analyses which we have been doing so far; we have to consider the different philosophical preconditions and positions. But this is also an indication of a possible shift from a notion of actuality to a notion of hypothetical potentiality and further to 'pure possibility': if we start talking in terms of potential potentialities we can easily find ourselves on slippery ground where quite extraordinary things 'could have been possible', also such things (as, for instance, highly developed apes) that would support an ethical gradualism.

Summing up, I would say that arguments from potentiality might give some support to a notion of ethical speciesism, though not unconditionally.<sup>xix</sup>

(iii) Furthermore, there is also a theologically grounded anthropocentrism, claiming (for instance) that all humans and only humans are created in the image of God, thus holding a unique ethical standing. In this paper I choose to leave this theological version of ethical speciesism aside.<sup>xx</sup>

(iv) There is, however, a sociological version of the anthropocentric position which I will briefly comment upon. This argument does not defend genetic anthropocentrism, or speciesism in the strict sense, but a social anthropocentrism. The argument is one in favor of personhood and moral rights, not as individually given independent of society, but as a moral status inherently ascribed to members of a community. Any being included in this community has moral rights in accordance with his or her role and function within this community (either egalitarian or hierarchical).<sup>xxi</sup>

By seeking a notion of a socially embedded moral standing we avoid a notion of individual rights connected to actual or potential properties in the individual. According to such a societal notion, all that matters is whether a being is included in a community, to a large extent regardless of individual properties. If a being is included, this being enjoys a moral status with certain rights (depending on the society and its internal differentiations). Beings that are not included have no such rights, regardless of their actual and potential properties. For instance, a society may include a severely brain-damaged human being as a member with a basic moral standing (as a moral subject, if not as a moral agent), and the same society may choose to exclude a chimpanzee with higher actual (and potential) properties. If such a society decides to make a sharp distinction between genetically humans and all other mammals, we have a case of a socially based anthropocentrism (or speciesism). In short, by tradition or by decision, a society<sup>xxii</sup> can posit an ethical anthropocentrism.

However, the price to pay is that of an ethical contextualism. We are at the mercy of a given tradition, or of a given form of decision making, as to the inclusion and exclusion of community members. The demarcation line between insiders and outsiders might in a given context be one that excludes groups of genetically human beings, regarding them as sub-

human. An open discussion of the legitimacy of the given tradition and the given form of decision making is therefore required. Only to the extent that these conditions are freely discussed and agreed upon by everybody concerned could we rightly claim that these conditions are legitimate. By such an attempt at legitimating or criticizing a given tradition, we transcend ethical contextualism and move toward discursive ethics.

(v) Discourse ethics, as a meta-ethical procedure, implies a certain anthropocentrism since all actual participants, in the world known to us, are humans.<sup>xxiii</sup> But this is merely an empirical fact; in principle any speech-acting sentient being could be a candidate for participating in a discourse. There is also a demarcation problem for humans (defined genetically, theologically or socially) concerning the competence requirements for participation. In addition we have the problem of how to represent humans who are themselves unable to participate in ethical discourse. All in all this means that also in the case of discourse ethics there are borderline problems between humans and non-humans. The discourse-ethical support for ethical anthropocentrism is therefore conditional.

At this stage I will just add a few comments on some aspects of these problems: we have to reconsider the conditions for actual and advocacy participation in a (meta-) ethical discourse. Should speech-acting and intelligent Martians participate? According to the basic assumptions of discourse ethics the answer is affirmative. Should only mentally undeveloped humans be advocatorily represented and not higher mammals who actually are mentally more developed? According to the assumptions of discourse ethics the answer is negative: all “moral subjects” should be advocatorily represented, each according to its moral status (which opens for an ethical gradualism, e.g. from the more sentient beings to the less sentient).

At this level of meta-discourse we face intricate interrelationships between the conditions for being a *moral agent*, for being a *moral subject*, and for being a *moral discussant*. When we discuss *actual* and *advocatory participation* in (meta-)ethical discourse, the distinction between humans and non-humans once again gets blurred.

### **Some Major Theoretical Perspectives**

There is more to be said about morally relevant continuity and discontinuity between humans and non-humans. There are various basic views on what counts as ethically relevant properties. At this stage I therefore choose to turn to some major theoretical perspectives (or positions), namely (a) utilitarianism, (b) the deontological position, and (c) discourse ethics.

