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Minds that Matter: Seven Degrees of Moral Standing

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Only remember that the spirit of the snake, of the lion, is *your* spirit.
For it is only from yourself that you are acquainted with spirit at all.

Wittgenstein, *Notebooks 1914-16*, p. 85e.

Prominent non-speciesist attempts to determine the amount of moral standing properly attributable to conscious beings argue that certain non-human animals should be granted the highest consideration as self-conscious persons.¹ Most of these theories also include a lesser moral standing for the sentient, or merely conscious, non-person. Thus, the standard approach has been to advocate a two-tiered theory—'sentience' or 'consciousness' and 'self-consciousness' or 'personhood'. While the first level seems to present little interpretative difficulty, the second has recently been criticized as a rather obscurantist label.² For it would seem, both on empirical and conceptual grounds, that self-consciousness/personhood comes in degrees. If we accept that we should treat equal interests equally, at the very least there do seem to be interests that, say, the ordinary human adult possesses, such as making and keeping resolutions, that other arguably self-conscious beings, e.g., apes passing the mirror self-recognition test, do not possess.³ And such interests are not merely novel but morally significant since they represent an entire order of capacities for self-consciousness, namely, self-determination.

Similarly, there do seem to be morally relevant differences in the capacity for self-consciousness lower down the scale, say, between apes and monkeys.⁴ Furthermore, there is no clear dividing line even between the self-conscious and the merely sentient, for unless we limit self-consciousness to those beings who can in fact make and keep resolutions—which seems much too stringent—there is no other level of consciousness at which the concept may not be applicable to a lesser degree, except perhaps at the most primitive level of awareness. And even then, it would have to represent absolutely no self-consciousness whatsoever, i.e., the inability to sense *any* divide between self and non-self—a consciousness not only difficult to imagine, but unlikely even to exist. If these observations are at all revealing, they indicate that the two-tiered model is inadequate. This is the view I will support here, replacing the standard dichotomy with what I hope to show is a more accurate seven-tiered account of cognitive moral standing⁵ adaptable to all three major perspectives of moral reasoning, namely, utilitarianism, deontology and virtue ethics.

A Preliminary Sketch

Minds are essentially mirrors or microcosms of the world. And the more they accurately reflect of it, the more they can accomplish. Thus, it would seem to follow that the degree to which any given mind is morally relevant depends on the degree to which it is able to accurately represent the world and thereby successfully navigate through it. Obviously, different species will accomplish this in different ways. For example, some will possess different or even more sensory perceptions than others. However, my task here is not to present an exhaustive list of mental aptitude. Rather, it is to highlight those cognitive capacities that should be categorized as morally relevant, namely, that of self-interest itself, as well as those which carry out its further development, multiplication, and refinement across any given experiential continuum. The latter seem largely dependent upon the extent of one's ability to communicate, first of all, emotions,

then preferences, and ultimately propositions. Thus, the overall hierarchy of cognitive moral standing appears to be as follows:

At its most primitive level, the mind begins to reflect the world through the most basic experience of discord or lack of fit, namely, pain. *Sentience* thus constitutes the very first level of awareness, establishing mind's first degree of moral relevance. The second level of reflection, and thus of moral relevance, is manifested through the capacity of *expression*, i.e., pain or pain-avoidance behavior such as aimless crying or screaming. At this level, the mind gains the ability to reveal its pain to others. At these first two levels, the mind only reacts to basic needs, and thus does not possess the ability to choose between different ways of satisfying them. It thus does not possess volition.⁶

The third level targets a specific deliverance from actual or future pain, say, by expressing an emotion such as anger with intent to thereby bring about a certain desired state of affairs as opposed to another. It is hence essentially an *expressive use* behavior. At this level, the mind thus acquires a rudimentary capacity of social coordination and manipulation requiring a minimal degree of volition, i.e., the ability to perceive at least two different options for satisfying a given desire, and to choose one over the other.⁷ This level of awareness thus includes a certain degree of what is commonly referred to as 'object permanence,' i.e., the ability to acknowledge the continued existence of objects after they have moved outside one's field of vision. The representational capacities of levels two and three are merely *expressive* and so consist entirely of 'intrinsic intentionality' since their expressive behaviors themselves embody the very emotions being communicated and therefore need no translation.

