

NORMATIVE SENTIMENTALISM AND ANIMAL ETHICS

By

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Abstract

The purpose of this dissertation is to present what I think is a particularly compelling normative version of sentimentalism. The moral principle which is the foundation of this ethic is: An act, or a failure to act, is morally wrong if and only if it is committed by, contributed to by, or allowed by a moral agent, and both the motive is disapproved of by the impartial spectator and any consequence is disliked by the impartial spectator.

I begin this dissertation by explaining and defending the moral principle noted above. I then show how this normative sentimentalist ethic handles the issues raised by factory farming and using animals for research. Next, I present the two most well-known arguments regarding the treatment of animals, Peter Singer's preference utilitarianism and Tom Regan's rights theory, as well as key objections to these theories. I follow this by showing how the version of sentimentalism presented in this dissertation overcomes the objections to the animal ethics of Singer and Regan. To conclude, I address and respond to possible criticisms of the normative sentimentalist theory itself.

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Introduction

Although metaethical sentimentalism has received quite a bit of attention in the recent past, very little attention has been given to normative sentimentalist moral theories. The reason for this might be the prevalent notion that the sentiments (i.e., emotions) are untrustworthy and so cannot be the basis of sound moral judgments. Although I cannot disagree with the idea that emotions can be unpredictable and thus ought not be the sole basis for moral judgments, I also think any moral theory that entirely excludes the emotions is inadequate.

The purpose of this dissertation is to present what I think is a particularly compelling normative version of sentimentalism inspired primarily by the moral philosophy of one of the original sentimentalists, Adam Smith. The reason for relying on Smith's sentimentalism is because his version is arguably the most complete and least problematic of all the sentimentalist theories currently available.¹

This dissertation is divided into five chapters. The first and second chapters focus on introducing, developing and defending the sentimentalist ethic I am proposing. Chapter 3 shows how this sentimentalist ethic handles the issues raised by factory farming and using animals for research. In chapter 4, I present the two most well-known arguments regarding the treatment of animals, Peter

¹ I set aside Michael Slote's recent work because although he relies on the sentimentalist theories of Hume and Hutcheson, Slote's focus is on virtue and care.

Singer's preference utilitarianism and Tom Regan's rights theory, as well as key objections to these theories. In the final chapter, I first show how the version of sentimentalism presented in this dissertation overcomes the objections to the animal ethics of Singer and Regan presented in chapter 4. To conclude, I address and respond to possible criticisms of the normative sentimentalist theory itself.

As noted, the purpose of chapter 1 is to introduce and explain normative sentimentalism. I do this by stating and then explaining each of the components of the moral principle which is the basis for this ethic: An act, or a failure to act, is morally wrong if and only if it is committed by, contributed to by, or allowed by a moral agent, and both the motive is disapproved of by the impartial spectator and any consequence is disliked by the impartial spectator. I argue that selfishness is the motive with which the impartial spectator disapproves and that a moral agent acts from selfishness when she fails to give due consideration to the relevant interests of those affected by her action(s). The consequences that are disliked by the impartial spectator are those that harm a moral agent or moral patient.

The difference between moral agents and moral patients is that moral agents are those who can be harmed and who can understand which motives are disapproved of (and which are approved of), which consequences are disliked (and which liked), and can choose whether to act (or not act) accordingly. On the other hand, moral patients are those who can be harmed but who cannot understand which motives are disapproved of (and which are approved of), which

consequences are disliked (and which are liked), or cannot choose to act (or not act) accordingly. The distinction between moral agents and moral patients is made because moral patients cannot be held morally accountable for their actions due to the fact that they cannot understand which motives are disapproved of and which consequences are disliked.

The impartial spectator, I maintain, is crucial to this theory because, although fictional, she is the final judge of motives, consequences and thus actions. She represents the viewpoint of the ordinary person when she is in the position of a non-involved spectator. So, although the impartial spectator does not possess those traits specific to the person (or people) principally involved, she does possess all the normal feelings characteristic of human nature - she possesses enough human characteristics to make her a good heuristic device, yet she is also an impartial bystander and so is able to properly evaluate actions.

The second chapter is a defense of the ethic presented in the first chapter. I defend the ethic in two ways. First, I focus on some of its theoretical merits: (1) that the emotions are a vital, but not solitary, factor in determining the morality of an action, (2) that both motives and consequences are taken into account when making moral judgments, and (3) that the impartial spectator is relied upon as a moral judge to properly evaluate motives and consequences. With respect to this last point, I clarify how the impartial spectator handles issues such as partiality (viz., moral agents who are partial to their friends and loved ones) and customs

(viz., how the impartial spectator who is situated in a society is able to get critical distance from that culture's customs, traditions and institutions). The second way I defend normative sentimentalism in chapter 2 is to explain how it renders satisfactory moral judgments in two different cases, an uncontroversial case, a random drive-by shooting, as well as a controversial case, infanticide, while showing how other major moral theories only render a satisfactory moral judgment in the uncontroversial case. In particular, I show how, according to normative sentimentalism, random drive-by shootings are morally wrong, and how it is often, but not always, the case that infanticide is morally wrong.

The primary objective of chapter 3 is to show that factory farming and using animals for research is in most cases morally wrong. To do this, I first explain both factory farm and research practices involving animals. I do this to establish the fact that animals are very clearly harmed as a result of these practices, thus showing that one of the criteria for moral wrongness is satisfied. I also establish that most of those involved with factory farming and research practices are moral agents, thereby showing that another of the three criteria for moral wrongness is satisfied. Finally, I provide evidence for the fact that the motives of most of these moral agents are disapproved of by the impartial spectator, thereby showing that in such cases the third criterion is met and that these actions are therefore morally wrong. Normative sentimentalism does recognize, however, that in some cases either the moral agent is not acting from

selfishness or that the person principally concerned is not a moral agent, but a moral patient (e.g., an infant). In these cases, the actions of these individuals are not morally wrong, even though harm is coming to the animals, because not all three criteria have been met.

Chapter 4 consists of a discussion of Peter Singer's preference utilitarianism and Tom Regan's rights theory as well as their positions regarding the practices of factory farming and using animals for research. The purpose of this discussion is to compare normative sentimentalism to these prominent theories in order to show how it is both the superior moral theory and the superior animal ethic. After describing each theory, I illustrate how each responds satisfactorily to some key objections and also how each fails to respond satisfactorily to some key objections.

According to Singer's preference utilitarianism factory farming animals and using them for research is usually morally wrong because doing so does not maximize preference satisfaction. The objections to which Singer's theory is shown to respond satisfactorily are: the "speciesism objection" according to which animals do not deserve equal consideration because they are not humans and so humans have a right to treat them as we please; the "natural predator objection" according to which there is nothing morally wrong with humans eating animals because animals eat each other (and humans when given the opportunity) and because animals are different species than humans; the "animal interests

objection” according to which the interests of animals are not as important as the interests of humans and so do not deserve the type of consideration demanded by Singer’s principle of equal consideration of interests; and the “preference satisfaction objection” according to which preference satisfaction is maximized by using factory farmed animals as food and using animals for research and therefore these practices are not morally wrong. However, it is also established that Singer’s theory does not have a satisfactory response to one significant objection, the “moral standing objection”, according to which preference utilitarianism has a number of problems concerning the moral standing of sentient beings. In particular, even though Singer claims sentient beings have moral standing superior to that of non-sentient beings, his preference utilitarianism does not go far enough in protecting them against certain types of actions, viz., it does not offer them enough protection against their being killed.

According to Regan’s rights theory, factory farming animals and using them for research is always morally wrong because in such situations the animals are not treated with the respect they are due given their moral standing as beings with inherent value. Regan’s theory has satisfactory responses to two important objections: the “supererogatory acts objection” according to which one of Regan’s primary principles seems to imply that we have strict duties to do things that most think are supererogatory and the “lifeboat objection” according to which Regan’s theory is not only speciesist, but his claim that when faced with a

situation in which one must choose whether to save a human or a dog, one ought to save the human, is in direct conflict with his own theory as killing the dog violates the rights of the dog. I then establish that there are two objections to which Regan's theory does not have satisfactory responses: the "unknown inherent value objection" according to which the failure of Regan's theory to thoroughly classify those animals with inherent value and those without results in untoward consequences and the "prohibition against aggregating harms objection" according to which it is a major problem with Regan's theory that unless the harms individuals are subjected to are equal we ought not take into account the number of individuals harmed.

In the fifth chapter I show how normative sentimentalism has satisfactory responses both to the objections to which Singer's and Regan's theories have satisfactory responses and to those to which they do not have satisfactory responses. In addition, I present several possible objections critics might have to normative sentimentalism itself. I first consider the fact that some might think that taking the life of another in order to preserve one's own life is actually selfish, contrary to what I maintain throughout the dissertation. I defend this by comparing a couple of different situations, one in which most would not argue that it is morally wrong to take a life and one in which many would be inclined to think it is wrong to take the life. I show how the circumstances are not morally different and thus how the differing judgments are not defensible. I then address

worries that might arise regarding the fact that normative sentimentalism does not require individuals to aggregate the consequences of actions in order to determine which action is the morally correct one. What I argue is that it is actually an advantage of normative sentimentalism that it does not require, but nor does it prohibit, us from aggregating consequences in many situations. Finally, I further defend the idea that there are times when it is not morally wrong to use animals for food and research.

This dissertation demonstrates not only that normative sentimentalism is a viable moral theory, but that it is superior to other normative theories and that it is superior to the most prominent animal ethics.

Chapter 1: What Normative Sentimentalism Is

1.1 Why Sentimentalism?

Before presenting the normative sentimentalist theory being argued for here, I will begin by briefly reviewing some of the literature that supports sentimentalism and an ethic that has as its foundation the emotions. I do this in order to show why we ought to be considering normative sentimentalism as a viable and important moral theory.

Although Robert Solomon does not directly advocate ethical sentimentalism, he is perhaps the sentiments' biggest contemporary advocate claiming:

Philosophy has as much to do with feelings as it does with thoughts and thinking ... To be a philosopher is to be steadfastly attentive to what it means to be human, to the passions as well as to much celebrated "rationality" ... Philosophy ... in its concern for feelings, requires not only emotional sensitivity but also an understanding of the emotions, not as curious but marginal psychological phenomena but as the very substance of life ... I do not think there is anything wrong with reason and rationality ... But when being "reasonable" means repressing, ignoring, or denigrating feeling, then philosophy has gone too far and, so far as most people are concerned, rendered itself irrelevant. (Solomon 2004, vii)

According to Simon Blackburn, who argues for metaethical sentimentalism in *Ruling Passions*, feelings of disgust, contempt, anger, or feelings of shame and guilt, along with feelings such as that of disgust at others who are not disgusted when one is disgusted or feelings of anger at those who are

calm when one is angry are “the heartland of everyday ethics” (Blackburn 2000, 12-13). He states, “To moralize ... is to insist on emotional responses” (Blackburn 2000, 13). In particular, he claims that getting rid of guilt or shame will diminish the motivation to act well and that a “central buttress of good behavior [will be] lost” (Blackburn 2000, 20).

Mary Midgley says this about the sentiments’ role in morality:

Feeling and action *are* essential elements in morality, which concentration on thought has often made philosophers overlook. Hume was right to stress them. And today there is yet strong ground for doing so. (Midgley 1981, 12)²

Although she argues that morality must consist of more than just feeling, she also argues that feelings are the raw material from which our moral principles are developed.

In *Morals from Motives*, Michael Slote argues not only for a metaethical sentimentalism, but also for an agent-based virtue ethics which is a normative sentimentalist virtue ethic. He claims that instead of reviving virtue ethics by looking to Stoicism for contemporary relevance as many virtue ethicists have recently done, one should look to the eighteenth-century British philosophers.³

He states:

[T]he idea of an agent-based virtue ethics that grounds its evaluations of actions in (evaluations of) sentiments that reflect a general concern for humanity has recently seemed to me to be a

² She is also the first philosopher that I am aware of to consider the role of feeling in our treatment of animals.

³ He refers specifically to Hume and Hutcheson.

very promising way of reviving virtue-ethics into contemporaneous relevancy. Moral sentimentalism offers virtue ethics some splendid opportunities it has previously, to a large extent, neglected. (Slote 2003, viii-ix)

Stephen Darwall, while concerned primarily with political philosophy and liberalism in particular, not only argues for the consideration of a sentimentalist ethic, but in fact claims:

We can now see ... a fascinating line of thought that leads [Adam] Smith from his distinctive form of sentimentalism, probably the most interesting version ever developed, to a kind of liberalism – “sympathetic liberalism,” as we might call it. (Darwall 1999, 140)

He continues on:

Contemporary writers on ethics who are attracted to ethics of virtue or impressed by the role of sympathy, emotion, and feeling in the moral life have generally looked to Hume for inspiration. The remarkable resources of Hume’s ethics notwithstanding, however, there are at least three reasons for taking a serious interest in Smith. First, Smith’s theory of sympathy and its role in our emotional lives is richer, more sophisticated, and, arguably, more suggestive for a wider range of issues in experimental psychology, philosophy of mind and moral psychology than is Hume’s ... Second, Smith’s theory of moral sentiments deploys this more sophisticated theory of sympathy in a way that is interesting in itself and provides an important sentimentalist alternative to Hume ... Finally ... Smith’s ethics are a model of how a sentimentalist virtue ethics can nonetheless ground a substantially liberal theory of justice. (Darwall 1999, 140-141)⁴

⁴ There is also a lot of work being done right now in moral psychology and the emotions, e.g., Prinz 2006, not to mention the interest in empathy in the philosophy of mind, e.g., Gordon 1995 and 2000.

1.2 Sentimentalist Moral Judgments

The following principle is the foundation of normative sentimentalism: An act, or a failure to act, is morally wrong if and only if it is committed by, contributed to by, or allowed by a moral agent, and both the motive is disapproved of by the impartial spectator and the act results in any consequences that are disliked by the impartial spectator. There are three conditions then that an action must satisfy in order to be morally wrong: (1) it must be committed by, contributed to by, or allowed by a moral agent; (2) the motive of the agent must be disapproved of by the impartial spectator; and (3) any consequence of the act must be disliked by the impartial spectator. If and only if all three conditions are satisfied is the act morally wrong. The purpose of this section is to describe these conditions. To this end, I will begin by explaining what motives are disapproved of by the impartial spectator. I will follow this with an explanation of the consequences that are disliked by the impartial spectator. Next, I will describe the impartial spectator and her role in this theory. I will then not only explain the difference between moral agents and moral patients, but will also show why only moral agents can be held morally accountable for their actions.

Before getting started, I want to make clear that I am focusing on what actions are morally wrong and setting aside an in depth discussion regarding those that are morally right. Of course, those actions that are morally right are those that are not morally wrong. I am not, however, going to distinguish between

those actions that are not only morally right but that we also have positive reasons to perform and those actions that are morally right but that we do not also have positive reasons to perform.⁵

1.2.1 Motives

In this section I explain which motives are approved of by the impartial spectator and which are disapproved of by the impartial spectator and why they are approved of or disapproved of by the impartial spectator. Given that what I am presenting is a sentimentalist moral theory, when I speak of motives I am referring to the passions that move us to act. Accordingly, for the purposes of the argument presented here, the terms “motive”, “passion”, “emotion” and “sentiment” are interchangeable. I want to point out, however, that not everyone uses these terms interchangeably. For example, Jesse Prinz distinguishes between emotions and sentiments claiming that sentiments are dispositions to have emotions (Prinz, 2006).⁶ I am going to set aside such discussions and use the

⁵ It is my intuition, however, that those actions that are morally acceptable and that we have positive reasons to perform are those that are committed by moral agents whose motives are approved of by an impartial spectator and the consequences of which are liked by an impartial spectator. Those actions that are morally permissible but we do not have positive reasons to perform are those committed by a moral agent and either her motives are approved of by an impartial spectator or the consequences of the action are liked by an impartial spectator. I think it is likely to be the case that those actions that are morally acceptable and that we have positive reasons to perform are those that are morally required and those that are morally acceptable but that we do not have positive reasons to perform are merely permissible or are supererogatory, depending on the circumstances.

⁶ There are also those who distinguish between “affection” and “passion” where affections are calm emotions and passions are violent emotions. See, for example, Hutcheson’s *Essay*, 28. Hume also seems to distinguish between “emotions” and “passions” by claiming that “‘Tis a remarkable property of human nature, that any emotion, which attends a passion, is easily

terms interchangeably in part because Smith often does so and in part because any such distinctions will not have a significant impact on the argument being presented here.⁷

Those motives of which the impartial spectator will approve are those of an agent with whom she sympathizes. Those motives of which the impartial spectator will disapprove are those of an agent with whom she does not sympathize (TMS I.i.3.1, TMS I.i.3.2, TMS I.i.3.9 and TMS I.i.4.4).⁸ Sympathy, according to Smith, is our “fellow-feeling with any passion whatever” (TMS I.i.1.5). To sympathize with another, we must imagine ourselves in her situation and “become in some measure the same person with [her], and thence form some idea of [her] sensations” (TMS I.i.1.2).⁹ Sympathy occurs, then, when there is an affect match between the spectator and the person principally concerned (i.e., the agent, the recipient of the agent’s action, or a by-stander). If an affect match does

converted into it, tho’ in their natures they be originally different from, and even contrary to each other” (T419). See also Hume’s *Dissertation* II.vi.1.

Please note that references to the works of Hume will follow standard conventions. For example, reference to Hume’s *Treatise* will be noted as ‘T’ followed by the page number.

⁷ That is, if Prinz is right and sentiments are different from emotions, for example, then I would merely have to stop using the terms interchangeably. It would have no substantive impact on the theory itself.

⁸ All references to Adam Smith’s *Theory of Moral Sentiments* will follow standard conventions and be noted as ‘TMS’ followed by the part number, section number, chapter number (where applicable), and paragraph number. Likewise, references to Smith’s *Inquiry into the Nature and Causes of the Wealth of Nations* will be noted as ‘WN’ followed by the book number, chapter number, and paragraph number and references to Smith’s *Lectures on Jurisprudence* will be noted as ‘LJ’ followed by the section number and paragraph number. Appropriate references will be made to Smith’s theory where it has had a significant impact on the theory presented here. I will also indicate the ways in which the theory presented in the dissertation differs from Smith’s theory where it is of particular interest.

⁹ See also TMS I.i.2.4 and TMS I.i.4.6.

not occur when the spectator imagines herself in the situation of another, then the impartial spectator does not sympathize with the person principally concerned.

To be clear, sympathy does not occur if by mere coincidence there is an affect match between two people.¹⁰ The fact that two people just happen to be experiencing anger at a given time, e.g., they have suffered a similar fate, is not enough to say that one is sympathizing with the other. Sympathy occurs only when one person, e.g., a bystander, imagines herself in the situation of another, e.g., an agent, and experiences the passion(s) the agent is experiencing.¹¹

[T]hat there may be some correspondence of sentiments between the spectator and the person principally concerned, the spectator must ... endeavour, as much as he can to put himself in the situation of the other, and to bring home to himself every little circumstance of distress which can possibly occur to the sufferer. (TMS I.i.4.6)

For example, if you are experiencing anger and I imagine myself in your situation and experience anger as well, then I can be said to be sympathizing with you. If I

¹⁰ I am using the term “same” here rather loosely. Two people can never feel identical passions (that is the passions are neither numerically identical nor are they qualitatively identical), but it is possible for two people to feel passions similar enough that we can call them the same (TMS I.i.1.2 and TMS I.i.4.7).

¹¹ Currently, there is much discussion occurring as to the connection between feelings and emotions, i.e., whether feelings are or are not emotions (for example, Prinz 2005). Although I do not think any possible distinctions between feelings and emotions would have a significant impact on the argument being presented here, I will speak of “experiencing” emotions rather than “feeling” emotions in order to avoid any confusion or controversy. Some of the sources I cite, however, do speak of “feeling” emotion and I will remain true to them and their own terminology. But, again, in doing so, I am not promoting any particular position.

I will use the term “agent” to refer to individuals who commit some actions or another but whose moral accountability is unknown and inconsequential to the point at hand. I will use the term “moral agent” to refer to individuals who are morally accountable for their actions. The distinction between moral agents and moral patients is explained in detail in section 1.2.4.

imagine myself in your situation and do not experience anger, then I am not sympathizing with you.

Today we consider this act of the imagination to be empathy, a “feeling-with” others, whereas sympathy is thought to be a “feeling-for” others. Michael Slote says, “feeling someone else’s pain or suffering is feeling ‘empathy’ for the person in question, whereas feeling *for* someone else’s pain or suffering is an example of a feeling of ‘sympathy’ for that person” (Slote 2004a, 299; original emphasis) and that “[e]mpathy involves seeing or feeling things from the standpoint of others; in some sense ... empathy involves identifying to some extent with another person” (Slote 2004a, 300).¹² According to Alvin Goldman, “[c]entral cases of empathy ... may arise from simulation ... from imaginatively adopting the perspective of another” (Goldman 1992, 29) and “[p]aradigm cases of empathy ... consist first of taking the perspective of another person, that is, imaginatively assuming one or more of the other person’s mental states” (Goldman 1993, 351). Martin Hoffman, a prominent psychologist who specializes in empathy, claims “empathy [is] defined as an affective response more appropriate to another’s situation than one’s own” (Hoffman 2000, 4).¹³ The difference in terminology is likely due to the fact that the term “empathy” did

¹² See also Slote 2004b, 5-6.

¹³ Psychological experiments not only support the belief that we are capable of empathy (and that it is a deliberate act of the imagination), but also that such acts produce a greater response in the observer than just watching does, e.g., Hoffman 2000 and Goldman 1992 and 1993.

not appear until the early 20th century (Slote 2004a, 297; Slote 2004b, 5; and Richmond, 245). Although I think a good argument can be made for using the term “empathy” instead of the term “sympathy” in this theory, given that this ethic is inspired by Smith’s moral theory and given that he uses the term “sympathy”, I will continue to use the term “sympathy” to denote empathic acts of the imagination.

One motive the impartial spectator will never approve of is selfishness. An individual is motivated by selfishness when it causes her to fail to give due consideration to the relevant interests of the moral agents or moral patients who might be affected by the consequences that are a result of the motive. Selfishness can occur either when the individual is so consumed with her own interests, i.e., her own trivial interests (see below), that she fails to give due consideration to the relevant interests of those affected or when she is merely being thoughtless and so fails to give due consideration to the relevant interests of those affected. The necessary condition for selfishness is the agent’s failure, for whatever reason, to give due consideration to the relevant interests of those affected.

Excessive self-love often causes an individual to act from selfishness, but it is neither a necessary nor a sufficient condition for it.¹⁴ The impartial spectator will never experience this passion when she imagines herself in the situation of

¹⁴ Smith refers to selfishness as a “misrepresentation of self-love” (TMS III.3.4) and he thinks that keeping it in check “constitutes the perfection of human nature” (TMS I.i.5.5). See also TMS II.ii.2.1.

the agent, and thus she will never sympathize with an agent who is overcome with and moved by it. The impartial spectator will never sympathize with excessive self-love because she cannot sympathize with passions that are either “too high” (or “too low”) (TMS I.ii.intro.1) and so the agent must “humble the arrogance of his self-love and bring it down to something which other men can go along with” (TMS II.ii.2.1).¹⁵ So, self-love itself is not objectionable. It is a passion with which the impartial spectator can sympathize, as long as it is not excessive.

Excessive self-love is not a necessary condition for selfishness because an individual can act from selfishness without acting from excessive self-love. For example, an individual who kills a dog to feed her children merely because they enjoy the taste of dog is not acting from excessive self-love, although she is not giving due consideration to the relevant interests of those affected by her action.¹⁶ Excessive self-love is not a sufficient condition for selfishness either because an individual can be experiencing excessive self-love and yet not act from it. For example, I could currently be experiencing excessive self-love and yet not be engaging in any activity in which I am not giving due consideration to the

¹⁵ See also TMS I.i.3.8, TMS I.i.4.7 and TMS I.i.5.1. Although it is not entirely clear what Smith means by when he says that some passions are “too high” or “too low”, I think it is safe to say that he means something that is at the very least similar to what Hume and others have in mind when they speak of violent and calm passions. I discuss this in further detail below.

¹⁶ That this is the case will be further defended in chapters 3 and 5.

relevant interests of others, e.g., I could be sitting here alone in my house writing my dissertation.¹⁷

When speaking of selfishness, the terms “due consideration” and “relevant interests” are left intentionally vague. This is because circumstances will dictate not only which interests are relevant, but also the extent to which the interests ought to be given consideration. Examples here and later in the dissertation will help clarify what is meant by these terms. What can be said at this point is that relevant interests are the interests one has in maintaining one’s physical, psychological and material well-being. Less significant interests, or trivial interests, include the interest in indulging the bodily pleasures.¹⁸ For example, choosing not to save a drowning child because you will miss your favorite television show is not giving due consideration to the relevant interests of others, i.e., in doing so one is not giving due consideration to the child’s and her family’s interest in her continuing to live as compared to the consideration you are giving to your trivial interest in not missing American Idol. An agent’s

¹⁷ As will be explained below, although by sitting here writing my dissertation I might be allowing harm to come to others, I am not necessarily failing to give due consideration to their relevant interests. I also want to make explicit a quality of selfishness which I think has been implied by what has been said. Excessive self-love is not always violent. Borrowing from the taxonomy of Hume and others, it is a strong passion (as compared to a weak one) that can be either calm or violent (Hume T276 and T344-T345 and Hutcheson *Essay*, Section II: to be clear, I am not remaining entirely true to the distinctions each makes). Excessive self-love is strong in that it overpowers all other passions or is at the core of all other passions. It is calm when it overpowers the other passions but does not significantly affect the agent’s overall demeanor, e.g., when I serenely take my sister’s iPod without asking her all the while knowing she is planning to use it. It is violent when it does significantly affect the agent’s overall demeanor, e.g., I smash my sister’s iPod against the wall because she will not let me borrow it.

¹⁸ One might think of trivial interests in the same way that Mill thinks of the lower pleasures, see Mill 2003, 100.

stealing another's iPod just so she can listen to music on the bus on the way to class is also an act motivated by selfishness (and by excessive self-love). The agent's motive causes her to not give due consideration to the relevant interests of the owner of the iPod. The agent is not giving due consideration to the owner's interest in maintaining possession of her well-earned property and her interest in not being violated while giving substantial consideration to her own trivial interest in owning something that she did not work for the likes of which merely satisfies a bodily pleasure. Therefore, it is a motive of which the impartial spectator will disapprove (as she will not be able to sympathize with the agent who is experiencing it).¹⁹

It is important to be clear that I am not claiming that there are two distinct classes or levels of interests, significant and trivial. Rather, all that I am saying is that there is a continuum of interests with some interests being more significant than others and that some of our less significant interests are often trivial in nature.

There will of course be situations in which the interests of all those impacted by a particular action are relevant. In such cases, it will need to be determined which relevant interest ought to be given the greatest consideration.

¹⁹ So, by "material well-being" I do not mean that the interest in acquiring a large quantity of possessions is a relevant interest; I would actually classify that as a bodily pleasure. Rather, what I mean by "material well-being" is having adequate food, clothing and shelter. However, if one does have a lot of belongings, one certainly has an interest in maintaining possession of them.

So, for example, if I am in a situation in which I am forced to either torture you (or allow another to torture you) or forfeit my life, the impartial spectator will not disapprove of my torturing you in order to save my life. Or, if I am forced to either steal from you or be physically tortured, the impartial spectator will not disapprove of my stealing from you in order to prevent myself from being tortured. Although such actions result in unpleasant consequences, the impartial spectator will sympathize with the agent's motive as she was giving due consideration to the relevant interests of those affected by the situation.

There will also be situations in which the interests at hand are equally relevant. For example, imagine a state of affairs in which you are forced to kill one of two normal adult humans who have very similar lives. In a situation like this, both humans have an equally relevant interest in living. Given that one or the other must be killed, is it not wrong to choose based on some other, perhaps secondary, reason, e.g., one of them is a charitable person and the other is not, one is a family member and the other is not, etc.

Additionally, to speak of "equally relevant interests" or "equivalent interests" is not to say that they must be identical or exactly alike. What is meant by "equally relevant interests" or "equivalent interests" is that they are similar enough that they deserve comparable consideration. For example, the interest a normal adult human has in not being so severely tortured that she is left in a near vegetative state is for all intents and purposes equivalent to the interest a normal

adult human has in not being killed. Likewise, the interest someone has in not having her home vandalized is equivalent to another's interest in not having her car stolen.²⁰

Injuring or killing someone who is threatening your life is also not an act motivated by selfishness. An act of self-preservation is never an act of selfishness in part because “[t]he preservation and healthful state of the body seem to be the objects which Nature first recommends to the care of every individual” (TMS VI.i.1), but also because in doing so one is not putting her less significant or trivial interests before the more significant interests of another.²¹ In such situations, an agent may be giving greater consideration to her own interests than to those of another, but as was noted above the impartial spectator will not disapprove of her doing so.²² However, as was also noted above, there are times when an agent thinks only of herself (or perhaps a loved one) in situations which are not a matter of life or death. In these situations, the agent's motive will be disapproved of by the impartial spectator. As Smith says, “to disturb [another's] happiness merely because it stands in the way of our own ... is what no impartial spectator can go along with” (TMS II.ii.2.1).

²⁰ The terms “equally relevant interests”, “equivalent interests” and “equally significant interests” are used interchangeably throughout the dissertation.

²¹ See also TMS II.i.5.10.

²² This is not to say that someone who does choose to save another's life rather than her own has done something morally wrong.

In order to give due consideration to the relevant interests of others one must have a good understanding of those interests. Moral agents have a responsibility to have as much knowledge as can be expected about those who will be affected by their actions, especially when getting this information is very little work. For example, moral agents will generally be aware of the interests of many moral patients, e.g., infants and their interest in living, being healthy, being warm, etc. Moral agents will also generally be aware of the interests of other moral agents, e.g., their interest in living, being healthy, being warm, etc. Of course, the interests of any particular moral agent or moral patient will vary from situation to situation and so those interests and the extent to which a moral agent should be aware of those interests will be determined by the impartial spectator (see below). Failing to have as much knowledge as can be expected, being neglectfully ignorant, is selfish because by failing to do so the moral agent is only thinking of herself and her own interests and she is not giving due consideration to the relevant interests of those who will be affected by her action(s).

To help further elucidate when an agent is and is not giving due consideration to the relevant interests of others (including when she is neglectfully ignorant and when she is not), I will briefly consider some challenging examples, viz., that of a dutiful Nazi, that of a religious zealot, and that of an irresponsible or ignorant but well-meaning scientist. It will be shown that in each case, an individual is harmed by a moral agent's actions; thus two of

the criteria for moral wrongness are met. What needs to be determined in each case, then, is whether or not the agent has acted from selfishness.

The motive of the dutiful Nazi will not be approved of if in following her duty she failed to give due consideration to the relevant interests of others.²³ If it is the case that she was not in fear for her life or the lives of her loved ones, but acted as she did merely because she was told to do so (whether in acting she actually harmed or killed members of any of the targeted populations, or whether she contributed to the harming or killing of the members of the targeted population, or whether she allowed members of the targeted population to be harmed or killed), then the impartial spectator would disapprove of her motive. It is not enough, according to this theory, for the dutiful Nazi to act based on duty alone and have her actions be morally acceptable.²⁴ Assuming the dutiful Nazi is a moral agent, and not merely a moral patient, she must, as every moral agent must, give due consideration to the relevant interests of others. Failing to do so entails that she has acted from selfishness and the impartial spectator will not sympathize with her and will therefore disapprove of her motive. However, if the dutiful Nazi acted as she did because she was in fear for her life or the lives of her loved ones, then the impartial spectator will not disapprove of her motive because

²³ Throughout the dissertation I use phrases such as “the motive is disapproved of” and “the consequences are disliked”. These are merely shorthand for “the motive is disapproved of by the impartial spectator” and “the consequences are disliked by the impartial spectator”, respectively.