#### *(a) Utilitarianism*

Again I will disregard the various versions of utilitarianism and their inherent problems. In focusing on the general concern for suffering (and well-being) in utilitarian thinking, I merely want to make the following point. In this utilitarian perspective it is not plausible to maintain a clear-cut ethical distinction between humans and other sentient beings. Analyzed in utilitarian terms, biological gradualism, and psychological gradualism, imply ethical gradualism. For that matter I think utilitarians such as Jeremy Bentham and Peter Singer are consistent in explicitly claiming an ethical gradualism. Jeremy Bentham puts it this way:

The day *may* come when the rest of the animal creation may acquire those rights which never could have been withholden from them but by the hand of tyranny. The French have already discovered that the blackness of the skin is no reason why a human being should be abandoned without redress to the caprice of a tormentor. It may one day come to be recognized that the number of the legs, the villosity of the skin, or the termination of the *os sacrum*, are reasons equally insufficient for abandoning a sensitive being to the same fate. What else is it that

should trace the insuperable line? Is it the faculty of reason, or perhaps the faculty of discourse? But a full-grown horse or dog is beyond comparison a more rational, as well as a more conversable animal, than an infant of a day, or a week, or even a month, old. But suppose they were otherwise, what would it avail? The question is not, Can they reason? nor Can they *talk*? but, *Can they suffer?*<sup>xxiv</sup>

And in Peter Singer's words:

If equality is to be related to any actual characteristics of humans, these characteristics must be some lowest common denominator, pitched so low that no human lacks them—but then the philosopher comes up against the catch that any such set of characteristics which covers *all* humans will not be possessed *only by humans*.<sup>xxv</sup> ...Surely every sentient being is capable of leading a life that is happier or less miserable than some alternative life, and hence has a claim to be taken into account. In this respect the distinction between humans and non-humans is not a sharp division, but rather a continuum along which we move gradually, and with overlaps between the species, from simple capacities for enjoyment and satisfaction, or pain and suffering, to more complex ones.<sup>xxvi</sup>

Utilitarians describe the various cases in terms of suffering and well-being. These are the ethically relevant properties in utilitarianism. When they focus on borderline cases between humans and non-humans, it is therefore not surprising that the utilitarians tend toward an ethical gradualism.

#### *(b) The Deontological Position*

In a deontological perspective I will focus on proponents of individual rights. These proponents constitute a mixed group. The first point I will make is the following: to the extent that these theoreticians describe morally relevant cases in terms of individual rights, conceived for instance in terms of inborn rights to property,<sup>xxvii</sup> to freedom of choice and to life, it is *prima facie* not likely that they would tend toward ethical gradualism (even when analyzing borderline cases between humans and non-humans). Although there are cases of human beings who are unable to enjoy these rights, there are hardly any non-humans (in the universe as we know it) who are able to enjoy these rights. So far there is, from this deontological perspective, some support for ethical anthropocentrism.

But this support is conditional. It all depends on whether nonhumans are capable of having moral rights, which again depends on their actual properties, like rationality and responsibility. By talking in terms of rights instead of talking in terms of utility, we move our focus from the status of moral subjects to that of moral agents, or rather, we make the conditions for being a moral subject more restrictive, thus delimiting a larger group of non-humans. But we still operate with properties which in principle are only contingently connected to humans, or rather, to mature and sane humans in developed societies.

It is possible to operate with lower-level rights, as it were, rights to enjoy natural freedom and to survive within a natural habitat. These rights could be ascribed to animals in terms of obligations for humans. In negative terms we could argue, from a deontological perspective, that humans should not, without good reasons, restrict the natural freedom of animals, nor intervene in their habitat, nor take their lives.

Moreover, to the extent that individual human rights are conceived of as rights to resources (to resources necessary for individual health and survival), we move from a libertarian notion of rights to a social-democratic notion of rights (or from formal rights to

substantial rights). In the perspective of these latter rights, i.e., rights to basic welfare, the distinction between deontological and utilitarian thinking becomes less sharp. For the same reason there will now be more of a gradualism in the conception of the borderline between humans and non-humans.

At this point I would like to add the following remark: within the current discussion concerning the moral status of animals we often encounter a general distinction between utilitarian positions and positions in terms of individual rights.<sup>xxviii</sup> The former position, that of utilitarianism, has its own well-known problems when the question of justice and of formal rights is raised; but in addition this position represents a weak defense for endangered species, since painless death (or killing) of all individuals of an endangered species could, in quite a few cases, pass the utilitarian test of maximizing well-being and minimizing suffering.<sup>xxix</sup> The latter position, that of ascribing individual rights to somebody or to something, is equally weak as a defense of *naturally* endangered species, even when convincing arguments are given for ascribing some moral rights to the individual beings of this species. For if a species, granted that it has a right to survive, is about to become extinct by natural selection, and not by human intervention, what could then be the moral objection to this natural process? If a species is entitled to a right to survive, this right does entail a human obligation not to bring about the extinction, of this species (as long as this obligation is not overruled by other concerns), but this species' right to survive does not with equal strength entail a human obligation to act for its survival, not only because the principle of not causing unnecessary harm is in general regarded as being morally stronger than the principle of doing well, but basically because it is problematic to talk about obligations to intervene with natural processes (where no moral agents are involved).<sup>xxx</sup>

