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Undermining Indirect Duty Theories

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There is a class of views about our moral relations with non-human animals that share the idea that animals do not matter directly for ethical purposes: whatever duties or obligations we have with respect to animals are indirect, connected somehow to other duties or obligations—to other human beings, for example—in which the well-being or interests of animals do not figure. Criticisms of indirect duty theories have often focused either upon denying the link that is supposed to exist between how we treat animals and how or whether we discharge other obligations or upon denying that the indirect duty theorist has an adequate account of the animal-related duties we are confident that we have. I shall not pursue either of these options. Instead, I shall argue, first, that there is a tension within the indirect duty theorist's view that makes it doubtful that *anything* will enable him to get what he wants from a theory, and second, that even if the necessary link between the way animals and humans are treated is assumed to be present, it will turn out that its best explanation will imply that there are direct duties to animals after all. I shall begin by exploring the territory further and spelling out the sort of claim to which the indirect duty theorist is committed.

Rocks, Animals, Humans

Rocks do not matter morally. We do not have to consider their well-being or suffering, their happiness or misery, their rights, survival, interests or freedom. Still, that does not mean that we can treat rocks just any way we want. Rocks may be owned, and we may owe it to the owner to respect her wishes. They may be used in bad ways—as weapons against the innocent, for example—which, of course, should not be done. A rock may have aesthetic value, so that destroying it would be an affront to people's aesthetic sensibilities, and perhaps that is reason enough not to destroy it.

All duties pertaining to rocks are *indirect*; they are duties we have on account of the relation of rocks to something else. Though there may be duties and moral goods connected to our treatment of rocks, there are no duties *to* rocks, nothing that we *owe* them. So much is a matter of moral common sense, the common sense of our moral relations with rocks.

Not all things are like rocks. Human beings are not. Though we have indirect duties to people, that is not the whole story. It would be wrong for you to use me as a projectile to hurt an innocent; you would be violating your duty to him in so using me. But that is not all that would be wrong; you would be wronging *me* as well. There are duties *to* people, things that we *owe* other people, not just duties that pertain to the way we treat them. In some way, we *do* have to consider their well-being or suffering, their happiness or misery, their rights, survival, interests or freedom. Again, so much is a matter of moral common sense, the common sense of our moral relations with other people.

Where, though, do the other animals[1] fit in? At least a great many mammals and birds do not seem very much like rocks. They have some level of awareness and ability to adjust to and manipulate the world around them. They have desires, goals, preferences. They can experience pleasure or pain, suffering or enjoyment. They have interests that can be achieved or frustrated.[2] In many ways, the animals look much more like human beings than like rocks.

Now, if animals are much like human beings and not much like rocks, it is plausible to suppose that there is a moral similarity between the animals and ourselves. If human interests and well-being must be taken into account, if they *matter* in moral decision making, so must the interests and well-being of other animals be taken into account. This is, so far, a modest claim. It is not a claim about how much importance animals have or a denial that animals are also in many respects different from us. It says only that morally sensitive human beings will consider the interests of other animals, will not simply ignore or discount their well-being or suffering as something of no importance. A natural way to express this is to say that we have duties or obligations directly *to* animals, just as we have duties or obligations directly to human beings.[3]

Yet many moral theorists have been uncomfortable with admitting this kind of moral similarity between animals and human beings. According to their theories, the resemblance of animals to human beings is morally superficial, their resemblance to rocks morally profound. Whatever obligations concern the treatment of animals exist because of our or their relation to other things of value;[4] it is never that we owe it to them out of respect for their well-being or freedom or interests. In short, there are only *indirect* duties to animals. On an adequate analysis, such theories hold, every genuine duty pertaining to animals will be seen to have some rationale *other than* that it is for the sake of the animal, *other than* that the animal itself matters morally. We will owe nothing *to* animals, as we owe nothing to rocks.[5]

A problem for such theorists is that it is agreed on all sides that we cannot treat other animals just any way we like. Some ways of treating animals—Harman's case of hoodlums soaking a cat in gasoline and setting it on fire for the sadistic pleasure of watching it suffer, for example[6]—are intuitively wrong. The problem for indirect duty theorists is to convince us that their theory can account for such intuitions. Somehow, a satisfying account of the intuitions will have to be built from the apparently unpromising material of indirect duties.