²⁴ By “duty” I mean following the orders of one’s superiors, not something like Kantian duty.

in such a situation she was giving due consideration to the relevant interests of those affected by her action.

Of course, the problem with the case of the dutiful Nazi is that she could very well have been genuinely convinced that she was not failing to give due consideration to the relevant interests of the those she was harming, or those whom she contributed to the harming of, or those she allowed to be harmed. In fact, she could very well have believed that the members of targeted population had no interests or that their interests were not worthy of any kind of consideration. If it is the case that the dutiful Nazi genuinely believed that all the interests of the members of the targeted population were trivial, or that they had no interests at all, then her motive would not have been disapproved of by the impartial spectator. With this being said, however, I also want to make clear that the impartial spectator will be making this determination from the standpoint of a well-informed spectator (see below). Given this, the impartial spectator will demand that the agent, in this case the dutiful Nazi, be well-informed as well (at least to the extent that she can avail herself of available information). So, the motive of an agent will be disapproved of if she is neglectfully ignorant, but not if she is, say, brainwashed.

The case of the religious zealot is very similar to that of the dutiful Nazi. If such a person has been brainwashed, or something of the like, then the impartial spectator will not disapprove of her motive. If such a person is acting from

neglectful ignorance, then the impartial spectator will disapprove of her motive as she will be acting from selfishness. Take, for example, a young woman who has been brainwashed since birth to believe that god has commanded her to kill another and that failing to do so would result in devastating consequences for herself, e.g., she would be condemned to spend eternity in hell. Assume that throughout her whole life her only interactions with others have been with those who have taught her to believe this. If she acts on this belief and in fact kills another, the impartial spectator will not disapprove of her motive. This is because the young woman did not act from selfishness. She acted according to her own relevant interests; it is just an unfortunate fact that in choosing her own relevant interests over the equally relevant interests of another she had to kill the other.²⁵

On the other hand, religious zealots who concoct stories that they know are untrue and use these stories to brainwash individuals and get them to follow their ideals, e.g., cult leaders, are acting from selfishness when they convince their flock to murder others in the name of a (fictional) deity. Those religious zealots who kill others because they believe with all sincerity that god has spoken directly to them and has ordered them to do so will not have acted from selfish motives. However, in most, if not all, such situations, this type of zealot is actually a moral

²⁵ I admit that I am taking for granted that spending eternity in hell and death are equivalent. This might not be the case, of course, but for the purposes of the example, I do not think it matters one way or the other. We can just assume that they are equivalent.

patient and not a moral agent (as they have some sort of psychological problem) and as we will see below their action will not be judged as morally wrong.²⁶

As was the case with the dutiful Nazi and the religious zealot, the motives of an irresponsible or ignorant scientist will be disapproved of if she does not give due consideration to the relevant interests of those who might be affected by her action (in other words, if she acts from selfishness). If a scientist performs research on subjects about whom she has little information because she has not availed herself of the available information and thus cannot properly evaluate their interests, then she has acted from selfishness. If a scientist performs research on subjects about whom she is well-informed, but she is ill-informed about the possible results, then she has acted from selfishness. For example, let us consider the case of a scientist who is committed to finding a cure for cancer. Let us assume that she does at least some research and finds that no one has tried subjecting cancer patients to extremely high or low temperatures for extended periods of time in order to kill the cancer cells. Let us also assume that she has no good reason to think that subjecting cancer patients to extremely high or low temperatures for extended periods of time will actually kill the cancer cells. She has found nothing in her research that has given her good cause to believe it might work. She just tries this experiment because no one has done it. In a situation like this, the impartial spectator will not approve of her motive as the scientist has

²⁶ This is not to say there is not a god. It is merely to say that most who believe in god do not believe god speaks to people in these ways or gives such commands.

not given due consideration to the relevant interests of the others involved (for, as is well known, being subjected to extremely high or low temperatures can be terribly harmful if not lead to death). If, however, our scientist has determined that there is a common thread in all the medications that are at the very least somewhat successful at helping to kill cancer cells and she tries this on cancer patients and they all become terribly ill or die, she has not acted from selfishness. In this case, she had good reason to believe that this pharmaceutical would work. Furthermore, in trying to find a cure for cancer, she was taking into consideration the relevant (and significant) interests, e.g., the interest in living, of those involved, e.g., the research subjects as well as the potential beneficiaries of the research. The impartial spectator will not disapprove of the agent's motive just because she failed to get the results she anticipated. Again, what is at issue here is the agent's motive. If the scientist sincerely believes that by subjecting one or more research subjects to pain and suffering she will be able to reduce the pain and suffering (and possibly deaths) of others, then she has not acted from selfishness.²⁷

1.2.2 Consequences

In this section, I explain which consequences are disliked by the impartial spectator and why they are disliked by her. In doing so, I will also address

²⁷ I think the case of the scientist is very complicated and there is much more to say about it than what I have said here. I will say more about this particular case in chapter 3 when I address the morality of the use of animals for research.

consequences which are liked by the impartial spectator, but we should keep in mind that our primary concern is with those consequences which are disliked by the impartial spectator.

Unlike the sympathy, what I will call “sympathy proper”, required for the impartial spectator to approve of the motive of the agent (if sympathy does not occur then the motive is disapproved of), only illusive sympathy is needed for the impartial spectator to like or dislike the consequences of an action (TMS II.1.5.11). Illusive sympathy occurs when the impartial spectator imagines herself in the situation of another and experiences a passion the other is not experiencing, but which she would be experiencing were she appropriately situated, e.g., if she were in the right frame of mind, if she were considering the relevant facts, etc.²⁸ That is, if the recipient of a good deed does not like the consequences, the impartial spectator can still like them (upon imagining herself in the recipient’s situation) and thus judge the consequences as liked consequences. Similarly, if the recipient of a bad deed does not herself dislike the consequences, the impartial spectator can still dislike them and judge them as disliked consequences. Of course, sympathy proper can occur between the recipient and the impartial spectator, i.e., both may like or dislike the consequences, but the point is that

²⁸ Although the term “illusive sympathy” does not appear until TMS II.i.5.11, Smith seems to have it in mind when he speaks of, among other things, a mother being able to sympathize with her infant even though the infant cannot have the fear of disease that its mother has and when he speaks of our being able to sympathize with the dead (TMS I.i.1.10-13).

sympathy proper is not required for the consequences to be judged by the impartial spectator; all that is required is illusive sympathy.

To be clear, sympathy proper is required in order for the impartial spectator to approve of the motive of the agent. There must be an affect match between the impartial spectator and the agent when the impartial spectator imagines herself in the situation of the agent in order for the impartial spectator to approve of the agent's motive. If there is not an affect match, then the motive is disapproved of by the impartial spectator. It can be said that illusive sympathy occurs when the impartial spectator disapproves of the motive as she is experiencing what the agent ought to be (or have been) experiencing. However, it is important to keep in mind that it is because the agent is experiencing one thing and the impartial spectator another that the impartial spectator disapproves of the motive. In contrast, it is not necessarily the case that because the impartial spectator is experiencing one thing and the recipient another that the impartial spectator dislikes the consequences. That is, it is not necessary for there to be an affect match between the impartial spectator and the recipient for the impartial spectator to like the consequences, although there very well might be. For example, if a recipient of an act has been treated well and so likes the consequences and the impartial spectator imagines herself in the situation of the recipient and likes the consequences as well, then not only is there an affect match between the impartial spectator and the recipient (the impartial spectator

sympathizes properly with the recipient), but then we can also say that the consequences are liked (because the impartial spectator likes them). Similarly, if the recipient has been treated poorly, say she is harmed in some way, and does not like the consequences and the impartial spectator imagines herself in the situation of the recipient and does not like the consequences, then not only is there an affect match between the impartial spectator and the recipient (the impartial spectator sympathizes properly with the recipient), but we can say that the consequences are disliked. On the other hand, if, for whatever reason, the recipient does not like the consequences that the impartial spectator likes when the impartial spectator imagines herself in the situation of the recipient (there is no affect match between the recipient and the impartial spectator), the consequences are still liked (as it is the judgment of the impartial spectator that we rely upon) and the impartial spectator is said to sympathize illusively with the recipient. If the recipient likes the consequences that the impartial spectator dislikes when the impartial spectator imagines herself in the situation of the recipient (again, there is no affect match between the two), then the consequences are disliked (as it is the judgment of the impartial spectator that we rely upon) and the impartial spectator is said to sympathize illusively with the recipient. We rely on the impartial spectator's reactions to determine whether the motive is approved of or not and whether the consequences are liked or not, but an affect match between the impartial spectator and the person principally concerned (sympathy proper) is required only for the

motive to be *approved* of (if there is no affect match between the agent and the impartial spectator than the motive is disapproved of); it is not required to determine whether the consequences are liked or disliked (all that is needed is illusive sympathy).

So, even if the recipient does not experience pain when it is inflicted upon her, say she is comatose but someone is cutting her fingers off one by one, or she is not unhappy when someone steals something from her, say that the iPod of our comatose victim is stolen but she does not realize it has been stolen, the impartial spectator can still be said to sympathize (illusively) by experiencing pain or by disliking the fact that the iPod was stolen as the recipient would feel pain or dislike the consequences were she capable (TMS ii.i.5.1). What matters when determining whether the consequences are liked or disliked, is whether the impartial spectator dislikes the consequences, even if she does not sympathize properly, but rather only sympathizes illusively, with the passions of the recipient of the action.

It is possible for the impartial spectator to like a some consequence(s) of an act and yet dislike another some other(s). However, if any consequence of an action is disliked by the impartial spectator, then the third condition for moral wrongness, that at least one consequence is disliked, has been met. So, the impartial spectator is not aggregating the consequences and then determining whether as a whole they are liked or disliked. Each consequence is considered

individually. (If there is one disliked consequence, then the impartial spectator determines whether the other two conditions for moral wrongness have been satisfied in order to determine whether the act is morally wrong or not. Again, if all three conditions are satisfied, then the action is morally wrong. If even one of the conditions is not met, then the action is not morally wrong.)

Consequences that are disliked are those that are harmful to the recipient. A recipient can be harmed in any number of ways depending on the type of being she is. A normal adult human being can be harmed in several ways: physically (e.g., by being subjected to pain and suffering), psychologically (e.g., by being subjected to stress, duress, or by restraining her liberty), and materially (e.g., by having her possessions stolen or having her property stolen).²⁹ As with normal adult human beings, normal infant human beings can be harmed physically and psychologically (e.g., by being subjected to pain and suffering, by being subjected to duress or fear, although we would be hard pressed to say that their liberty can be restrained). More often than not normal human infants cannot be harmed materially as most infants do not possess property. Of course, some infants might have trust funds or other kinds of inheritances or property that can be stolen and if so then in fact they can be harmed materially. A woman can be harmed physically and psychologically if she is forced to carry a fetus that is the result of rape, but a man cannot be harmed in these ways, at least not with respect to

²⁹ In LJ Smith explains how rights come to be and so how one can be injured by a violation of these rights (LJ i.12-26).

physical harm, as men are not capable of carrying fetuses.³⁰ So, the impartial spectator will take into account the type of thing a being is as well as its circumstances in order to determine if the consequences are harmful.

Although “harm” is a much debated concept, it is generally accepted that experiencing unnecessary pain and suffering as well as death are sufficient conditions for an individual to be thought to be harmed. I want it to be clear, however, that I am not limiting the conditions for being harmed to just unnecessary pain and suffering and death. As noted above, the ways a being can be harmed depend on the type of being it is. Of course, this concept is worthy of much more attention than I am currently giving it. All that is needed for the purposes of this argument is for us to have at least a basic understanding of what is meant by “harm”.

1.2.3 The Impartial Spectator

The impartial spectator, although a fictional device that is used in my theory as an expository tool, is the final judge of motives, consequences and, thus, actions. She represents the viewpoint of the ordinary person when she is in the position of a non-involved spectator. So, although she does not possess those traits specific to the person (people) principally involved, she does possess all the

³⁰ It might be the case that the rapist is harmed psychologically if the woman he has raped is forced to carry the fetus to term. And it might be the case that the other males in her life will be psychologically harmed if she is forced to carry the fetus to term as might the other females in her life.

normal mental capacities and states characteristic of human nature. The impartial spectator possesses enough human characteristics to make her a good heuristic device, yet she is also an impartial bystander and so is able to properly evaluate actions. Furthermore, she is well-informed as she knows the relevant facts of the situation and she has no trouble determining whether or not she has all the relevant facts because they are those that would be important to her were she actually the agent or the recipient. Yet, the impartial spectator is not omniscient and so is not the perfect moral judge in this sense of the term “perfect”. She is perfect, however, in that her reactions to particular acts are perfectly indicative of their moral quality.

For those familiar with ideal observer theories, I want to make clear that although the impartial spectator and the ideal observer do have some traits in common, (viz., they both judge from an impartial point of view), there are significant differences between them. As noted above, the impartial spectator, unlike most ideal observers, does not necessarily possess *all* the facts. Roderick Firth argues that the ideal observer is omniscient (with respect to non-ethical facts) as well as omnipercipient (which means she has unlimited powers of imagination), disinterested (which means she is entirely lacking in particular interests), and dispassionate (Firth 1952). The impartial spectator does not possess “superhuman powers of thought, superhuman knowledge and no human weakness” as R.M. Hare’s ideal observer does (Hare 1981, 44). Furthermore, as

was noted, the impartial spectator is not “incapable of experiencing any emotions at all” as is Firth’s ideal observer (Firth 1952, 340). In criticism of ideal observer theories, Richard Brandt specifically points out that (unlike the impartial spectator) the ideal observer’s lack of emotional responses (or, rather, her inability to emotionally respond) makes it difficult for us not only to trust her judgments, but to consider them as definitive of morality (Brandt 1955, 226-228). In addition, the more we build into the definition of the ideal observer, the less useful it becomes as a heuristic device (Walker, 766-768). The impartial spectator does not fall prey to these problems because she is ultimately more human-like than not.

Some might worry that the impartial spectator’s judgments cannot be impartial because she is situated in a society and like all members of a society she is indelibly influenced by that society. It might be argued that just as non-fictional individuals have a difficult, if not impossible, time getting critical distance from their society’s existing institutions, customs, and traditions, the impartial spectator will also have a difficult, if not impossible, time getting critical distance from her society’s existing institutions, customs, and traditions. These worries are misguided. The impartial spectator is by nature impartial and so she will not have trouble getting the appropriate critical distance. What is attractive about the impartial spectator presented here is that she is able to take into account the current conditions of a society while not being prejudiced towards its

institutions, customs, and traditions. So, she can allow for capitalism and private property while seeing the benefits of more communal ideas, for example.³¹

Further explanation and defense of the impartial spectator, especially with respect to partiality, relativism and custom, are offered in section 1.3 as well as in section 2.1.3.

1.2.4 Moral Agents and Moral Patients

As stated above, only the actions of moral agents can be judged as morally wrong. Moral agents are those who can be harmed and who can understand which motives are approved of (and which are not), which consequences are liked (and which are not), and can choose whether to act (or not act) accordingly.

Moral patients are those who can be harmed but who cannot understand which motives are approved of (and which are not), which consequences are liked (and which are not), or cannot choose to act (or not act) accordingly.³²

It is necessary to distinguish between moral agents and moral patients, and to do so in the way I have done, because it is absurd to hold moral patients morally accountable for their actions. If a moral patient harms another, for any reason, including selfishness, she will do something that the impartial spectator

³¹ This is not to say that she will accept the use of nuclear weapons in war; this remains to be seen.

³² The class of moral agents shares at least one characteristic, that they can be harmed, with the class of moral patients, but these classes are in fact two distinct classes. From this point forward, the term “moral agent” will refer to an agent whose actions can be judged as morally wrong, whereas the term “agent” will refer to either a moral agent or moral patient who commits an action.

will dislike and perhaps disapprove of, but this is not to say that she has done something morally wrong. I think this is in harmony, at least for the most part, with our considered judgments regarding such matters. Although we discourage moral patients, whether we classify them as I have or in some other way, from harming others and although we often punish them for harming others, I think we would be hard pressed to say that they do something *morally* wrong when they commit acts that have consequences that are disliked when they do not understand what they have done or when they do not intentionally choose to act from motives that are disapproved of.³³

The class of moral agents includes, but is not necessarily limited to, normal adult human beings. The class of moral patients includes, but is not necessarily limited to, infants and young children, the senile, the mentally enfeebled, the psychologically compromised, and many, if not most, animals.³⁴ Things that are clearly not moral agents or moral patients are inanimate objects, e.g., chairs, houses, automobiles, computers, etc. Things like plants and single-celled animals are clearly not moral agents, but I think it remains to be seen whether or not they are moral patients. However, this is not something I will

³³ Smith distinguishes not between moral agents and moral patients, but between proper objects of resentment and non-proper objects of resentment (e.g., TMS II.iii.4-7).

³⁴ Smith agrees with this distinction and for similar reasons (LJ ii.178-179).

resolve in this dissertation.³⁵ What matters for the purposes of this dissertation is that factory farm animals and research animals clearly fall into the category of moral patients as they can be harmed. This will be discussed in further detail in chapter 3.

1.3 Further Considerations

In this section, I will show how normative sentimentalism handles the issues of partiality, relativism and custom.

1.3.1 Partiality

This sentimentalist theory allows for some partiality toward our friends and family, without permitting every action committed because of such biases. That is, the impartial spectator will not condone our selfishly harming, or our selfishly contributing to or allowing another to be harmed, on behalf of a loved one or by a loved one. However, we are permitted to favor our loved ones when making moral decisions when in doing so we do not neglect to give due consideration to the relevant interests of others. For example, if my year-old nephew and another year-old infant are trapped in a burning building and I choose to save my year-old nephew, I will not have done anything morally wrong. This is because although the impartial spectator dislikes the fact that the other infant

³⁵ I think that such a determination will require a more thorough understanding and consideration of harm. If these things can be harmed in relevant ways, then they are moral patients. If not, then they are not moral patients.

died as a result of my action, I did not leave him to die because of selfishness (and so the impartial spectator does not disapprove of my motive) as I did not fail to give due consideration to the relevant interests of those who will be affected by my act: my nephew, his loved ones, the other infant and his loved ones. Rather, I gave all relevant interests due consideration, but had to make a decision and chose my nephew because of the fact that he is my nephew. This is not to say that it would be necessarily morally wrong for me to have saved the other infant. Again, as long as I gave due consideration to the relevant interests of those affected by an action, I have not acted from selfishness. On the other hand, were I to allow my nephew to set fire to another infant because I knew he would enjoy it or because he would have a tantrum if I did not permit it, I would be allowing him to commit an act with disliked consequences for selfish reasons. I would not have given due consideration to the relevant interests of the victim or his loved ones. The infant's interest in living, his interest in avoiding the pain and suffering he would be subjected to were he set on fire, and his family's interest in avoiding the pain and anguish that they would suffer as a result of his death are relevant interests, whereas my nephew's enjoyment of watching someone on fire or my desire to avoid his tantrum are trivial interests.

Of course, to say that something is natural is not to say that it is morally acceptable. In chapter 2, I will defend the fact that it is morally acceptable to be partial towards our loved ones, at least to some extent.

1.3.2 Relativism

Although every action that harms a moral agent or moral patient will have at least one consequence that is disliked by the impartial spectator, it is not necessarily the case that every such action will be morally wrong (because it is not true that every action that results in disliked consequences is motivated by selfishness). This does not mean that normative sentimentalism is a version of moral relativism. According to relativism, any action or practice is acceptable as long as it is accepted by its society or culture. However, because the judgments of the impartial spectator are determined by whether or not the motives of a moral agent are selfish (and thus whether or not they are disapproved of by the impartial spectator), and whether or not the consequences are harmful to a moral agent or moral patient (and thus whether or not they are disliked by the impartial spectator), there are certain motives and consequences that will be disapproved of and disliked by the impartial spectator in any and every society and culture. For example, rape and random cruel acts of any kind that are committed by, contributed to by, or allowed by a moral agent will be morally wrong no matter what culture one is in as the motives are disapproved of and the consequences are disliked by the impartial spectator. The motives are disapproved of because they are selfish in nature. In committing such acts, one is giving greater consideration to trivial interests, e.g., sexual pleasure or whatever the case might be, than to more significant interests, e.g., the interest in maintaining one's psychological and

physical well-being. The consequences of such acts are disliked because they harm other moral agents or moral patients. It might be the case, as will be discussed in greater detail below, that in one situation a certain act is judged as morally acceptable and in another situation the same act will be judged as morally wrong depending on the motives and circumstances of the agent in each situation. For example, stealing a car because you like it is morally wrong whereas stealing a car to avoid being raped is not. Similar actions in different circumstances will permit different moral judgments, but this does not entail that anything goes.

1.3.3 Custom

Although the impartial spectator will be sensitive to and will take into consideration societal and cultural variations, she will not accept custom as an excuse for immoral behavior. That is, it might be the case that at one point in a society's history it was necessary for parents to take the lives of their children. For example, in his book on the history of infanticide, *Hardness of Heart/Hardness of Life*, Larry Milner explains that "self-survival often involves seeing a child as an adversary in competition for limited assets" (Milner, 10) and notes that in every day and age parents have killed their children, or at the very least abandoned them, in order to ensure their own survival (Milner, chapters 1-5). Adam Smith also recognized this: "The extreme indigence of a savage is often such that he himself is frequently exposed to the greatest extremity of hunger, he

often dies of pure want, and it is frequently impossible for him to support both himself and his child” (TMS V.2.15). Smith continues on by claiming that a person being chased by an enemy that cannot be avoided would be excused for abandoning her child because it slowed her down and put her own life in jeopardy. The sentimentalist ethic presented here agrees with this position. Although the impartial spectator will dislike the consequences of abandoning the child in such situations, she will not disapprove of doing so because the parent does not act from selfishness. In neither case (that of abandoning the infant because there are not enough resources or because the parent is being pursued by an enemy) does the parent fail to give due consideration to the relevant interests of the moral agents and moral patients affected by her act.³⁶ In these types of circumstances, the parent has not given greater consideration to less significant or trivial interests than to more significant interests. In such situations, either the parent, or child, or both will die and the parent must make a decision and being motivated by self-preservation is not selfish, as was explained above.

According to the sentimentalist theory presented here, the problem morally with infanticide arises when conditions change and parents are abandoning their children merely because it has become custom to do so. Both Smith and Milner note that in ancient Greece infanticide was permitted merely

³⁶ Milner also notes that killing or abandoning one’s own child in order to preserve one’s own life has historically often been met with acceptance (see chapters 1-5) along with little punishment, if any at all.

because it was more convenient for parents to kill their children than to provide for them (TMS V.2.15 and Milner, 23-24). Such actions are morally wrong because all three conditions for moral wrongness are met: the agent's committing the acts are moral agents, the consequences are disliked by the impartial spectator because they are harmful to moral patients, and the moral agents' motives are disapproved of by the impartial spectator because the motives are selfish (the moral agents do not give due consideration to the relevant interests of those affected by their acts). That is, just because it might be a bit of a burden to care for a child, e.g., one has to make sure the child is fed and clothed, one's preferring to enjoy the freedom of being childless rather than taking care of these responsibilities and so ignoring the infant's interest in not being harmed is giving greater consideration to less significant or trivial interests than to more significant or relevant interests. Therefore, as the infanticide example shows, according to normative sentimentalism, custom is no excuse for immoral behavior.³⁷

1.4 Moral Rules

It might be argued that a fundamental problem with this theory is the difficulty in applying it. That is, one might think it difficult to invoke the impartial spectator in every situation in which we find ourselves having to make a moral decision or judgment either because we are biased or are experiencing

³⁷ History agrees with this as we see the development of rules and laws forbidding such actions (Milner, chapters 1-5).

strong passions or for some other reason (Slote 2004a, 296-297; Goldman 1992, 22; Goldman 1993, 357-359; Hoffman 2000, 13-14 and Chapter 8). However, Smith believes, and I concur, that we learn what the impartial spectator approves and disapproves of, what she likes and dislikes, and what she judges to be morally right and wrong and then create rules by which we then direct our behavior. And, it is our reverence for the rules that helps us correct our passions. So, instead of determining what the impartial spectator would feel or do in a certain situation, we look to the moral rules as our guide.

Unlike Kantian deontology which determines which motives and acts are appropriate based on whether they adhere to a rule, the rules developed in this sentimentalist ethic are formed by experience of what motives the impartial spectator approves of and which she disapproves of and which consequences she likes and which she dislikes, and therefore which acts are morally right and which are wrong. So, we do not look to general rules and then determine whether a particular motive is approved of or not, or whether any consequence is liked or not, or whether an act is morally right or wrong. Rather, we look to the motives, and whether they are approved of or not, and consequences, and whether they are liked or not, and ultimately the actions, and whether they are morally right or wrong, and develop our moral rules from them. Smith says:

We do not originally approve or condemn particular actions; because, upon examination, they appear to be agreeable or inconsistent with a certain general rule. The general rule, on the

contrary, is formed, by finding from experience, that all actions of a certain kind, or circumstanced in a certain manner, are approved or disapproved of. (TMS III.4.8)³⁸

The rules guide our behavior, and, as Smith says, “when they have been fixed in our mind by habitual reflection, are of great use in correcting the misrepresentations of self-love concerning what is fit and proper to be done in our particular situation” (TMS III.4.12). A person may violate a rule because the passion is just too strong, but the person is fully aware of the fact that he is violating the rule and that after “his passion ... [is] ... gratified and palled, he begins to view what he has done in the light in which others are apt to view it: and actually feels, what he had only foreseen imperfectly before, the stings of remorse and repentance begin to agitate and torment him” (TMS III.4.12). Also, we might not correct our passion and still act out of reverence for the rules. That is, our self-love may still be excessive, but “the motive of ... actions may be no other than a reverence for the established rule” (TMS III.5.1).³⁹

³⁸ See also TMS III.4.7 and TMS III.4.9.

³⁹ Smith also addresses the question of what actions should be done from duty alone (or solely from a regard for the general rules) and which should arise from a sentiment. He says that such a determination is not easily made and that it depends “first upon the natural agreeableness or deformity of the sentiment or affection which would prompt us to any action independent of all regard to general rules; and secondly, upon the precision and exactness, or looseness and inaccuracy, of the general rules themselves” (TMS III.6.2). Moreover, he says that we do not want people always acting solely out of duty and foresees one of the objections to deontology: that there are times when acting from duty just does not seem to be enough. For example, Smith imagines the distress of a husband who finds his wife’s actions motivated solely by a sense of duty (TMS III.5.1). I agree with this. Again, the rules help us correct our passions so although there are times that we might have to act according to the rule in order to avoid being disapproved of or resented, the idea is for the rules to not only help guide our behavior, but to help us learn how to manage our passions.

The rules are not indisputable, however. They are, in fact, open to revision and any revisions will depend upon the impartial spectator as she is the ultimate judge and court of appeal to the soundness of the rules. Consider the infanticide example again. It might be a rule that it is acceptable to abandon your infant child if your life is in jeopardy. However, as times change and adoption agencies, foster homes, and orphanages become easily accessible, such a rule will be revised.

1.5 Conclusion

The purpose of this chapter was to introduce the principle which is the foundation of normative sentimentalism. That principle is: An act, or a failure to act, is morally wrong if and only if it is committed by, contributed to by, or allowed by a moral agent, and both the motive is disapproved of by the impartial spectator and the act results in any consequences that are disliked by the impartial spectator. In introducing this principle, I explained what motive is disapproved of by the impartial spectator (selfishness because she cannot sympathize with it), which consequences are disliked by the impartial spectator (those that harm the individuals affected), the qualities of the impartial spectator that make her a competent moral judge (she possesses both human qualities and impartiality), and the difference between moral agents and moral patients (moral agents have

cognitive abilities that moral patients do not have). Additionally, I noted that there is a place for moral rules in this ethic.

In the next chapter I address in further detail several aspects of this theory: the role of emotions in the theory, that both motives and consequences are taken into consideration when making moral judgments, and the role of the impartiality with respect to partiality, custom and relativism. I also apply the theory to a couple of cases in order to show how it satisfactorily handles difficult issues.

Chapter 2: A Defense of Normative Sentimentalism

In this chapter, I defend the normative sentimentalist theory developed in chapter 1. I first explain its theoretical merits. The merits addressed are (1) that the emotions are a vital, but not solitary, factor of the morality of an action, (2) that both motives and consequences are taken into account when making moral judgments and (3) that the impartial spectator is relied upon as a moral judge to properly evaluate motives and consequences. I follow this with a discussion of practical merits of normative sentimentalism showing how it renders satisfactory moral judgments in two different cases, one which is uncontroversial and one which is controversial, while showing how other major moral theories only render a satisfactory moral judgment in the uncontroversial case. In particular, I show how, in accord with our considered judgments, normative sentimentalism as well as other prominent moral theories judge a random drive-by shooting to be morally wrong. I then show how normative sentimentalism judges acts of infanticide in ways that accord with our considered judgments whereas other prominent moral theories do not and cannot render such judgments.

2.1 Theoretical Merits

I begin with a brief explication of why one of the advantages of normative sentimentalism is that its moral judgments rely to some extent on emotions. I explain how the fact that normative sentimentalist judgments are determined by

evaluating both the agent's motive and the consequences of her actions makes normative sentimentalism superior to other popular moral theories. Finally, I clarify why the impartial spectator is necessary to this theory (and to some extent I explain why some version of the impartial spectator is necessary for any good moral theory). In doing so, I highlight her role in making judgments involving bias and custom.

2.1.1 The Role of Emotions

Some of the best reasons for pursuing a sentimentalist ethic were mentioned in chapter 1. Emotions, as Solomon points out, are the substance of life (Solomon, 2004). According to Blackburn, feelings are at the heart of everyday ethics (Blackburn, 2000). Midgley claims that “[o]ur emotional life includes the whole range of our feelings, motives and sympathies ... [i]t is the power-house which keeps the whole lot going” (Midgley 1983, 35). These reasons help show that normative sentimentalism satisfies Owen Flanagan's Principle of Minimal Psychological Realism: “make sure when constructing a moral theory or projecting a moral ideal that the character, decision processing, and behavior prescribed are possible ... for creatures like us” (Flanagan, 32). That is, humans are emotional creatures and our moral theory needs not only to respect this, but also to accommodate it. This is something that many argue that Kantian deontology and utilitarianism fail to do. On the other hand, many think

that the sentiments are in fact at the foundation of so-called reason based moral theories like utilitarianism and Kantian deontology. For example, Slote argues that the roots of deontology might be in sentiments and that “it is our ... sensitivity to situational factors of immediacy rather than a conscientious adherence to rules or explicit moral beliefs that can lead one not to kill or steal even if doing so would have better overall results” (Slote 2003, 136). Regardless of whether Slote and others who share his opinion are correct, any moral theory from which the emotions are excluded is inadequate in its failure to incorporate such a critical aspect of human psychology.

2.1.2 Motives and Consequences

Another advantage of normative sentimentalism is that it accommodates our inclinations to judge actions based on both the sentiments that motivate the action and the consequences that are a result of the action. In this way it is superior to both consequentialism, and utilitarianism in particular, which judges only consequences, and theories that judge only motives, e.g., deontology.

One of the problems with judging only the consequences of an action is that we cannot always determine what the consequences will be or whether they will ultimately be good or bad. Although the normative sentimentalist impartial spectator does evaluate consequences in order to make moral judgments, unlike the utilitarian she need not determine what every consequence of an agent’s action

will be in order to do so. All the impartial spectator needs is to determine whether at least one of the consequences is harmful to the victim. Furthermore, the impartial spectator need not try to complete the difficult task of determining whether, when aggregated, the consequences ultimately maximize overall well-being (or not) as the utilitarian must. Additionally, unlike utilitarianism, normative sentimentalism does not allow for an agent to act from ill-conceived motives and yet have her actions be judged as morally commendable. For example, if an agent sets out to harm another, e.g., she pushes her victim in the back in hopes of causing her to fall down, but ultimately helps her, e.g., by dislodging a wad of gum from her throat thereby saving her life, the utilitarian will judge this action as morally right. It seems odd to praise or morally commend someone for an act that was motivated by ill intentions. So, although this action will not be morally wrong according to normative sentimentalism, neither will it be praised.⁴⁰ The impartial spectator will disapprove of the motive, although she will not dislike any of the consequences.