### *(c) Discourse Ethics*

Those (from Hegel to Habermas) who regard a secured social identity as a major concern in ethics and politics will tend to consider the paradigmatic difference between humans and non-humans as decisive. Borderline cases of humans unable to acquire such a social identity will hardly be thought of as a significant counterargument, since no non-humans (to our knowledge) can be said to acquire this type of personal identity through socialization and mutual role taking. There are certainly primitive forms of social learning and of role taking among the higher mammals, e.g., in chimpanzees, but they do not undergo the kind of socio-cultural formation (*Bildung*) typical for man as a historical, verbal and reflective agent.

At this point I think we can summarize our arguments by saying that the utilitarian perspective is conceptually too narrow to grasp the borderline problems between humans and non-humans adequately. This does not mean that the descriptive analyses of the utilitarians are wrong. It means that their perspective is conceptually insufficient.<sup>xxxi</sup> Utilitarians underplay the paradigmatic difference between humans and non-humans since they disregard the morally relevant aspects of the acquisition and maintenance of a social identity.

I also think that it is fair to say that the proponents of individual rights operate with a conceptual scheme which is too narrow to grasp the realm of socialization (and of reflective and discursive justification).

### *(d) Concluding Remarks*

My general conclusion so far is therefore that the idea of a paradigmatic difference between humans and non-humans is most adequately conceived by the theorists of social identity and of discursive rationality. However, the gradualist arguments, as in utilitarianism, are thereby not denied, only sublated (*aufgehoben*), as it were.

In my view there are two major advantages to discourse ethics relative to utilitarianism

and to classical theories of individual rights:

(a) These two latter positions presuppose socialized individuals, without themselves questioning and elaborating the implications of human socialization for the interrelationship between individuals and communities and for the human need for a mutual recognition of one's vulnerable social identity.<sup>xxxii</sup>

(b) In the current discussion the emphasis is often given to detailed analyses of actual and potential properties in the various creatures. But then there is still the problem of a possible naturalist fallacy once such properties are used for normative conclusions. In my view the best way out is that of a reflection on the constitutive conditions for a normative discussion, in short that of a discourse ethics.<sup>xxxiii</sup> Discourse ethics focuses on the self-reflective insight of argumentation, using irrejectability of its constitutive preconditions as its foundation.<sup>xxxiv</sup> As an ethics based on the self-reflective insight of argumentation, discourse ethics includes universalization in terms of general role taking and presupposes mutual recognition among the discussants, thus underlining socialization as a core element. Utilitarianism and classical deontology do not reflectively justify their own presuppositions in the same sense; they remain pre-critical by presupposing or positing a basic normative position.

Both social identity through socialization and normative justification through self-reflection and discourse are important elements in discourse ethics. Even if discourse ethics has its inherent problems, for instance the problem of the exclusion and inclusion of participants (be they humans or non humans), and even if this problem is extended to advocacy representation for humans and non-humans, discourse ethics still remains, in my view, the best proposal for a fundamental ethical theory. The concepts of justice and solidarity, critical universalization and embeddedness in a form of life, are all important aspects of discourse ethics.<sup>xxxv</sup> Since an act of justification can transcend a given context, thus enabling free criticism (even though any application is context-bound), every given form of solidarity can in principle be questioned discursively. And by including the interrelationship of socialization and individuation, discourse theory avoids abstract individualism and naturalism (concerning rights and properties).

In addition to its post-metaphysical robustness, rooted in self-reflective criticism and in attempts at intersubjective procedural solutions through argumentation, discourse ethics entails the decisive point of not only talking in terms of utilities or of rights, both of which can be seen as gradually distributed between humans and non-humans, but of thinking in terms of socialized individuals with an identity based on mutual recognition through communication. This kind of identity is hardly found in nonhumans. To the extent that ethics is not merely a question of resources or of rights, but of communicative recognition (social identity), we have here a decisive argument in favor of the claim that humans have a paradigmatic moral status.

Thereby we do not claim that social identity is equally well presented in all members of the human species, nor that social identity in no way can be achieved by non-humans, be they mammals or Martians. But I claim that social identity, more than biological reactions and psychological characteristics, is paradigmatically human. And I claim that social identity is a more adequate notion than that of abstractly conceived individuals and their posited rights.

### *Ethical Non-Gradualism?*

There is another demarcation problem which I would like to address, namely that of robots and Martians. As part of a thought-experiment we could imagine that there might exist intelligent biological beings somewhere else in the universe. Let us call them Martians. Let us assume that they were genetically different from us. Let us assume that they suddenly showed

up on Earth, and that we were able to communicate with them. Should we then exclude them from the realm of morality, because they belong to another species?