The fourth level however, begins to afford actual conventional *representation* or 'derived intentionality' of a desired or undesired experience. An example might be a dog's taking his master's utterance of a specific word and/or brandishing of a leash as a suggestion to go outdoors. Here the mind is learning entirely conventional associations, e.g., between a word and/or an object and an

activity, which fully warrants the term 'representation.' Thus at this point, some species may acquire the capacity to learn rudimentary tool use behavior. The fifth level actually makes novel use of conventional representation to obtain a given end, say, a pig ringing a bell to attract human attention to an imminent danger or threat. Thus at this level, the mind gains a limited ability to establish new conventional associations, which may include new tool-use behavior.

The sixth level is that of *propositional use*, i.e., the employment of grammatical language. Thus far, an increasing number of Apes such as Koko the gorilla and Washoe the chimpanzee seem to have learned a significant degree of syntactical proficiency from humans. And finally, the seventh level is that of *temporal reference*, i.e., the use of propositional language for referring to a state of affairs temporally far-removed from the one in which the utterance takes place. This capacity is necessary for making full discursive use of hypotheticals and counterfactuals by assessing and evaluating possible outcomes, possible wrongdoings and possible gains.⁸ At this level, one is able to entertain different reasons for acting—the main pre-requisite for possessing intentional volition, i.e., will. It is thus only at this point that full autonomy is possible.⁹

These tiers can now be outlined according to the following diagram¹⁰:

Degrees of Cognitive Moral Standing

<p>7. Temporal Reference: Discursive hypothetical reasoning -- full autonomy [derived intentionality]</p>	<p>Humans, Vulcans, etc.</p>	<p>Will -- (Intentional Volition)</p>
<p>6. Propositional Use: grammatical language [derived intentionality]</p>	<p>Language -proficient animals, e.g., Koko the gorilla, Washoe the chimpanzee, etc.</p>	
<p>5. Representational Use: Novel goal-directed conventional association -- new word/tool-use [derived intentionality]</p>	<p>Apes, Elephants, Pigs, etc.</p>	<p>Desire (Volition)</p>
<p>4. Representation: Conventional associative apprehension -- learning word/tool-use [derived intentionality]</p>	<p>Raccoons, Sea Otters, Vervet Monkeys</p>	
<p>3. Expressive Use: Goal-directed behavior [intrinsic intentionality]</p>	<p>Squirrels, Crows, etc</p>	
<p>2. Expression: Aimless pain behavior [intrinsic intentionality]</p>	<p>Newborn Mammals, etc</p>	<p>Need</p>
<p>1. Sentience: Pain</p>	<p>Late term fetuses, etc.</p>	

1. Sentience

Sentience, awareness, or consciousness¹¹ is the most fundamental cognitive requirement for moral standing. Without it, pain and pleasure are impossible, which for utilitarians means that there is simply "nothing to be taken into account."¹² From this point of view, the notion of *cognitive* moral standing is hence plainly redundant. The deontological and virtue-ethical perspectives may however allow the bar to be placed lower if a good case can be made that non-sentient organisms may nevertheless qualify as 'ends in themselves' by merely being alive.¹³ And though this criterion may satisfy certain deontologists, sympathetic virtue ethicists would place as much or more importance on showing that we obtain greater happiness by treating such life forms with moral consideration. To this condition, preference utilitarians would not assent, for although it would seem that happiness is being maximized, they would view such happiness as irrational—a frame of mind that tends not to maximize happiness. Virtue ethicists however may not see this attitude as irrational if they agree with those deontologists who do not consider sentience as necessary for having interests. Ultimately, these two groups may in fact succeed in convincing preference utilitarians that considering non-sentient ends as morally relevant in themselves does indeed benefit us intrinsically. If so, preference utilitarians would thereby have to modify their theory to appropriately allow for what might be called 'non-sentient utility'. Although the theory of moral standing advanced in this essay begins with sentience, it is not intended to support the utilitarian position that sentience is all that is of account. It is rather to stake out a field of discourse in philosophy of mind that is just as relevant to deontology and virtue ethics as it is to utilitarianism.