Indirect duty theorists do not adopt the alternative strategy of trying to persuade us that our intuitions are wrong-headed, for that would amount to claiming that animals are morally just like rocks. Though we may not be clear, even in our own minds, exactly what is wrong in Harman's cat example, we are sure that it is not just a matter of who the cat belongs to, whether burning the cat hurts some human being, or whether the act offends someone's aesthetic sensibilities. We would not be convinced that nothing wrong had been done if we discovered that the hoodlums owned the cat and that no one (other than the cat!) was hurt or offended. Since we are more confident of these points than we are likely to be of any theory that tells us we are mistaken, we will reasonably keep the intuitions and reject the theory.

Thus, the indirect duty theorists' best strategy is to say that, though animals are fundamentally rock-like, in that they are protected only by indirect duties, some feature of their animality or of our response to it creates additional indirect duties that have no analogues in the case of rocks. Smashing an ugly, unowned rock to bits, in a way that puts no human being at risk, simply because one likes doing it, is morally above-board, but smashing in the skull of an ugly, unowned cat, in a way that puts no human being at risk, simply because one likes doing it, is not morally acceptable. Indirect duty theorists need to say why.

In essence, the case will go like this. Indirect duty theorists will agree that there is a duty not to treat animals in some way, a duty which it will be their task to explain. Since they are admitting that duties pertaining to animals, though indirect, are more extensive than those pertaining to rocks, they will have to say why treating an animal in a certain way may be wrong when the analogous treatment of rocks would not be. When ownership and other considerations relevant to the treatment of rocks are excluded, a risk or harm to some human interest will have to be invoked to avoid supposing that it is the animals' *own* interest in how they are treated that matters. To make the connection with the treatment of animals, indirect duty theorists will rely upon a psychological thesis to the effect that treating animals in some way will lead

to corresponding treatment of people, or else will be symptomatic of some character trait or disposition that is of concern for what it means for humans.

Such theories have attracted two principal kinds of criticism. One focuses upon the intuitive case and fleshes it out in an attempt to show that the indirect duty theorists have not really done justice to the intuition for which they seek to account. Peter Carruthers, himself an indirect duty theorist, gives the case of Astrid the astronaut to demonstrate a problem for those who think that duties to animals arise out of respect for the feelings of animal-lovers:

> Astrid has left earth on a space-rocket, on an irreversible trajectory that will take her out of the solar system and forever out of contact with her fellow human beings. Now in her rocket she carries with her a cat. . . . As the years pass she becomes bored . . . [and] ties the cat to the wall and uses it as a dartboard. (Carruthers, 108, emphasis from the original omitted)

Since there are no effects upon the feelings of animal-lovers, those effects cannot explain our conviction that Astrid has acted wrongly.

A different line of criticism questions whether the psychological thesis that indirect duty theorists rely upon is correct. Heather Fieldhouse asks us to "[c]onsider Spain, for instance; blood sports such as bullfighting are traditional and popular, yet there is no evidence that people of that country are any more brutal to each other than in countries where such events are frowned upon." (Fieldhouse, 6)

Either form of criticism can be effective, but I shall pursue something different. I will not be concerned with whether the indirect duty theory is adequate to the intuition it is called upon to explain, nor shall I question the truth of the crucial psychological thesis that indirect duty theorists must assume. In this way, I am endeavoring to meet the indirect duty theory at its strongest.

I shall do two things. First, I shall explore a *prima facie* problem with the indirect duty theorists' view. Their view is motivated by two concerns, on one hand, to ratify our intuitions about animal cruelty, and, on the other, to ratify the bulk of our ordinary practices of animal treatment. It is doubtful, however, that the two concerns can be jointly satisfied. If they cannot, or to the extent that it is doubtful that they can, there is reason for seeking an alternative. Second, setting that issue aside, I shall assume that their crucial psychological thesis is correct and explore how its truth can be explained. If, as I think, the best explanation for the correctness of the psychological thesis will appeal to the moral similarity of harms and benefits between humans and animals, then the indirect duty position will be undermined. Even if the indirect duty theories are right, they're wrong.

The Indirect Duty Theorist's Balancing Act

An important feature of the motivating concerns of indirect duty theorists is that they aim to do two things. One is to support the intuitive notion that there are duties regarding animals. They don't want to suggest that there may be nothing wrong, after all, with what Harman's hoodlums are doing to the cat. In principle, support for the intuition might be provided by either a direct or an indirect duty theory. The indirect duty theorists, however, also have a concern that pulls in a different direction: they do not want the duties they admit to be too extensive or to constrict our options greatly. They want to leave room for saying that animals may be used for legitimate human purposes, such as eating them, experimenting upon them, and turning them into garments.