That would seem counterintuitive—given that they were cute and friendly, reasonable and rational, caring and responsible, in short, if they possessed those competences and characteristics that we associate with mature human beings. So again, a restrictive speciesism would seem inadequate.

But since this is a thought-experiment, let's play with it: if these Martians were intelligent and communicative, but were unable to feel any pain, would we then be comfortable having them as equal partners in ethical discussions? Or would we think that there were quite a few moral questions which these Martians were incompetent to deal with? In this case I think we would, and should, make a distinction between them and us: they would not fulfill all requirements for a participation in a practical or moral discourse.

And what, now, if these Martians actually were mechanical beings of some kind, like robots. We still assume that they are intelligent and linguistically competent, that they move around like us and act like us. But they cannot feel any pain, nor any joy; no experience of hunger, nor of freezing; no experience of being cared for, nor of being beaten. In short, they have no biology, no feelings rooted in bodily life, just data, intelligence and movements, including verbal behavior.

We might wonder what kind of self-consciousness they could have. Could they have been socialized and individualized? In what sense could they possibly have a language? For the sake of the argument I assume that these problems can be disregarded and I allow myself to raise the following question: let us suppose that these Martians might do a good job within a theoretical discourse, relying on empirical data and on logic. But would we be comfortable having them as equal partners in a practical discourse? They could probably take part in a normative discussion on a formal level, where the points discussed were connected to the application of rules (like the rule 'equal treatment for equal effort'). But how could they have anything to say about needs and values (about justifiable 'need interpretations')? How could they possibly understand what is discussed in these cases?

We imagine that they are mechanical beings who have no birth, no parents or family, no childhood, no sexuality, no wounds or diseases, and finally no death—they just need some repairing now and then (like cars and computers). In short, they are technical beings equipped with advanced computer brains.<sup>xxxvi</sup> My guess is that we would not suppose that these beings could take part in a practical discourse, despite their intelligence and their mastering of an extensive base of true statements about the world.

This thought-experiment might illustrate two points:

(i) There are preconditions for participants in practical discourse which supplement preconditions for theoretical discourse. For the former, body and biology are essential. So-called artificial intelligence is not sufficient for ethical and meta-ethical discussions.

(ii) Even though I assume that there is no sharp borderline between man and higher mammals and that some ethical gradualism therefore is called for—but without denying the paradigmatic position of socialized human beings—I would claim that there is a sharp distinction of ethical (and meta-ethical) importance between intelligent biological beings and intelligent non-biological beings (if the latter could possibly exist). At this point, at least, it is reasonable to talk in non-gradualist terms.

### *Conceptual Postscript*

I will end these reflections on the ethical borderline between man and higher mammals by discussing some conceptual distinctions concerning the notion of a moral subject.

In discussing the moral status of humans and non-humans it is helpful to make a distinction between *moral agents* and *moral subjects*. The former are capable of acting

morally, the latter are capable of being harmed in a morally relevant sense. Moral obligations are connected both to the interrelationship between moral agents and to their relationship to moral subjects. But moral subjects who are not moral agents are unable to have obligations (either to each other or to moral agents).

If we were to work out a concept of an agent capable of acting morally we would include notions about capabilities to understand a situation and to evaluate the moral importance of what one does or doesn't do, and to act in accordance with that understanding and evaluation. In trying to make such a concept of a moral agent more precise we move into the ongoing philosophical debates on the nature of action, of rationality and of accountability. I assume, however, that the crude distinction between moral agent and moral subject makes sense, enough so for the time being. At this stage I will approach these philosophically controversial issues by introducing the concept of a *moral discussant*, and discuss the interrelationship between moral discussants, moral agents and moral subjects.

It could be claimed that the concepts of *moral agent* and of *moral discussant* are co-extensive: those who are able to act morally are able to discuss moral actions and those who are able to discuss moral actions are also able to act morally. But even if this were empirically true, it does not imply that the two concepts converge into one. However, it is reasonable to assume that those who are able to act morally should normally be able to talk about their evaluations and actions, and even be able to explain why they think their actions were morally right in a given case. That would be the first step toward a moral discussion. In this sense it is reasonable to think of moral agents as potential moral discussants.

This is an important point, and I assume that the claim of an interrelationship between moral agency and moral discourse can be philosophically elaborated along the lines of a universal pragmatics (as in Apel and Habermas) and of a theory of socialization and of modernization (as in Kohlberg or Weber). But these are tricky problems, and we should at least be aware of the various levels involved: even if moral agents paradigmatically are moral discussants, that does not mean that all are. Even if moral agents potentially are moral discussants, that does not mean that they always actually are. It is possible to think of cases of moral agents who are relatively unable to discuss the moral aspects of their actions. The ability to discuss moral questions requires considerable intellectual skills. It presupposes a certain intelligence and a certain training. The required social and intellectual training comprehends an ability to step back and to reflect upon a case from different perspectives, an awareness of the possibility of applying different concepts, and an ability to discuss their strengths and weaknesses in a given case. This kind of conceptual and hypothetical reflection requires not only mature (and sane) individuals, but also a certain cultural development, that is, a certain degree of cultural modernization.