At the first level of awareness, the mind is entirely passive. It does however succeed in representing, through the experience of pain, a very small part of reality as discord or lack of fit. Hence, the most rudimentary degree of

self-consciousness might be present even here—as the mere experience of a divide or gulf between self and non-self. For pain can only be rectified by a corrective action of a subject upon an object. So for example, if and when a late-term fetal mind feels pain, say, of hunger/thirst, the pain itself might seem as a foreign object and its remedy—the satiation of hunger/thirst, perhaps coupled with a soft melody and caress, would thus also seem to come from outside the suffering self. Hence, the experiential divide between self and non-self is at least made possible, if not in fact realized, by the most primitive experience of pain, and is reinforced by the experience of remedy.

2. Expression

Immediately beyond the mere capacity for pain is the capacity for pain behavior. While it surely seems conceivable for pain to exist without any capacity for pain behavior, it should be acknowledged that it remains entirely unclear how that phenomenon could ever be unmistakably confirmed. Although certain physiological events necessarily indicative of pain could occur without any behavioral indication being manifested, this would still not qualify as direct evidence of consciousness. The distinction is nonetheless relevant both metaphysically and ethically, though it would seem to remain, paradoxically, indeterminable.

At this second level, the mind is able to reveal its pain to others through the expression of characteristic pain behaviors such as grimacing, crying, and screaming. It thereby gains a valuable asset likely to help it survive by revealing its needs to those who might alleviate it.¹⁴ Although there could already be physiological indicators of needs in place, such as shivering, trembling, writhing etc., these are essentially physical since they can be present even in the non-conscious state of coma. Thus, unlike mere physiological indicators, the conscious *expression* of pain is an authentic mental state.

A mind's mere capacity for expression is rather aimless since it only reveals a basic need without targeting or discriminating between alternate means of satisfaction. The further ability to target specific goals arises at the next level, that of *expressive use*. Thus, since the merely expressive mind only makes rather generalized gestures of dissatisfaction, it can only contain the most primitive degree of self-consciousness, if indeed any at all. In this respect, it is on the same level as the merely sentient mind, which at best only reflects a discord or lack of fit between self and non-self. Nevertheless, the expressive mind does afford greater moral relevance than bare sentience since it actually invites the world to interact with it. In so doing, it gains the capacity to effect considerable influence on the emotive lives of others through the mere display of its limited behavioral repertoire.

3. Expressive Use

Beyond mere need is the capacity of volition, i.e., goal-directed behavior, which manifests itself most primitively in the employment of expressive behavior as alternate means to satisfy desire. At this level, the mind is able to exercise a small degree of social coordination and manipulation by, say, engaging in threatening, evasive, submissive, or complicit behavior. In such cases, the mind begins to acquire the ability to perceive more than a single means of satisfying a desire and to choose one over another. In so doing, it goes beyond the mere expressive representation of a certain intrinsic intentional content, say, hunger, replacing it with a different intrinsic intentional content, say, anger. Thus, its behavioral repertoire becomes increasingly complex, revealing at least the most rudimentary employment of reason.