Given the concern to allow our ordinary uses of animals, the problem with direct duties to animals is that morally sensitive people would have to take animal interests or well-being into account in deciding what to do. It will not matter much whether animals' interests are as weighty as human interests. So long as their importance is *non-negligible*, it is hard to see how many of the supposedly legitimate uses of animals can be justified. Once you admit *some* weight to animal interests, you may say, for example,

that a human life is a thousand times as valuable as a rat's life, but you will also have to draw the consequence that it is not worth sacrificing 1001 rats to save a human life. If we assume a thousand-to-one ratio for the respective values of human and animal life, virtually all medical experimentation on animals will be ruled out. A conservative estimate gives seventeen to twenty-two million as the number of animals sacrificed annually in the U.S. for research purposes,[7] but no one would seriously maintain that animal experiments save seventeen to twenty-two thousand human lives a year. The cases for the use of animals for food and garments are in even worse shape, for, though billions upon billions of animals are killed, hardly ever is even a single human life saved thereby.

These dual motivations—to affirm duties respecting animals while denying that they much constrain our normal uses of animals—generate a problem for the indirect duty theorist by way of the supposed psychological link between the treatment of humans and animals. To answer to the two concerns, it seems that the link must be both powerful and weak at the same time.

In order to affirm duties respecting animals, the psychological link must be difficult to break or dissolve. That is, it must be difficult to treat animals badly[8] without effects spilling over to our treatment of humans. For, if it were easy to separate the treatment of animals and humans, it would be hard to argue that morally discouraging the ill-treatment of animals is the right response to the spillover effects. Why not instead dissolve the link? That would have the advantage of increasing our options without putting any beings with moral importance of their own (*human* beings, according to the indirect duty theorist) at risk. Surely, that would be a gain.

On the other hand, in order to deny that our indirect duties very much limit our normal uses of animals, the psychological link must be relatively easy to break or dissolve. Otherwise, those directly involved in the animal-use industries, who confine, exploit and kill animals for our use, will pose a standing danger to the rest of us.

If the psychological link is difficult to dissolve, then it is hard to see how we can be confident that slaughterhouse-

workers will not be too seriously tempted by the transition from killing helpless animals to killing helpless people, while if the link is easy to dissolve, it is hard to see why we need to be worried about hoodlums torching a cat.

Perhaps, the two desiderata can be combined, so that the link is just hard enough to dissolve, with respect to one range of cases, to underwrite ordinary moral beliefs about cruelty to animals, but also just easy enough to dissolve, with regard to a different range of cases, that we needn't be overly concerned about the character of slaughterhouse workers, animal testers, and fur trappers. *Perhaps*—but it looks like a very delicate balancing act, especially for something that is supposed to be an automatic psychological linkage rather than the product of any explicit and articulable reasoning. This is not, of course, a proof that the balancing act can't be pulled off, but its evident difficulty is reason to seek an alternative.

What Explains the Psychological Link?

Indirect duty theories differ on what kind of link is supposed to exist between treatment of animals and of humans. One possibility is that the link is educational: our treatment of animals is a kind of practice or training for our moral relations with human beings. I have never found this *Educational Thesis* in isolation from other kinds of indirect duty theories, and there appears to be a very good reason: the Educational Thesis, as will be shown, cannot work without being supplemented by some other link-forging mechanism. (And once we have another, it is not clear what work is left for the Educational Thesis to do.)

Other forms of the indirect duty theory suppose that the link is forged by a causal mechanism mediated through some feature of human psychology. Such a *Causal Thesis* can take either of two major forms. In one form, behavior of some type directed towards animals causes or tends to cause similar behavior towards human beings; kindness and cruelty alike are thought more likely towards humans if they are first practiced or become habitual towards animals. In the other, there is, strictly speaking, no transference between the animal and human cases. Rather, there is some underlying

psychological trait that generates similar behaviors towards both humans and animals. I shall return to these after exhibiting the inadequacy of the Educational Thesis.