This means, all in all, that in claiming an interrelationship between the concept of a *moral agent* and the concept of a *moral discussant*, we are not talking in empirical terms, but in terms of presuppositions and idealizations, that is, in terms of a universal pragmatics concerning competences inherent in speech acts and in terms of a theory of modernization and socialization concerning conceptual development and the development of social identity. Only if we are willing to argue for some such presuppositions can we talk about moral agents as moral discussants, *tout court*. If not, we cannot claim that being a moral agent is sufficient for being a moral discussant.

Could we claim, the other way round, that being able to participate in a moral discourse is sufficient for being able to act morally? The answer depends on the presuppositions built into the concept of a moral discussant. We could try to spell it out by another thought-experiment. Let us imagine a robot and a god, both having adequate intelligence, knowledge of all relevant facts, and an ability to speak and to listen. In short, we assume that both are capable of participating in scientific (theoretical) discourses. I also

assume that they are able to intervene in worldly affairs. But are the requirements for participating in a theoretical and in a practical (ethical) discourse the same? If the answer is affirmative, then these theoretical discussants are moral discussants, and we could ask whether they are also to be regarded as moral agents.

But could discussants without a biological body (like our robot or a bodiless god) count as moral agents? A being without a biological body has no biological needs, no experience of biologically rooted pains or pleasures, no biological birth and growth, no biological aging or mortality, no biological vulnerability. Such a being could, according to our presuppositions, discuss all morally relevant facts concerning moral subjects, be they humans or nonhumans. Such a being could also apply legal and formal principles, like the principle of treating equal cases equally. But how could this being possibly be able to understand and evaluate biological life, with its vulnerability and death? This being could get information about these facts, but without having acquired through experience the notions necessary to understand these facts. In what sense could this being understand what these facts were about? He could get information about people's reactions toward these facts of life, but how could he understand these reactions? This robot or bodiless god has no experience rooted in life processes from the psychological and social world, including socialization and learning based on bodily existence and interaction. This being could only register people's actions mechanically, without understanding what the passions and interests were all about. Not to forget: this is the problem of how an observer might acquire act-constitutive notions when he is excluded from participating in the activities for which the notions are constitutive:<sup>xxxvii</sup> as a non-participant in the biological world, and in the social world that directly or indirectly is based on biological existence, this being would not be able to participate in all the role taking which is supposed to take place in a practical discourse, and which again opens for universalization and for solidarity.<sup>xxxviii</sup>

I am not here discussing the old question of whether the devil could participate in practical discourse, i.e., whether good will is a prerequisite for being a moral discussant. (Nor am I discussing whether good will is a prerequisite for being a moral agent, since the concept of a moral agent is understood in terms of the ability to act morally, not in the willingness to do so or in the frequency of morally good actions.) My thought-experiment is focused on the importance of bio-bodily existence for the concept of a moral discussant. The robot, I assume, has no body, that is, no biological body, but merely a mechanical one. The god has no body, or he has a body that is invulnerable and eternal, never born and immortal.

My suggestion is that a biological bodily existence is necessary for a competent moral discussant. Those who cannot be morally harmed, since they lack vulnerability, cannot be moral subjects, and therefore they cannot be moral discussants, even if they have the intelligence, the information, and the semantic competence required: one has to be a moral subject in order to be a moral discussant.

If this argument is tenable it means (as indicated earlier) that discourse ethics has a biological foundation, as part of the competence requirements for being a participant in practical discussions (in contrast to the requirements for being a participant of theoretical discussions). It means that biologically rooted learning and vulnerability represent a shared foundation for moral discussants, moral agents and moral subjects.<sup>xxxix</sup>

To sum up: (i) the notion of a moral discussant and that of a moral agent are not co-extensive, even though they are interconnected, and (ii) the notion of a moral subject is interrelated to that of a moral discussant: not all moral subjects are moral discussants, but all moral discussants are moral subjects.

It may be that there is a graduality of obligations along the scale from humans to non-humans of various kinds. But gradualism is not relativism. There are, clearly, things we ought to do,

and things we should avoid doing. And there are huge areas where our moral intuitions are unclear or inconsistent. Therefore we need an ongoing ethical discussion. We have a clear obligation, as moral discussants, to keep this discussion going.