At this point, the mind must be able to acknowledge at least to some extent, the continued existence of objects outside its own field of perception. As most any parent today can tell you, this capacity, known as 'object permanence' usually arises in human infants during the first year. It allows them to continue

looking for a toy which has disappeared under a blanket and for much more complex forms of play such as ‘peekaboo’ etc. This capacity seems present in various forms and to varying degrees in most species. It permits animals to hide food away and return to it, build nests, etc. And since it is usually embedded within the communicative capacity of expression, it affords a significant degree of awareness and influence. Thus, at the more primitive level, an animal such as a squirrel or crow may first attempt to intimidate, or even distract a possible competitor before reaching directly for, or even looking directly at, a desired object. And at the more elevated pre-linguistic levels, apes for example are widely known to engage in rather elaborate forms of deceit through various expressive behaviors such as exaggerated screaming, aloofness, ostentatiously looking into the distance, etc.¹⁵ In most cases, such more complex skills tend to occur farther up the scale of cognitive moral standing. Nevertheless, there are likely to be varying degrees of cognitive ability within each of the broad tiers of moral standing advanced here. Because of these differences, many of which will appear even between members of a single species, we should always err on the side of caution when attempting to determine the amount of moral standing properly attributable to a any particular mind. Thus, any given mind need only minimally satisfy the relevant criteria for placement into the highest possible tier of moral standing.

4. Representation

A mind can be said to ‘represent’ when it can make conventional associations that go beyond intrinsic intentionality. As stated above, merely expressive meanings are not conventional. Conversely, the ability to take an object or word to represent a certain action, series of actions, or state of affairs is to represent an entirely conventional association, commonly referred to a ‘derived intentionality.’¹⁶ At this point, the mind gains a powerful capacity for mirroring the world since it is able to comprehend and engage in primitive forms

of linguistic activity. An animal may thus learn to use a tool as sea otters do when eating shellfish,¹⁷ or respond to specific calls in specific ways as vervet monkeys do when different predators are seen or heard. Or a dog might simply bring its master a leash with the intention of communicating its desire to go out for a walk.

At this level, the mind can only learn certain conventional associations and then make use of them in relatively determined ways. It thus cannot establish entirely new conventions of its own volition. It acquires novel associations primarily by observing the behavior of others. This may seem to beg the chicken/egg question of how conventions arose in the first place. Although this is a fascinating and entirely open question it must not always be question begging. If for example we are asking how sea otters first learned to pry open clams with flattened stones, we could explain the phenomenon by imagining countless generations of trial and error tampering. It need not be the case that at one miraculous point in time, some particularly crafty sea otter simply thought really hard and quickly proceeded to open a clam with a flattened stone. Indeed, this kind of explanation would seem extravagant since if sea otters generally had the cognitive capacity to generate novel conventional associations of their own volition, they would presumably exhibit more complex behaviors of the kind found at the next tier. My argument of course does not rely on any empirical claim that particular animals fall into particular tiers of cognitive ability. Sea otters may in fact exhibit a 'level five' cognitive capacity, provided the adequate evidence is given.

5. Representational Use

This level of cognition occurs when a mind goes beyond simply acknowledging, repeating or reproducing specific conventional associations. Instead, it may of its own volition establish entirely novel derived-intentional meanings. At this point however, thinking is not fully discursive. It thus does not

entertain fully formed propositions. Nevertheless, minds at this level of awareness employ tools and/or sounds in new ways. Young apes may for example contrive to let out screams of distress without actually feeling the associated emotions. They may have simply sought to attract a dominant male to the peaceful scene of another adult ape quietly feeding. Already agitated and now perplexed, the dominant male will then chase the other adult away from the food, thus unwittingly freeing it up for the rather cunning younger ape.¹⁸ In this case, the scream is used in an entirely novel fashion, to achieve an entirely different goal, far removed from the genuine expression of pain or distress.