The Educational Thesis appears in Kant's *Lectures on Ethics:*

> Animal nature has analogies to human nature, and by doing our duties in respect of manifestations which correspond to manifestations of human nature, we indirectly do our duty towards humanity. Thus, if a dog has served his human master long and faithfully, his service, on the analogy of human service, deserves reward, and when the dog has grown too old to serve, his master ought to keep him until he dies. Such action helps to support us in our duties towards human beings, where they are bounden duties. If then any acts of animals are analogous to human acts and spring from the same principles, we have duties toward the animals because thus we cultivate the corresponding duties towards human beings. . . . (Kant 1980, 239-240)

This form of the indirect duty theory cannot stand on its own.[9] The primary reason is that it makes the connection between what we directly owe to human beings and what we indirectly owe to other animals too much a cognitive affair, a matter of what we know or understand. The key question to ask is: how does "[s]uch action support us in our duties towards human beings, where they are bounden duties"? It cannot be because the analogy is perfect (in morally relevant respects), for then we would have direct duties to the animals. But once it is granted that it is an imperfect analogy, we face the question why we cannot just recognize the differences between humans and other animals, and treat humans one way, while treating animals another. This is the point Nozick was making when he wrote:

> Some say people should not [harm animals for trivial reasons] because such acts brutalize them and make them more likely to take the lives of *persons*, solely for pleasure. These acts that are morally unobjectionable in themselves, they say, have an undesirable moral spillover. . . . But why *should* there be such a spillover? If it is, in itself, perfectly all right to do anything at all to animals for any reason whatsoever, then provided a person realizes the clear line between animals and persons and keeps it in mind as he acts, why should killing animals make him more likely to harm or kill persons? Do butchers commit more murders? (Than other people who have knives around?) If I enjoy hitting a baseball squarely with a bat, does this significantly increase the danger of my doing the same with someone's head? Am I not capable of understanding that people differ from baseballs, and doesn't this understanding stop the spillover? Why should things be different in the case of animals? To be sure, it is an empirical question whether spillover does take place or not; but there *is* a puzzle as to why it should... (Nozick 1974, 36)

Something is needed besides the analogy to explain why there should be spillover effects. If there is no spillover with some analogies, such as swinging a bat at a baseball, pumpkin, or statue, but there is with others, such as swinging the bat at an animal's head, although (according to indirect duty theorists) no morally relevant harm is done in either case, what makes the difference? Perhaps the answer is that animal characteristics and behavior have *closer* analogies to human characteristics and behavior. But then, what makes the animal analogy close enough and the statue analogy not close enough? The answer must be that one analogy affects

us in a way that the other does not, that there is some difference *in us* that produces spillover in the animal case but not in the statue case. The point here is that similarity does not give us a fundamental answer. What is recognized as similarity or analogy depends as much on the recognizer as upon the items being compared. To a dog, a bone and a tennis ball (things that can be chewed) may be more alike than a tennis ball and a basketball. If there is spillover from the way animals are treated to the way that other humans are treated, that must be because our psychology connects the two. The Educational Thesis cannot be right unless there is some underlying psychological trait connecting the treatment of humans and animals.

This means that indirect duty theorists must turn to some kind of Causal Thesis, identifying the underlying trait and its contribution to the ways that both humans and animals are treated. In order to have a convenient label, I shall call this trait the *generalization disposition*. A person with the generalization disposition generalizes from the treatment of animals to humans, tacitly, and presumably gradually, drawing the conclusion that what is appropriate in the treatment of one is also appropriate in the treatment of the other.[10]

In the first form mentioned above, according to which behavior of some type directed towards animals causes similar behavior towards human beings, an appeal to the generalization disposition can be found, side by side with the Educational Thesis, in Kant's *Lectures on Ethics*, where he says both that "he who is cruel to animals becomes hard also in his dealings with men" and that "[t]ender feelings towards dumb animals develop humane feelings towards mankind." (Kant 1980, 240) In the *Metaphysics of Morals*, he writes that "violent and cruel treatment of animals is . . . opposed to a human being's duty to himself, and he has a duty to refrain from this; for it dulls his shared feeling of their suffering and so weakens and gradually uproots a natural predisposition that is very serviceable to morality in one's relations with other men." (Kant 1996, 6:443)

What we have is in essence a causal claim to the

effect that certain kinds of treatment of animals produce or are likely to produce similar treatment of human beings. Though there may be room for doubt about the quality of the evidence and just what it shows, that is not my concern. I shall assume that the evidence is as clearcut as any advocate of an indirect duty theory could wish.