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<sup>i</sup> We need concepts to think, but are concepts clear-cut or open-ended? (When do pebbles put together make a heap? When does an increasing loss of hair represent baldness?) In Plato, as in Frege, there are clear-cut concepts (or ideas). Aristotle, despite his sympathy with this position, talks about indefiniteness - *de dicto* as well as *de re* - both as to concepts of conduct, such as gentleness and friendship, and as to biological terms, such as borderline cases between plants and animals (as in *PostAnal.* 681a12). Cf Anagnostopoulos (1991) ch. viii, 'Variation, Indefiniteness, and Exactness'. In late-Wittgensteinian philosophy, conceptual openendedness is related to the openness of activities and to 'family resemblance'. This point is related to the discussion of the 'open texture' of concepts (as in F. Waismann, 'Verifiability' in Flew (ed.) 1965; and in Brennan 1977).

<sup>ii</sup> An urgent concern is that of experiments on living animals. Cf Tranøy, 'On the Ethics of Animal and Human Experimentation', in Jones (ed.) 1988, p. 83-97.

<sup>iii</sup> Cf the German debate about Peter Singer's views on euthanasia in Heggemann and Merkel (eds.) 1991, and Peter Singer 'On Being Silenced in Germany' in *The New York Review*, 15. Aug. 1991, p. 34-40.

<sup>iv</sup> On the notion of advocatory representation related to discourse ethics, cf Apel 1988, e.g. p. 123 and 143, and Dietrich Böhler: 'Menschenwürde und Menschentötung. Über Diskursethik und utilitaristische Ethik', in *Zeitschrift für Evangelische Ethik*, 35:1991, No. 35, p. 166-186.

<sup>v</sup> Cf the question of degrees and thresholds of *Mündigkeit*, autonomy.

<sup>vi</sup> That is: a *practical* gradualism, e.g., concerning the use of scarce resources, which does not imply a gradualism concerning *human dignity*, generally speaking – as in the case of an accident, involving a person who is 65 years old and one who is 15 years old, both injured in the same manner, only having the resource available to treat just one of them. The reasonable choice would be to help the person who is 15 years old, not because this person has a higher degree of human dignity than a person who is 65 years old, but because of the difference between "life that is lived" and "life to be lived".

<sup>vii</sup> The principle that we should not inflict unnecessary suffering (the *harm principle*) probably enjoys a general support which the principle that we should promote well-being (the *beneficence principle*) does not. There are some reasons for this difference: (i) Normally, the fulfillment of the principle of beneficence is often resource-consuming (resources are scarce and their use has to be evaluated relative to other goals), whereas, ideally speaking, the fulfillment of the harm principle does not require special efforts or resources. (ii) In talking about non-humans, it is often easier to know what is suffering than to know what is well-being—especially when talking about animals that are different from us humans. However, let me also recall that not all harm is *morally* bad. For instance, a person might experience much harm by losing his property while competing on the stock market, but this is not moral harm, according to the rules of capitalist economy.

<sup>viii</sup> At this stage we do no question the nature of a property (*Eigenschaft*), be it "objective", "subjective", or "intersubjective".

<sup>ix</sup> What about the potentialities of the genes that these cells are made up of? And the other way round: potentially we are all dead. But nobody would argue in favor of his or her *actual* moral status as being equivalent to his or her *future* status as a dead body.

<sup>x</sup> Such arguments from potentiality may entail an implicit normative notion of nature (reality), e.g., in terms of *the full realization of human capabilities* as Man's *essence* and *goal*.

<sup>xi</sup> Cf the Shivo case in the US.

<sup>xii</sup> Arguments in favor of ethical gradualism, cf Rachels 1990. Rachels develops a notion of rights related to *actual individual properties* in each animal, human and non-human. This 'moral individualism' is therefore 'species-neutral' (p. 208). Each animal, human and non-human, has to be considered according to its actual individual properties. In addition to sentience, Rachels emphasizes a distinction between being the subject of a *biological* life and of being the subject of a *biographical* life as well. The latter is for Rachels the value that rules out killing as morally wrong. But for him these are *gradual properties*. And the distinction does not follow the line between humans and nonhumans. Cf his rethinking of 'the moral status of non-human animals' (p. 208-223), focusing on the questions of killing, causing pain, and vivisection. However, Rachels does not consider the social and discursive perspectives of these problems.

<sup>xiii</sup> Such a speciesism, arguing from *species* (kind) and not from *actual* properties (*individual* properties), is articulated by Cohen 1986, p. 866: 'Persons who are unable, because of some disability, to perform the full moral functions natural to human beings are certainly not for that reason ejected from the moral community. The issue is one of kind. Humans are of such a kind that they may be the subject of experiments only with their voluntary consent. The choices they make freely must be respected. Animals are of such a kind that it is impossible for them to give or withhold voluntary consent or to make a moral choice. What humans retain when disabled, animals never had.'