Likewise, it seems odd to judge as morally wrong an action which results in harmful consequences, but was committed by an agent who had good intentions. For example, imagine a situation in which several hikers are lost in the woods and only one of them is strong enough to seek help. Assume that it is

⁴⁰ Although I will not defend this position in this dissertation, it is my intuition that those actions that are deserving of moral praise are those which consist of a motive that the impartial spectator approves of and of which all the consequences are liked by the impartial spectator.

agreed that the healthy hiker should seek help and that she takes all the food and water with her so that she can sustain herself for as long as possible in order to maximize her chances of finding help. Assume that it takes the hiker several days to actually find help and that when she does she and the rescuers return to find the others have perished from dehydration. In a situation such as this, we would be hard-pressed to say that the healthy hiker has done something morally wrong and normative sentimentalism agrees with this, although someone like the utilitarian would not. According to normative sentimentalism, although the consequences of the hiker's actions will be disliked by the impartial spectator (because they were harmful), her motive will not be disapproved of (because she was not acting from selfishness) and so the act will not be judged as morally wrong.

Similarly, only taking motives into consideration results in troubling moral judgments as well. Recall the example used above of a moral agent who pushes her victim in hopes of causing her to fall down, yet ends saving her life by dislodging a wad of gum in her throat. Assume that the moral agent's desire to harm her victim is due to the fact that the victim disagrees with the agent's political beliefs. If only the motives of the moral agent were judged, then we would judge this action as morally wrong. However, although we certainly do not want to encourage or condone such attitudes, to judge what the moral agent has done as morally wrong seems excessively harsh. According to normative sentimentalism, the moral agent will not have done anything morally wrong;

although the impartial spectator will disapprove of the moral agent's motive (the moral agent acted from selfishness), she will not dislike the consequences (the moral agent's action did not result in any harmful consequences).

If normative sentimentalism was like other motive based theories or consequence based theories it would suffer from the problems from which they suffer. That is, motive based theories judge actions that are motivated by questionable motives but result in good consequences as morally wrong. Consequence based theories judge actions that are motivated by good motives but result in harmful consequences as morally wrong. Neither of these conclusions seems acceptable. According to normative sentimentalism, neither actions that are motivated by ill intentions but result in good consequences nor actions that result in bad consequences but are motivated by good intentions are morally wrong, although they will not necessarily be praiseworthy either.

2.1.3 Why the impartial spectator?

As has been noted above and as we will see below, the impartial spectator is necessary to ensure impartial and informed judgments. She is also necessary to ensure that moral judgments are made from a "normal" state of mind. That is, many moral actions are committed by agents who are not only uninformed and perhaps biased, but are also often lacking in cognitive development or are suffering from fatigue, depression, or too much emotion or something of the like.

Such agents (whether moral agents or moral patients) are incapable of rendering proper moral judgments. Because the impartial spectator is informed and impartial, but also possesses all the relevant human qualities and is in a normal frame of mind she is able to render proper moral judgments.

The ethic presented here is not the first to rely upon some sort of moral judge. Socrates, Plato and Aristotle all thought that only wise and virtuous people should be relied upon when determining the good, just and right. In *Crito*, Socrates claims that the majority opinion should not be trusted and that it is only the opinions of those few who know the difference between the just and unjust with which one ought to be concerned (*Crito*, Stephanus 44d-48b). Plato, of course, believed that only philosopher-kings truly understood justice and the good which was why they ought to rule (*Republic*, Book II). And, Aristotle thought that only those who understood virtue could teach it (which meant that they were the only ones who could properly judge actions as virtuous or not) (*NE*, Books II and X in particular).

John Stuart Mill also argued for what he called “competent judges”, the role of which is to decide between the various options with which one is faced in moral situations. These judges have knowledge of all the options, they have experience with them, and so are able to decide which is the best choice when a decision must be made between two alternatives (Mill 2003, 103, for example).

More recently, John Rawls has argued that competent moral judges are necessary for proper decision-making in ethics (Rawls 1951, 178-181).⁴¹ The qualities he ascribes to such judges are: intelligence, reasonableness, impartiality, knowledge about the world around them, knowledge regarding the facts of the cases, and a sympathetic knowledge of human interests.⁴²

Although Richard Brandt did not specifically call for moral judges, he did argue that the attitudes and qualities I have ascribed to the impartial spectator are necessary in order to justify our ethical beliefs (Brandt 1959, 249-250). According to his qualified attitude method, the attitudes necessary for proper ethical thinking should be impartial, informed, the result of a normal state of mind, and compatible with a consistent and general system of principles.

As we can see, there is a long history of moral theorists who thought we ought to rely on experts or expert opinions to make moral judgments. In particular, they saw the need for us to view moral situations as clearly and impartially as possible and these needs gave rise to methods such as Brandt's qualified attitude method and entities such as the philosopher-king, the competent judge, and more recently the ideal observer (as noted in chapter 1). The impartial spectator introduced in this theory is merely the logical culmination of these ideas as her role is to quell confused attitudes while being concerned with accuracy

⁴¹ I will return to Rawls and specifically his ideas regarding reflective equilibrium in section 2.2 on the practical merits of normative sentimentalism.

⁴² In fact Rawls calls for the judges to appraise interests "by means of an imaginative experience of it" because "no man can know all interests directly" (Rawls 1951, 179).

regarding matters such as partiality and custom so that proper moral judgments are made.

The Impartial Spectator and Partiality

It is through the impartial spectator that the theory accommodates our intuitions regarding partiality and impartiality. As noted above, normative sentimentalism allows for some partiality, without permitting excessive partiality. It recognizes that we are biased towards those who are closer to us, and so it permits our giving greater consideration to our friends and family when making moral decisions, yet it does not sanction selfishly harming, contributing to the harm of, or allowing the harm of another. For example, one can choose to save one's loved one(s) rather than a stranger or group of strangers from a burning building and not have done anything morally wrong. However, one is not morally permitted to cause harm to another merely because it satisfies a loved one's desire to see another in pain.

The reason the impartial spectator will allow for bias or partiality toward loved ones is because we naturally possess such biases and the impartial spectator possesses all the normal mental capacities and states characteristic of human nature. According to Smith, "[r]elations being usually placed in situations which naturally create ... [affection] ... it is expected that a suitable degree of affection should take place among them" (TMS VI.iii.1.7). Hume supports this and in fact

devotes all of Book II, Part II, Section IV of the *Treatise* to it. There he says, “[w]hoever is united to us by any connexion is always sure of a share of our love, proportion’d to the connexion ... the relation of blood produces the strongest tie the mind is capable of in the love of parents to their children, and a lesser degree of the same affection, as the relation lessens” (T352).⁴³

Recently, philosophers and others have been arguing that moral theories need to accommodate these natural inclinations and that a moral theory that does not do so is severely flawed. Leading the way was Carol Gilligan whose psychological studies show that morality is more than just recognizing universal moral principles, rights and rules. Moral decision making also takes into account what she calls a language of care which stresses relationships (Gilligan).

Nel Noddings takes this idea further by advocating a care based normative moral theory. She states:

Ethical caring, the relation in which we do meet the other morally ... [is] ... described as arising out of natural caring – that relation in which we respond as one-caring out of love or natural inclination. The relation of natural caring ... [is] ... identified as the human condition that we, consciously or unconsciously, perceive as “good”. It is that condition toward which we long and strive, and it is our longing for caring – to be in that special relation – that provides the motivation for us to be moral. We want to be *moral* in order to remain in the caring relation and to enhance the ideal of ourselves as one-caring. (Noddings, 5)

⁴³ Hume makes a similar point in *Dissertation* II.iii.2. Scientifically, it is argued that the preference for kin and other members of one’s own group is innate and has survival value (Nicoll and Russell, 155).

The impartial spectator takes into account these considerations while prohibiting them from unduly influencing moral judgments. She will allow for an agent to give greater priority to her loved ones than to strangers, yet she will not permit the agent to give greater consideration to the trivial interests of her loved ones than to the significant interests of strangers. One might say that this is something, given the criteria for trivial interests and significant interests, that an agent can determine on her own. However, agents often do not, and cannot (in the case of moral patients), do this. For example, a mother will often purchase items, e.g., an iPod, to appease the trivial interests of her child, e.g., the desire to “to be cool”, rather than spend the money on the significant interests of a stranger, e.g., donating the money to an organization that is fighting to stop the genocide in Darfur. Given that the mother wants to be a good provider and she wants her child to be popular, she fails to see that what she has done is selfish even though she has given greater consideration to the trivial interests of her child than to the significant interests of those being attacked and killed in Darfur. She has at the very least allowed for the harming of another as she has done nothing to stop the atrocities in Darfur. Her motives will be disapproved of (as she will at the very least have allowed harm to come to another) and a consequence of her action will be disliked by the impartial spectator, and so her action will be morally wrong. This is arguably a situation in which the mother could see that she is not giving proper consideration to the significant interests of others and still fails to give

proper consideration to those interests. The role of the impartial spectator is to bring such failures to the attention of moral agents and to ensure that such failures are judged properly.

The Impartial Spectator and Custom

As was discussed in section 1.3.2, normative sentimentalism allows for different judgments for different circumstances while not permitting any and every social custom. As a result, custom is no excuse for immoral behavior. So, as with partiality, customs are permitted as long as they do not cause a moral agent to commit, contribute to, or allow an action the motive of which is disapproved of by the impartial spectator and the consequences of which are disliked by the impartial spectator. For example, the custom of greeting someone when introduced or when seeing an acquaintance is not morally wrong because the motive is not disapproved of by the impartial spectator (i.e., it is not selfish) nor is any consequence disliked by the impartial spectator (i.e., no consequence of the greeting results in harm to the recipient).

On the other hand, a custom like infanticide will not necessarily stem from motives which are approved of by the impartial spectator or have consequences which are liked by the impartial spectator. Recall that there have been times when infanticide was necessary in order to preserve life or to ensure that the infant did not suffer, so at the very least the motive was not disapproved of, and

therefore such actions were not morally wrong. However, even after circumstances improved and killing infants in order to ensure another's survival or to protect the infants from terrible pain and suffering was no longer necessary, infanticide had become a custom. As a custom, it was accepted and permitted and was, arguably, being committed thoughtlessly. In such situations, the motives are disapproved of by the impartial spectator and a consequence is disliked (the death of the infant) by the impartial spectator, and so the actions are morally wrong.

The impartial spectator gives us that third person perspective, a thoughtful rather than thoughtless perspective, from which to evaluate motives and consequences in all situations including those in which customs are involved. Customs are so engrained in our culture that we often take them for granted. As moral agents, we often fail to be clear about what purposes customs serve in our society or culture and many often fail to see customs for what they really are, as the infanticide example shows. Because of her impartial position, because she is a spectator, because she possesses all relevant human qualities, and because she possesses all information relevant to the situation at hand, the impartial spectator is the one who can be relied upon to properly judge the morality of an agent's action because she is able to assess motives and consequences while not being seduced by tradition.

2.2 Practical Application

In this section, I briefly show how this ethic works in two cases which are at different ends of the moral spectrum, one that is uncontroversial insofar as we are confident regarding the outcome and the other controversial insofar as we are not confident about the outcome, in ways that other prominent normative moral theories do not. The two cases to be discussed are a random drive-by shooting and infanticide. In the first case, that of a random drive-by shooting, I will show that normative sentimentalism is in harmony with our considered judgments and with the other normative theories in judging it to be morally wrong. In the second case, that of infanticide, I will show that sentimentalism is able to ascertain the morality of infanticide whereas other major normative moral theories fail to do so or do so in a ways that conflict with our considered judgments thereby showing the superiority of normative sentimentalism over these other moral theories.

Before getting started, I want to briefly address my use of the term “considered judgments” in this section and throughout the rest of the dissertation. One of the more prominent philosophers who relies on this term is Rawls who states that considered judgments are “rendered ... in circumstances where the more common excuses and explanations for making a mistake do not obtain” (Rawls 1999, 42).⁴⁴ Considered judgments may be about particular cases, the principles or rules that govern the cases, or the theoretical considerations that bear

⁴⁴ Rawls claims that these judgments arise from a sense of justice and, although I am borrowing his term, I am not taking a stance regarding the basis for considered judgments.

on the cases, rules or principles. When we get an acceptable coherence among our considered judgments, we achieve reflective equilibrium. According to Rawls, reflective equilibrium is a “state ... reached after a person has weighed various proposed conceptions and ... has either revised his judgments to accord with one of them or held fast to his initial convictions (and the corresponding conception)” (Rawls 1999, 43). In striving to achieve reflective equilibrium, we may revise the considered judgments, the principles or rules, or the theoretical considerations. Reflective equilibrium is achieved when we feel our considered judgments, principles and theories are no longer in need of revision because they are consistent with each other and because they have the highest degree of acceptability and credibility for us.

For example, assume that Mary thinks that one ought always follow the commands of the Bible (this is one of her considered judgments regarding a general principle). Assume also, however, that Mary does not think that one ought to kill those who work on the Sabbath (Exodus 31:15) (this is another of her considered judgments). Mary achieves reflective equilibrium between her considered judgments and general principles when she either discards the general principle (for example, she either thinks that one ought not always, if ever, follow the commands of the Bible or that one ought only follow the Ten Commandments), modifies it (for example, she uses a different version of the Bible or reads Exodus figuratively), or changes her opinion regarding working on

the Sabbath to marry up with her general principles (and so decides that people who work on the Sabbath ought in fact be killed).

In the examples that follow, I take a random drive by shooting to be uncontroversial because the considered judgments of moral agents, regardless of their moral theory of choice, are in agreement that such an action is morally wrong. On the other hand, the considered judgments of moral agents are not always in agreement regarding the morality of infanticide. What I show is that it is only with normative sentimentalism that we are able to reach reflective equilibrium with respect to infanticide. It is with the other prominent normative moral theories that we fail to reach reflective equilibrium with respect to infanticide and therefore we end up having to compromise our considered judgments or our moral principles in ways that are unsatisfactory to us.

2.2.1 Random Drive-by Shooting

Kantian Deontology

According to Kant, the standard of morality is the Categorical Imperative (CI). There are four formulations of the CI.

- (1) Act only according to that maxim whereby you can at the same time will that it should become universal law (*FMM* 421).⁴⁵
- (2) Act so that you treat humanity, whether in your own person or in that of another, always as an end and never as a means only (*FMM* 429).

⁴⁵ References to the works of Kant will follow standard conventions.

- (3) The Idea of the will of every rational being as a will giving universal law (*FMM* 432).
- (4) Act according to the maxim of a member of a merely potential realm of ends who gives universal law (*FMM* 439).⁴⁶

It follows from the CI that killing is wrong. According to the first formulation, what is referred to as the Formula of the Universal Law of Nature, it would not be rational for an agent to act on a maxim according to which one kills another. This is because this formulation calls on an agent to conceive of a world in which everyone by nature must kill others. If this is the case, then it is logically impossible for the agent to kill another because either she, or her victim, or both will not exist (as one, or the other, or both will likely have been killed by another; in fact, humanity itself would cease to exist). So, it is inconceivable for the maxim “kill others” to exist with itself as a universal law. Because of this, an agent is forbidden from killing others.

According to the second formulation, referred to as the Humanity Formula (or the Formula of the End Itself), we do not respect the humanity of others when we kill them. That is, Kant thinks that those possessing certain qualities, viz., the capacities to engage in rational self-directed behavior and to adopt and pursue their own ends, deserve respect. Such respect calls for beings of this type, persons, to be treated as ends, not merely as means to ends. Therefore,

⁴⁶ Kant claims that all four formulations of the CI are equivalent (which means I really need only list one formulation to make the arguments that follow). My purpose in listing each formulation is not to question this assertion. I list each formulation for expository reasons only. And, for the sake of thoroughness, I address each formulation individually.

according to Kantian deontology, killing a person in a random drive-by shooting is morally wrong because such an action does not respect her as an end, but rather at most treats her merely as a means.

According to the third formulation, referred to as the Autonomy Formula, agents must act in such a way so that through their maxims they become legislators of moral law (rather than just followers of moral law as the first formulation dictates). So, this formulation makes agents the source of authority behind the moral laws that constrain our behavior. Because of this, killing someone in a random drive-by shooting is morally wrong since this is not something that as legislators of moral law rational agents would legislate as it violates the first two formulations.

According to the fourth formulation, referred to as the Kingdom of Ends Formula, we ought to act only on a principle that would gain acceptance by a community of fully rational agents, persons, each of whom has an equal share in legislating these principles for their community. A random drive-by shooting then is morally wrong because the corresponding principle “kill others” would not be accepted by such a community.

Utilitarianism

According to classic utilitarianism, an act is morally right if and only if it maximizes overall well-being.⁴⁷ A random drive-by shooting does not maximize overall well-being. Not only does the victim lose her life, but her family and loved ones suffer from losing her. Members of the community also suffer as such an act causes fear and panic. If the perpetrator is caught and convicted, then she will at the very least be confined to prison, but it is possible she will be sentenced to death. Not only will she lose her freedom or her life, but her family and loved ones will have to deal with the consequences of her actions as well. If the perpetrator is not caught or convicted, she may end up having to deal with the emotional baggage that comes with committing such an act, e.g., remorse, guilt, shame, etc. Even if the perpetrator does not suffer any negative consequences, the family and the friends of the victim still suffer and because of their suffering overall well-being is not maximized. Therefore, according to utilitarianism, killing someone in a random drive-by shooting is morally wrong.

Social Contract Theory

According to social contract theory, it is through mutual agreement, a contract, that the content of moral norms is determined.⁴⁸ Rational members of a

⁴⁷ I am using classic utilitarianism as the representative of all utilitarian theories for the sake of simplicity.

⁴⁸ For the sake of simplicity, I will not distinguish between contractarianism and contractualism.

community agree to restrict their freedoms to allow the most liberty for everyone. With respect to killing, members of a community agree to give up their freedom to kill others in order to gain the benefit of not being killed. Therefore, according to social contract theory, killing someone in a random drive-by shooting is morally wrong.

It might be argued that in extreme circumstances rational members of a community might agree to norms that permit an agent to kill or, at the very least, not save another. However, this case is clearly not extreme, and thus such a response is not relevant to the question at hand.⁴⁹

Normative Sentimentalism

Normative sentimentalism is no different than the other moral theories mentioned in judging the act of killing someone in a drive-by shooting as morally wrong, if the shooter is a moral agent. That is, the shooter must be someone who can be harmed and who has the cognitive abilities to understand which motives are approved of (and which are not), which consequences are liked (and which are not), and can choose whether to act (or not act) accordingly. If the shooter is a moral agent, then it must be determined whether her motive is approved of or not and whether any consequence of her action is disliked or not. Given that the case is that of a *random* drive-by shooting and given that the agent did not give due

⁴⁹ I will address social contract theory and extreme circumstances in section 2.2.2

consideration to the relevant interests of those affected by the action, e.g., the interest the victim had in living, the motive is clearly selfish. That is, although the shooter might have had an interest in inducing panic or inflicting pain and suffering on others just for fun, for example, such interests are trivial interests whereas the victim's interest in living is a significant interest.⁵⁰ The impartial spectator therefore will not approve of the motive. In addition, given that many consequences of the action are harms to others, e.g., the victim, the victim's family and loved ones, the community, and possibly the perpetrator herself as well as her loved ones, the impartial spectator will dislike at least one of the consequences (recall that all that is required is that one consequence be disliked for the impartial spectator to judge the consequences as disliked). Therefore, according to normative sentimentalism, given that the perpetrator is a moral agent, given that her motive is disapproved of by the impartial spectator and given that at least one consequence of her action is disliked by the impartial spectator, killing someone in a random drive-by shooting is morally wrong.

2.2.2 Infanticide

Although it appears that we reached reflective equilibrium with each theory with respect to a random drive-by shooting, this does not mean that it is

⁵⁰ It might be argued that the shooter is seeking revenge for a wrong done to her or something of the sort and that her interest in doing so is not trivial. However, the example focuses on a random drive-by shooting, not one where the perpetrator might have good reason for shooting another. I think someone would be hard pressed to say that in random drive-by shootings the perpetrators' motives were anything but selfish.

achieved by each theory with respect to all circumstances. As the infanticide case will show, utilitarianism, Kantian deontology, and social contract theory do not achieve reflective equilibrium while normative sentimentalism does. It is in part because the non-sentimentalist theories do not achieve reflective equilibrium regarding moral situations such as infanticide that we ought to reject them in favor of normative sentimentalism.

In section 1.1.3, I used infanticide as an example and noted that there are different circumstances under which infanticide is and has been committed, viz., in times of poverty or limited resources, in life and death situations, and out of convenience. These are not the only reasons infanticide is committed. Children have been sacrificed for religious reasons and they have been killed because they were not healthy. For each of these situations, I will explain whether and, if so, how each moral theory discussed above determines the morality of infanticide.

Non-Extreme Situations: Infanticide for Convenience, Unhealthy Infants and Religious Sacrifice

i. Kantian Deontology

There are two different interpretations of Kant's position regarding the killing of infants. The first, a charitable interpretation, is based on the understanding of Kant explained in section 2.2.1. According to this interpretation, infanticide for any reason is morally wrong because killing is wrong (as per the CI). This interpretation gets support not only from *Foundations*

of the *Metaphysics of Morals*, but also in *The Philosophy of Law* where Kant says that maternal infanticide, which he takes to occur when a mother kills her illegitimate child at birth, is worthy of death.⁵¹ From this, we can read Kant as saying that children are protected by the CI.

The second interpretation is less charitable, yet, it seems to be the one we must hold Kantians to if we are to take Kant seriously. As we saw above (section 2.2.1), the basis of morality according to Kant is rationality. It is our humanity, our rational nature, that has absolute and unconditional value. Beings with rational nature are persons while anything that lacks reason is merely an object. Because of their rational nature, persons must be respected as ends in themselves and ought not be used merely as means to ends; whereas, on the other hand, objects can be used merely as means to ends. Infants, who arguably do not possess reason, appear to belong to the class of objects, not the class of persons. It follows then that we have no moral responsibilities to infants in and of themselves. Therefore, it seems that according to Kantian deontology, infanticide is not morally wrong.⁵² If this is so, then infanticide for convenience, because the infant is unhealthy and for religious sacrifice would be morally acceptable according to Kantian deontology. Yet, killing infants for such reasons contradict the considered judgments of many, if not most.

⁵¹ Kant *Philosophy of Law*, 202. In this section of *Philosophy of Law* (pages 202-204) Kant gives some interesting further reflections on the relationship between the law and morality, but it goes beyond the scope of the current discussion.

⁵² My thanks to Dale Miller for bringing this problem to my attention.

In addition, Kant distinguishes between direct and indirect duties. According to the CI, we have direct duties only to those with rational natures, viz., persons. This means, as noted above, that we have moral obligations toward them in virtue of the fact that they are persons. Kant says, however, that we have indirect duties to non-persons, viz., animals, insofar as our actions toward them affect our actions toward persons. For example, he claims that we ought not to be cruel to animals because doing so causes us to be cruel to persons.⁵³ If in fact infants are not persons, it seems we still have indirect duties toward them as it would be odd for our treatment of animals to affect our treatment of persons and yet for our treatment of infants to not affect it. If this is true, then it seems that committing infanticide in non-extreme situations would be morally wrong (as doing so could cause us to be cruel to persons), but committing it in extreme situations might not be (as infants are not persons and so we can ultimately kill them if in fact we feel we need to do so). Although the fact that it is morally unacceptable to commit infanticide in non-extreme situations and the fact that it is morally acceptable to commit it in extreme situations seems to accord with our considered judgments, the reasons why it is unacceptable in certain situations and acceptable in others are in conflict with our considered judgments. That is, we do not think that children ought to be treated in certain ways merely because doing so

⁵³ Kant *LE*, 212-213.

ensures that we treat rational adult humans well; nor do we think treating children poorly is acceptable in virtue of the fact that they are not intrinsically valuable.

ii. Utilitarianism

As noted above, according to utilitarians, one is required, and therefore permitted, to commit any action that maximizes overall well-being. It follows that if infanticide maximizes overall well-being, then one is permitted to commit infanticide. This leaves us with two sets of possible conclusions regarding the morality of infanticide in non-extreme conditions. The first is that if killing infants for convenience, or because they are unhealthy, or for religious reasons will maximize overall well-being, often thought to be happiness, then it is permissible. The second is that if killing infants for convenience, or because they are unhealthy, or for religious reasons does not maximize overall well-being, or does not bring about the greatest amount of happiness, then it is morally unacceptable.

The first set of conclusions is counterintuitive to many, if not most. That is, many will argue that what ought to be considered in such situations is not (only) the happiness of those affected by the consequences of an act, but whether an action violates anyone's rights or whether it properly respects life or something of the sort. This criticism of utilitarianism is just an instance of one of the primary objections to utilitarianism: that consequences, and happiness in

particular, are not the only morally relevant considerations. So, according to utilitarianism, it would be morally acceptable for a parent to kill an infant in any situation in which the happiness that results from killing the infant is greater than the happiness that would result from not killing the infant. For example, we can imagine a situation in which having a child interferes with a parent's ability to spend time with children she already has, which in turn makes them unhappy, puts extra demands and stress on her, perhaps causes her to resent the newborn which might cause her to spend less time with it causing it to feel neglected, etc. In such a situation, we can imagine the happiness that would be brought about by the death of the infant is greater than the happiness that would result from letting the infant live. However, although we might agree that these are not ideal circumstances for anyone involved and that happiness would be maximized by killing the infant, morally permitting the killing of the infant in such a situation is not in accord with the considered judgments of most. Again, the point is that there is more to making moral judgments than just determining whether the consequences of an action bring about the greatest happiness (or maximizes overall well-being).

iii. Social Contract Theory

Social contract theory does not fare any better than Kantian deontology and utilitarianism with respect to determining the morality of infanticide in non-

extreme situations. The problem with relying on social contract theory to make such judgments is that infants are not transparently covered by the contract and so infanticide seems morally permissible in any and all circumstances. That is, only those who are able to enter into the contract, who in turn are those who are able to understand it, who in turn are those who are rational, are covered by it. If this is the case, then it seems that any and all actions toward beings that are not rational are morally permissible. This class of beings includes not only infants, but also the seriously mentally enfeebled, the senile, and animals (in other words, marginal cases). That we can treat the members of this class in any way we choose is seriously counterintuitive to many.

In their defense, social contract theorists have tried to cover marginal cases indirectly by arguing that since those in the class of marginal beings were rational, or will be rational, or are loved by those who are rational they ought to be covered by the contract. Although this seems reasonable, many critics argue that given their own theoretical criteria, social contract theorists cannot really include marginal cases in the class of those who are protected by the contract. Furthermore, given the qualities and characteristics of those marginal cases that social contract theorists want to be moral patients, viz., infants, the senile and the otherwise mentally enfeebled, it follows that animals would also be moral patients. That is, there is very little difference in the mental capacities of many animals and the mental capacities of infants, the senile and the otherwise mentally

enfeebled. In fact, there are some animals, viz., adult mammals, that actually possess greater rational capacities than do other marginal beings. Yet, most social contract theorists want to exclude animals from the class of moral patients. In their defense, social contract theorists could argue that infants will be as rational as adult humans and that the senile used to be as rational as adult humans thereby giving them standing that even adult non-human mammals do not have (as they will never be as rational as adult humans). However, there is a group of mentally enfeebled humans who never had and never will have the rational capacities of a healthy adult human and may not even possess the rational capacities of adult non-human mammals. If they are to be covered by the contract, then it is unclear why animals would not also be covered.

Another argument social contract theorists give to defend the status of infants, the senile and the mentally enfeebled as moral patients is that there is little difference between “a not-very-intelligent adult and a severe mental defective, or between a normal old person and someone who is severely senile” (Carruthers, 114). Therefore, they argue, “the attempt to accord direct moral rights only to rational agents (normal adults) would be inherently dangerous and open to abuse” (Carruthers, 114). In other words, their concern is that if human marginal cases are not treated as moral patients, then a slippery slope will occur and we will start treating moral agents in ways that are not permitted by the contract. However, a concern that a slippery slope might occur as a result of

one's position does not thereby entitle one to add moral principles to a theory that cannot be defended by that theory.

In the end, there is no good way for social contract theorists to adequately and acceptably cover infants with the contract and we end up with conclusions that contradict our considered judgments.

iv. Normative Sentimentalism

According to normative sentimentalism, infanticide for convenience, e.g., in times of economic prosperity, is morally wrong. During these times, the infant is likely to survive (and can thrive), the likelihood of it suffering significantly is minimal, and family members will generally not be unduly burdened nor will their lives be at stake. In these situations, the moral agent, let us assume it is the mother, is harming the infant and she is acting from selfishness as she is not giving due consideration to the relevant interests of all those concerned, viz., the infant. That is, she is giving greater priority to what are her own less significant or trivial interests, e.g., the interest in remaining burden free, than the significant interest the infant has in living.

It might be argued that the balancing of considerations here is the same type of process a utilitarian might engage in. However, there are at least two major differences between the two theories. Again, according to this version of sentimentalism, a necessary consideration in moral decision-making and judging

is the motive behind the act. If selfishness motivates the act and the act results in any consequence that the impartial spectator does not like, then, and only then, is the act morally wrong. The utilitarian is only concerned with either actual or expected consequences, viz., whether the act will bring about or is expected to bring about the best consequences; she is not concerned with the motive that underlies the act. Secondly, as noted, this theory is not concerned with maximizing or aggregating consequences as utilitarianism is. All that matters is whether or not any of the consequences is harmful.

In the case of unhealthy infants, what will need to be taken into account is the extent of the illness and its corresponding symptoms. If the infant has a chronic condition but her welfare and quality of life are not in serious jeopardy, e.g., the infant has autism or Down syndrome, but the parent, a moral agent, decides that it would interfere with her own life in that it would be an inconvenience to care for the child, then not only is the parent harming the infant, but she is also acting from selfishness when she kills it. That is, although the parent might have a significant interest in not being burdened in this way, the infant's significant interest in living is greater. The impartial spectator both dislikes a consequence and disapproves of the motive of infanticide in these circumstances and so it is morally wrong.⁵⁴ However, if the infant is seriously ill, e.g., she has severe spina bifida, and the parent is concerned with the infant's

⁵⁴ This is assuming that death when one is relatively healthy is a harm.

welfare and the quality of her life then she is not acting from selfishness and in fact the consequence, death, might not be harmful as living with severe spina bifida can be very painful and the quality of life for an individual with spina bifida is very low. Infanticide in situations such as this is not morally wrong because the impartial spectator at the very least does not disapprove of the motive, and may not dislike any consequence, thus not all three of the necessary criteria for moral wrongness are met.

In chapter 1, I discussed the morality of the actions of the religious zealot. What I said there can be applied to cases of infanticide for religious reasons. If a person who commits infanticide because she believes she must sacrifice an infant for religious reasons has been brainwashed, or something of the like, then the impartial spectator will not disapprove of her motive. On the other hand, if such a person is acting from neglectful ignorance, then the impartial spectator will disapprove of her motive as she will be acting from selfishness. Take, for example, a young woman who has been brainwashed since birth to believe that in order for her community to survive and thrive an infant must be sacrificed every year. Assume she sincerely believes that if an infant is not sacrificed, then great tragedy will come to her community. Assume that throughout her whole life her only interactions with others have been with those who have taught her to believe this. If she acts on this belief and in fact kills an infant, the impartial spectator will not disapprove of her motive. This is because the young woman did not act

from selfishness. She acted according to her own significant interests as well as the significant interests of the members of her community.