The other form of the causal thesis does not hold that certain kinds of treatment of humans are caused by similar treatment of animals, but rather that the treatment of both is the result of an underlying trait that explains, or perhaps better, *is* or *functions as*, the generalization disposition. For convenience, we can label the trait, *empathy*, and identify those inclined to mistreat both animals and humans as *empathy-deficient*. On the face of it, this provides a more difficult case for an indirect duty argument. Why suppose that the right response to empathy-deficiency is to morally discourage the mistreatment of animals? Or, to put the same question the other way around, why suppose that discouraging mistreatment of animals will improve the treatment of human beings—which, according to indirect duty theorists, is what really matters? Is that not at least as likely to result in *greater* harm to humans, as the empathy-deficient seek non-animal outlets? If *this* is the view of indirect duty theorists about the mechanism that links human and animal mistreatment, perhaps they ought to favor letting the empathy-deficient torture animals, so the urge to mistreat won't be taken out on human beings!

I suspect indirect duty theorists can avoid this unwanted conclusion in either of two ways. Both depend upon the fact that harms to animals are not taken as seriously as harms to human beings. One escape would be to hold that, though a single trait is involved in at least certain types of mistreatments of humans and animals, that trait is not all that is involved. The empathy-deficient also need to be convinced that they can *safely*—that is, without repercussions—mistreat some being. Then, if they are allowed to get away with mistreating animals, they are more likely to mistreat human beings, but if they cannot get away with mistreating of animals, there will be no risk to the rest of us. An alternative

would hold that the trait of empathy-deficiency is acquired through a developmental process. Children allowed to torment animals become empathy-deficient adults, but, had they been discouraged early enough, the process would never have been completed.[11]

So, if we grant that treating animals well leads to better treatment of humans, while treating them badly leads to worse treatment of humans, what kind of indirect duty argument can be built? Presumably, it would go something like this. We have obligations to treat humans well and not to treat them badly. Since treating animals well or badly has an effect upon how we treat people—that is, upon whether we do what we ought with respect to people—then, whatever the extent of that effect, there is a corresponding duty to treat animals well and not badly.

The indirect duty theorist may say that this is just a special case of what we do elsewhere. In the main, we have two ways of dealing with serious wrong-doing directed against human beings. On one side, we set up systems of law, courts, jails and police—in a word, enforcement—to make wrong-doing less attractive. On the other side, we engage in moral education, starting at a young age, so that people will not easily be tempted into wrong-doing, even apart from fear of punishment. That is, we combine internal and external restraints. Arguably, neither alone would be optimal. Counting solely upon moral education leaves us defenseless if the education fails or if the temptations prove too great. Counting upon external enforcement would be much more costly if no internal restraints were in place as well. An optimal use of the resources involved in both enforcement and moral education probably includes a judicious mix of strategies.

In a similar vein, we could imagine that the average animal abuser is, say, thirty percent more likely to become an abuser of human beings. Allowing the animal abuse but preventing the additional abuse of human beings by increased enforcement might be more socially costly than discouraging animal abuse through widespread moral censure. If so, then we would have a kind of reason, appealing only to human

interests, for inculcating and reinforcing, in ourselves and our neighbors, a morally charged concern for the welfare of animals. We might be better protected that way than by any comparable expenditure of resources.

So far, this line of argument seems appealing. A further virtue is that it may account for the *way* that we take animals into consideration. Though the justification is entirely in terms of human interests, that does not mean that *what* is justified is a kind of calculating concern with human well-being. Since we are supposing that there is a psychological connection between the ways that animals and humans are treated, attitudes and corresponding actions towards animals will tend to be mirrored in attitudes and actions towards human beings. If we want humans to be treated with respect and concern for their well-being, rather than made the objects of carefully calculated self-interest, then that is the *same* attitude that we will have to try to inculcate with regard to animals. The proposed program of moral education, so far as it is successful, will not result just in people taking steps, perhaps grudgingly, to protect animals from harm and abuse, but will result in people caring about animals' well-being for its own sake.[12]

We have been supposing, with indirect duty theorists, that there is a psychological connection or linkage that makes those who abuse animals more likely to harm other humans and those who treat animals well more likely to treat their fellow human beings well. As we have seen, once the existence of this generalization disposition is granted, a decent case can be made that we have some duties respecting animals which are justified in terms of the impact on human interests.[13] But there is still a question why the psychological connection holds. What explains the disposition to group humans and animals together motivationally, so that treating animals well or badly makes a difference to how well or badly humans are treated?