<sup>xiv</sup> We are talking here of actual and potential properties in terms of *functions*. But instead of focusing on functions, we could focus on properties in terms of *form*, such as appearance. Identification is probably easier in the case of animals that have a *shape* and *size* similar to ours. (Dogs and apes do better in this respect than dolphins and whales. On animal rights, related to whales, cf Anthony D'Amato and Sudhir K. Chopra: 'Whales: Their Emerging Right to Life', in *American Journal of International Law*, 85(1-Jan.), 1991, p. 21-62.)

<sup>xv</sup> This cynical position was defended by David Hull at the international seminar on biology and philosophy, in Melbu, July 1990.

<sup>xvi</sup> There have been various attempts at an evolutionary ethics. In its vulgar version this attempt arrived at an impasse because of the dilemma of the naturalist fallacy. And even more refined versions of Darwinian ethics seem unfit to cope with problems related to socio-historical modernization and to discursive justification, cf Ruse 1986 (e.g., p. 101) in

which he tries to get around notions like truth and progress (talking about ‘an illegitimate sense of progress, something quite alien to Darwinism’). As to a socio-historical perspective, including discursive rationality, cf e.g. ‘Modernization of the Lifeworld’ and ‘Rationality and Contextuality’ in Skirbekk 1993.

<sup>xvii</sup> This is so, regardless of utilitarian arguments in favor of infanticidal euthanasia, as in Kuhse and Singer *Should the Baby Live?* 1985.

<sup>xviii</sup> To the extent that humans become increasingly able to change human genetics by means of biotechnology, it becomes increasingly problematic to appeal to an actual genetic state of affairs, and to a natural evolution, as a foundation for an ethics (‘evolutionary ethics’): genetics becomes sociotechnologically ‘mediated’, as it were.

<sup>xix</sup> As mentioned earlier, our problem is not one which runs into a naturalist fallacy: in talking about ethical gradualism and in referring to actual and potential properties, we are not suggesting any inference from ‘is’ to ‘ought’. Our problem is another, namely the following: if there is a moral difference between humans and non-humans, then there must be some morally relevant difference between the two cases. That’s why we look for biological and other differences. In other words, I presuppose the principle of equality: equal cases should be treated equally. Equal cases should in that sense have equal moral standing.

<sup>xx</sup> In one sense Judeo-Christian theology evidently offers a firm foundation for the uniqueness of Man and for human dignity (i.e., for ethical anthropocentrism). But such a theological foundation requires its own justification, with its well-known problems. However, cf Habermas’ recent interest in possibly “translating” religious insights into a universal and secular language, in Habermas 2005.

<sup>xxi</sup> This position could be theoretically strengthened by arguments defining morality as basically a *social* phenomenon (not as an individual phenomenon, neither psychologically nor biologically conceived).

<sup>xxii</sup> And even a family.

<sup>xxiii</sup> Cf Habermas on a possible ethics for non-humans, in Thompson and Held (eds.) 1982, p. 245-250.

<sup>xxiv</sup> Jeremy Bentham, Introduction to the Principles of Morals and Legislation, ch. XVII.

<sup>xxv</sup> ‘All Animals are Equal’, in Singer 1986, p. 226.

<sup>xxvi</sup> “Faced with a situation in which they see a need for some basis for the moral gulf that is commonly thought to separate humans and animals, but can find no concrete difference that will do the job without undermining the equality of humans, philosophers tend to waffle. They resort to high-sounding phrases like ‘the intrinsic dignity of the human individual’.” (Singer is here quoting William Frankena ‘The Concept of Social Justice’ p. 23.) Peter Singer 1986, p. 227. “Why should we not attribute ‘intrinsic dignity’ or ‘intrinsic worth’ to ourselves? Fellow humans are unlikely to reject the accolades we so generously bestow on them, and those to whom we deny the honor are unable to object. Indeed, when one thinks only of humans, it can be very liberal, very progressive, to talk of the dignity of all human beings. In so doing, we implicitly condemn slavery, racism, and other violations of human rights. We admit that we ourselves are in some fundamental sense on a par with the poorest, most ignorant members of our own species. It is only when we think of humans as no more than a small sub-group of all the beings that inhabit our planet that we may realize that in elevating our own species we are at the same time lowering the relative status of all other species. The truth is that the appeal to the intrinsic dignity of human beings appears to solve the egalitarian’s problems only as long as it goes unchallenged. Once we ask why it should be that all humans - including infants, mental defective persons, psychopaths, Hitler, Stalin, and the rest - have some kind of dignity or worth that no elephant, pig, or chimpanzee can ever achieve, we see that this question is as difficult to answer as our original request for some relevant fact that justifies the inequality of humans and other animals. In fact, these two questions are really one: talk of intrinsic dignity or moral worth only takes the problem back one step, because any satisfactory defence of the claim that all and only humans have intrinsic dignity would need to refer to some relevant capacities or characteristics that all and only humans possess. Philosophers frequently introduce ideas of dignity, respect, and worth at the point at which other reasons appear to be lacking, but this is hardly good enough. Fine phrases are the last resource of those who have run out of arguments.” (Singer 1986, p. 228)

<sup>xxvii</sup> There are some sobering remarks on the idea of a right to liberties, including ‘the supposed individual right to the free use of property’, in Dworkin 1978, chap. 12 (p. 277).