It is possible, of course, that a person in this situation has not really been brainwashed, but that this belief is a part of her culture. Again, if this is a belief that is sincerely held, then infanticide in such situations would not be morally wrong. On the other hand, if infanticide has just become a custom or is accepted due to neglectful ignorance, then it would be morally wrong as not only will the impartial spectator dislike the consequences of the act, but she will disapprove of the motive.

Extreme Situations: Infanticide in Times of Poverty, Limited Resources, and in Life and Death Situations

i. Kantian Deontology

As noted above, according to a charitable interpretation of Kant's theory, infanticide for any reason is morally wrong because killing is wrong (as per the CI). However, if this is the case then Kantians are forced to accept a paradox. Take, for example, a situation in which one is forced to kill a single infant in order to keep five others (infants or otherwise) from being killed by someone else. Given that killing people is wrong, it seems paradoxical to permit the killing of more rather than fewer, yet Kantianism seems to demand just that. Although Kantians will generally accept this paradox rather than modify their theory to

account for it, such an acceptance is perplexing not to mention the fact that it goes against the considered judgments of many.

According to the less charitable interpretation of Kant's theory presented in 2.2.1, infanticide in any situation is morally acceptable since infants are not persons. If this interpretation is correct, then infanticide would be permissible in extreme situations. But, this means it would be permissible in non-extreme situations as well, e.g., in situations in which the parents like to travel and will not be able to do as much traveling with an infant and therefore they kill the infant. As noted above, such conclusions are inconsistent with the considered judgments of most.

ii. Utilitarianism

One of the most well known criticisms of utilitarianism is that it is very difficult to determine whether any particular action will maximize overall well-being. Because of this, utilitarians face the difficulty of trying to determine whether killing an infant will actually maximize overall well-being. For example, in times of limited resources, it might seem that killing an innocent child will relieve the family of a burden. However, it might be the case that not killing the infant but instead allowing another family to raise it would maximize overall well-being. It might also be the case that if the infant is seriously mentally or physically disabled, then perhaps it would maximize overall well-being to kill it.

One could also argue that keeping the infant alive and allowing it to be used for medical research would maximize the good. On the other hand, if the parent is in a life or death situation and must choose between herself and the infant, there are a great many consequences that need to be taken into account to determine whether killing the infant will maximize overall well-being. Not only is it often difficult to determine what the consequences will be, but it is often difficult to determine which of the consequences that can in fact be determined will maximize overall well-being and which will not. Unfortunately for the utilitarian, we often have no way of knowing whether our actions will maximize well-being or not as we cannot foresee all the possible consequences of a particular act and nor can we easily determine whether the good consequences outweigh the bad.

Of course, the moral theory I am proposing relies to some extent on the evaluation of consequences in order for the impartial spectator to render a moral judgment. However, as was noted above, unlike utilitarianism which requires that all consequences be foreseen, normative sentimentalism only requires the impartial spectator to foresee enough consequences to determine whether there will be one harmful (disliked) consequence.

iii. Social Contract Theory

As noted above, if infants are not in fact covered by the social contract, then killing them in extreme situations is not morally wrong. Nevertheless, for

the sake of argument, let us assume that infants are moral patients according to social contract theory and are therefore covered by the contract. If this is the case, then it appears that killing them for any reason, whether there are extreme conditions or not, would be morally wrong. However, recall that according to social contract theory moral agents agree to give up certain freedoms to allow the most liberty for everyone. This is because, according to Hobbes, although men are self-interested, they are also rational (Hobbes *Leviathan*, chapter 5). They realize they cannot live without a civil society and so it is in their best interests to live in peace when others are willing to do so (and to pursue war when others are not willing to pursue peace). So, men agree to live under common laws. Given this, it seems at the very least possible that moral agents agree to laws whereby in extreme conditions one is permitted to kill an infant in order to ensure her own survival, e.g., if the parent is running from an enemy. So, social contract theorists are not always condemning killing, contrary to what might have been implied above. And, that it is morally permissible for a person to kill another to save her own life is consistent with our considered judgments, at least in many situations.

Of course, if infants are not moral patients, then it is permissible to kill them to ensure our own survival, but then it is also permissible to kill them in non-extreme situations. The problem, as noted above, is that it is not clear whether infants are or can be covered by the social contract. This has to be

determined before it can be known whether and in what situations infanticide would be morally acceptable for the social contract theorist.

iv. Normative Sentimentalism

According to normative sentimentalism, if one is running from an enemy with a child in one's arms, the practice of infanticide would not be morally wrong (as was noted in chapter 1). This because the agent is not failing to give due consideration to the relevant interests of another; she is not acting from selfishness. The agent's life is in danger, as is the life of the infant, but according to normative sentimentalism, one never acts from selfishness when saving one's own life. Therefore, the impartial spectator will not disapprove of the motive behind acts of infanticide, even though she will dislike the consequences, viz., the death of the infant.⁵⁵ Again, in order for an act to be morally wrong according to normative sentimentalism three conditions must be met: it must be committed by a moral agent, the motive must be disapproved of by the impartial spectator and the impartial spectator must dislike at least one consequence of the act. In this case, only two of the conditions have been met.

Accordingly, the impartial spectator would also think infanticide in times of tremendous poverty or limited resources would be morally acceptable: the

⁵⁵ Recall that it is being assumed that death is a harm. It might be the case that in some situations death is not actually a harm, e.g., when the individual would suffer unbearable pain if she continues living, as is the case for an individual with spina bifida. However, whether death is or is not a harm in this particular situation has no impact on the morality rightness or wrongness of the act.

chances that an infant will survive are slim, the suffering she will experience if not killed is great, and her existence can be an unbearable burden on the other members of the family. In situations such as these, where the motive is to save the infant from great suffering and to preserve oneself and others, an individual has not acted from selfishness.

Likewise, imagine a situation in which a family has been displaced by war and the infant has become a significant burden, although her presence would not necessarily be the direct cause of significant harm to herself or the rest of her family. In a situation such as this, the impartial spectator will dislike the consequences of an infanticidal action, because although her life will not be ideal, death for the infant is a harm (this is similar to the case of an infant with autism or Down syndrome). However, the impartial spectator will not disapprove of the agent's motive because the agent, assuming it is a family member, is not failing to give due consideration to the relevant interests of those involved, viz., the interests in alleviating themselves of a huge burden in order minimize the strain of survival in such situations.

2.3 Conclusion

Not only do the theoretical problems that Kantian deontology, utilitarianism and social contract theory have prohibit them from giving us acceptable conclusions regarding the morality of infanticide, but they are the

reasons why we ought to reject each of these theories as our moral theory of choice and instead turn to normative sentimentalism.

As noted above (section 2.2.2), there are two possible interpretations of Kantian deontology that are relevant to our purposes. According to the charitable interpretation, infanticide for any reason is morally wrong because infants are persons and killing persons is wrong. According to the second interpretation, the less charitable interpretation and the one I think is truer to Kant, infanticide for (most) any reason is morally acceptable because infants are not persons. Given that infants are not persons, we do not have direct duties to them. At most, we have indirect duties to them. Both of these conclusions are contrary to the considered judgments of most. Furthermore, the two interpretations arise from the fact that it is unclear whether or not infants are members of the class of persons given Kant's own criteria for personhood and this determination will impact all the morality of our actions toward infants.

However, whether or not infants are persons is not the only classification Kantian deontology is unclear about. The same confusion arises with respect to the status of the mentally enfeebled and the senile. If we side with the charitable interpretation, then it seems they would belong to the class of persons. However, Kant specifically excludes animals from the class of things to which we have direct duties. The problem, which we saw also arises with respect to social contract theory, is that many adult mammals are at the very least on equal footing

with human infants, the mentally enfeebled and the senile with respect to their mental capacities. Therefore, if infants, the mentally enfeebled and the senile are members of the class of persons, then it seems animals should be as well. Some Kantians have tried to interpret Kant in such a way as to include animals in the class of persons or of things to which we have direct duties, but Kant himself specifically says, “if a man has his dog shot, because it can no longer earn a living for him, he is by no means in breach of any duty to the dog, since the latter is incapable of judgement” (Kant *LE*, 212). Given this, Kantians are forced to claim either that Kant contradicted himself or that animals are not covered which then prohibits them from including infants, the mentally enfeebled and the senile in the class of persons. This, of course, goes against the considered judgments of most.

In addition, Kantians suffer from the problem of having no good solution to a situation where the only options an individual has are to either kill one to save many or to allow the many to die to save the one. This brings to light the inability of the Kantian to determine what an individual is to do when she is in a situation in which she is faced with a conflict of duties.

For the utilitarian, the problems with determining the morality of infanticide are the same problems she has in many other situations. Not only is it very difficult to determine what the consequences of an action will be, but it is difficult to determine whether the consequences will actually maximize well-being. Furthermore, not only are many not convinced that the consequences of an

act are the only morally relevant considerations, but many are also not convinced that well-being (or happiness) ought to be the only morally relevant consideration as utilitarians argue. Moreover, utilitarianism also permits the intentional infliction of pain on a being (or beings) if it will maximize the well-being of others and it allows for people to act from questionable motives if the consequences of their actions maximize well-being. As noted above (section 2.1.2), both of these notions are counterintuitive to many.

As with Kantian deontology and utilitarianism, the problems with social contract theory that are displayed when applying it to infanticide are the problems with which the social contract theorist must contend in other situations. On the one hand, it does not appear that infants, the mentally enfeebled and the senile are covered by the contract. Because of this, we are morally permitted to treat these beings in any way we wish. On the other hand, if, as some argue, infants, the mentally enfeebled and the senile are indirectly covered by the social contract and are in fact moral patients, then it follows that killing these beings for any reason will usually be morally wrong (although the contract might permit it in extreme situations). Of course, if infants, the mentally enfeebled and the senile are all covered by the contract, then it follows that animals must be as well. Yet, social contract theorists do not generally want to admit animals into the class of beings covered by the contract.

Not only does normative sentimentalism give us conclusions that are consistent with our considered judgments, but it is immune to the problems of the other prominent normative moral theories. The upshot is that there will be situations, those that are extreme, in which infanticide is morally acceptable according to normative sentimentalism and situations, those that are not extreme, in which it is not morally acceptable according to normative sentimentalism.

Normative sentimentalism does not suffer from the difficulties from which Kantian deontology and social contract suffer regarding the classification of infants, the mentally enfeebled, the senile or animals. What matters for the normative sentimentalist in determining the moral considerability of a being is whether or not it can be harmed, not whether or what kind of rational or cognitive capacities it possesses. This criterion enables the normative sentimentalist to avoid the inconsistencies, contradictions and difficulties Kantian deontology and social contract theory have in classifying persons, infants, the mentally enfeebled, the senile and animals. If a being can be harmed, then its interests need to be given due consideration regardless of whether or not it is a person or rational being. So, the class of moral patients as determined by normative sentimentalism is large enough to include all marginal cases but not so big that it includes inanimate objects like rocks or coffee mugs.

The normative sentimentalist also avoids any problems regarding conflicts of duties because her concern is not with duty. Rather, the concern is with

whether or not a moral agent or moral patient's significant interests have been given due consideration. Of course, there might be a case in which the significant interests of two moral agents or moral patients are in conflict. However, unlike the Kantian deontologist who thinks an agent does something wrong when she acts against her duty in fulfilling another duty, the normative sentimentalist does not think an agent does something morally wrong when she chooses the significant interests of one over the significant interests of another as long as she has not selfishly chosen as such (even if it results in a consequence which is disliked).

Furthermore, although motives and consequences are criteria for moral judgments in normative sentimentalism, each is not the sole criterion. Contrary to motive-based normative moral theories, an action is not necessarily morally wrong according to normative sentimentalism if it arises from an ill intended motive. And, unlike consequentialism, and utilitarianism specifically, normative sentimentalism does not face the difficulties in determining consequences that make these types of theories inadequate, viz., determining whether or not the aggregated consequences maximize well-being or happiness. In contrast, the normative sentimentalist impartial spectator need only determine whether there will be at least one harmful consequence

In sum, whereas the other prominent moral theories considered above fail to give us a definitive judgment regarding the morality of infanticide, or they give

us one that is not in harmony with our considered judgments, the normative sentimental theory presented here provides us with the moral prescription(s) we are seeking while avoiding the problems of the other prominent moral theories.

Chapter 3: A Sentimentalist Animal Ethic

In this chapter, I apply the sentimentalist ethic developed in Chapter 1 and defended in Chapter 2 to the practices of factory farming and using animals for research in order to show how it contends with a pair of important contemporary moral issues.⁵⁶ What I will show is that most of the conclusions reached by normative sentimentalism regarding the morality of these issues are in accord with our pre-existing intuitions. The conclusions that are not in accord with our pre-existing intuitions will help us correct those intuitions thus allowing us to achieve reflective equilibrium with respect to using animals as food and as research subjects.

3.1 Factory Farming and Research Practices

In order to facilitate the arguments presented here, I first describe some factory farm and research practices. I also explain the effects these practices have on the health of the animals and, in the case of factory farms, the workers and the environment.

3.1.1 Factory Farming Practices

Factory farms, also known as “confined animal feeding operations” (CAFOs), are the primary source of animal products. Pigs raised in CAFOs are

⁵⁶ For the purposes of this dissertation, the terms “animals” and “non-human animals” will denote the same class of beings, as has already been implied.

kept in overcrowded, poorly designed confinement systems which cause stress and boredom that result not only in tail-biting (which, if blood is drawn, causes some pigs to bite even more earnestly resulting in a form of cannibalism), but in other physical problems which include damaged and deformed feet as well as porcine stress syndrome, the symptoms of which are rigidity, blotchy skin, panting, anxiety and often sudden death (Singer 1990, 119-129). Chickens kept in unnaturally lit confined areas, usually half a square foot of space per four to five pound chicken, are subjected to continuous bright lights for twenty-four hours a day for the first two weeks of their confinement in order to speed the weight-gain process which results in aggression, feather-pecking and cannibalism. After a period of time during which the lights are turned on and off every two hours in order to encourage the chickens to eat (the idea being that the chickens will be more inclined to eat after a period of sleep), the chickens are then kept in darkness in order to reduce the aggression, feather-pecking and cannibalism caused by the crowding (Singer 1990, 99-119). Some beef cattle seem to have it pretty good compared to pigs and chickens because they are raised outdoors. However, they are fed an unnatural diet of corn and cereals in order to accelerate the growth process. Due to this diet, the cattle suffer from a lack of fiber. To try to rectify this, the cattle lick their own and each other's coats. It is believed that the resulting large amount of hair in their rumen causes painful abscesses. Cattle that are raised indoors are overcrowded and often become lame from the slatted

floors, which are used to make cleaning easier, on which they stand (Singer 1990, 139-141).

Not only are CAFOs hard on the animals, but they are also hard on the workers. Workers often suffer from bacterial diseases due to contact with fecal matter, injury due to being kicked or rammed by cows and pigs, respiratory problems such as chronic bronchitis due to regular contact from the dust of confined animals, and neurological diseases from contact with poisonous gases from manure. In 2005 (the most recent year with data available), there were 629 injuries per 100,000 workers in the entire agriculture industry while there were 5,667 injuries per 100,000 workers in animal production alone (CFOI).⁵⁷ This same year, there were 73.75 fatalities per 100,000 workers in the entire agriculture industry while there were 107.81 fatalities per 100,000 workers in animal production alone (CFOI).⁵⁸ In the manufacturing industry, there were 44 injuries per 100,000 workers in 2005 (CFOI).⁵⁹ In animal slaughtering and processing, a subcategory of manufacturing, there were 1,807 injuries per 100,000

⁵⁷ The agriculture industry includes crop production and animal production, forestry, fishing and hunting. Animal production includes cattle ranching and farming (including feedlots), dairy cattle and milk production, hog and pig farming, and poultry and egg production. It does not include animal slaughtering and processing, dairy product manufacturing or seafood product preparation and packaging which are included in the manufacturing category. I should also note that Human Rights Watch reports that there is not only an underreporting of injuries but that the meat and poultry industry manipulates injury reports (Human Rights Watch, 52-56).

⁵⁸ In fact, in 2005 22 percent of the fatalities in the agriculture industry were in animal production.

⁵⁹ The manufacturing industry includes not only food manufacturing, but also textile mills, wood products, machine shops, and motor vehicle manufacturing amongst others.

workers (CFOI).⁶⁰ Of the total number of fatalities in food manufacturing in 2005, 29 percent were in animal slaughtering and processing (CFOI).

Not only do CAFO workers have a high rate of injury and death, but they work under very bad conditions. Most workers work 12-16 hours a day six days a week without breaks and often do not have health insurance (Peck; Human Rights Watch). The workers in animal production (those who feed, water, herd, castrate, de-beak, clean and maintain housing areas, administer medications, vaccinations and insecticides, and load the animals for transportation) made on average \$9.56 per hour in 2005 (for an annual salary of \$19,890) (OES Occupational Employment and Wage Estimates). Workers in animal slaughtering and processing made on average \$11.95 per hour in 2005 (for an annual salary of \$24,850) (OES Occupational Employment and Wage Estimates).

In addition, CAFOs have a terrible impact on the environment. It takes thirteen pounds of protein to feed a calf to produce one pound of boneless animal protein for humans (Singer 2006, 232). Because of this, forests, wetlands and other ecosystems and wildlife habitats have been decimated and turned into crop and grazing land (Singer 1990, 168-169). It takes 792,000 gallons of water to produce a 1,000-pound steer (Singer 2006, 235) and 300 million acres are used for grazing (Singer 2006, 238). In areas that have a high concentration of factory farms, waterways and groundwater are rife with bacteria that kill fish (not to

⁶⁰ For some first hand accounts of the types of dangers workers face see Eisnitz.

mention the sores, nausea, fatigue and disorientation they cause in humans) (Sierra Club). In fact, waste from factory farms has polluted 35,000 miles of rivers in 22 states and the groundwater in 17 states (Sierra Club). The animals we eat emit millions of pounds of both CO₂ and methane, both greenhouse gases which are 90 percent responsible for the global warming problems we are facing today (Crawford).⁶¹ In fact, the animals we eat are responsible for 21 percent of all the CO₂ that can be attributed to human activities (Brook).

3.1.2 Research Practices

Animals are used in a variety of ways for a variety of reasons for research under the guise of improving the health and lives of humans. For example, animals are used in disease research. In some experiments, animals are subjected to chemicals and other possible carcinogens in order to determine whether or not these products are actually cancer causing agents. In one experiment, animals were either forced to inhale or were injected with asbestos which caused painful lesions on the animals (Greek and Greek, 128).⁶² In other cancer research, tumors are actually transplanted from humans to other animals, e.g., often to the leg of the animals. In many cases, the tumors grow to the point that the leg must be amputated. In other cases, the growing tumors cause the animals great distress

⁶¹ Recently it has been shown that the (unnatural) diets of CAFO dairy cows are responsible for up to 35 liters of methane per liter of milk instead of the usual 20-25 liters (Crawford).

⁶² As will be discussed in further detail below, the asbestos did not actually cause cancer in the animals. Once the asbestos was withdrawn, the lesions disappeared.

and most enter what doctors refer to as a cachectic state which is physical wasting with loss of weight and muscle mass (Rowan, 171-172).

Animals are also used to test the toxicity of various substances. For example, in acute oral toxicity tests, animals are forced to ingest, either by being force-fed by mouth or by having a tube inserted down their throats, both edible and inedible (e.g., lipstick and paper) products in order to determine how poisonous a substance is. Depending on the length of time the animal survives, the tests last anywhere from fourteen days to six months during which the animals experience vomiting, diarrhea, paralysis, convulsions, and internal bleeding – all classic symptoms of poisoning. Other toxicity tests include the infamous LD50, “lethal dose 50 percent”, the purpose of which is to determine the amount of a substance required to kill half the animals in the study; the Draize eye irritancy test in which a substance (e.g., bleach, shampoo, ink) is placed in an animal’s eyes, usually those of a rabbit, while the animal is in a holding device (preventing it from moving or scratching) to determine the substance’s irritancy and the consequences range from massive infection to blindness; and dermal, inhalation, immersion and injection studies in which the substance is either placed directly on the animal’s skin or in which animals inhale, are immersed in, or are injected with

the substance and then suffer from rotting skin and intestines and diarrhea (Singer 1990, 52-57).⁶³

3.2 A Sentimentalist Animal Ethic

Recall the moral principle defended in chapter 1: An act, or a failure to act, is morally wrong if and only if it is committed by, contributed to by, or allowed by a moral agent, and both the motive is disapproved of by the impartial spectator and the act results in any consequence that is disliked by the impartial spectator. According to this principle, three conditions must be met for an action to be judged as morally wrong: (1) it must be committed by, contributed to by, or allowed by a moral agent; (2) the motive must be disapproved of by the impartial spectator; and (3) any consequence of the act must be disliked by the impartial spectator. If it turns out that the actions committed by those involved in factory farm and research practices satisfy all three conditions, then their actions will be morally wrong. If any of these three conditions is not satisfied, then the moral agents' actions will not be morally wrong.

To begin, CAFO and research animals are moral patients. (Recall that moral patients are those who can be harmed but who cannot understand which motives are approved of and which are disapproved of, or which consequences are liked and which are disliked, or cannot choose to act or not act accordingly.)

⁶³ It is interesting to note that the United States Food and Drug Administration no longer requires the LD50. It now accepts *in vitro* tests for genotoxicity, although the Environmental Protection Agency still requires it (Greek and Greek, 56).

Because CAFO and research animals are moral patients and because the consequences of an agent's actions are harmful to these animals the third condition is met: a consequence is disliked by the impartial spectator. So, what needs to be established is whether the two other conditions for moral wrongness are met. We have to determine whether the agents who commit, contribute to, or allow the actions are moral agents, or whether they are just moral patients, and whether, if the agents are moral agents, their motives are approved of or disapproved of by the impartial spectator. If the individuals who commit, contribute to, or allow the actions (CAFO and research practices) that result in consequences that are disliked by the impartial spectator are moral agents and if their motives are disapproved of, their actions will be morally wrong. If the agents involved are not moral agents, but are merely moral patients, or if their motives are not disapproved of by the impartial spectator, then their actions will not be morally wrong.

The purpose of sections 3.2.1 and 3.2.2 is to establish whether these two criteria are met and thus to ascertain whether factory farm and research practices are morally wrong. To do this, we must first get clear about those involved in factory farming and research practices. The class of those involved in factory farm practices includes the owners, the workers, the consumers, advertising companies, government agencies, and suppliers. The class of those involved with using animals as research subjects includes the funding agencies, the researchers,

the suppliers, and the beneficiaries of the research. For the sake of simplicity and for space considerations, the discussion of the morality of these practices will focus on CAFO owners, CAFO workers, the consumers of CAFO products, researchers, the beneficiaries of research and the general public.

3.2.1 Factory Farming

CAFO Owners

The first thing we need to determine with respect to the morality of CAFO practices is whether or not the owners of factory farms, who commit, contribute to, and allow actions that result in harm to the CAFO animals, are moral agents. Again, moral agents are those who can be harmed and who can understand which motives are approved of (and which are not), which actions are liked (and which are not), and can choose whether to act (or not act) accordingly. Most factory farm owners are actually corporations.⁶⁴ There are, of course, people who manage and control these corporations and so we will think of them as the owners of factory farms.⁶⁵ Clearly, these people can be harmed and can understand which motives are approved of (and which are not), which actions are liked (and which are not), and can choose whether to act (or not act) accordingly. Hence, the

⁶⁴ For example, four corporations control over 80 percent of the 35 million beef cattle slaughtered every year in the United States (Farm Sanctuary 2006b) and Tyson Foods, Inc. alone controls almost a quarter of the U.S. chicken market (Singer and Mason, 21).

⁶⁵ It might be argued that managers are oftentimes more like regular employees than like owners. I do not deny this. For the sake of simplicity, I include managers in the class of owners for I am thinking about managers as white collar employees. However, in cases in which managers are more like regular employees, blue collar workers, than owners, then what is said in the “CAFO employees” section will apply to them.

owners of CAFOs are moral agents and therefore two of the three criteria for moral wrongness have been met.

The next thing we need to determine is whether or not the motives of the CAFO owners are disapproved of by the impartial spectator. That is, we need to determine whether or not the owners are acting from selfishness. In order to determine this, we need to determine whether or not CAFO owners are giving due consideration to the relevant interests of those affected by their actions. If it turns out that the CAFO owners are giving greater consideration to their own less significant or trivial interests or to the less significant or trivial interests of others than to the more significant interests of the animals, then their motives will be disapproved of. If this is the case, then all three conditions for moral wrongness will be satisfied and so their actions will be judged as morally wrong.

Given that CAFO animals are treated in ways that result in physical, and arguably psychological, harm, let alone death, the interests of the animals that are of concern here are significant (see section 3.1.1).⁶⁶ Is it the case then that CAFO owners are giving greater consideration to their own equally significant interests or to those of others or are they giving greater consideration to their own less significant or trivial interests or to those of others? The primary concern of

⁶⁶ Recall the class of significant interests includes the interests one has in maintaining one's physical, psychological and material well-being. On the other hand, the class of trivial interests includes but is not necessarily limited to the interest one has in indulging the bodily pleasures, see section 1.2.1. We can argue that psychological harm can be done to animals as many scientists believe that many animals are at the very least capable of anxiety (Regan 1983, 75-76; Rollin; Rowan, 83; Singer 1990, chapters 2 and 3).

CAFO owners, as is the case with most business owners, is to maximize profit.

As Adam Smith said:

It is not from the benevolence of the butcher, the brewer, or the baker that we expect our dinner, but from their regard to their own interest. We address ourselves, not to their humanity but to their self-love, and never talk to them of our own necessities but of their advantages. (WN I.ii.2)

This is not to say, of course, that being concerned with profit is in and of itself wrong. It is wrong when the concern with profit causes the profiteers to not give due consideration to the relevant (significant) interests of others and when the purpose of the profit is merely for the sake of profit itself or to increase the profiteers' consumption of goods for bodily pleasure and results in harm to another. In such situations, the interest in making a profit is a trivial interest. Given that the interests of the animals are more significant than those of the CAFO owners, they ought to be given greater consideration by the owners. Because the CAFO owners are not giving due consideration to the interests of the animals, the impartial spectator will disapprove of the CAFO owners' motives. Therefore, her actions are morally wrong.

One might argue that the CAFO owners' concern with making a profit is as relevant an interest as those of the CAFO animals, for without a profit these owners cannot support themselves or their families. Their interest, it appears, is in maintaining their physical and material well-being (in which case the profit is a

means to satisfying the interest).⁶⁷ However, although the interests in maintaining one's own and one's family's physical and material well-being are rather significant interests, as would be the interest in the means to do this, it does not necessarily follow that maximizing profit is a relevant interest. Excessive profits are typically used to supply people with the means to satiate their less relevant or trivial interests such as owning expensive cars, boats, houses, fashionable clothes, jewelry, etc. Given that CAFO owners are generally corporations run by already wealthy business people, I think it would be very difficult, if not impossible to prove that the profits being reaped by these moral agents are used to satisfy interests that are equal to or greater than the interests of the animals, as was noted above.

Granted, if CAFO owners were to cease production at CAFO facilities, they might have to make changes to their ways of life, e.g., giving up new cars, clothes, etc. But, their lives will not be at stake, as is the case with the CAFO animals, nor will they be subjected to the pain and suffering to which the CAFO animals are subjected. Furthermore, there are ways for people to maintain their own physical and material well-being other than to subject animals to the pain and suffering that CAFO animals endure.⁶⁸ Because CAFO owners are moral agents,

⁶⁷ Keep in mind that what is meant by material well-being is maintaining one's possessions, e.g., house, clothes, etc. So, the idea here is that often, especially for humans, physical and material well-being will be interconnected.

⁶⁸ I will talk about situations in which it might be necessary to kill an animal when I address the consumer's role in factory farming.

because their actions result in a consequence that is disapproved of by the impartial spectator and because they are not giving due consideration to the relevant interests of those affected by their actions (because they are acting from selfishness and in some cases from excessive self-love), their actions are morally wrong.

If it were the case that the profits were being used to ensure that physical, material and psychological interests were fulfilled, then it would have to be determined whether these interests of the CAFO owners and their families should be given greater consideration than the equivalent interests of the CAFO animals. As was noted above (section 1.2.1), the impartial spectator will sympathize with someone giving greater consideration to her own or her loved ones' interests than to the interests of strangers, as long as the interests of the individual or her family are equal to or greater than the interests of strangers (and will thus approve of her motive). If it is the case that the profits are being used to maintain the CAFO owners' and their families' physical and material well-being, then the impartial spectator will not disapprove of their motives. This case is analogous to the case of the owners of what we call "family farms."

The argument is that the motives of the proprietors of family farms, who are moral agents, are not selfish, but stem from self-preservation and therefore what they are doing is not morally wrong. The point is that the family farmers are giving greater consideration to their own relevant interests than to the equally

relevant interests of the animals and that this is acceptable given the standards put forth in section 1.2.1. However, it is very doubtful that family farm owners and their families would die if prevented from farming animals or would suffer as much pain and suffering as the animals that die at their hands do. Of course, the impartial spectator would not be ignorant of the fact that the farmers' and their families' lives would change, viz., they would suffer some hardships, financial in particular, from the loss of this livelihood. However, other livelihoods can be found, as difficult as it may be to do so. The pain and suffering endured by the animals is greater than the pain and suffering the farmers and their families would be subjected to were they to give up this particular livelihood. Because of this, the interests of the animals should be given greater consideration than the interests of the farmers and their families. Failing to do so entails that the impartial spectator will disapprove of the motives of the family farm owners. Because of this, and because family farm owners are moral agents, and because at least one consequence of their actions is disliked by the impartial spectator, the actions of family farm owners are morally wrong.

It might also be argued that the animals on family farms are usually treated better than CAFO animals and so the farmers are not in fact giving greater consideration to their own less significant or trivial interests than to the more significant interests of the animals. The argument is that many family farmers rear their animal as "free range" (meaning that the animals are not confined) and

that because of this the significant interests of the animals are being given due consideration. It follows, so the argument goes, that in these cases the interests of the family are equal to or greater than the interests of the animals. However, even on family farms, animals are often confined to small areas just as CAFO animals are and so suffer from the same diseases and behaviors as the CAFO animals do. So-called free range animals are fed the same chemicals CAFO animals are fed, and they are packed into trucks to transport them to the same slaughterhouses to which CAFO animals are transported to be killed. Furthermore, to designate food animals as “free range” does not really mean very much. The only requirement the United States Department of Agriculture has for such a designation is with respect to poultry and all that is required is that the poultry have access to the outside (USDA 2006).⁶⁹ What this often entails is that the facility has a small space outdoors, which is usually filled with a large amount of fecal matter, into which a large number of chickens or turkeys are crammed with little room to

⁶⁹ Some organizations have created their own standards for non-poultry products. For example, Humane Farm Animal Care, is an organization that claims its mission is to “improve the lives of farm animals by providing viable, credible, duly monitored standards for food production and ensuring consumers that certified products meet these standards” (Humane Farm Animal Care). These standards include feeding the animals a “nutritious diet without antibiotics, or hormones, animals raised with shelter, resting areas, sufficient space and the ability to engage in natural behaviors” (Humane Farm Animal Care). However, these standards also include American Meat Institute’s guidelines for slaughter. According to these guidelines, as many as five percent of cattle and sheep can fail to be rendered insensible by one shot, that as many as one percent of pigs can vocalize during hot wanding procedures, and that as many as two cattle per 1000 and one pig or sheep per 1000 can be sensible on the bleed rail (the rail the animals are moved on after being stunned or having had their throats slit in order to be decapitated) (Grandin, 2005). Although these percentages and numbers seem small, given that approximately 10 billion animals are killed for food every year in the United States alone, they in fact add up to over a million animals being tortured every year.

move. So, once again, the relevant interests of the animals are not being given due consideration and therefore the impartial spectator will disapprove of the motives of the family farm owners, and because they are moral agents and because at least one consequence of their action is disapproved of, their actions are morally wrong.