There are really very few candidates here. There are two general possibilities, that the disposition has a cognitive or that it has a non-cognitive explanation. When I speak of a cognitive explanation, I mean that the explanation for

generalizing between human and animal cases has to do with a recognition of moral similarity between the two. Plainly, this is not what indirect duty theorists want. If the explanation of the generalization disposition is to do what they hope for it, it will have to be a non-cognitive explanation, one that does not assume or presuppose that we are recognizing a real moral similarity. I know of only three non-cognitive explanations, that the generalization disposition is inculcated, that its presence in our psychology is a brute fact, or that it is some kind of evolutionary adaptation. What I shall argue is that none of the non-cognitive explanations is satisfactory, so the best explanation is that we are disposed to generalize between human and animal cases because we are recognizing a real moral similarity. For the most part, this will not be difficult, for, of the non-cognitive explanations, only the evolutionary explanation is plausible enough to require extended consideration; the others can easily be shown to be inadequate.

Our first candidate is that the generalization disposition is somehow acquired in the course of a normal childhood. There is some process of training, learning, habituation or inculcation that brings it about that the child (and the adult he will become) groups humans and animals together. This is clearly not the sort of answer the indirect duty theorist needs. If the disposition is inculcated, a different course of training would result in its absence. And if a different course of training would result in our lacking the disposition, wouldn't we do better without it and also without the need to restrict our treatment of animals in order to compensate for its effects? It can hardly be satisfactory to offer, as the basis for morally proscribing certain kinds of treatment of animals, the fact that we have inculcated the very disposition that calls for that response.

The way in which the inculcation hypothesis proves inadequate suggests that, for the indirect duty theorist's purposes, the explanation for the generalization disposition will have to leave the disposition as a relatively unalterable feature of our psychology. If the disposition were readily alterable, the indirect duty theorist would have to see that as

reason to alter the disposition rather than to accommodate it, since the animals' interests have only indirect moral importance, and without the disposition, human interests could be safeguarded without restricting behavior towards animals.

Our next candidate satisfies that condition in the most minimal way possible. It holds that the generalization disposition is a brute fact. Humans happen to be so constructed that we generalize between the human and the animal cases, and there is nothing more to be said about it. Surely, however, this is really no explanation at all. It would be the kind of thing to accept only if there were no other credible candidate, or if all other candidates were shown to be inadequate.[14]

An alternative that also respects the requirement that the generalization disposition be difficult to alter is that there is some kind of evolutionary explanation. The disposition would be an adaptation with a place in our basic psychology because, somehow, hominids with the disposition were better able to survive and reproduce than those lacking it. The trait would spread through the population until all the hominids who became our ancestors carried the trait. The problem here is with the hand-waving invocation of some kind of evolutionary pressure. No doubt, it is true that *if* there were some reproductive advantage in an ancestral environment to possessors of the generalization disposition, then the trait could spread and become fixed in the population.

On the face of it, however, the alleged reproductive advantages are unlikely. If anything, one would expect the relevant evolutionary pressures to work in the opposite direction. Those hominids who sharply distinguished between animals and humans, and so treated them differently, would have been better able to serve their own survival and reproductive interests than those with the generalization disposition. On one hand, if the generalizers treated animals better, they would undergo costs or forego gains that the non-generalizers would not. On the other hand, if the generalizers treated humans worse, they would have courted conflict with other humans, and paid the attendant costs. Since the

currency of evolutionary costs and gains is reproductive success, non-generalizers would likely have fared better than generalizers.

Perhaps, though, there is some other way the generalization disposition could have spread through an ancestral population. There are several ways known (or suspected) that Darwinian processes can produce altruistic behavior, where one organism undergoes costs for the benefit of another. Since the generalization disposition can lead to a kind of altruism towards non-human animals, perhaps this is where we should look for an evolutionary explanation. Briefly, as evolutionary routes to altruistic behavior, we have kin-selection, reciprocity, and group selection to consider.

In kin-selection, genetically-based dispositions to altruistic behavior are favored when the beneficiaries are close relatives and likely carriers of the same genetically-based disposition. One animal may give his life to save two others who carry, and subsequently transmit to their offspring, the very altruistic disposition by which they themselves were saved. Such kin-selection is no doubt real, but would not seem to help in explaining the generalization disposition, since the animals who benefit from human costs undergone will not be close relatives.