<sup>xxviii</sup> Some additional references to the initial debate: Clark, S.: *The Moral Status of Animals* (1977). Feinberg, J. (ed.): *The Problem of Abortion* (1973). Frey, R.: *Interests and Rights: The Case against Animals* (1980). Frey, R.: *Rights, Killing and Suffering* (1983). Godlovitch, R., Godlovitch, S., Harris, J. (eds.): *Animals, Men and Morals* (1972). Kuhse, H. and Singer, P.: *Should the Baby Live?* (1985). Leahy, M. P. T.: *Against Liberation* (1991). Midgley, M.: *Animals and Why They Matter* (1983). Passmore, J.: *Man’s Responsibility for Nature* (1974). Regan, T. and Singer, P. (eds.): *Animal Rights and Human Obligations* (1976). Regan, T.: *The Case of Animal Rights* (1984). Singer, P.: *Animal Liberation* (1975). Singer, P.: *Practical Ethics* (1979). Steinbock, B. (ed.): *Killing and Letting Die* (1980). Tooley, M.: *Abortion and Infanticide* (1984).

<sup>xxix</sup> Cf the criticism of Peter Singer’s utilitarian arguments in this respect, raised by Alastair S. Gunn: ‘Preserving Rare Species’, in Regan (ed.) 1984, pp. 289 ff.

<sup>xxx</sup> We have an obligation to help humans in the case of a natural catastrophe. We could also say that for utilitarian reasons we have some obligation to try to reduce animal pain caused by natural catastrophes (such as the case of the whales that were trapped under the ice, or the case of wild animals being trapped in a burning forest, set on fire by lightning). Animals suffering from man-made pollution would probably be seen as clearer cases of a human obligation to help. However, if the global temperature gradually changed (independently of human activities) to the effect that some species were threatened by extinction in their natural habitats (say, kangaroos in Australia), in what sense would it

then be our obligation to try to save these species? By natural evolution these species would be extinct. *Should* we correct this natural process?

<sup>xxx</sup> Here I disregard the general criticism of various types of utilitarianism, e.g., concerning its treatment of the question of justice.

<sup>xxxii</sup> Cf Habermas 1991, p. 223.

<sup>xxxiii</sup> Cf Böhler 1991, p. 999-1019.

<sup>xxxiv</sup> Here I disregard the differences between Apel and Habermas concerning the status of discourse ethics.

<sup>xxxv</sup> Cf Apel 1988, p. 103-153, and Habermas in Kelly (ed.) 1990, p. 32-52

<sup>xxxvi</sup> *Ex hypothesi*, they have mechanical bodies, not biological bodies ('biobodies').

<sup>xxxvii</sup> We could say that *without participation* we do not acquire the notions *needed* for understanding fellow beings, and a bio-bodily existence is required for such participation. Concerning act-constitutive notions, cf 'Praxeological Reflections' and 'Contextual and Universal Pragmatics' in Skirbekk 1993. Cf also Hans Skjervheim *Objectivism and the Study of Man* (1959), and Peter Winch *The Idea of a Social Science* (1958).

<sup>xxxviii</sup> This creature (or creator) could possibly function as a formalist administrator of normative and evaluative questions, but hardly as a moral discussant, since the latter requires the subtle ability to judge complex situations. (This does not mean that this creature could judge in questions of justice, but not questions of value - according to the Habermasian distinction between questions of justice and value questions: also the ability of making judgments concerning justice and injustice requires an understanding of what is at stake.)

<sup>xxxix</sup> This is the point some female philosophers are alluding to in criticizing discourse ethics for having a rationalistic bias (and a gender blindness). 'The moral self is not a moral geometer, but an embodied, finite, suffering, and emotive being' (Seyla Benhabib 'In the Shadow of Aristotle and Hegel: Communicative Ethics and Current Controversies in Practical Philosophy', in Kelly (ed.) 1990, p. 20). I interpret this to mean that having a vulnerable biological body is a *precondition* for being a *moral subject*, and the qualification of being a moral subject is a *precondition* for being a *moral discussant* (but maybe not in the same sense for being a theoretical discussant). However, those who argue against 'gender blindness' (*ibid.* p. 21) should also reflect on the possibility that they themselves suffer from 'species blindness'.