CAFO Employees

The case of CAFO employees, who commit, contribute to, and allow actions that result in harm to the CAFO animals, is analogous to the case of the family farmers. CAFO employees are moral agents as they can be harmed and can understand which motives are approved of (and which are not), which actions are liked (and which are not), and can choose whether to act (or not act) accordingly. Many CAFO employees are those with minimal skills in geographic areas in which there are very few opportunities for making a decent living. The interest in being employed is a relevant interest as it is necessary to satisfy other relevant interests, e.g., maintaining one's own and one's family's physical, psychological and material well-being. However, that it might be difficult for the CAFO worker to find other employment is no excuse for their giving greater consideration to their less significant interests than they are giving to the more significant interests of the animals. As was the case with the factory farm owners, because of the pain and suffering the animals are subjected to, not to mention

their deaths, the interests of the animals outweigh the interests of the CAFO workers. Because the CAFO employees are not giving due consideration to the relevant interests of those being affected by their actions, they are acting from selfishness, and hence their motives are disapproved of by the impartial spectator. Because of this, and because they are moral agents, and because at least one consequence of their actions is disliked by the impartial spectator, their actions are morally wrong.

CAFO Product Consumers

The case of the consumers of CAFO products, most of whom contribute to and allow actions that result in harms to the CAFO animals, is slightly different from that of the CAFO owners or workers. Although most consumers of such products are moral agents, not all are. Infants, young children, the mentally enfeebled, and the senile are not moral agents. Although they can be harmed, they cannot, for the most part, understand which motives are approved of (and which are not) and which actions are liked (and which are not). Even if they can, e.g., they are adolescents, they cannot always choose whether to act (or not act) accordingly because they are often constrained, e.g., by parental control.

Of those consumers who are moral agents, all are aware that animals are killed for their food and many, if not most, are very well aware of how the animals are treated in the process. If a consumer has this knowledge and she still

chooses to consume CAFO products, then not only is a consequence of her action disliked, but her motive is disapproved of because she is putting her own less significant or trivial interests, e.g., the interest in gastronomical pleasure (a bodily pleasure), over the more significant interests of the animal, e.g., the interest the animal has in maintaining her physical and psychological well-being and so her desire to avoid pain and suffering and to continue to live. Therefore, the consumer's action is morally wrong (because her action not only allows the CAFO owners and employees to harm the animals, but in addition her demand for the product actually contributes to the actions of the CAFO owners and employees).

It might be wondered whether the number of people experiencing gastronomical pleasure will have any impact on the above conclusions. That is, one might ask if enough people enjoy the products made available by the slaughtered animal, do their interests outweigh those of the animal? For example, let us say that 100 normal adults get great gastronomical pleasure out of the meat products derived from a single butchered cow (whether these people are at a backyard barbecue or one of the finest restaurants in town does not matter). To some, viz., utilitarians, a strong argument can be made that there is nothing morally wrong with slaughtering and butchering the cow because the amount of pleasure the action brings is greater than the amount of pain that it brings. Normative sentimentalism disagrees with this conclusion. Even if an action

brings about a great deal of pleasure, if it results in at least one consequence that is disliked, if it is motivated by selfishness, and if it is committed by, contributed to by, or allowed by a moral agent it is morally wrong. In this example, the pain, suffering and death of the cow are all disliked by the impartial spectator (because these are harms), the motives are disapproved of (because the consumers are not giving due consideration to the relevant interests of the cow), and the consumers are moral agents. Therefore, their actions are morally wrong.

Without a doubt, many consumers who are moral agents are acting with ignorance with respect to their consumption of CAFO products: ignorance with respect to the practices of CAFOs and ignorance with respect to the actual dietary needs of their bodies for animal products. However, even if a consumer is unaware of the pain and suffering inflicted upon animals at CAFOs, she is certainly aware that they are killed in order to be a source of food. So, at the very least, her failure to give due consideration to the fact that harm is inflicted upon the CAFO animal is selfish. Therefore, the consumer's motive will be disapproved of by the impartial spectator which means her action is morally wrong (as it results in a consequence that is disliked).

Many consumers have been led to believe that animal products are necessary to their diets by both governmental agencies and advertisers representing CAFO companies. For example, most, if not all, primary school students in the United States learn about the United States Department of

Agriculture's food pyramid which claims that people need a certain amount of meat and dairy products every day. Also, the California Milk Processor Board has used the slogan "Got Milk?" along with pictures of celebrities which include messages from the celebrities indicating how important drinking milk is to one's health. Similar messages have been distributed by the Cattlemen's Beef Board and National Cattlemen's Beef Association with their campaign "Beef, it's what's for dinner" and the National Pork Board's campaign "Pork, the other white meat." There are questions, however, about the accuracy of the information published by those who claim that animal products are necessary for one's diet. This is because many critics believe that agencies such as the USDA claim that animal products are necessary in order to keep the CAFO industry alive and well.

In part because of the desire of some to set the record straight, there has recently been an influx of material published supporting the health benefits of, at the very least, a meat-free diet (see for example HHS and USDA).⁷⁰ Additionally, many celebrities have also been very vocal about the merits of such a diet (e.g., singer Paul McCartney, his daughter, designer Stella McCartney, actors Alec and Billy Baldwin, and Anthony Robbins, motivational speaker and son of the founder of Baskin-Robbins corporation). So, that a vegetarian diet is a feasible and healthy diet is becoming more and more well-known. It is reasonable, then, to expect that people at least investigate the option. Moral agents who eat a

⁷⁰ Although the HHS and USDA still promote a diet with meat and other animal products, since 1995 they have also specifically addressed a vegetarian diet.

CAFO product based diet without some investigation into the advantages and disadvantage of it as well as to the advantages and disadvantages of a vegetarian diet are acting from neglectful ignorance, their motives are disapproved of by the impartial spectator, and they are committing, contributing to, and allowing acts that are morally wrong.

Admittedly, once one engages in such an investigation, one is faced with conflicting information regarding the dietary needs of most humans. That is, there are some experts who claim that animal products are necessary to maintain one's health, e.g., see the USDA's food pyramid, and who argue that vegetarian diets are difficult to follow and that they are nutritionally inadequate. On the other hand, not only can a diet that includes animal products be nutritionally inadequate, but some argue that a vegetarian diet is not only healthy, but that it might in fact be better for humans than a non-vegetarian diet, e.g., the Mayo Clinic (Mayo Clinic Staff). If, after completing a reasonable investigation, a consumer truly believes she will die or suffer serious health problems without consuming animal products, then she is not acting from selfishness and so her action is not morally wrong. However, I have serious doubts about the possibility of this as a justifiable outcome to such an investigation in part because of the published evidence, but also because there are so many healthy people living on vegetarian diets today.

Even if it were the case that humans needed animal products to survive, this does not entail that we must consume CAFO animals and their products to do so. There are other less harmful ways to prepare animals for human consumption, e.g., we could quickly and painlessly kill wild animals. So, although we may choose to give greater consideration to our own equal or greater interests than to those of animals, failing to give due consideration to any of their relevant interests, e.g., the pain and suffering they endure as CAFO animals, will be disapproved of by the impartial spectator and so the actions committed by those involved in such treatment of animals (whether it is the CAFO owners, workers or consumers) will be morally wrong. So, even believing that on balance it is necessary to consume animal products does not let a moral agent completely off the hook with respect to her actions toward the animals being used as food sources.

There are two final points I want to make regarding the consumption of animal products before moving on to the use of animals in research. The first is that given the criteria of normative sentimentalism, if an agent has a choice between killing and eating an animal and dying, then there is nothing morally wrong with her choosing to kill and eat the animal. As noted above (section 1.2.1), in such a situation she is not necessarily failing to give due consideration to the relevant interests of the animal. Rather, the interests that both the agent and the animal have in living are at the very least equal. So, in choosing self-

preservation, a relevant interest, over the life of another, an equally relevant interest, the agent is not acting from selfishness (or excessive self-love).

Of course, there are differences in life and death situations. For example, imagine a person who is stranded on a desert island which is also home to a hundred cows. Imagine that she has every reason to believe that she will be rescued in due time. The impartial spectator will not disapprove of her motive if she kills and eats the cows to survive because she is merely giving greater consideration to her own relevant interests than to the relevant interests of each the cows. So, even if we assume that the castaway is a moral agent and we know that at least one consequence of her action will be disliked (viz., the deaths of the cows), given that her motive is not disapproved of, her action will not be wrong.⁷¹

On the other hand, imagine our castaway in a situation in which she is known to have a very limited time to live, let us say two weeks, but she will die in a just a couple of days if she does not kill and eat one of the cows. Let us also assume that there is no hope that she will be rescued in the next few days and that she has no good reason for staying alive other than just prolonging her life; that is, she is not going to bear a child in the next few days or create any masterpiece, or

⁷¹ That the relevant interests of a number of cows have to be sacrificed in order for the agent to save her own life is unfortunate. However, unlike utilitarianism, normative sentimentalism does not require the aggregating of interests. So, although when added together the interests of the cows outnumber the interests of the human, it is still not morally wrong for her to choose her own relevant interests over the equally relevant interests of each of the cows. It is assumed here that the cows' interest in avoiding the pain and suffering that will likely precede their death is equivalent to that of the castaway. Although some might reject this, I agree with Singer that all sentient beings have an equivalent interest in avoiding pain and suffering (and possibly in living) (see sections 4.1.1 and 4.1.2 and Singer 1990, chapter 1).

find a cure for cancer or AIDS or something of the like. In a case such as this, the impartial spectator will disapprove of the agent's motive. This is because although both the agent and the cow have perhaps an equivalent interest in living, given that the agent's life is doomed as it is and she has no hope of making any kind of contribution to the world, for her to give greater consideration to her interest in living over the cow's equally relevant interest in living (the cow's interest in living could be greater than the agent's in virtue of the fact that the cow's life, as far as we know, is not in immediate jeopardy) and in avoiding the pain and suffering that comes along with being killed for consumption is selfish. Of course, if the castaway is not aware that her life will come to an end in two weeks and is under the belief that she could be rescued, then the impartial spectator will not disapprove of the castaway's giving greater consideration to her interest in living than to the cows' interest in living.⁷² Again, she is not acting from selfishness, but rather giving greater consideration to her own relevant interest.

Finally, given the criteria of normative sentimentalism, there is nothing morally wrong with consuming the flesh or carcass of an animal that has died from natural causes or from being accidentally hit by a car or that was killed by

⁷² One might argue that the interest a person has in living is greater than the interest the cow has in living because persons are self-aware in ways that cows are not and so the person is not motivated by selfishness in any situation in which she acts to save her own life, even when she has to sacrifice the life of another. Although it might be true that on balance persons have a greater interest in self-preservation than animals do, I do not think that this is necessarily true in all cases as I have tried to show above.

another animal, even if the consumer does so for gastronomical pleasure. This is because, on the face of it, there are no consequences of her action that harm another and so they will not be disliked by the impartial spectator. If no consequences of a moral agent's action are disliked, then the action is not morally wrong regardless of whether or not she acts from selfishness and regardless of the fact that she is a moral agent.

3.2.2 Research

Researchers

As noted above, at least one of the consequences of the actions committed by researchers toward animals is that the animals who are moral patients are harmed. We can say, then, that at least one consequence of these actions is disliked by the impartial spectator. Therefore, one of the three conditions that an action must satisfy in order to be morally wrong is met. As was the case with CAFO owners, employees and consumers, what now must be determined is whether the researchers are moral agents and whether their motives are disapproved of by the impartial spectator.

Clearly, researchers are moral agents. Researchers can be harmed, they can understand which motives are approved of and disapproved of and they can understand which consequences are liked and which are disliked and can choose

whether to act or not accordingly. Thus, two of the three conditions required for an action to be morally wrong have been met.

The question then is whether or not the motives of the researchers are disapproved of by the impartial spectator. That is, are the researchers motivated by selfishness? Do they fail to give due consideration to the relevant interests of those affected by their actions? Or, do they merely give greater consideration to their own relevant interests or to the relevant interests of some of those affected by their actions than they give to the equally relevant interests of others affected by their actions? Or, do the researchers give greater consideration to their own less significant or trivial interests or to the less significant or trivial interests of some of those affected by their actions than they give to the more significant interests of others affected by their actions?

If the researcher's motive is that she just enjoys performing experiments on animals, regardless of whether or not the results are useful, then it will be disapproved of by the impartial spectator. In acting from such a motive, the researcher is clearly giving greater consideration to her own less significant or trivial interests than to the more significant interests of the animals. This is not to say that the researcher should not enjoy doing research. It is only to say that if she likes performing experiments merely for the sake of performing experiments, and if she performs them on animals merely because she enjoys doing so, then she fails to give due consideration to the relevant interests (at minimum, their interest

in maintaining their physical well-being and so in avoiding pain and suffering) of the animals being used. Of course, it seems highly unlikely that any professional scientist performs animal research for just such a reason.

Given this, I want to address two contrary positions regarding the usefulness of animal experimentation. On the one hand, there are those who argue that using animals for research is not only useful, but necessary to ensure the well-being of humans. If this is true and if we assume that the interests of the humans and the animals are equally relevant, the motives of the scientists will not be disapproved of by the impartial spectator. On the other hand, there are those who argue that the research done on animals is not really useful and that in fact such research can be harmful to humans and that this is generally known and accepted by scientists. If this is true, then a strong case can be made that the scientists are at the very least acting from neglectful ignorance and so their motives will be disapproved of by the impartial spectator. I will first discuss the more charitable reading, that using animals for research is on the whole useful and necessary, and follow it with a discussion of the less charitable reading, that using animals for research is not useful or necessary.

Most scientists perform research in order to get answers to questions, e.g., as noted in section 3.1.2, what causes cancer, how does cancer grow, what substances are safe for human use or consumption. It is argued that William Jenner's work with cowpox and horsepox led to his demonstration of the efficacy

of the smallpox vaccination (Kiple and Coneè Ornelas, 26); that Louis Pasteur's animal experimentation led to vaccines for both anthrax and rabies (Kiple and Coneè Ornelas, 27); that beriberi and its cure were first discovered in chickens (Kiple and Coneè Ornelas, 27); that it was due to research on monkeys and mice that the vaccine for yellow fever was developed (Kiple and Coneè Ornelas, 29-32); and that animals have played no small role in the research and developed of azidothymidine (AZT), a drug used to prolong the period of HIV latency (Kiple and Coneè Ornelas, 32-37). Additionally, in both animal and human test subjects the ingestion of acetaminophen resulted in hepatic necrosis (a severe and rapidly progressing form of hepatitis accompanied by hepatocellular death), the use of methanol resulted in blindness, the use of morphine resulted in physical and psychological dependence, and the use of vitamins A and D resulted in osteopathy and nephrocalcinosis (a kidney disorder) respectively (Morton, 4-5).⁷³ Other experiments have shown that animals (viz., mice, rats, dogs and monkeys) have the same maximum tolerance dose of anti-cancer agents as humans (Schein, 25). Of course, we are able to use some of these drugs in limited quantities. The point is that animals and humans had similar reactions when comparably dangerous doses were administered to each.

⁷³ Others that defend the use of animals in research are Phillips and Sechzer, Englehardt, Jr., and Singleton, Jr.

As well, both Sigma Xi, the scientific research society, and the American Medical Association have published statements defending the use of animals for research. According to Sigma Xi:

Results from work with animals have led to understanding mechanisms of bodily function in humans, with substantial and tangible applications to medicine and surgery (e.g., antibiotics, imaging technologies, coronary bypass surgery, anti-cancer therapies), public health (e.g., nutrition, agriculture, immunization, toxicology and product safety) ... As the Surgeon General has stated, research with animals has made possible most of the advances in medicine that we today take for granted. An end to animal research would mean an end to our best hope for finding treatments that still elude us. (Sigma Xi, 74)

The American Medical Association has stated:

[V]irtually every advance in medical science in the 20th century from antibiotics to vaccines to antidepressant drugs and organ transplants, has been achieved either directly or indirectly through the use of animals in laboratory experiments. The result of these experiments has been the elimination or control of many infectious diseases – smallpox, poliomyelitis, measles – and the development of numerous life-saving techniques – blood transfusions, burn therapy, open-heart and brain surgery. This has meant a longer, healthier, better life with much less pain and suffering. For many, it has meant life itself ... Despite advances in public health and nutrition, eradication or control of these and most other infectious diseases was not achieved until the development of vaccines and drugs through research using animals. (American Medical Association, 11-12)

It is not only the medical community that defends the use of animals in research for the sake of human welfare. For example, Carl Cohen is one philosopher who presents a strong utilitarian argument for the use of animals in research. He claims that the pain and suffering of humans that would have occurred without

animal research surely would outweigh the pain and suffering of the animals used in the research (Cohen 1986 and Cohen and Regan, 85-123).⁷⁴

Furthermore, unlike those who argue that there are other better methods for doing medical research (e.g., *in vitro* testing, autopsies, epidemiology, mathematical modeling and computer-assisted research, genetic research, and diagnostic imaging), many scientists agree with Silvio Garattini, a prominent pharmacologist, who states that “[i]t is in fact difficult to imagine how to set up *in vitro* techniques for diseases which are expressed under the influence of complex systems such as blood circulation, nervous system regulation, neuroendocrine secretion, immune defences” (Garattini, 1). He argues that non-animal techniques are not really alternatives to animal techniques, but rather they compliment animal techniques because “at best they can cut down the number of animals or enable us to obtain more and better information with the same number” (Garattini, 1) and that animal research should actually increase in some areas due to new technologies which he claims allows for more accurate reproduction of human diseases, e.g., genetic engineering using transgenic animals.

It would appear, then, that research scientists are giving due consideration to the relevant interests of those affected by their actions. Their motives stem from a desire to save human lives, to extend the length and improve the quality of

⁷⁴ Other philosophers who also defend the use of animals as food and as research subjects are Ray Frey (see, for example, Frey 1977a, 1977b, and 1997) and Peter Carruthers (see, for example, Carruthers).

human life, and to reduce undue pain and suffering. Given that maintaining their physical and psychological well-being are significant interests of humans, it looks as if researchers are giving due consideration to the relevant interests of at least some of the moral agents and moral patients who are affected by their actions. So, even though animals are being harmed by these experiments, it could be argued that the researchers are not giving greater consideration to the less significant or trivial interests of humans when they perform experiments on the animals. Rather, they are merely giving greater consideration to the relevant interests of humans, which are at the very least equal to the interests of the animals. Therefore, given the criteria put forth in section 1.2.1, the researchers are not doing anything morally wrong because their motives are not disapproved of even though their actions result in harm to some of those affected by their actions.

On the other hand, there are those who argue that not only is animal research useless but that it can actually be harmful because of the differences between humans and animals. The problem is not with our ancestors and their lack of knowledge regarding the similarities and differences between humans and animals. The problem is with contemporary scientists who have adequate knowledge or are capable of acquiring it rather easily and yet either choose to ignore it or fail to take the measures to have a full understanding of what is at stake. For example, as was noted above (section 3.1.2), animals (mice, hamsters,

cats, guinea pigs, rabbits and rats) were used to test asbestos in order to determine whether it was a carcinogen even though it was well-known and accepted that people who had been exposed to asbestos developed cancer. Although painful lesions occurred on the animals, they disappeared when the asbestos was removed and so the disease was not permanent in the animals like it is in humans (the results then were a false negative). In addition, one set of scientists, who published their findings in the *Annals of The New York Academy of Sciences* concluded after experimenting with asbestos on hamsters that: “The experiments show that asbestos can induce mesotheliomas in hamsters. They raise a question as to whether these tumors signify a primary carcinogenic action of asbestos fibers or are secondary and nonspecific epiphenomena of fibrosis” (Smith, *et al.*, 487). The animal studies had failed to provide any definitive evidence for occurrence of malignant tumors in animals.⁷⁵ Because of this, and because of strong resistance from the asbestos lobby, it was not until 1986 that the Environmental Protection Agency recommended a ban on the use of asbestos and its products even though humans who came into contact with asbestos continued to contract cancer (Greek and Greek, 128).⁷⁶

⁷⁵ To be fair, Morton states that mesothelioma was a reaction animals had to contact with asbestos (Morton, 4).

⁷⁶ Other sources defending the idea that animal research is useless and harmful are LaFollette; Page; Regan 1983, chapter 9, section 4; Rollin, 18-19; Rowan; and Singer 1990, chapter 2. I rely on Greek and Greek to the extent that I do because their book is the most recent and comprehensive source I could find.

As noted above (section 3.1.2), researchers also transplant tumors from humans to animals under the guise of determining the mechanisms of induction and spread of cancer. Large and growing tumors cause the animals great distress. Not only is this worrisome in and of itself, but it can interfere with the researcher's ability to properly interpret the data. According to one scientist, "The experimenter who makes observations on tumor growth or behavior after an animal has reached ... [a] ... moribund cachectic state without regard to its influence on what he is observing or measuring, cannot possibly make a valid interpretation of his data" (Hewitt, 162).

There are also problems with using animals to test drugs. Although mothers who had taken thalidomide (a drug that ameliorated morning sickness) gave birth to children with severe deformities, e.g., the children were often crippled insofar as they were born without limbs or with flippers or something of the like, massive testing was done on animals who subsequently failed to produce offspring with such defects (so the animal tests resulted in false negatives). Only when high doses, 10 to 300 times that given to humans, were given to animals did it have any effect and then only with certain rabbit and monkey species (Greek and Greek, 45). The drug was on the market five years and its use resulted in over 10,000 children being born crippled before it was pulled (Greek and Greek,

46).⁷⁷ In fact, there is only a five to twenty-five percent correlation of adverse reactions in man and animal toxicity data (Heywood, 57 and 61-62).⁷⁸

The concern is not only with false negatives, however. There is also a problem with false positives. The list of drugs that caused false positives in animals, even in low doses (some doses much less than the analogous dose in humans), during research includes Tylenol, aspirin, ibuprofen, penicillin, and fluoride (Greek and Greek, chapter 4). If researchers had relied on animal data with respect to these and other drugs, many people would have suffered or died over the years (even more than the number that succumbed because of the delay in releasing the drugs which was due to the conclusions reached from testing on animals).

The problem is that although humans and animals are similar enough to be in the same kingdom (or even phyla, class, order, or family), they differ on the cellular and molecular level which is where disease occurs. Therefore, testing animals not only for diseases, but even for toxicity is usually unhelpful. For example, of 45 drugs tested using the LD50 test in 1978, only 25 percent of the effects noted on animals actually transpired in humans (Greek and Greek, 56).⁷⁹ Furthermore, in 1987, toxicologists testified to Congress that the LD50 does not address toxicity to organs (Greek and Greek, 56).

⁷⁷ For more recent examples, see Greek and Greek, chapter 4.

⁷⁸ See also Greek and Greek, 56.

⁷⁹ On the other hand, in a study of six drugs published in 1962, only between 36 and 46 percent of the 78 side effects seen in humans were seen in rats or dogs (Greek and Greek, 48).

It would seem then that scientists would be aware that testing on animals not only harms the animals, which is disliked by the impartial spectator, but that it is uncalled for. The suffering and deaths of research animals are not acceptable as they do not occur because the equally relevant or more relevant interests of humans are at stake. And, in fact the use of animals for research can result in harm to humans.

What is even more disconcerting is that most scientists recognize that information regarding diseases as well as the development of drugs and technologies did not rely on animal testing and in fact believe that animal testing is at the very least inadequate (Greek and Greek, chapter 5). It is apparently common knowledge that *in vitro* testing, autopsies, epidemiology, mathematical modeling and computer-assisted research, genetic research, diagnostic imaging and postmarketing drug surveillance are better ways to determine the effectiveness of treatments or the toxicity of substances (Greek and Greek, chapter 6).⁸⁰ In addition, it is agreed that the best ways to find new medications are to discover new substances from nature, to uncover a different curative value in an existing medication, to modify the chemical structure of a medication (based on previous knowledge about chemical structures), and to design a new

⁸⁰ Those on the other side of the debate argue that animal use will actually increase rather than decrease in the future even with these new developments because, it is argued, these alternatives are only adjuncts to using animal subjects in research, some physiological processes cannot be studied in isolation, and computer simulations may raise questions that can be addressed only by using animal subjects (LaFollette, 5).

medication from scratch based on what the medication is needed for (again using knowledge gained from previous experience) (Greek and Greek, 112).⁸¹

The question that comes to mind is: why, if this is true, do researchers continue to experiment on animals? In defense of the scientists, the reason many of them rely on research involving animals is because they are legally compelled to do so. In 1961, Congress passed the Kefauver-Harris Act which requires substantial evidence of the safety and efficacy of drugs. It also gave the control of determining whether or not the evidence provided by the pharmaceutical companies is sufficient to the FDA who interpreted (and continues to interpret) this to mean that animal testing is required even though many scientists at that time, as is the case today, knew there were significant problems with relying on animal testing (Greek and Greek, 47-48) and even though the government itself has noted that applying animal data to humans is a “leap of faith” (Greek and Greek, 58).

So, at first glance it may look as though the motives of the researchers would not be disapproved of by the impartial spectator. However, as has been shown, a very good argument can be made that the scientists are either acting from neglectful ignorance in that they choose not to pay attention to the fact that using animals for research in the ways that they do does not really provide us with the desired information or they are blatantly ignoring the evidence that using

⁸¹ See also the rest of Greek and Greek, chapter 7.

animals for research does not provide us with the desired information. And, because they are not giving due consideration to the relevant interests of those affected by their actions, they are committing (as they actually perform the experiments), contributing to, and allowing acts (as for the most part they do nothing to change policies that require experimenting on animals) that harm not only the animals, but also human beings. Therefore, given that they are moral agents, and given that the actions of the scientists result in harmful consequences which are disliked by the impartial spectator, and given that the impartial spectator disapproves of their motives, the scientists' actions are morally wrong.

One might argue that the scientists are not doing anything morally wrong because they are not acting from selfishness because they are merely following the law. That is, although they understand that using animals for research is either all but useless or results in harm to both humans and animals, they are not ignoring this information, they are not failing to give due consideration to the relevant interests of the animals, but are just acting out of respect for the law. Although I think this is a valid point, this does not let scientists off the hook. As they are the ones who have this knowledge and information, as they are the experts in such matters, it is their responsibility to take action to change the laws. Failing to do for fear of professional repercussions, or because it is too time consuming or difficult, is failing to give due consideration to the relevant interests of the animals. That is, although at least some of the interests of the scientists are

relevant, e.g., their professional well-being, these are less significant than the interests the animals have in their physical well-being (i.e., in avoiding pain and suffering and death). Giving greater consideration to their own interests then is selfish and their motives will be disapproved of by the impartial spectator and so their actions will be morally wrong.

Before moving on to the morality of the actions of those who seem to benefit from animal research, I briefly want to address two other issues that arise with respect to the use of animals for research for the benefit of humans. The first is the use of animal products and by-products in pharmaceuticals, e.g., influenza vaccines are grown on egg embryos. The second is using animals as research subjects in experiments that in fact could help humans in significant ways.

With respect to using animal products and animal by-products, it would have to be determined whether such use has any harmful consequences. For example, it would have to be determined whether egg embryos are harmed when using them to create the influenza vaccine. If they are not harmed, then there is nothing morally wrong with using them for this reason. If, however, either the egg embryo or the hen who lays it is harmed in this process, then it would have to be determined whether inflicting the harm (or contributing to it or allowing it) entails that the individual is giving greater consideration to the less significant or trivial interests of some who are affected by her actions than to the more significant interests of others affected by her actions. If so, and if it is the case

that the moral agent is giving greater consideration to the less significant interests of humans than to the more significant interests of the eggs, then using the embryo in that way is morally wrong. If this is not the case, then using the egg embryo in that way is not morally wrong. The same would be the case for any use of any animal product or by-product (i.e., products of animal origin which are not used for human consumption) for any scientific purpose (or for any purpose whatsoever). Due to the fact that only a very basic understanding of harm is being relied on in this dissertation and so the line between what can be harmed and what cannot be harmed has not been thoroughly established, I am not going to address these types of cases here.

If it does turn out to be the case that using animals as research subjects in some experiments will in fact help humans significantly, scientists still have a responsibility to only disregard the interests of animals for the sake of equivalent or greater human interests. This means that scientists must only use animals in these ways in situations in which they are as certain as they can possibly be that disregarding the interests of the animals in these ways will in fact serve the equally relevant or more significant interests of humans. If the scientists act from neglectful ignorance, their actions will be morally wrong. The relevant interests of the animals need to be given due consideration in order for the motives of the scientists to be approved of by the impartial spectator.

Beneficiaries of Research

Although I agree with those noted above that using animals for research is not beneficial, and is even harmful, to humans, given that it is legally required for scientists to test pharmaceuticals on animals, and had the researchers refused to test on animals useful drugs would not have been released for use by the general public, we can say that there are beneficiaries of such research. Then again, given that we also know that the research done on animals harms them as well as the humans it is designed to help, the two questions that we need to answer to determine whether those benefiting from the products or drugs that are a result of the research are committing actions that are morally wrong are (1) whether the beneficiaries are moral agents or not and (2) whether their motives are disapproved of or not. If the so-called beneficiaries of such research are not moral agents, then even though they are using the products, their actions are not morally wrong. In this category are infants, many adolescents, the mentally enfeebled and the senile. These individuals can be harmed but cannot understand which motives are approved of (and which are not), which consequences are liked (and which are not), or cannot choose to act (or not act) accordingly. In addition, we can include in this class those who are so seriously ill that they are at the very least temporarily unable to understand which motives are approved of (and which are not), which consequences are liked (and which are not), or cannot choose to act (or not act) accordingly. So, in making use of products that are available

because of experiments done on animals, these people are not doing anything morally wrong.

Of course, there are those who make use of these products and are also moral agents, viz., normal adult human beings. The question then is whether or not their motives are approved of by the impartial spectator; that is, whether or not they are acting from selfishness; that is, whether or not they are giving due consideration to the relevant interests of those affected by their actions. The question regarding motive needs to be focused on current research and possible beneficiaries. It would be odd to accuse people who now benefit from products such as Tylenol, aspirin, ibuprofen, penicillin, and fluoride of acting selfishly because research on these products was performed on animals some time in the past. That is, my use of ibuprofen now to control my back pain does not necessarily entail that I contribute to or allow actions that harm others. Given that this research was done well before I began to use ibuprofen, I cannot be said to have failed to give due consideration to the relevant interests of those affected. Therefore, the impartial spectator will not disapprove of my motives and my actions are not morally wrong.

The question then is with respect to the fact that research using animals continues and most, if not all, moral agents stand to benefit from it. So, in the next section I discuss the moral obligations of moral agents with respect to current research being performed on animals.

Moral Obligations of Moral Agents

Without a doubt, many moral agents who use pharmaceuticals or other consumer products that are tested on animals are acting with some ignorance. If a moral agent is ignorant of the fact that such products are tested on animals, then we have to ask whether it is reasonable to think that she ought to have such knowledge in order to determine whether she is acting from selfishness. Most normal adult humans are aware that animals are used as research subjects in medical experiments as well as in the development of other consumer products. In fact, this seems to be common knowledge. It is not unreasonable to expect that a normal moral agent possess such knowledge. Of course, if the moral agent has been in some sort of lifelong solitary confinement (or a situation similar to the brainwashed dutiful Nazi or the brainwashed religious zealot mentioned in section 1.2.1) which would make it impossible for her to know this then it would be absurd to claim that she is neglectfully ignorant.

The ignorance of moral agents is usually with respect to what the experiments entail and the necessity of these experiments. Because the experiments take place behind closed doors and because they are not recorded for public use (and even if they are recorded, such recordings are not usually made available to the general public), it does take a bit of work to find out exactly what goes on during such experiments and whether the results are actually useful.