In reciprocity, an organism is disposed to act on behalf of another because the other can be expected to reciprocate at some future time.[15] Normally, for such reciprocity to evolve, the other must be identifiable and re-identifiable, so that those who accept benefits in a reciprocal relationship can be punished by the withdrawal of benefits if they fail to do their part on future occasions. This also does not appear promising for the indirect duty theorist's purposes, for, though there is a sense in which some animals reciprocate, there is equally a sense in which most do not. Perhaps the capacity of some animals to enter into reciprocal relations with human beings has played an important role in their domestication, but the generalization disposition does not seem to take account of this division: we do not judge rat-torturers more favorably than cat-torturers.

Some biologists and philosophers have argued that

some altruism may be explained as the product of group selection mechanisms.[16] Those groups whose members are disposed to sacrifice for the good of the group are apt to be more successful than others whose members are not so disposed. If that disposition has genetic roots, the trait may spread and become fixed in the genome because of the advantage it confers upon the group. For special cases, I think the group-selectionists may be right, but there is little here to cheer indirect duty theorists. The only plausible cases of group selection are among members of the same species, and it is hard to see how it might be extended to cover other animals, because a group-selectionist explanation for the generalization disposition would have to include animals as carriers of the disposition.

A further and more general point that counts against finding an adaptive explanation of the generalization disposition is that it appears that such an explanation would have to account for the reproductive advantages of generalizing in *either* direction. The generalization disposition is a property of those who treat both animals and humans well and of those who treat both badly. An adaptive explanation would explain why *both* generalizations yield reproductive advantages to the generalizers as compared to non-generalizers.[17] To say the least, that looks unlikely.

There appears to be no good way to account for the existence of the generalization disposition as an evolutionary adaptation. Indirect confirmation for this conclusion comes from the evidence that, even within our species, we are not overly inclined to generalize appropriate treatment. The long history of racism, nativism and xenophobia is testimony that humans have generally not had much trouble in distinguishing, and treating differently, the members of an in-group, *us*, and those outside, *them*, even when the in-group and those outside were much more alike than humans and the other animals. It seems likely that some tendency in this direction has evolutionary roots. As Peter Singer has noted, "Racism can be learned and unlearned, but racist demagogues hold their torches over highly inflammable material."[18] The inflammable material, of course, is provided by nature.[19]

We have been examining several attempts to explain the generalization disposition without appeal to moral similarity between animal and human cases, and all have proved unsatisfactory. The best explanation is simply that the cases *are* morally similar. When harm occurs or suffering is undergone, what is morally crucial is the harm or suffering, not whether the sufferer is a member of our species or not. Similarly, for enjoyments, pleasures and benefits, what is morally crucial is that there is a pleasure or benefit, not the species of the beneficiary.[20]

This is, in part, simply an articulation of moral common sense. When we ask ourselves what is bad about pain, for example, the answer does not have to do with who undergoes it. I do not, if I am honest with myself, think that the badness of pain I suffer is that it is male pain, Caucasian pain, human pain or even *my* pain; rather, its badness consists in its *painfulness*, the way it hurts, the way it absorbs the mind and interferes with ordinary pursuits—features which might equally be part of the experience of non-male, non-Caucasian, and non-human others.

Conclusion

It may be helpful to summarize the course of the argument before trying to draw its strands together. Indirect duty theorists seek to account for our duties to other animals without supposing that the animals themselves have any moral importance. In order to do this, they suppose that there is some kind of psychological linkage between the treatment of humans and animals. The linkage accounts for the truth of their claim that those who treat animals badly will tend also to treat humans badly, while those who treat animals well will tend also to treat humans well. The presence of the linkage, which I call the generalization disposition, is what will make it possible for them to argue that we have moral reasons to treat animals well that derive from our moral reasons to treat humans well. I raised some doubts about whether the linkage can simultaneously be sufficiently entrenched in human psychology to support indirect duties to animals and easy enough to alter to permit, as indirect duty theorists also wish,

normal uses of animals for our benefit.