This level of cognition obviously involves a high degree of rational ability. It is clear that any mind capable of exercising such volition must be able to imagine different scenarios and to contrive original techniques, for achieving its goals, such as fashioning raw materials into new tools or altering existing ones or even fashioning new tools with other tools.¹⁹ But since this thinking is not fully propositional, it cannot entertain sophisticated notions of truth and falsity. It is thus not able to represent or correct its own mistakes or the mistakes of others without relying on mere trial and error with the external world. That is to say, a pre-linguistic mind cannot make corrections in its own head. For it only holds the capacity to mirror the world—not the capacity to mirror its own mirror-image of the world.

6. Propositional Use

The very ability to *comprehend* propositional language necessarily implies the ability to *use* propositional language. That is to say, one must be able to respond propositionally, thus construct further propositions, which then in turn can be responded to, and so on. At this level, the mind possesses a very high degree of volition, for it is able to not only establish more complex intentional conventions but can discriminate between true and false depictions of the world, and communicate them, as such, to others. For example, Koko the gorilla

regularly corrects others' perceived errors in propositional language even without solicitation.²⁰ And when asked, Chantek the orangutan often corrects or improves upon his own language to make his statements more clear to others.²¹

It is telling that apes who can correct or improve upon their own language do not, as far as current research suggests, do so without being asked. Although they do correct others' language without solicitation, they do not seem to correct their own of their own volition. This seems to indicate that they cannot generate and entertain counterfactual relations entirely on their own—they must always rely, at least in part, on being presented with a possible state of affairs which may contradict their own impressions. Thus they cannot produce an entire discussion or debate on their own. So although such minds are to some extent able to mirror their own mirror-images of the world, they cannot do so internally. They may *seem* to speak to themselves, but cannot actually generate, entertain, and sort out possible conflicting propositions on their own. Hence, they cannot properly be said to possess fully intentional volition, i.e., will. At this level, minds therefore still lack full personal autonomy.

7. Temporal Reference

In order to exercise and enjoy full personal autonomy, a mind must be able to refer propositionally to distinct and distantly-removed points in time. Somewhat surprisingly, this capacity seems at present to exist only in humans.²² Indeed, without temporal reference, it will be impossible to entertain complex sequences of cause and effect. And furthermore, as Hauser puts it, one cannot make discursive use of hypotheticals and counterfactuals by assessing and evaluating possible outcomes, possible wrongdoings and possible gains.²³ Hence one can neither make prospective recommendations, which must necessarily refer to states of affairs temporally far-removed from the one in which the utterance takes place. In short, one cannot decide, commit, or resolve to behave

in a certain way at any distantly-removed point in time, say, tomorrow, next week, or next month.

Thus, one does not have a will. This is why, as Wittgenstein correctly points out, “a dog cannot be a hypocrite, but neither can he be sincere.”²⁴ One might however assume that the example of ape deceit given above at tier five also indicates the capacity to be sincere. But sincerity requires a good deal more than the mere capacity to deceive, namely, the capacity to acknowledge the possibility and relative value of insincerity in certain situations, and to willfully choose against it in the face of more important considerations and concerns. Essentially, it requires the ability to entertain and adopt different reasons for acting.

Hence, only minds at the seventh tier of awareness can genuinely understand and apply moral imperatives. They may have certain preferences and indeed choose between them, but they are not able to entertain, distinguish, discriminate, and apply overarching normative principles. This brings us to a concluding and centrally important criterion—the capacity for normative cognizance. Assuming one is at the seventh tier of cognitive moral standing implies that one does share a common capacity of normative concern. Nevertheless, it is certainly conceivable that a mind could show the highest levels of cognitive ability, but be completely morally oblivious, either in awareness, concern, or both. Psychopaths are a case in point. Such normatively deficient minds thus cannot obtain the moral standing representative of their other cognitive abilities. Similar concerns apply at most of the lower levels of cognition outlined above, namely, three through six, in which minds may show particularly high or alarmingly low degrees of affective behavior. The murky and confounding moral implications of such considerations will ultimately rely on the detailed results of empirical investigation.