However, given that moral agents generally know that animals are being experimented on, it is reasonable to expect that they are at the very least aware that animals are being harmed. Furthermore, investigating research practices involving animals can be performed with relative ease these days given the number of books and websites dedicated to making this information public knowledge. Failure to make one's self aware of the harms to which the animals are being subjected is neglectful ignorance. The agent is acting from selfishness because she is not giving due consideration to the relevant interests of others who are being affected by the act. For example, an agent who spends her time watching American Idol rather than doing research on the use of animals in research is giving greater consideration to her trivial interests than she is to the more significant interests of the animals. Therefore, the impartial spectator will disapprove of her motive. Because her motive is disapproved of by the impartial spectator and because a consequence of the moral agent's action (or inaction as the case may be) is disliked by the impartial spectator, her action is morally wrong.

Although most moral agents are aware that animals are used as research subjects and are subjected to at least some harm, most have also been convinced by the government and by those conducting the research that such research is necessary in order to provide better and longer lives for humans (as was noted in section 3.2.2). Many moral agents think that the interests of humans are greater

than those of the animals. If they are correct or at the very least are truly convinced they are correct, then their motive is not selfishness and thus they are not doing anything morally wrong by allowing the research to occur.

On the other hand, as was shown above, the fact that research on animals is necessary for the well-being of humans is not necessarily true. Again, it often results in harmful consequences, not only for the animals, but also for humans. Even with the publication of books by reputable authors and even with the documentation provided on various websites, that experimenting on animals is either useless or harmful to humans is a well kept secret. These books do not get much publicity or attention and many of the websites upon which this information is found are thought to be radical and unreliable, e.g., the website for the organization People for the Ethical Treatment of Animals.

The ignorance of moral agents regarding the usefulness and effects of animal research is also due in part to the fact that our government requires research on animals and we assume and expect the governmental agencies that oversee such things to be experts on such matters. Furthermore, animal research is big business. Not only do animal breeders profit from animal research, but those who manufacture devices used in animal research do as well. These people are connected to very powerful lobbies that also spend a lot of money to refute the facts presented by those who oppose the use of animals in research. In addition, much of the grant money that colleges and universities acquire is because of the

research of its professors and graduate students, much of which is animal research. Because the government currently requires animal experimentation for pharmaceuticals and other consumer products and because the government also gives the most amount of money in grants and research funds, speaking out against the use of animal experimentation could be very costly to one's career (Greek and Greek, chapter 5). So, even those who have the knowledge regarding the usefulness of animal research remain silent which results in the continuing ignorance of moral agents.

With all of this being the case, the average moral agent is not necessarily neglectfully ignorant of the fact that there is good reason to believe that animal experimentation is not only unnecessary but also harmful to both the animals and the well-being of humans. That is, there is a lot of conflicting information to sort through. As long as a moral agent has done a reasonable amount of research and decides that animal experimentation is necessary or that she has to leave it up to the so-called experts to determine, then her motives for allowing or contributing to it will not be disapproved of by the impartial spectator. The responsibility for making the public clear about when the interests of humans are equally or more relevant than those of animals and vice versa is the responsibility of the scientists and other experts. Of course, the non-expert moral agents who have the means to perform an extensive search ought to do so and to act accordingly.

3.3 Conclusion

Given the standards set out by the normative sentimentalist ethic presented in chapter 1 and defended in chapter 2, CAFO owners, CAFO workers and most CAFO product consumers, those who raise “free range” or “certified humane” animals for food, along with scientists, the beneficiaries of research and moral agents in general are contributing to or allowing actions that are morally wrong. Yet, it is not always immoral to consume animals or their products. It is morally acceptable to consume animals or their products when the animal has died of natural causes (or something of the like) or if one’s own life is at stake. But, this does not mean that an agent is permitted to treat the animal in any way she likes. If an agent must kill an animal in order to sustain herself, she must still give due consideration to their relevant interests of the animal which entails she kill the animal in the least cruel and painful way possible.

These conclusions lead us to ask what types of actions are required of moral agents when it comes to the treatment of animals. At minimum, those whose actions are morally wrong ought to stop committing such actions. This means that CAFO owners, CAFO employees, most CAFO product consumers and scientists who use animals as research subjects ought to stop raising, killing, consuming and performing research on animals. Any CAFO product consumer who is still convinced after a reasonable investigation that animal products are necessary to her physical well-being, needs to make sure that the products she

consumes have been produced in the most humane way possible. Moral agents need to make sure that they undertake a reasonable investigation to determine both the merits of using animals for research or for food and whether the scientists really were giving greater consideration to the more significant interests of the beneficiaries than to the less significant or trivial interests of the animals.

The question that arises at this point is: what are research beneficiaries, consumers and moral agents (who are bystanders) required to do if scientists, CAFO owners, and CAFO workers do not themselves discontinue their immoral actions? As mentioned very briefly in section 1.2, I am inclined to say that moral agents are required to perform actions that stem from motives that are approved of by the impartial spectator and the consequences of which are liked by the impartial spectator. This entails that moral agents who are aware that other moral agents are committing actions that are morally wrong ought to act so as to prevent the transgressors from acting as they are. These actions involve convincing the transgressors that their actions are morally unacceptable and can include things such as discussions, writing letters, articles or books that address the subject, protesting, etc. If such actions fail then petitioning the governing bodies to make such activities illegal might be the next step. The list of possibilities for addressing the actions of CAFO owners, etc., is lengthy and so I will not list every option. The idea is just that, as was noted above in section 1.2, allowing actions which stem from motives that are disapproved of by the impartial spectator and at

least one consequence of which is disliked by the impartial spectator is morally wrong and those in such a position ought to act to end such actions.

Although I have focused on CAFOs and animal research, the ethic presented here will very clearly have implications for using animals for sport (e.g., hunting, and this with respect to animals being used as both the hunters, e.g., dogs, and the hunted, e.g., deer, fox, etc.) and entertainment (e.g., circuses and zoos). Normative sentimentalism will, for the most part I think, find the individuals engaged in these activities, as well as those contributing to and allowing them, to be doing something morally wrong. Not only are those involved moral agents, but their motives are selfish (most people hunt for pleasure, not for need, and we can think of circus owners and employees as analogous to CAFO owners and employees in that their motivation is profit or income) and at least one of the consequences is disliked (in the case of hunting the hunted are killed after being stalked and in the case of circuses the animals are often abused or kept in poor conditions). The morality of zoo owners and employees is a bit more complicated because it is not always the case that they are acting from selfishness. In many cases they are actually trying to improve the conditions of animals even though the animals are often harmed in the process. Some research would have to be done to determine whether zoos are actually helpful to animals or whether the zoo owners and employees are acting from neglectful ignorance. Of course, if these actions are morally wrong, then moral

agents who are bystanders are morally obligated to act so as to prevent them or bring them to an end.

As a final point, the discussion here is very clearly based on practices prevalent in the industrialized world. Remember, in order to determine the morality of a moral agent's action(s), the impartial spectator will take into account the circumstances in which the moral agent finds herself. So, given that those living in non-industrialized countries are living in very different conditions and have very different capabilities (e.g., their access to information or other food sources), the standards imposed on them will be very different. Although their actions may result in harmful consequences to animals and may be very similar to the actions of those in industrialized countries, they may not be acting from selfishness as are their counterparts in industrialized countries.

Chapter 4: Non-Sentimentalist Animal Ethics

In this chapter I present the two most well-known arguments condemning the ways CAFO and research animals are currently treated. The first is Peter Singer's preference utilitarian view demanding the liberation of animals. The second is Tom Regan's view that animals, like most humans, have rights and that the possession of these rights by animals ought to dictate our actions toward them. I also present two types of criticisms to each of these theories – those that are answered satisfactorily by the respective theory and those that are not. The reason for presenting these theories and criticisms is to compare a couple of non-sentimentalist animal ethics to the sentimentalist animal ethic presented in this dissertation in order to show that the sentimentalist ethic is the superior ethic. That normative sentimentalism is the superior ethic will be demonstrated by its ability to respond to the criticisms to which preference utilitarianism and rights theory have satisfactory responses and by its ability to respond to those criticisms to which these non-sentimentalist theories do not have satisfactory responses.

Due to the fact that this dissertation is not about Singer's and Regan's theories, the discussion regarding the objections to each theory is limited. I present only those objections I find to be the most compelling, the most interesting or the most relevant to our discussion of normative sentimentalism and animal ethics. Therefore, I do not discuss the problems inherent in utilitarianism

or rights theory, e.g., how do we decide which action will in fact maximize pleasure (or, in the case of Singer' utilitarianism, preference satisfaction) or whether or not there are in fact such things as rights. Nor do I present every objection that arises when these theories are applied to animal issues. Again, the objections that are addressed are those that are most pertinent to the project at hand.

4.1 Singer's Liberation for Animals

I begin the discussion of Singer's preference utilitarianism in section 4.1.1 by presenting it without reference to its application to the treatment of CAFO and research animals. In section 4.1.2, I explain how Singer applies his preference utilitarianism to the treatment of animals by showing how it condemns the current treatment of CAFO and most research animals. I then present some objections to Singer's animal ethic in 4.1.3 beginning with those for which he has satisfactory responses and followed by those for which he does not have satisfactory responses.

4.1.1 Singer's Preference Utilitarianism

Peter Singer is a preference utilitarian and thus believes that the moral rightness or wrongness of an act is determined by whether or not it maximizes

preference satisfaction or, in other words, the satisfaction of interests.⁸² The basis of preference utilitarianism is the principle of equal consideration of interests (PECI). The essence of this principle is that we ought to “give equal weight in our moral deliberations to the like interests of all those affected by our actions” (Singer 1993, 21).⁸³ Singer explains:

The principle of equal consideration of interests acts like a pair of scales, weighing interests impartially. True scales favour the side where the interest is stronger or where several interests combine to outweigh a smaller number of similar interests; but they take no account of whose interests they are weighing. (Singer 1993, 22)

There are several things to take note of here. The first is that, like other forms of utilitarianism, preference utilitarianism demands that one must be impartial when making moral decisions. Accordingly, each individual counts for one and for no more than one (Singer 1993, 12-13). This means that one cannot give greater consideration to her own interests or to those of her loved ones no matter how great her inclination to do so may be. Furthermore, greater consideration cannot be given to the interests of those who are of a particular sex, race or intelligence just in virtue of the fact that they are, say, male, white and have an IQ of 125 or higher. According to Singer, “[t]here is no logically compelling reason for assuming a difference in ability [or race or sex] justifies

⁸² Singer says, “It is preference utilitarianism ... if ... we make the plausible move of taking a person’s interests to be what, on balance and after reflection on all the relevant facts, a person prefers” (Singer 1993, 94).

⁸³ See also Singer 1990, 8.

any difference in the amount of consideration we give to ... [an individual's] ... interests" (Singer 1993, 20-21).⁸⁴

Secondly, equal consideration of like interests does not necessarily entail equal treatment. Consider, for example, the interest in having physical pain relieved. Even though two individuals might share this interest, this does not mean that both should be treated equally in all situations. Singer uses the following example to clarify this point.

Imagine that after an earthquake I come across two victims, one with a crushed leg, in agony, and one with a gashed thigh, in slight pain. I have only two shots of morphine left. Equal treatment would suggest that I give one to each injured person, but one shot would not do much to relieve the pain of the person with the crushed leg. She would still be in much more pain than the other victim, and even after I have given her one shot, giving her the second shot would bring greater relief than giving a shot to the person in slight pain. Hence equal consideration of interests in this situation leads to what some may consider an inegalitarian result: two shots of morphine for one person, and none for the other. (Singer 1993, 24)

Thirdly, like his predecessor Jeremy Bentham, Singer thinks the capacity for suffering and enjoying happiness is the "vital characteristic that entitles a being to equal consideration" (Singer 1993, 57 and Singer 1990, 7); it is "the prerequisite for having interests at all, a condition that must be satisfied before we can speak of interests in a meaningful way" (Singer 1993, 57 and Singer 1990, 7). He continues on:

⁸⁴ See also Singer 1990, 6 and 9.

If a being suffers there can be no moral justification for refusing to take that suffering into consideration. No matter what the nature of the being, the principle of equality requires that its suffering be counted equally with the like suffering – insofar as rough comparisons can be made – of any other being. If a being is not capable of suffering, or of experiencing enjoyment or happiness, there is nothing that can be taken into account. So the limit of sentience (using the term as a convenient if not strictly accurate shorthand for the capacity to suffer and/or experience enjoyment) is the only defensible boundary of concern for the interests of others. (Singer 1993, 57-58 and Singer 1990, 8)

Singer equates suffering with the occurrence of pain. However, pain is a mental state and cannot be observed. Given that we cannot observe pain, it might be argued that we cannot be certain whether another is actually in pain. If we cannot be certain whether another is in pain, then we cannot give equal consideration to her interest in not being in pain. However, as Singer points out, reaction to pain can be observed. That is, although we can each only be certain that we ourselves are in pain because we cannot *see* or *feel* another's pain, there are certain responses and actions, i.e., pain behaviors, that are usually displayed by those in pain: screaming, removing oneself from the source of pain, squirming, etc. We can be pretty sure that another is in pain when she displays behaviors in these ways. In addition, all human beings have similar nervous systems which function in the same way. So, if, through experience, we come to know that certain stimuli have caused pain in some humans, then we can infer that these stimuli will most likely cause pain in most other humans. Therefore, if a human

being is in a situation which we believe would be causing us pain, we can, with great certainty, be sure that it is in fact causing her pain.

As was noted, the capacity for suffering and for enjoyment is a necessary and sufficient condition for having any interests at all. It is, however, not the only factor that matters when applying PECEI. That is, although having a capacity for suffering and for enjoyment entails that an individual has an interest in avoiding pain and experiencing enjoyment, this interest is not necessarily the only interest that ought to be taken into consideration when making decisions regarding treatment.

I do not, of course, hold that ‘the capacity to suffer is the only standard of consideration of treatment’ ... What I do hold is that the capacity to suffer, or more fully, to suffer or to experience some form of pleasure or enjoyment is a sufficient condition for being given equal consideration. To say this is a sufficient condition is not to say that it is the ‘only standard’ to be applied. If an individual can suffer, its interests in not suffering are to be taken into account and given equal weight alongside the *similar* interests of other beings. This is entirely compatible with saying that among these beings capable of suffering, some of them may also have other interests, for example in fulfilling their future plans, and these interests should be given additional consideration. (Singer 1983, 90)⁸⁵

What Singer is saying here is that PECEI leads us to focus on suffering when the interest in not suffering is the interest affected. However, the principle might lead us to focus on some other interest when it is the interest affected. Furthermore, if

⁸⁵ The idea that interests other than an interest in avoiding pain and suffering should be given additional consideration is crucial to Singer’s ideas regarding the wrongness of painlessly killing humans and certain animals (Singer 1990, 17-22 and Singer 1993, chapters 4-7). This will be discussed further in 4.1.3.

there is more than one interest that will be affected, then the interests are weighed and the most significant interest is the one that is given the greatest consideration.

To help clarify this point, let us return to our earthquake victims. As presented, both victims are in pain and have an interest in not being in pain and in not suffering. Given this, according to PECE it is the interest the victims have in not being in pain and suffering that ought to be our concern and we need to determine how best to satisfy that interest (and so how best to maximize preference satisfaction). The best way to do this is, as Singer points out, to administer two shots of morphine to one of the victims. If, however, there is only one victim and she is unconscious (and so cannot feel pain or suffer) and dying (let us assume she is buried beneath the rubble and is suffocating), then the interest on which we should focus would be her interest in living (or in fulfilling future projects), not on her interest in avoiding pain and suffering. Therefore, she ought to be pulled from the rubble, not administered a shot of morphine. If we happen upon a situation in which one of the victims has a gashed thigh and is conscious and the other is unconscious and suffocating underneath the rubble and we can only help one of them, then we ought to act to save the buried victim because her interest in living is more significant than the first victim's interest in avoiding pain and suffering.

Although the capacity for suffering and enjoyment is the necessary condition for having any interests at all and although it is the quality that makes

subjecting an individual to unnecessary pain and suffering morally wrong, it does not make killing an individual morally wrong (at least not if the killing can be done painlessly), according to Singer. Rather, it is the desire to continue living that Singer ultimately argues is what makes killing those who possess it morally wrong.

While self-awareness, the capacity to think ahead and have hopes and aspirations for the future, the capacity for meaningful relations with others and so on are not relevant to the question of inflicting pain ... these capacities are relevant to the question of taking life. It is not arbitrary to hold that the life of a self-aware being, capable of abstract thought, of planning for the future, of complex acts of communication, and so on, is more valuable than the life of a being without these capacities. (Singer 1990, 20)⁸⁶

If an individual possesses these capacities, then killing her is *prima facie* wrong. Therefore, because normal adult humans possess these capacities, killing them is *prima facie* morally wrong.⁸⁷ In most cases, then, in which we have to make a choice between saving a normal adult human and saving an animal, we ought to choose to save the human because she possesses desires and preferences the satisfaction of which maximizes preference satisfaction. For example, if there are

⁸⁶ Singer refers to humans who have these capacities as “persons” (Singer 1993, 87). He says, “This definition ... [of] ... ‘person’ ... selects two crucial characteristics – rationality and self-consciousness – as the core of the concept” (Singer 1993, 87). According to Singer, rationality and self-consciousness are central to the concept of a “person”, while self-control, a sense of the future, a sense of the past, the capacity to relate to others, concern for others, communication and curiosity follow from these (Singer 1993, 86 and 87). Singer’s position on personhood will be discussed further in 4.1.3.

⁸⁷ I say it is only *prima facie* wrong or not wrong because it might be the case that preference satisfaction could be maximized by killing or not killing a person. As Singer points out, “an action contrary to the preference of any being is, unless this preference is outweighed by contrary preferences, wrong” (Singer 1993, 94). The wrongness of killing persons will be discussed further in 4.1.3

five normal adult humans and a large tortoise in a lifeboat and there is only enough room in the boat for any five of the six, then the tortoise ought to be thrown over. However, there may be situations in which we have to choose between saving a human and saving an animal and the human, e.g., a human vegetable, is not self-aware, or capable of abstract thought, of planning for the future, or of complex acts of communication and so it might turn out that we ought to choose to save the animal, e.g., a normal adult chimpanzee, because doing so maximizes preference satisfaction.

In sum, if a being has the capacity for suffering and enjoyment, it is sentient. All sentient creatures have an interest in not suffering (and so in not experiencing pain). Whether an individual is suffering can, for the most part, be determined by observing pain behaviors and from past knowledge of what stimuli cause pain to individuals with nervous systems similar to our own. The interest a sentient creature has in not suffering should be given equal consideration to the similar interest another sentient being has in not suffering, regardless of race, sex, intellect and, as we will see below, species. Giving equal consideration to this interest does not necessarily entail equal treatment as there may be other interests that ought to be taken into account when making decisions regarding treatment (e.g., the interest in fulfilling future plans).

4.1.2 Singer's Preference Utilitarian Animal Ethic

Given the standards Singer has proposed for moral considerability, most animals (viz., mammals, birds, fish, reptiles and crustacea) will be in the class of sentient beings (Singer 1993, 55-68 and Singer 1990, 171-173).⁸⁸ Firstly, the pain responses of these animals are very similar to our responses to pain: they moan, or make other analogous noises, writhe, contort their faces, try to escape the source of pain, show fear at the prospect that the pain will repeat, etc. (Singer 1990, 11). Secondly, we know that animals, viz., other mammals and birds, have nervous systems very much like our own which respond physiologically like ours when the animal is subjected to stimuli that would cause us pain: there is a rise in blood pressure, increased pulse rate, dilated pupils, etc. (Singer 1990, 11). And, although the nervous systems of fish, reptiles and crustacea are different from our own, fish and reptiles do have centrally organized nerve pathways and the nervous systems of crustacea are very complex and their nerve cells are very similar to those of humans (Singer 1990, 174). Moreover, the part of the brain that controls impulses, emotions and feelings, the diencephalon, is very well developed in other species of animals, including mammals and birds. Finally, the nervous systems of animals developed very much as the human nervous system did with their primary purpose to be enhancing a species' prospects of survival

⁸⁸ While he admits that "one cannot with any confidence say that ... [mollusks] ... feel pain", he also claims that "one can equally have little confidence in saying that they do not feel pain" and so encourages us to refrain from consuming them (Singer 1990, 174).

(Singer 1990, 11). As Singer claims, it would be odd if physiologically similar nervous systems which have a common origin, a common function and cause similar behavioral responses to like stimuli would operate differently with respect to subjective feelings (Singer 1990, 11).⁸⁹

According to Singer, then, CAFO and research animals are sentient. Given that they are sentient, and so have an interest in avoiding pain and suffering, we ought to stop eating CAFO animals and their products and we ought to stop using most animals as research subjects (as raising them as CAFO animals and using them as research subjects clearly causes them pain and suffering; see sections 3.1.1 and 3.1.2). By using animals in these ways, we fail to give proper consideration to their interest in avoiding pain and suffering; we fail to abide by PECL. Thus, we fail to maximize preferences and we are committing actions that are morally wrong.

To be clear, according to Singer's preference utilitarianism, it is not necessarily the case that we ought never to kill animals for consumption or use them for research. If doing so maximizes preference satisfaction, then doing so is morally permissible. His point is that factory farming and most uses of animals for research do not in fact maximize preference satisfaction because of the amount of pain and suffering inflicted upon the animals. That is, the pain and suffering the animals endure as CAFO animals and as research subjects is greater than the

⁸⁹ Singer provides a list of studies and books proving that animals feel pain and suffer (Singer 1990, 12-13).

gastronomical pleasure we get from eating them. In other words, the animals have an interest in avoiding pain and suffering and the humans that consume CAFO products have an interest in experiencing gastronomic pleasure. However, the interest the animals have in avoiding pain and suffering is more significant than the interest the humans have in experiencing gastronomic pleasure. Similarly, animals that are used as research subjects have an interest in avoiding pain and suffering while the humans that benefit from these experiments have an interest in making their lives better and longer. However, given that Singer believes that most experiments involving animals are either useless or unnecessary, the interests of the animals are more significant than the interests of the (alleged) human beneficiaries (Singer 1990, chapter 2).

4.1.3 Objections to Singer's Preference Utilitarian Animal Ethic

Before presenting some objections to Singer's theory for which he does not have satisfactory responses, I will briefly present some objections to his theory for which he does have satisfactory responses. These responses include those that Singer himself gives as well as those that he does not give but which can be inferred from his theory.

Answered Objections

Four criticisms will be presented in this section. According to the first objection, which I call the "speciesism objection", animals are a different species

than humans and because of this they do not deserve the same consideration as humans and so humans have a right to treat them as we please. The second, which I call the “natural predator objection”, holds that because animals eat each other (and humans when given the opportunity) there is nothing wrong with humans eating animals. The third objection, which I call the “animal interests objection”, states that the interests of animals are not as important as the interests of humans and so do not deserve the type of consideration demanded by PEIC. According to the final objection, which I call the “preference satisfaction objection”, preference satisfaction is maximized through using CAFO animals as food and using animals for research and therefore these practices are not morally wrong.

i. Speciesism Objection

The first criticism, that because animals are a different species than humans we can treat them as we please, is easily answered by Singer. He responds by likening our treatment of animals in virtue of the fact that they are of a different species to the treatment of non-whites and females because they are not white or male. That is, he argues against what he calls “speciesism” which is defined as “a prejudice or attitude of bias in favor of the interests of one’s own

species and against those of members of other species” (Singer 1990, 6).⁹⁰ He claims that just as it is unacceptable for human beings of a certain intelligence, race or sex to discriminate against, oppress or use for their own ends human beings of lesser intelligence, a different race or sex, it is unacceptable for human beings to discriminate against, oppress or use for their own ends members of other species. Singer’s point is that if intelligence, race or sex are not good enough reasons to keep us from abiding by PEGI when considering the interests of members of our own species, then species is not a good enough reason to keep us from abiding by the principle when considering the interests of members of other species, especially when the interest of concern is the interest in avoiding pain and suffering. If a being can feel pain and suffer, then it has an interest in avoiding it. According to PEGI, the interest animals have in avoiding pain and suffering deserves the same consideration that is given to the interest humans have in avoiding pain and suffering. It is the interest that matters, not the species, race, sex, or intellect of the being that possesses it. Therefore, even though animals are a different species than humans, we cannot treat them any way we please.

ii. Natural Predator Objection

Singer finds the objection ‘animals kill other animals for food so it is acceptable for us to kill animals for food’ especially peculiar. He states, “It is odd

⁹⁰ See also Singer 1993, 58. Richard Ryder first coined the term “speciesism” in 1979 and distributed a pamphlet titled “Speciesism” that same year. However, my research indicates that there are no copies of the pamphlet available (Ryder).

how humans, who normally consider themselves so far above other animals, will, if it seems to support their dietary preferences, use an argument that implies that we ought to look to other animals for moral inspiration and guidance” (Singer 1990, 224).⁹¹

Peculiarity aside, Singer notes that not only do some animals have to eat each other to survive and not only are these animals not the ones we usually consume or use as research subjects (interestingly humans primarily consume herbivores and most research animals are herbivores), but even if carnivorous animals could survive without consuming other animals, they are incapable of making the choice to do so. Singer says, “We cannot evade our responsibility for our choice by imitating the actions of beings that are incapable of making this kind of choice” (Singer 1990, 225). If by refraining from consuming CAFO animals and using them for research we can reduce the amount of suffering in the world, then we are morally obligated to do so even if these same animals are incapable of making a similar choice.

Singer could also respond by saying that this objection implies that because infants, the mentally enfeebled, and the senile behave in certain ways, e.g., infants often cry incessantly in public and the mentally enfeebled and the senile often throw tantrums when they are upset or confused or they will often steal things from others (because they think they can just take what they want),

⁹¹ See also Singer 1993, 71.

normal adult humans should be permitted to act in these ways as well. This is absurd and few, if any, would agree.

iii. Animal Interests Objection

Singer shows in chapter 1 of *Animal Liberation* that most animals do have interests and in particular the interest in avoiding pain and suffering (see also section 4.1.2). So, any arguments to the contrary are irrelevant.

Some argue that because animals have lower intelligence, their interests are not due the type of consideration demanded by PEIC. However, as Singer points out, many animals have higher intelligence than many humans. So, if an individual thinks that it is acceptable to use animals for, say, research because they lack intelligence, then they ought to be willing to use infants who have equal or less intelligence than research animals, e.g., those who are severely brain damaged and orphaned (Singer 1993, 67-68 and Singer 1990, 82).

A critic might respond by saying that in general humans have greater interests than animals (at least in part because they are rational and self-conscious) and that these interests need to be given greater consideration. As was noted above in section 4.1.1, Singer does not deny this. In fact, he admits that the superior mental powers of normal adult humans make a difference in many situations, e.g., those in which there is anticipation and greater knowledge of what is happening (Singer 1993, 59-61 and Singer 1990, 16). In addition, he allows

“that comparisons of suffering between members of different species cannot be made precisely” (Singer 1993, 61 and Singer 1990, 16). However, he claims that “precision is not essential” (Singer 1993, 61 and Singer 1990, 16).

Even if we were to prevent the infliction of suffering on animals only when it is quite certain that the interests of humans will not be affected to anything like the extent that animals are affected, we would be forced to make radical changes in our treatment of animals that would involve our diet, the farming methods we use, experimental procedures in many fields of science, our approach to wildlife and to hunting, trapping and wearing of furs, and areas of entertainment like circuses, rodeos, and zoos. As a result, a vast amount of suffering would be avoided. (Singer 1990, 16)⁹²

So, the interests of normal adult humans may deserve greater consideration, but, even so, the practices of factory farming and using most animals for research are morally wrong because the interests the animals have in not suffering is greater than the interests normal adult humans have in experiencing gastronomical pleasure and because most experiments using animals for human benefit are of little to no use for humans.

iv. Preference Satisfaction Objection

One could, even as a hedonistic or preference utilitarian, argue that the net amount of pleasure or preference satisfaction brought about by factory farming (e.g., gastronomical pleasure) and using animals for research (e.g., improving the quality of and prolonging life) far outweighs the pain the animals are subjected to

⁹² See also Singer 1993, 61.

or lack of preferences that are satisfied in the process. Singer does have a response to this: viz., it is not in fact true that the preference satisfaction achieved by those who consume and enjoy CAFO products or that is a result of animal research outweighs the pain to which the animals are subjected (see section 4.1.2); the preference an animal has for not being subjected to pain and suffering is more significant than the preference humans have for gastronomical pleasure. In addition, as was argued above (section 3.2.2), the notion that using animals as research subjects improves the quality of and prolongs life is a highly contested notion. Singer gives many other examples of fruitless research involving animals to further defend the idea that in fact most research is not useful (Singer 1990, chapter 2).⁹³ Thus, our preference for better and longer lives is not in fact satisfied by the results of the experiments to which the animals are subjected. Therefore, overall preference satisfaction would be maximized were we to stop using animals for research (thus satisfying the animals' preference for avoiding pain and suffering).

Unanswered Objection: The Moral Standing Objection

In this section I will present what I think is the strongest objection against Singer's preference utilitarianism, what I call the "moral standing objection".

According to this objection, Singer's preference utilitarianism has a number of

⁹³ I also defended this position in chapter 3.

problems concerning the moral standing of sentient beings.⁹⁴ In particular, even though Singer claims sentient beings have considerable moral standing, his preference utilitarianism does not go far enough in protecting them against certain types of actions, viz., it does not offer them enough protection against killing.

After explaining what is required for a being to have value according to Singer's preference utilitarianism, I distinguish between Singer's two categories of sentient beings, persons and merely conscious beings. I then explain the problems with the moral standing of persons first and conclude with a discussion of the problems of the moral standing of merely conscious beings.

As was noted above in sections 4.1.1 and 4.1.2, according to Singer only sentient beings are morally considerable. He says, "This ... ethic draws the boundary of moral consideration around all sentient creatures, but leaves other living things outside that boundary" (Singer 1993, 276).⁹⁵ Singer further states:

The most obvious reason for valuing the life of a being capable of experiencing pleasure or pain is the pleasure it can experience. If we value our own pleasures ... then the universal aspect of ethical judgments requires us to extend our positive evaluation of our own experience of these pleasures to the similar experiences of all who can experience them. (Singer 1993, 101)

⁹⁴ Some of what follows was discussed briefly in 4.1.1, but more detail is needed for the purposes of presenting this objection.

⁹⁵ Recall that Singer thinks that the capacity for suffering and enjoyment is the condition for having interests at all. Recall also that he thinks that if a being can feel pain and suffer, then there is no good reason not to give that pain and suffering the same consideration we give our own (see 4.1.1 and 4.1.2).

Singer classifies sentient (or conscious) beings into two different categories, persons and merely conscious beings. The class of persons consists of those sentient beings who are rational and self-aware; and because they are rational and self-aware they possess self-control, a sense of the future, a sense of the past, the capacity to relate to others, concern for others, communication and curiosity (Singer 1993, 86-87; see also section 4.1.1). Archetypal persons are normal adult humans, but the category also includes the great apes and most likely whales, dolphins, dogs, cats, pigs and the like (Singer 1993, 118-119 and Singer 1993, 182). The class of merely conscious beings consists of those sentient beings who are not rational and self-aware and so do not possess the other qualities; in particular they do not possess a sense of the future or of the past (Singer 1993, 101). In this category are many animals, e.g., chickens, ducks and mice, as well as human newborn infants and some intellectually disabled humans (Singer 1993, 101, 133 and chapter 7).

a. Moral Standing of Persons

Singer thinks it is *prima facie* wrong to kill either persons or merely conscious beings. Regarding the wrongness of killing persons he says:

According to preference utilitarianism, an action contrary to the preference of any being is, unless outweighed by contrary preferences, wrong. Killing a person who prefers to continue living is therefore wrong, other things being equal. (Singer 1993, 94)

So, it is wrong to kill a person because persons have the preference to continue living. However, it is only *prima facie* wrong to kill a person because her preference to live could be outweighed by the preferences of others.