Whether indirect duty theorists can lay those doubts to rest or not, my central argument concerns the explanation of the supposed linkage, the generalization disposition. If it is a feature of our psychology to generalize between humans and animals, what explains that fact? The indirect duty theorist needs a non-cognitive explanation, one that will not appeal to any real moral similarity between the human and animal cases. But such an explanation is not easy to come by. Candidates, such as that the disposition results from inculcation, that it is a brute fact, or that it is some kind of evolutionary adaptation, all seem inadequate. But then it appears that the best explanation is that benefits and harms, whether occurring to humans or animals, are morally similar. Since human harms and benefits matter directly, so do animal harms and benefits. The best explanation of a fact that indirect duty theorists themselves must presuppose, namely, that there is a disposition to generalize appropriate treatment between human and animal cases, turns out to imply that indirect duty theories are inadequate. There are direct duties to animals, after all.[21]

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[1] Hereafter, I shall just speak of *animals*, rather than encumbering the text with *non-human animals*.

[2] For present purposes, it is sufficient that many animals fit this description, not how or where, precisely, the class is bounded. I shall be using the term *animals* to refer to those that fit the description, not necessarily to all that a biologist would classify as animals.

[3] Whether animals have rights in the same full-fledged sense as humans or whether their interests are morally as weighty as ours are further questions which, for the present, I shall set aside. My present concern is with whether we owe *anything* directly to animals, not with how much. Also to be set aside for the present are questions about whether anything owed to animals should be subject to legal enforcement.

[4] For simplicity of exposition, I shall suppose that it is human interests that are at stake.

[5] Note that the key claim of an indirect duty theory is *not* that we have indirect duties respecting animals. We have indirect duties

respecting human beings and rocks as well. Rather, an indirect duty theory, with respect to animals holds that we *only* have indirect duties and *no* direct duties to animals.

[6] Harman, 4.

[7] The estimate is cited by the National Association for Biomedical Research, a pro-animal-research organization, on their website at <http://www.nabr.org/pdf/orange.pdf>, accessed 21 September 2005. It is based on a Congressional Office of Technology Assessment report from 1986.

[8] Since the indirect duty theorist does not believe that anything we do to animals is bad or wrong in itself, apart from the likelihood that it will somehow harm human beings, phrases such as 'treating an animal badly,' 'mistreating an animal,' and so on have to be understood as a kind of shorthand for 'treating an animal in a way that it would be wrong to treat a human being.'

[9] In fairness to Kant, he does not claim that it can, and when he presents it, it is in connection with a version of the Causal Thesis.

[10] The generalization might work in either direction, from animals to humans or from humans to animals. If so, I would still expect the generalization more commonly to go from the animal to the human case, at least with regard to ill-treatment. The reason is that animals are much less carefully protected from ill-treatment, so someone is far more likely to go undeterred and unpunished when the question is one of the mistreatment of animals; thus there are more opportunities to generalize the appropriateness of ill-treatment in the animal-to-human direction.

[11] On this hypothesis, "empathy-deficiency" may seem not to be an apt term, for it may suggest that, before the process begins, the person has some empathy, which deteriorates or is lost. However, this connotation is not important since the term was only introduced to have some label for the psychological trait that, supposedly, is behind mistreatment of both animals and humans. It could as well be labeled 'cruelty.'

[12] Arguably, this may not work to explain our attitudes to animals if the true form of the Causal Thesis is the one that holds that human and animal abuse have a common psychological cause, and that moral censure of animal abuse merely prevents the behavioral expression of the empathy-deficient disposition.

[13] It is unlikely, however, that the linkage will do just what the indirect duty theorist had hoped for: the duties supported are apt to be either too demanding or not demanding enough.

[14] A variation on this would say, perhaps, that God made us that way. If so, God either had a reason or not. If he had none, that is

just a version of the brute fact account, while, if God did have a reason, it is hard to see what it could be other than that the cases of humans and animals are morally similar.

[15] There can be cases of indirect reciprocity, where more than two animals are part of a reciprocating arrangement.

[16] See Sober and Wilson 1998.

[17] Alternatively, it might explain that there are reproductive benefits in only one direction, but that other factors make that the most likely direction. Though possible, that is bound to be a more complicated story.

[18] Singer 1999, 36.

[19] If there are evolutionary roots for xenophobia or racism, that tells us only that such a behavioral pattern helped our ancestors reproduce, not, of course, that it was admirable or that we have reason to emulate those ancestors.

[20] Sometimes, other factors will enter in, such as desert. That may be appropriate to consider in many human cases and hardly ever in animal cases, but even then, what will matter morally will not be the species of the beneficiary or sufferer, but whether what is undergone is deserved or not.

[21] I would like to thank Gayle Dean and Don Scherer for their useful and insightful discussion.