¹ See for example, Peter Singer, *Animal Liberation*, 2nd edn (New York: New York Review Books, 1990); Tom Regan, *The Case for Animal Rights*, (Berkeley: University of California Press, 1983). And more recently, Steven M. Wise, *Drawing the Line*, (Cambridge: Perseus, 2002), who advocates a four-tiered theory but like Singer and Regan, chiefly concerns himself with tiers one and two, which are distinguished by criteria very similar to Singer's and Regan's two-tiered accounts.

² See Michael Tooley, "Speciesism and Basic Moral Principles," *Etica & Animali*, 9/98, pp. 5-36; R. G. Frey, "Moral Community and Animal Research in Medicine," *Ethics and Behavior*, 7(2), 1997, pp. 123-136.

³ For example, Koko the gorilla can make use of a mirror to refer to herself linguistically although she cannot do so with respect to, say, her plans for next Wednesday. Thus she cannot entertain "prospective recommendations," by making full use of hypotheticals and counterfactuals in discussions of possible outcomes, possible wrongdoings and possible gains. Mark Hauser, *Wild Minds*, New York: Henry Holt, 2000), pp. 102, 208-9.

⁴ Thus, Koko the gorilla can use a mirror to refer to herself linguistically, while Cotton-top Tamarin Monkeys can only recognize themselves in a mirror without including ostensive linguistic reference. See Hauser, *Ibid*, pp. 91-113.

⁵ For the purposes at hand, I will invoke *ceteris paribus* to limit discussion of moral relevance to that of cognitive capacity. Furthermore, only those capacities already attained at any given point in time will be discussed, thereby excluding consideration of the future potential moral standing of developing minds.

⁶ For further discussion of this dichotomy see Anthony Kenny, *The Metaphysics of Mind* (Oxford, 1989), pp. 32-49.

⁷ Kenny, *ibid*.

⁸ Hauser, *ibid*, pp. 208-9.

⁹ Kenny, *ibid*.

¹⁰ Examples of member species at levels 3, 4, and 5 are entirely conjectural.

¹¹ I will use the word 'sentience' throughout this essay instead of 'consciousness' when referring to this first level of moral standing. Since sentience is a sufficient but not a necessary condition for consciousness, merely intelligent and morally irrelevant artifacts are thus excluded from consideration. If however, an intelligent artifact were shown to

have its own interests, it would thereby obtain moral standing. Of course, the problem of knowing how to determine when that is in fact the case, especially with respect to forms of consciousness substantially different from our own, e.g., ones that cannot feel pain, remains unresolved and shall not be addressed here.

¹¹ Peter Singer, *Animal Liberation*, 2nd edn (New York: New York Review Books, 1990), p. 8.

¹³ For arguments to this effect, see Eugene Hargrove, *Foundations of Environmental Ethics*. (New York: Prentice Hall, 1989); Holmes Rolston III, *Environmental Ethics*, (Philadelphia: Temple University Press, 1988); Paul Taylor, *Respect For Nature*, (Princeton: 1986).

¹⁴ Of course, under the wrong circumstances, such behaviors might attract the attention of possible predators, and thus turn out to be maladaptive.

¹⁵ Marian Stamp Dawkins, *Through Our Eyes Only?* (Oxford: 1998), pp. 132-4.

¹⁶ John Searle, *Intentionality*. (Cambridge: 1983), pp. 1-4.

¹⁷ Donald Griffin, *Animal Minds: Beyond Cognition to Consciousness*, (University of Chicago Press: 2001), pp. 119-20.

¹⁸ Marian Stamp Dawkins, *Ibid*.

¹⁹ Most adult apes are able to do this to varying degrees. See Wise, *Ibid*, pp. 182-5.

²⁰ *Ibid*, pp. 228-229.

²¹ *Ibid*, pp. 184-5.

²² Hauser, *Ibid*, pp. 208-9.

²³ *Ibid*.

²⁴ *Philosophical Investigations*, (Blackwell: Malden Mass., 2002), p. 229e.