Although preference utilitarianism does provide a direct reason for not killing a person, some may find the reason ... not sufficiently stringent. Even for preference utilitarianism, the wrong done to the person killed is merely one factor to be taken into account, and the preference of the victim could sometimes be outweighed by the preferences of others. (Singer 1993, 95)

Some might object to the fact that it is merely *prima facie* wrong to kill persons according to Singer's preference utilitarianism. However, I do not think that this objection is a very serious one. Very few hold that it is always, in every case and for every reason, wrong to kill a person: Kantian deontologists allow the killing for punishment of some individuals Singer regards as persons, social contract theorists will also usually allow it for transgressors, even divine command theorists and natural law theorists permit the killing of non-innocents. Normative sentimentalists allow for it in certain circumstances (see chapters 1 and 2) and even those who think that life is sacred usually allow for killing as punishment or in self-defense. So, I do not think that this criticism is a difficult one for Singer to overcome.

The real problem with Singer's position on killing persons is that it not only permits, but calls for, the killing of one to save many. For example, if five people need organ transplants or they will die and the organs of one healthy

person can be used to successfully save the five, then not only is it morally permissible to kill the one without her permission to save the five, but it is morally required. Although all six are persons, the preferences of the five sick persons outweigh the preferences of the one. However, it is wrong to require the death of a person merely because more preferences will be satisfied by doing so.

Another problem arises for Singer when we consider further the implications of his preference utilitarianism with respect to the wrongness of killing persons. Even though it is morally wrong to kill both persons and merely conscious beings, Singer claims that it is more morally wrong to kill persons than to kill merely conscious beings.

A self-conscious being is aware of itself as a distinct entity, with a past and a future ... A being aware of itself in this way will be capable of having desires about its own future ... To take the lives of ... these people, without their consent, is to thwart their desires for the future ... Killing ... [merely conscious beings] ... does not thwart desires of this kind, because ... [they] ... are incapable of having such desires. (Singer 1993, 90)

A few pages later he says:

For preference utilitarians, taking the life of a person will normally be worse than taking the life of some other being, since persons are highly future-oriented in their preferences. To kill a person is therefore, normally, to violate not just one, but a wide range of the most central and significant preferences a being can have. Very often, it will make nonsense of everything that the victim has been trying to do in the past days, months, or even years. (Singer 1993, 95)

Although it might be *prima facie* more morally wrong to kill persons than to kill merely conscious beings, this does not mean that the preferences of persons always outweigh the preferences of merely conscious beings. Again, what Singer advocates is preference satisfaction maximization. So, it is not necessarily the case that the preference to live of a single person outweighs the preferences to avoid pain and suffering of a group of merely conscious beings. For example, imagine that we have to choose between torturing one hundred chickens and killing one 95-year-old normal adult human. It can be argued that preference satisfaction will be maximized if we choose to kill the 95-year-old adult as arguably the preference to avoid pain and suffering of the hundred chickens outweighs the preference to continue living of the 95-year-old. Even if we set aside our speciesist intuitions, that Singer's preference utilitarianism allows for the preferences, and thus moral standing, of persons to be outweighed by those of merely conscious beings in many situations leaves us to question the strength of the protections his theory offers persons.

Not only does Singer think that killing a person is *prima facie* wrong because doing so is an action contrary to the preferences of the person, but he thinks there are three further reasons for thinking it is wrong to kill persons. Unfortunately, these reasons seem to offer him less help than he thinks they do.

The first reason he gives to defend his position that killing a person is wrong is that it is wrong because of the indirect harm it does to others. Singer

says, “the killing of the person may become known to other persons, who derive from this knowledge a more gloomy estimate of their chances of living to a ripe old age, or simply become fearful of being murdered” (Singer 1993, 92). For example, if it were the case that healthy people could be killed for the sake of sick people, knowing that as healthy individuals we might be killed to save sick people would interfere with our preference satisfaction as we would fear for our lives.

The problem is that this does not necessarily prohibit killing persons in secrecy. For example, let us again assume that a healthy person is killed to save the lives of five sick people. We can imagine a situation in which the healthy person is a recluse or a runaway or a homeless person and so does not have a circle or network of loved ones either concerned about her existence or aware of her whereabouts. We can also imagine that the sick people are told that their new organs have been donated by an organ donor who died of a stroke or in a car accident or something of the like. In a case such as this, one in which people are not aware that healthy people are being killed to save sick people, killing healthy people would not interfere with the preference satisfaction of those who would be negatively affected, albeit indirectly, by knowing such things. Therefore, there does not seem to be any indirect harm done to anyone and so Singer does not get the support he desires from this justification.

The second reason Singer gives in order to support his position that killing persons is wrong is that those who conceive of themselves as existing over time

have a right to life. He agrees with Michael Tooley that to have a right to life one must have, or at one time had, the concept of having a continued existence (Singer 1993, 96-98). This is because, according to Tooley, there is a conceptual connection between the desires a being is capable of having and the rights a being can be said to have.

The basic intuition is that a right is something that can be violated and that, in general, to violate an individual's right to something is to frustrate the corresponding desire. (Singer 1993, 96)

So, Tooley's view demands that the desire necessary to having a right to life is the desire to continue existing as a distinct entity and only those who are capable of seeing themselves as distinct entities existing over time have these desires.

I find Singer's use of this view curious because he claims that "I am not convinced that the notion of a moral right is a helpful or meaningful one, except when it is used as a shorthand way of referring to more fundamental moral considerations" (Singer 1993, 96). Given that Singer is not committed to the idea or existence of rights, it is not clear to what extent Singer is affirming Tooley's right to life view by appealing to it for support of his own position. Yet, oddly, it is included in his defense of his stance on infanticide, abortion, euthanasia and the killing of animals insofar as he thinks it makes clear which of these actions violates a being's right to life. However, Singer leaves it off of the list of reasons a utilitarian can accept for the wrongness of killing persons (Singer 1993, 100). In fact, all he explicitly claims is that this reason cannot be rejected out of hand

(Singer 1993, 100). This is because, of course, Singer is a preference utilitarian and to be true to his view he has to hold that the wrongness of killing is based on the fact that it does not maximize preference satisfaction not that it violates a right.

The third reason Singer gives to defend his position that killing persons is wrong is that it violates a being's autonomy.

There is a strand of ethical thought, associated with Kant but including many modern writers who are not Kantians, according to which respect for autonomy is a basic moral principle. By 'autonomy' is meant the capacity to choose, to make and act on one's own decisions. Rational and self-conscious beings presumably have this ability, whereas beings who cannot consider the alternatives open to them are not capable of choosing in the required sense and hence cannot be autonomous. In particular, only a being who can grasp the difference between dying and continuing to live can autonomously continue to live ... [K]illing a person who does not choose to die is the gravest possible violation of that person's autonomy. (Singer 1993, 99)

So, on this view, only a being that can grasp the difference between living and dying can autonomously choose to continue living. Killing a being that grasps this difference and chooses to live is wrong. Persons have this ability, while merely conscious beings do not. Therefore, killing a person who does not choose to die fails to respect her autonomy and is wrong.

The respect for autonomy view has its problems, e.g., the class of beings it covers is limited and excludes infants, the senile, the mentally enfeebled and most animals. However, like Tooley's right to life argument, Singer relies on it to

defend his stance on infanticide, abortion, euthanasia and the killing of animals. Yet, as was the case with Tooley's view, it is not clear the extent to which Singer is affirming this view as he admits that utilitarians cannot respect autonomy for its own sake (Singer 1993, 99). Rather, he acknowledges that at most the utilitarian can give weight to a person's desire to continue living for determinations regarding preference satisfaction or as evidence that the person's life was a happy one on the whole. In fact, he claims that utilitarians would "probably advocate respect for autonomy" but acknowledges that they cannot accept it as a reason for the wrongness of killing (Singer 1993, 100).

In sum, although persons have moral standing according to Singer, their preferences can in many situations be outweighed by the preferences not only of other persons, but also by those of merely conscious beings thereby leaving persons much more unprotected than is desirable.

b. Moral Standing of Merely Conscious Beings

Although Singer thinks it is more morally wrong to kill persons than to kill merely conscious beings, he does think that, like the morality of killing persons, it is *prima facie* wrong to kill merely conscious beings and he says so in a lengthier version of a quote noted above.

The most obvious reason for valuing the life of a being capable of experiencing pleasure or pain is the pleasure it can experience. If we value our own pleasures ... then the universal aspect of ethical judgments requires us to extend our positive evaluation of our own

experience of these pleasures to the similar experiences of all who can experience them. But death is the end of all pleasurable experiences. Thus the fact that beings will experience pleasure in the future is a reason for saying that it would be wrong to kill them. (Singer 1993, 101)

Nevertheless, the protections offered merely conscious beings are even weaker than those offered to persons. This means that we are left with some pretty displeasing conclusions. For example, according to Singer's theory, there is some number of healthy merely conscious beings that we are obligated to kill for their organs in order to save the lives of persons. This means that there is an acceptable number of very mentally disabled but otherwise healthy humans whose lives we are required to take in order to give their organs to persons who do not have healthy organs. That is to say, we cannot take the lives of an infinite number of healthy merely conscious beings to save the lives of a few persons. There is a limit to the number we could use. However, there is still some acceptable number of merely conscious beings whom we are required to use in such a way.

Singer's view also results in our being required to kill orphaned human newborn infants in order to save the lives of adult chimpanzees if we find that the organs of the infants are good replacements for those of the chimpanzees; chimpanzees are persons whereas newborn human infants are not and so even if we cannot painlessly kill the infants, the preferences of the chimpanzees to live outweigh the preferences of the infants. In addition, if we are in a situation in which we have to choose between saving a healthy 95-year-old human, at least as

healthy as a 95-year-old human can be, and a healthy week-old orphaned human newborn, we have to save the 95-year-old because her preferences outweigh the preferences of the infant – the 95-year-old is a person and the infant is a merely conscious being. Similarly, imagine a situation in which an orphaned human newborn (let us assume she is perfectly healthy) and a dog are trapped inside a burning building. Imagine also that you are the only one present and you have time to save either the infant or the dog; you do not have time to save both before the fire consumes the building. Singer would argue that it is the dog that ought to be saved because she is a person whereas the infant is only a merely conscious being; preference satisfaction is maximized by saving the dog rather than the infant.

That it is morally required of us to commit these actions, viz., killing the mentally enfeebled for the sake of persons, killing newborns for the sake of chimpanzees, allowing newborns to die for the sake of the very, very elderly and allowing newborns to die for the sake of dogs, are all extremely problematic consequences of Singer's view. Not only will each of these conclusions be rejected by one moral theorist or another, but it is likely that only the most committed preference utilitarian will hold even one of them.

Another concern regarding the moral standing of merely conscious beings is that Singer actually thinks that they are replaceable. Singer makes the following claim.

[I]t is possible to regard non-self-conscious animals as interchangeable with each other in a way that self-conscious beings are not. This means that in some circumstances – when animals lead pleasant lives, are killed painlessly, their deaths do not cause suffering to other animals, and the killing of one animal makes possible its replacement by another who would not otherwise have lived – the killing of non-self-conscious animals may not be wrong. (Singer 1993, 133)⁹⁶

It appears then that there are at least two circumstances under which it is not morally wrong to kill merely conscious beings: (1) if the situation is one in which the preferences of another being, whether a person or a merely conscious being, outweigh the preferences of the merely conscious being and (2) if the situation is one in which the merely conscious being is replaced by another merely conscious being who will lead an equally pleasant life. We have already seen the types of consequences that arise from the first circumstance. Consequences like the following arise from the second circumstance:

Is it possible ... to justify raising chickens for their meat, not in factory farm conditions but roaming freely around a farmyard? Let us make the questionable assumption that chickens are not self-conscious. Assume also that the birds can be killed painlessly, and the survivors do not appear to be affected by the death of one of their numbers. Assume, finally, that for economic reasons we could not rear the birds if we did not eat them. Then the replaceability argument appears to justify killing the birds, because depriving them of the pleasures of their existence can be offset against the pleasures of the chickens who do not yet exist, and will exist only if existing chickens are killed. (Singer 1993, 133)

⁹⁶ See also Singer 1993, 121 and 125. Note that Singer does not think persons are replaceable: “[P]erhaps the capacity to see oneself as existing over time, and thus to aspire to longer life (as well as to have other non-momentary, future-directed interests) is the characteristic that marks out those beings who cannot be considered replaceable” (Singer 1993, 125).

One implication of this position is that we are permitted to kill as many newborn human infants as we like as long as we replace them with other newborns who will live equally pleasant lives. In addition, fetuses can be aborted as long as an equal number of fetuses are conceived who will have equally pleasant existences. The same goes for any other merely conscious being including the mentally disabled. Even if we do not think infanticide, abortion or killing the mentally disabled are wrong, we do not think of these beings as replaceable. Another implication of this position is that not only is there an acceptable number of healthy merely conscious beings whose lives we are required to take in order to save the lives of unhealthy persons, but given that merely conscious beings are replaceable, there is actually no limit to the number of merely conscious beings whom we are required to kill for the benefit of persons as long as we replace them with other merely conscious beings whose lives are equally pleasant.

Singer's view regarding the replaceability of merely conscious beings also seems to have the very odd implication that we can, for example, kill newborns and replace them not with other newborns, but with some other type of merely conscious being that we would treat similarly, say the mentally enfeebled. We could, theoretically, kill off one species of merely conscious beings if we replace it with an equal number of another species of merely conscious beings, e.g., we could replace chickens with mice, or newborns, or the mentally enfeebled, or

animal or human fetuses. It is not at all clear to me why we would want to accept this.

In sum, according to Singer, although it is *prima facie* wrong to kill both persons and merely conscious beings, there are a great many circumstances in which we are not only permitted to kill them, but which in fact we are obligated to kill them, viz., if their preferences are outweighed by other persons or merely conscious beings. Furthermore, killing merely conscious beings for any reason is not morally wrong if we replace them with other merely conscious beings that will live equally happy lives.

4.2 Regan's Case for Animal Rights

I begin this section by presenting Regan's moral theory without reference to its application to the treatment of CAFO and research animals. In section 4.2.2, I explain how Regan applies his rights theory to the treatment of animals thereby showing how it condemns the current treatment of CAFO and research animals. I then present some objections to Regan's animal ethic beginning with those for which he has satisfactory responses. These are followed by those for which he does not have satisfactory responses.

4.2.1 Regan's Rights Theory

In contrast to Singer's preference utilitarianism, Tom Regan's rights theory maintains not that the maximization of preference satisfaction is what

should motivate our moral decisions, but rather that our moral decisions should be based upon the fact that all moral agents and moral patients have certain basic moral rights and that these rights ought to be respected. The foundation of his theory is what he calls the *respect principle*:

Respect Principle

We are to treat those individuals who have inherent value in ways that respect their inherent value. (Regan 2004, 248)⁹⁷

Regan's view is that those who have inherent value have the basic moral right to respectful treatment. A sufficient, but not necessary, condition for having inherent value is to be a subject of a life which not only requires that one be alive and be conscious, but also that one have beliefs and desires; perceptions; memory and a sense of the future, including one's own future; an emotional life together with feelings of pleasure and pain; preference and welfare interests; the ability to initiate action in pursuit of desires and goals; psychophysical identity over time; and individual welfare in the sense that their experiential life fares well or ill for them logically independently of their utility for others and logically independently of their being the object of anyone else's interests (Regan 2004, 243).

To be clear, the equal inherent value of individuals who have it is not derived from the subject of a life criterion. That certain individuals have equal

⁹⁷ Regan thinks this principle meets the requirements necessary for making an ideal moral judgment: adequacy of scope, precision, consistency, conformity with our reflective intuitions (Regan 2004, 258-260 and 277).

inherent value is a theoretical assumption, a postulate.⁹⁸ The assumption, Regan says, is made before the subject of a life criterion is introduced. The subject of a life criterion merely specifies “a relevant similarity among all those individuals who, by force of argument, are to be viewed as having equal inherent value” (Regan 2004, 248). This is why being a subject of a life is a sufficient, but not necessary, condition for having inherent value (and therefore for having a right to be treated according to the respect principle). Thus, it is possible for those who are not subjects of a life to have inherent value and to have a right to be treated according to the respect principle, as will be discussed further below.

Moral agents possess all the qualities listed above which means they are subjects of a life and have a right to respectful treatment. In addition, they can understand and also choose to act according to or contrary to moral principles.

Moral agents are individuals who have a variety of sophisticated abilities, including the particular ability to bring impartial moral principles to bear on the determination of what, all considered, morally ought to be done, and having made this determination, to freely choose or fail to choose to act as morality, as they conceive it, requires ... [They] not only can do what is right or wrong, they may also be on the receiving end, so to speak, of the right or wrong acts of other moral agents. (Regan 2004, 151-152)

On the other hand, moral patients cannot understand or choose to act according to or contrary to moral principles.

Moral patients lack the prerequisites that would enable them to control their own behavior in ways that would make them morally

⁹⁸ Regan gives his reasons for postulating this at Regan 2004, 247.

accountable for what they do. A moral patient lacks the ability to formulate, let alone bring to bear, moral principles in deliberating about which one among a number of possible acts it would be right or proper to perform. Moral patients, in a word, cannot do what is right, nor can they do what is wrong. (Regan 2004, 152)

Yet, like moral agents, moral patients can be on the receiving end of the right or wrong acts of moral agents (Regan 2004, 154).

According to Regan, the class of moral patients consists of both (a) those who are conscious and sentient but who lack other mental abilities, viz., those required of a subject of a life, and (b) those who are conscious, sentient and possess other cognitive and volitional abilities, viz., those required of a subject of a life (Regan 2004, 153). Regan advises that his primary concern is with those moral patients in (b) because they are actually subjects of a life (and so clearly have inherent value). So, when the term “moral patients” is used in this section (4.2), it is referring to the individuals in (b). The moral patients in (a) which include some humans (and animals) are not subjects of a life, but this is not necessarily to say that they do not possess inherent value (because, again, being a subject of a life is merely a sufficient, but not necessary, condition for having inherent value). Regan claims it is quite possible that the beings in (a) do in fact possess inherent value, but he admits that such determinations are beyond the

scope of the project in *The Case for Animal Rights* and that the project is therefore incomplete in this way (Regan 2004, 246).⁹⁹

It is important to note, however, that Regan does think we need to give those in (a) the benefit of the doubt and treat them according to the respect principle. He states, “The rights view advocates taking steps that foster the creation of a moral climate where the rights of the individual are taken seriously indeed. Better, then, to adopt a policy that errs on the side of caution when the recognition of moral rights is at issue” (Regan 2004, 319-320). Not only does Regan think that it is best to err on the side of caution where moral rights are concerned, but he also thinks that our treatment of those beings whose status as subjects of a life or as possessors of inherent value is uncertain (viz., the moral patients in (a)) could impact our treatment of those beings who are in fact subjects

⁹⁹ It is curious to me as to why Regan puts these beings (those who are merely sentient and conscious) in the moral patients category since they are not clearly subjects of a life, nor is it clear whether they possess inherent value. On the face of it, they do not have any rights. Since it is not clear whether they are subjects of a life or have inherent value, it is not at all clear whether and why they are morally considerable. It is thus difficult to see why they belong in the same class as those who are clearly morally considerable. We will see below that Regan says we need to give these beings the benefit of the doubt and treat them as if they are subjects of a life, but that does not justify putting them in the moral patients category at this stage of the game, especially since Regan himself admits that these beings are not in the group of those being referred to when he speaks of moral patients. Whether or not the beings in (a) have inherent value is an issue that is left unresolved in *The Case for Animal Rights* and is an issue he has not revisited, as far as I can determine, since *The Case for Animal Rights* was first published (as Regan has not resolved them in the second edition). So, the actual moral status of these beings remains unclear.

Regan also acknowledges that natural objects or collections of natural objects, e.g., trees, rivers, and rocks, might have inherent value as well, but he leaves such determinations for others to make (Regan 2004, 246). These entities are also excluded from the group referred to when he speaks of moral patients, but, unlike the beings in (a), he never claims that we ought to give them the benefit of the doubt. Although the beings in (a) possess sentience and are conscious, it is not clear to me why one group of beings or entities whose moral status is unclear is to be given the benefit of the doubt and the other is not.

of a life (and certainly have inherent value; viz., moral agents and moral patients in (b)). In order to ensure that we maintain the proper attitude towards subjects of a life (and those with inherent value) and treat them with the respect they deserve, we ought to treat those whose status is uncertain with the respect demanded by the respect principle (Regan 2004, 368).

So, all subjects of a life (moral agents and moral patients) have inherent value and thus are to be treated according to the respect principle which means they are bearers of at least certain basic moral rights. According to Regan, to say that subjects of a life have certain basic moral rights is to say that:

(1) those with inherent value possess certain rights independently of anyone's voluntary acts, either their own or those of others, and independently of the position they happen to occupy in any given institutional arrangement [i.e., the rights are unacquired];

(2) these rights are universal – that is, they are possessed by all relevantly similar individuals, independently of those considerations mentioned in (1);

(3) all who possess these rights possess them equally (Regan 2004, 327).

Not only are moral rights universal, equal and not the result of the creative acts of any individual (e.g., a despot) or group (e.g., a legislative assembly), but they do not depend on an individual's race, sex, religion, place of birth or country of domicile (Regan 2004, 267-268). (Nor, as we will see below in section 4.2.2, do they depend on an individual's species.)

In order to distinguish his view from utilitarianism, Regan makes very clear that those who possess inherent value, and therefore have the right to respectful treatment, are not receptacles of value nor are they replaceable (because their value is independent of their utility). He says:

All moral agents and patients must always be treated in ways that are consistent with the recognition of their equal possession of ... [inherent value] ... The basic moral right to respectful treatment prohibits treating moral agents or patients as if they were mere receptacles of intrinsic values (e.g., pleasure) lacking any value of their own, since such a view of these individuals would allow harming some (e.g., by making them suffer) on the grounds that the aggregate consequences for all those other “receptacles” affected by the outcome would be “the best”. (Regan 2004, 328)

A practice, institution, enterprise, or similar undertaking is unjust if it permits or requires treating individuals with inherent value as if they were renewable resources, and such individuals are treated as if they were such resources if ... they are killed, their “place” to be filled by another, similar individual whose life will be similarly terminated, and so on. (Regan 2004, 343)

The rest of the discussion in this section focuses on what the right to respectful treatment entails and when it can be overridden. The principles that are discussed apply both to those we are sure have inherent value, subjects of a life (both moral agents and moral patients), and to those who are borderline, but to whom Regan thinks we ought to give the benefit of the doubt (those moral patients in (a)).¹⁰⁰ Given that Regan uses the term “individuals” to refer to those who have inherent value, the term will be used as such throughout this section.

¹⁰⁰ There is further discussion of borderline cases below.

According to Regan, the right to respectful treatment includes the right not to be harmed as per the *harm principle*.

Harm Principle

[W]e have a direct prima facie duty not to harm individuals.
(Regan 2004, 187)

Because this duty is only a *prima facie* duty, it can be overridden in certain circumstances and these exceptions include self-defense (against both moral agents and moral patients), punishment of the guilty, and innocent shields (innocents being used to protect those engaged in unlawful activities).

There are other times, however, when we are permitted to harm innocent subjects of a life. To help us make decisions about when it is acceptable to harm innocents, Regan gives us the miniride principle (he also calls this the minimize overriding principle), the worse-off principle, and the liberty principle. These three principles, Regan claims, are consistent with each other and are derived from the respect principle.

Miniride Principle

Special considerations aside, when we must choose between overriding the rights of many who are innocent or the rights of few who are innocent, and when each affected individual will be harmed in a prima facie comparable way, then we ought to choose to override the rights of the few in preference to overriding the rights of the many. (Regan 2004, 305)

According to the miniride principle, when the harms for each individual affected are *prima facie* comparable and there are no special considerations at hand, and

we have a choice between overriding the rights of the few or overriding the rights of the many, we must choose to override the rights of the few. When we are faced with a situation in which, to borrow from Regan, we have to choose between options, one of which will harm A, one of which will harm B, C and D, and one of which will harm A, B, C and D, and when the harms for each of A, B, C and D are *prima facie* comparable and there are no special considerations at hand, then the number of individuals affected matters and we ought to choose to override the rights of A. The respect principle demands we choose this option precisely because each subject of a life counts for one and no one for more than one. In addition, in order to be consistent with showing equal respect for the equal rights of all the individuals involved, we need to choose to override the rights of only one (the few) as compared to overriding the rights of the other three (the many).

According to Regan, the worse-off principle applies in cases where the harms faced by the individuals are not *prima facie* comparable.

Worse-off Principle

Special considerations aside, when we must decide to override the rights of the many or the rights of the few who are innocent, and when the harm faced by the few would make them worse-off than any of the many would be if any other option were chosen, then we ought to override the rights of the many. (Regan 2004, 308)

For example, again borrowing from Regan, consider a situation in which the options are harm A quite radically (-125) or harm a thousand modestly (-1 each).

The worse-off principle demands overriding the rights of the thousand (the many) even though doing so brings about a greater aggregate amount of harm than overriding the rights of A (the few) would bring about. In contrast to the cases to which the miniride principle applies, the number of individuals affected does not matter in the cases to which the worse-off principle applies; what matters in these types of cases is the extent of the harm done to each individual affected.

I want to emphasize the fact that according to Regan's rights theory we are to appeal to the miniride principle when the harms are *prima facie* comparable and to the worse-off principle when the harms are not *prima facie* comparable. Again, if the harm a single individual will suffer is *prima facie* comparable to the harm any individual of a group will suffer, then we are to override the rights of the one. On the other hand, if the harm a single individual will suffer is greater than any harm any one of a group will suffer, then we are to override the rights of the many. So, when faced with a situation like the one noted above, Regan states: "It is the magnitude of the harm done to A and each individual member of the thousand not the sum of A's harm compared with the sum of the thousands', that determines whose right overrides whose" (Regan 2004, 309-310).

Another point I want to call attention to is that according to Regan "*prima facie* comparable" means "equal".

To say that two individuals, M and N, have an equal right not to be harmed, based on the equal respect each is owed, does not imply that each and every harm either may suffer is equally harmful. If

we are to show equal respect for the value and rights of individuals, therefore, we cannot count a lesser harm to N as equal to or greater than a greater harm to M. To show equal respect for the equal rights of the two, one must count their equal harms equally, not their unequal harms equally, a requirement that entails, other things being equal in prevention cases, that M's right override N's when the harm done to M would be greater if one choice were made than the harm done to N would be if another option were chosen. (Regan 2004, 309)

For example, imagine a case in which we must choose between harming A -125 and harming B -124. Because the harms A and B will suffer are not *prima facie* comparable, because the harm A will suffer is greater than the harm B will suffer, we ought to harm B. Similarly, if we must choose between harming A -125 and harming the thousand not -1 each but rather -124 each, we ought to harm the thousand because the harm A will suffer is not *prima facie* comparable to the harm any of the thousand will suffer; it is greater.¹⁰¹

Regan thinks that individuals have certain rights, subject to certain qualifications, to do what is necessary to avoid being made worse-off relative to other innocents even if doing so involves harming other innocents. These rights are defended by the *liberty principle*.

Liberty Principle

Provided that all those involved are treated with respect, and assuming that no special considerations obtain, an innocent

¹⁰¹ In addition, as was noted above, adding numbers does not make a difference and so the aggregate harm done to the thousand does not count. What matters is the harm done to each individual and the harm each individual in the thousand will suffer is less than the harm A will suffer. Of course, one should see Regan 2004, 305-312 for a more thorough explanation and defense of these ideas.

individual has the right to act to avoid being made worse-off even if doing so harms other innocents. (Regan 2004, 331)

Because all those involved must be treated with respect, I cannot, for example, torture my Introduction to Ethics students even if I would be made worse off relative to them if I were to forgo the pleasure of doing so. To harm them in this way is to fail to treat them with the respect they are due as subjects of a life. In addition, the types of special considerations Regan has in mind are rights other than the right not to be harmed, e.g., property rights. For example, that I am worse off than my friends who own flats in both London and Brighton while I do not own a home at all does not mean that I can take possession of either or both of their flats. In addition to our mutual right not to be harmed, they possess an additional property right which is the special consideration that limits my liberty, assuming they have themselves acquired their property justly. However, if I am in a lifeboat with a dog and the lifeboat will only support one of us, I am permitted to throw the dog overboard. This is because I am not failing to treat the dog with the respect he is due (I am not treating him as a receptacle of value or as replaceable) and the harm done to me by death is *prima facie* greater than the harm done to the dog. My losses are greater as the opportunities for satisfaction that death forecloses for me are greater in number than those it forecloses for the dog (Regan 2004, 324). Because my losses are greater, I would be made worse off relative to the dog if I were the one to be thrown overboard.

It is important at this point to be clear about the types of things that should be taken into account as special considerations. Regan claims that there are at least three different types of special considerations. The first kind consists of acquired duties and rights which arise as a result of either voluntary agreements (e.g., promises or contracts, these include promises and contract-like agreements made with loved ones) or as a result of one's voluntarily assuming a position within a given institutional structure (e.g., taking a job or joining the military) (Regan 2004, 322). These claims are in addition to the basic moral rights shared by everyone. They add to the strength of the claims of those who have acquired rights. The second kind consists of those that arise from an individual voluntarily engaging in certain kinds of activities, including high-risk activities (e.g., mountain climbing or sky diving) and competitive activities (e.g., long-distance races or poker games) (Regan 2004, 322). These considerations subtract from the strength of the claims made by those who partake in these activities. Those who voluntarily choose to engage in high-risk activities place themselves outside the protections afforded by the rights theory principles. The third kind consists of the historical background leading up to situations where we are called upon to decide whose right not to be harmed should be overridden (Regan 2004, 322). The concern here is with individuals who are in a potentially harmful situation because others have violated their rights in the past. Regan has us imagine an example in which a single individual is trapped inside a mine shaft after having been put there

by fifty miners who felt that they would benefit from her forced labor. Assuming the harms the individuals face are *prima facie* comparable, in failing to respect the value of the single miner, the fifty miners have lost their right to coverage by the miniride principle. So, those who are parties to injustices lose the protections of the rights theory principles.

Regan makes clear that he is not claiming this list of special considerations is exhaustive. However, there is at least one important consideration that Regan fails to address and it is with respect to the liberty principle. Consider a situation in which my niece needs a leotard for her dance recital and that without the leotard she will not be permitted to perform. Let us assume she needs the leotard the next day and that a talent agent will be attending the performance looking for possible clients. If she does not perform all of her preparations go to waste and she will miss out on an opportunity to get an agent. Imagine my niece goes to the dancewear store (the only one within driving distance) and a woman has just picked up the last leotard the store has in the style, size and color my niece needs. Imagine that the woman does not need the leotard in the same way my niece needs the leotard; that is, the woman, who is the same size as my niece, was just browsing and came upon the leotard and liked the style and color and decided to purchase it to wear to her dance class. Clearly, my niece is made worse off if she is not permitted to purchase the leotard. Yet, it seems odd to say that my niece has a right to the leotard. Regan neither admits nor denies that one can have

special claims of this sort on objects. It is cases like this, however, that illustrate the need for Regan's list of special considerations to be more precise so that there is not uncertainty when we apply the liberty, miniride or worse-off principles.

In sum, those who possess inherent value, e.g., subjects of a life, have the basic moral right to respectful treatment. In particular, they have a right not to be harmed. In situations in which one's options are harm few beings with inherent value or harm many beings with inherent value, one should choose to harm the few if the harms are *prima facie* comparable (equal). In situations in which the harms are not *prima facie* comparable (equal) and one's options are (1) harm few beings with inherent value significantly or (2) harm many beings with inherent value minimally, one must choose (2), to harm the many minimally. In situations where an innocent individual would be made worse off if she fails to harm other innocents, she is permitted to harm the other innocents as long as there are no special considerations to be taken into account.

4.2.2 Regan's Rights for Animals

According to the rights theory as presented by Regan, all actions will be judged according to the respect principle, the harm principle, the miniride principle, the worse-off principle and the liberty principle. Those with inherent value, the class of which includes subjects of a life, are covered by these principles. According to Regan, the individuals that are in fact members of the

class of subjects of a life are “normal mammalian animals, aged one or more, as well as humans like these animals in the relevant respects” (Regan 2004, 247) where the relevant respects are those qualities listed in section 4.2.1: being alive and being conscious, but also having beliefs and desires; perceptions; memory and a sense of the future, including one’s own future; an emotional life together with feelings of pleasure and pain; preference and welfare interests; the ability to initiate action in pursuit of desires and goals; psychophysical identity over time; and individual welfare in the sense that their experiential life fares well or ill for them logically independently of their utility for others and logically independently of their being the object of anyone else’s interests.

Regan argues that factory farming and many research practices (viz., those that involve subjects of a life) violate at least one of these five principles.¹⁰² This is because most factory farm and research animals are subjects of a life and so are covered by the five principles. In cases where the status of these animals is in question, he says that the animals ought to be given the benefit of the doubt and be treated as subjects of a life. Again, this is because being a subject of a life is merely a sufficient, not necessary, condition for having inherent value and thus being covered by the principles. Also, as was noted above, Regan thinks that we are better safe than sorry when it comes to the recognition of moral rights and that

¹⁰² Regan also thinks that hunting and trapping are morally wrong, but given that the primary concern of this dissertation is with factory farming and using animals for research I will not address hunting and trapping.

treating borderline cases with respect is necessary to ensure that we treat those who are clearly subjects of a life and possess inherent value with the respect they deserve. So, the benefit of the doubt ought to go to chickens, turkeys, veal calves, mice, etc.

Given this, because the harms done to factory farm and research animals are *prima facie* greater than the harms that would occur to humans if we gave up these activities, we ought to stop factory farming and using animals for research. That is, Regan argues that although it might be the case that humans who currently enjoy factory farmed animal products would suffer the loss of gastronomical and culinary pleasures, convenience and economic stability (at least in the short term), the harms the animals experience, the pain and suffering and death, outweigh the harms the humans would suffer and so factory farming is morally wrong. In other words, factory farming practices violate both the respect principle and the harm principle and they cannot be defended by the miniride principle, the worse-off principle or the liberty principle. Factory farming practices therefore violate the rights of animals and are morally wrong. However, the obligation to be vegetarian can be overridden in dire circumstances. According to the liberty principle, if an individual finds herself in a situation in which she must kill and consume an animal to survive, then she is so permitted (because if she does not, she will end up worse off than the animal).

Similar conclusions are reached in the case of using animals for research: research practices violate the respect and harm principles and cannot be defended by the minimax principle, the worse-off principle or the liberty principle. To use animals as research subjects is to fail to respect their inherent value. It is to treat them as receptacles of value or as replaceable. So, even if using animals as research subjects actually does result in significant benefits for humans, e.g., it results in medications or cures for human diseases which in turn improve the quality and length of human lives, it is morally wrong. That humans might have to forgo new products or find other methods of testing products or that corporations might suffer economic losses or that humans may miss out on the benefits of research are not good enough reasons to violate the rights of animals. Therefore, Regan calls for the total abolition of animal research.

4.2.3 Objections to Regan's Animal Rights Argument

As I did with the objections to Singer's theory, I will briefly present some objections to Regan's theory for which he does have satisfactory responses and follow that with a discussion of those objections for which he does not have satisfactory responses.

Answered Objections

Two objections will be presented in this section. The first I call the "supererogatory acts objection". According to this objection, the worse-off

principle seems to imply that we have strict duties to do things that most think are supererogatory. The second, which I call the “lifeboat objection”, states that Regan’s theory is not only speciesist, but that his claim that when faced with a situation in which one must choose whether to save a human or a dog one ought to save the human is in direct conflict with his own theory as killing the dog violates the rights of the dog.

i. Supererogatory Acts Objection

According to the supererogatory acts objection, the worse-off principle implies that we have strict duties to do things that most people think are supererogatory. Regan interprets the objection as such:

Suppose a race-car driver has been involved in a terrible accident and is certain to die if the available medical personnel are not used to save him. Suppose that four other patients need the services of the personnel, that all could be adequately treated only if none of the staff is diverted to the driver, and that all four will be significantly harmed (e.g., one will lose an arm, a second will be partially paralyzed, etc.) though none will die, if efforts are made to save the driver. Since the rights view will not allow aggregating harms of different individuals as a way of deciding what to do, one who accepts this view cannot claim that the four should be treated because of the sum of their harms would exceed the harm borne by the lone driver. Indeed, since the worse-off principle directs us to prevent making the individual worse-off, special considerations aside, that principle, it might be claimed, requires that we override the rights of the four and administer to the needs of the driver, and that the four, recognizing the valid application of this principle in this case, ought to concur, agreeing to endure their respective harms so that the driver might be spared his. (Regan 2004, 321)

The problem is that because the driver will end up worse-off than any of the other patients, the other patients ought to agree that the driver will be given the attention of the medical personnel. However, because the driver chose to engage in a dangerous and potentially harmful activity, it is not at all clear why the other patients, who it appears were innocent bystanders, ought to endure the harms facing them. Although it might be courageous for the four patients to sacrifice their needs and endure harms so that the driver might be spared his, it is, most of us would agree, above and beyond the call of duty for them to do so; that is, it would be supererogatory for them to do so. Yet, the worse-off principle seems to demand just this.

Regan's response is that the objection fails to take into account the "special considerations aside" proviso incorporated into the worse-off principle (as it is in the miniride and liberty principles). He argues that:

[T]hose who voluntarily engage in high-risk behavior, including auto racing, obviously choose to expose themselves to certain risks that those who abstain from such activities choose to forgo, and it is part of the unspoken rules that apply to those embarked on such behavior that those who abstain cannot be reasonably *required* to suffer appreciable harm, in the name of justice, so that those who take additional risks might be rescued from their plight when the risk materializes. (Regan 2004, 321; original emphasis)

The point is that those who engage in high-risk activities and find themselves in need of assistance waive their right not to be made worse off if the means used to save them would appreciably harm others who are not engaged in high-risk

behavior. So, the high risk-taker does not have a valid claim, or a right, against the non-high-risk-takers.

It is not just those who engage in physically dangerous activities who waive their right not to be made worse off than those who do not engage in such activities. The special considerations proviso applies also to those who engage in other kinds of risky activities voluntarily. For example, that someone chooses to take a financial risk by opening a business does not entail that the rest of us are obligated to support the business in order to ensure that it succeeds, even if our failing to do so leaves the entrepreneur worse off than we would be were we to support the business. Likewise, that economic disaster would befall those who own or are financially involved in factory farming and other types of business that involve the use of animals does not entail that we are required to support these businesses, even if it were true that the economic disaster the entrepreneur would suffer would be worse than the pain and suffering any one animal suffers as a result of being a CAFO animal. Such people voluntarily choose to participate in a high risk activity and so their rights not to be made worse-off are secondary to the rights of the animals, even by the standards of the worse-off principle. We do not have a duty to support risk-takers in their activities.¹⁰³

¹⁰³ I think the “special consideration” proviso is problematic, viz., it is not clear who gets to decide what and exactly when special considerations ought to be taken into account. In addition, Regan admits that his account of special considerations is not complete (Regan 2004, 323). However, I do not think this is an overwhelming objection and have chosen to set it aside and not include it in the section which addresses unanswered objections.

This is not to say that we cannot forgo our own rights in order to keep the risk-takers from being made worse-off. The patients in the race-car driver example above can agree to forgo treatment in order to help the race-car driver, but they do not have a duty to do so. Similarly, we can support the businesses of entrepreneurs if we so desire, but we are not obligated to do so. Furthermore, given that the rights of the animals were violated in the first place, the CAFO owners have no claim on us to support them. That is:

If some of those involved are in their present predicament because other involved individuals have violated their basic rights in the past, then these past violations make a moral difference in the application of the miniride and worse-off principles ... No one has a right to profit from violating the basic rights of others. Those who are parties to such injustice lose the protection the miniride and worse-off principles provide and have no grounds to complain if we override their right not to be harmed and spare the victims of their past injustice. (Regan 2004, 322-323)

ii. Life Boat Objection

Regan argues that in a lifeboat situation in which there are, for example, four normal adult humans and one dog and there is only room for four so someone must be thrown overboard, it is morally permissible to throw the dog overboard. According to the life boat objection, throwing the dog overboard and saving the humans is not only speciesist, but it violates the basic rights of the animal and therefore is an action that seems to be in direct conflict with Regan's own theory. However, Regan claims that saving the dog and throwing any of the

human survivors over gives the dog more than his due. It would be, he says, “to count the lesser harm done to the dog as equal to or greater than the greater harm that would be done to any of the humans if one of them was cast overboard” (Regan 2004, 324). This is because, as was noted above in section 4.2.1, “the harm that death is, is a function of the opportunities for satisfaction it forecloses, and no reasonable person would deny that the death of any of the four humans would be a greater *prima facie* loss, and thus a greater *prima facie* harm, than would be true in the case of the dog” (Regan 2004, 324). Choosing to throw the dog overboard does not conflict with recognizing the dog’s (equal) inherent value or its *prima facie* right not to be harmed. It only has to do with the fact that in situations in which we must choose between harming one individual and harming another, we ought, according to the worse-off principle, to choose to harm the one who will suffer the lesser harm. Given that any normal adult human thrown overboard would be made worse-off than the dog, we ought to throw the dog overboard.

In addition, he argues that even if there were a million dogs on board along with the four humans and the boat will only support four humans or a million dogs, it is morally acceptable to throw the million dogs overboard to save the four humans (Regan 2004, 325). To reach a contrary judgment would be to involve one in an aggregative consideration which is not permissible according to rights theory. Again, what matters is the harm that comes to each individual

involved. Given that the death of each of the humans is a greater harm than the death of each of the dogs, the million dogs ought to be thrown overboard. Such a decision is neither speciesist nor does it conflict with Regan's rights view as the decision is based on "assessing the losses *each individual faces and* assessing these losses *equitably*, an approach that is at once consistent with and required by the recognition of the equal inherent value and the equal prima facie right not to be harmed possessed by all those involved" (Regan 2004, 325; original emphasis).

There is one point that I want to make clear. The harm that death is for the normal human is greater than the harm that it is for the dog because, as was noted above, the opportunities for satisfaction were greater for the human while she was alive than they were for the dog. Therefore, the human suffers greater losses by losing out on those opportunities than the dog does (as we would be hard pressed to say that the dog loses out on many of those opportunities). In addition, it does not matter whether it is the lives of one normal human and one normal dog that are at stake, or whether it is the lives of one normal human and one thousand normal dogs that are at stake, or whether it is the lives of one thousand normal humans and one normal dog that are at stake. However, were the human, or humans, to be severely mentally enfeebled or senile or something of the like, then it might be the case that it is in fact the human, or humans, that should be thrown

overboard and not the dog, or dogs, (as the dog's losses might be greater and so the harm might be greater).

Unanswered Objections

In this section I present two objections to Regan's rights theory for which he does not have satisfactory responses. The first I call the "unknown inherent value objection" according to which the failure of Regan's theory to thoroughly classify those animals with inherent value and those without results in untoward consequences. The second, which I call the "prohibition against aggregating harms objection", states that it is a major problem with Regan's theory that unless the harms individuals are subjected to are *prima facie* comparable, i.e., equal, we ought not take into account the number of individuals harmed when making moral decisions.

i. Unknown Inherent Value Objection

Regan admits that his theory leaves uncertain the moral status of a significant number of beings. Not only does the class of borderline cases include the likes of fetuses, newborn infants, insects, snakes, and spiders, but it also includes some animals about which Regan is very concerned, e.g., chickens, turkeys, veal calves, and mice. As noted above, Regan thinks we ought to give the benefit of the doubt to such beings because we ought to err on the side of caution where moral rights are concerned and because doing so will help ensure

the proper attitudes and actions toward those who are clearly in the class of those with inherent value. He says:

When our ignorance is so great, and the possible moral price so large, it is not unreasonable to give these animals the benefit of the doubt, treating them *as if* they are subjects, due our respectful treatment, especially when doing so causes us no harm. (Regan 2004, 367; original emphasis)

Those who at the very least do not reject the fact that animals have a certain moral standing that needs to be respected will not object to this claim of Regan's, even if they do not agree with his rights theory in particular. The problem, however, is that treating those animals whose status is unclear as if they did have inherent value could in fact cause harm. That is, it could interfere with scientists' abilities to do research which could help save, prolong or improve the quality of life of any number of humans. So, treating borderline case animals as individuals with inherent value may not *directly* cause harm (that is, doing so will not cause harm to the animals), but it could *indirectly* result in harm (that is, it could result in harm to those who would benefit from such research). In other words, the opportunity cost is the loss of any benefits that those who certainly have inherent value are not receiving because Regan thinks it is better to be safe than sorry with respect to those whose status as possessors of inherent value is undetermined.

In addition, erring on the side of caution could result in a violation of the worse-off principle. First of all, not only do beings without inherent value not

have rights, but it is reasonable to think that the harms they suffer are generally not as great as the harms those with inherent value suffer, if in fact those without inherent value can be harmed at all. Also, although I have taken the stance throughout this dissertation that most uses of animals for research are useless, this is not to say that all animal experimentation is futile. If both of these statements are true, the harms suffered by those without inherent value who are used as research subjects would not be *prima facie* comparable to those suffered by those with inherent value who would be beneficiaries of the research. In other words, those with inherent value would be worse-off if the research is not performed on those without inherent value, thus violating the worse-off principle. Therefore, Regan's command that we err on the side of caution and not use any animals for research not only forces us to respect the rights of those who might not even possess them, but could also result in our violating the worse-off principle and as a result doing something morally wrong.

ii. Prohibition Against Aggregating Harms Objection

A second significant problem with Regan's theory is that the number of individuals harmed does not matter unless the harms are *prima facie* comparable, i.e., equal. For example, if we must choose between harming A -125 and harming a thousand -125 each, then according to the miniride principle we are to harm A. On the other hand, in an example above we imagined a situation in which we had

to choose between harming A -125 and harming a thousand -124 each. According to Regan, the worse-off principle demands that we harm the thousand -124 each because the harm A will suffer is greater than the harm any of the thousand will suffer; the harms each individual suffers are not *prima facie* comparable because they are not equal.

It might be argued that the harms are in fact *prima facie* comparable as a harm that is -125 is not significantly different than a harm that is -124, even though they are not in fact equal, and that Regan needs to reconsider his position regarding what is and what is not *prima facie* comparable. Although I do think that Regan ought to address this concern, I do not think it is an overwhelming problem. The more troublesome problem for Regan is that when we aggregate the harms to be suffered in this example, the overall harm suffered is greater if we harm the thousand than if we harm the one, but Regan is adamant that we are not to aggregate the harms. So, regardless of whether the harm A is to suffer is -125 and the harm the thousand is to suffer is -1 each or -124 each, the overall harm done is greater if the thousand are harmed than if the one is harmed. It seems that we ought to at the very least have the option of saving the thousand given that the overall harm done is greater if we save the one. Yet, again, according to the worse-off principle we are forbidden from aggregating: it is morally wrong to override the rights of the one in favor of the rights of the many in situations in

which the harms are not *prima facie* comparable, i.e., equal, and the harms the one or few will suffer are greater than the harms each of the many will suffer.

Two things come to mind here. Firstly, I want to make clear that we need not think that aggregating harms ought to be required to think that there is something unsettling about the fact that aggregating them is not even permitted when the harms are not *prima facie* comparable according to Regan's rights theory. That Regan *forbids* aggregating the harms of the many in circumstances in which the harm each individual of the many suffers is less than the harm a single individual suffers even though the overall harm suffered is greater if the many are harmed is enough to motivate my objection. Secondly, Regan could save himself from this problematic implication, that greater overall harm be permitted, if he was not so committed to idea that *prima facie* comparable harms are harms that are equal. If Regan allowed for harms that are similar, but not equal, to be *prima facie* comparable, then he would not suffer the problem his prohibition against aggregating brings when, for example, the harm to the one is -125 and the harm to each of the many is -124. Although this will not save him from concerns that the prohibition against aggregating harms will bring when the harms are significantly different, say -125 for the individual and -1 for each of the many, Regan's demand that *prima facie* comparable harms be harms that are

equal causes him to not only fall victim to the objection, but it prevents him from being able to respond to it in any way.¹⁰⁴

4.3 Conclusion

Singer's preference utilitarianism and Regan's rights theory both demand that we stop all factory farming. In addition, while according to Regan's rights theory we must give up all research using animals, according to Singer's preference utilitarianism we must stop using animals for most, but not all, research. These conclusions are those with which most anyone concerned about the current treatment of animals, and in particular the treatment of CAFO and research animals, would be pleased, at the very least.

The problem is that both theories fail to give satisfactory responses to important objections which leaves us unconvinced that either one is the best animal ethic available. The objection for which Singer does not have a satisfactory response is the "moral standing objection". According to this objection, Singer's preference utilitarianism has a number of problems concerning the moral standing of sentient beings. In particular, even though Singer claims that the moral standing of sentient beings is superior to that of non-sentient

¹⁰⁴ One need not embrace aggregation to the extent that utilitarians do to think that there is something disconcerting and counterintuitive about this aspect of Regan's theory. That we are forbidden from aggregating the harms and then acting accordingly is something that not only will a utilitarian object to, but we can imagine that social contract theorists as well as some Kantians will allow for the saving of the many rather than the one or the few. Most notably, as I discuss in chapter 5, normative sentimentalism allows for the harming of the one or the few instead of the many in situations like that presented above.

beings, his preference utilitarianism does not go far enough in protecting sentient beings against certain types of actions, viz., it does not offer them enough protection against killing.

Regan leaves two significant objections unanswered. The first is the “unknown inherent value objection” according to which it is not a virtue of the rights theory, but rather a problem for it (because of the opportunity cost) that we do not know how far down the line is drawn with respect to which animals possess inherent value and which do not. The second is the “prohibition against aggregating harms objection” according to which a failure of the rights theory is its permitting the harming of a group of individuals (the many) rather than to a single individual (or to the few) if the harms each individual in the group will face are less than that which the single individual will face even though the overall amount of harm will be greater.

While I have already shown that normative sentimentalism reaches conclusions that are in accord with our considered judgments regarding the treatment of CAFO and research animals, in the next chapter I show how normative sentimentalism is able to respond to the objections, both those that are answered satisfactorily as well as those that are not answered satisfactorily, to Singer’s preference utilitarianism and Regan’s rights theory thereby showing that it is the superior animal ethic. In addition, in order to allay possible concerns

about normative sentimentalism, I show how it satisfactorily responds to some criticisms that are specific to it.

Chapter 5: Criticisms and Responses

In this chapter, I first show how normative sentimentalism responds to the objections, both those that are answered satisfactorily and those that are not, to Singer's preference utilitarianism and Regan's rights theory. I then address possible objections to the normative sentimentalist ethic itself. I do all of this to demonstrate not only that normative sentimentalism is superior to both preference utilitarianism and rights theory, especially when it comes to animal ethics, but also to help demonstrate that normative sentimentalism ought to be our moral theory of choice.

5.1 Normative Sentimentalist Responses to Objections to Preference Utilitarianism

In this section, I show how normative sentimentalism is able to answer the objections that preference utilitarianism answers satisfactorily (the speciesism objection, the natural predator objection, the animal interests objection and the preference satisfaction objection) and the one that it cannot answer satisfactorily (the moral standing objection).

5.1.1 Normative Sentimentalist Responses to Answered Objections

i. Speciesism Objection

Recall that according to the speciesism objection, we can treat animals any way we please because they are a different species. Recall also that Singer's

response to this is that to distinguish between humans and animals in this way is speciesist and thus wrong. The morally relevant quality, he says, is the capacity for pain and suffering and because animals can feel pain and suffer it is not morally acceptable to treat them in any way we like even though they are a different species.

Normative sentimentalism agrees with preference utilitarianism that speciesism is wrong. However, it holds this for a similar, but slightly different reason. That is, according to normative sentimentalism a moral agent's causing, contributing to or allowing the harm of a being is at the very least disliked and if causing, contributing to or allowing the harm is a result of a motive that is disapproved of then such an action will be morally wrong. The morality of an action does not depend on a being's species. What matters is whether and in what ways the being can be harmed. Given that most animals can be harmed (see chapter 3), normative sentimentalism, like preference utilitarianism, rejects the idea that because animals are a different species it is morally acceptable to treat them in any way we like (thus it rejects speciesism).¹⁰⁵

¹⁰⁵ This is not to say, of course, that according to normative sentimentalism animals can never be used for human purposes. As was discussed in chapter 3, if we have to choose between giving greater consideration to the more significant interests of the human or to the less significant interests of the animal, or if we are in a life and death situation and have to choose between our own life or the life of an animal, then it is morally acceptable to harm or kill the animal.

ii. Natural Predator Objection

According to the natural predator objection, animals kill other animals for food so it is acceptable for us to kill animals for food. Singer's response was that not only is it odd for humans to look to animals for moral guidance when we often think of ourselves as superior to them, but we cannot evade our responsibility by imitating the actions of those who are incapable of making certain kinds of choices, viz., moral choices.

Although normative sentimentalism allows for the killing of an animal for survival (as would preference utilitarianism if greater overall preference satisfaction would occur by doing so), the circumstances must be dire, viz., when the moral agent's life is in danger and the only way to save it is for her to kill and eat the animal (as we saw in chapter 3). Normative sentimentalism does not permit the killing of animals to satisfy trivial interests such as gastronomical pleasure. By taking the lives of animals for the gastronomical pleasure of moral agents, the moral agent does not give due consideration to the relevant interests of the animals. To kill animals for these reasons is to give greater consideration to the less significant interests of the humans than to the more significant interests of the animals. Such motives are disapproved of and the consequences disliked by the impartial spectator (and so the actions are morally wrong). So, that there are situations in which it is morally acceptable to kill an animal for food is a conclusion that is not reached by looking to other animals for moral guidance. It

is reached by looking at the motive behind the action and the consequences of the action. So, although humans might consume animals to survive, as do other animals, it is not because humans are following the lead of animals.

However, even if we want to look to other animals for moral guidance, we could not use this to defend our current treatment of many animals. That is, animals do not harm or kill other animals for gastronomical pleasure or for entertainment or for useless research. If we really were to follow the lead of animals, we would harm or kill other animals only if they were threatening our survival or if we needed to consume them to survive.¹⁰⁶

iii. Animal Interests Objection

According to the animal interests objection, not only does the lower intelligence of animals entail that their interests be given less consideration than the interests of humans, but humans in general have greater interests than animals and thus their interests deserve greater consideration. Singer's response to this is that there are many humans who have lower intelligence than many other humans and so if we are going to make moral decisions based on intelligence, then we ought to be using lower intelligence humans much the same way we are using animals. Further, he does not deny that (most) humans have greater interests than

¹⁰⁶ Admittedly, some animals kill other animals for other reasons, e.g., in order to become the leader of the group. However, the main point I am trying to make is that if we based our actions on those of other animals, we would not be killing animals for trivial or useless research or for gastronomical pleasure as no other species of animal does so.

(most) animals. Rather, he argues, for example, that those interests do not entail that factory farming and using animals for research are morally acceptable. That is, although it is morally acceptable in most cases to choose the life of a normal adult human over that of an animal, this does not mean that we can fail to give consideration to the interests of animals in our daily activities.

The normative sentimentalist agrees with this conclusion of the preference utilitarian, but for different reasons. If a moral agent harms a moral agent or moral patient as a result of a selfish motive then she has done something morally wrong. This is because, in part, the moral agent did not give due consideration to the relevant interests of the moral agent or moral patient upon whom she acted. What matters is not what type of being the moral agent or moral patient is or what her level of intelligence is; what matters is whether the victim is harmed and whether her relevant interests were given due consideration. For example, given that the interests of factory farm animals and research animals are (for the most part) not given due consideration and the animals are subsequently harmed, causing, contributing to or allowing such harm is morally wrong.

Like the preference utilitarian, the normative sentimentalist is not saying that some human interests are not greater than some animal interests. The normative sentimentalist is merely saying that not all human interests outweigh all animal interests. Again, if a moral agent is in a situation in which she must kill an animal or die herself, then she is morally permitted to kill the animal. However, if

she is in a situation in which she must choose between a vegan meal and a meal that contains factory farmed products and we assume that the meals are nutritionally equivalent but the factory farmed meal is better tasting, it is morally wrong for her to choose to eat the factory farmed dinner. In this case, the interest of the moral agent, viz., her interest in experiencing gastronomical pleasure, is not as significant as the relevant interests of the animals, viz., their interest in not being tortured and being able to continue to live. So, although there are times when it is not morally wrong to give greater consideration to human interests than to animal interests, there are times when it is in fact wrong to do so.

iv. Preference Satisfaction Objection

According to the preference satisfaction objection, the net amount of preference satisfaction brought about by factory farming (e.g., satisfying the preference for gastronomical pleasure) and using animals for research (e.g., satisfying the preference for the improved quality and lengthening of human life) outweighs the lack of preference satisfaction (e.g., the preference for avoiding pain and suffering) which the animals experience. Singer rejects this claim stating that the pain and suffering of the CAFO animals far outweighs the gastronomical pleasure of those who consume them. In addition, he argues that most research done on animals is useless and as a result the pain and suffering of the animals is not outweighed by the benefits of the research. Therefore, because

preference satisfaction is not maximized when animals are factory farmed or when they are used for research, these actions are morally wrong.

As was shown in chapter 3, the normative sentimentalist agrees with this, although she is not concerned with maximizing preference satisfaction. Regardless of whether an act maximizes preference satisfaction, it is morally wrong if the motive is disapproved of and any consequence of the action is disliked. Because most moral agents do not need to consume animals to survive (especially CAFO animals), because the human interest in gastronomical pleasure is less significant than the animals' interest in avoiding pain and suffering, and because most research using animals is of little to no benefit to humans or actually harms them, moral agents are (usually) acting from selfishness when they use animals in these ways.¹⁰⁷ And, because using animals in these ways causes harm to the animals, it is morally wrong to cause, contribute to or allow these actions. So, although the normative sentimentalist is not concerned with maximizing preference satisfaction, she does agree with the preference utilitarian that these practices are morally wrong.

5.1.2 Normative Sentimentalist Response to the Unanswered Objection: The Moral Standing Objection

In this section, I present the normative sentimentalist response to the moral standing objection to preference utilitarianism. According to this objection,

¹⁰⁷ Recall that there might be times when scientists are not acting from selfishness (see section 3.2.2).

although preference utilitarianism grants sentient beings considerable moral standing, it does not go far enough in protecting them against certain types of actions, viz., it does not offer them enough protection against being killed.

a. Moral Standing of Persons

According to this aspect of the objection, it is problematic that according to Singer's view it is only *prima facie* wrong to kill persons because a person's preferences can be outweighed by the preferences of other persons and of merely conscious beings. This means that it is not only morally acceptable, but it is morally required that persons be killed in certain situations. For example, we are required to kill a single healthy person for her organs if doing so will save the lives of several others. Similarly, if we are in a situation in which we have to choose between killing one hundred chickens or a 95-year-old adult, we are required to kill the 95-year-old adult as the aggregated preferences of the chickens outweigh those of the adult. In both examples, preference satisfaction is maximized by killing the single person. However, requiring these actions in order to maximize preference satisfaction is unacceptable to many.

According to normative sentimentalism, actions that are morally wrong are those committed by, contributed to by, or allowed by a moral agent who is acting from a motive that is disapproved of by the impartial spectator and results in any consequence that is disliked by the impartial spectator. In the cases

presented, a moral agent does nothing morally wrong regardless of which choice she makes. Whereas preference utilitarianism requires us to choose to save the many rather than the one, normative sentimentalism permits the agent to save either the one or the many in situations in which the relevant interests of those involved are equivalent.¹⁰⁸ When a moral agent is faced with a situation in which the interests of those affected are equally relevant, she does nothing morally wrong by choosing to save the one or the many even though the consequences of her action will be disliked either way. This is because her motive will not be disapproved of as long as she is not acting from selfishness. Again, if she is giving due consideration to the relevant interests of the members of both parties, then she can give greater consideration to whichever party she wishes for some other reason. So, according to both normative sentimentalism and preference utilitarianism, killing the one to save the five in the transplant case is not, on the face of it, morally wrong. However, normative sentimentalism will not require it, as preference utilitarianism does. In this way, it avoids one of the major objections to preference utilitarianism.

To be clear, it is only in cases in which the interests of those involved are equivalent that choosing either one or the many is morally acceptable. In cases in which the interests of the many are less significant than those of the one, then

¹⁰⁸ Recall that to say the interests of those affected are equivalent is to say that they are in fact identical, or that they are similar enough to be identified as equivalent, or that the less significant interests of the many are, when aggregated, equivalent to the more significant interests of the one (see section 1.2.1).

choosing the interests of the many over the interests of the few is not morally acceptable. In other words, according to normative sentimentalism, the less significant or trivial interests of the many do not outweigh the more significant interests of the one even when the interests of the many are aggregated. Thus, in addition to the fact that normative sentimentalism does not require us to aggregate in situations in which the interests of those affected are equivalent, it actually forbids us from doing so when the interests of the one are more significant than those each of the many.

With respect to the example involving the chickens and the 95-year-old, on the face of it the normative sentimentalist conclusion will be similar to its conclusion regarding the transplant case: that killing either chickens or the 95-year-old is morally acceptable. This is because I am imagining a state of affairs in which the mental capacities of the 95-year-old are so compromised that her interests are equivalent to those of the chickens. In situations in which this is not the case and the interests of the 95-year-old are more significant than those of the chickens, then certainly the chickens should be sacrificed. In situations in which the interests of the chickens are more significant than those of the 95-year-old, then the 95-year-old ought to be sacrificed.

Now, it may be argued that morally permitting the one to be killed for the sake of the five and killing the chickens rather than the 95-year-old are

counterintuitive and unsettling conclusions. I will further defend this aspect of normative sentimentalism in section 5.3.

b. Moral Standing of Merely Conscious Beings

As was the case with persons, Singer thinks that it is *prima facie* morally wrong to take the lives of merely conscious beings. However, as was noted in section 4.2.3, it is required of us, according to preference utilitarianism, to take the lives of some humans, those that are not persons, to save the lives of other humans, those that are persons. The class of humans that consists of merely conscious beings, those that are not persons, includes the mentally enfeebled and newborns. In addition, we are required to take the lives of non-person humans to save the lives of animals that are persons. Also, Singer thinks that merely conscious beings are replaceable and so we can take as many of their lives as we choose as long as we replace them with beings that will have equally pleasant lives. As was noted in section 4.1.3, these conclusions are unsatisfactory.

Normative sentimentalism steers clear of these concerns. According to normative sentimentalism, not only are we not required to kill moral agents or patients (humans and most animals), but doing so is morally wrong if the motive is disapproved of. As explained above, it may be morally permissible to kill moral agents or moral patients for the sake of others, but it is not required. This position of normative sentimentalism avoids the very objectionable position of

preference utilitarianism that we are required to kill the mentally enfeebled and infants for the sake of normal adult humans and some animals.

Furthermore, normative sentimentalism does not think of any being that can be harmed as merely replaceable. Because one of the primary concerns of the normative sentimentalist is the harming of a being, any action that that does so will be disliked, even if the individual that is harmed (killed) is replaced by another who will live an equally pleasant life. Additionally, if harming the individual is done for selfish reasons it will be morally wrong. Therefore, unlike the preference utilitarian, the normative sentimentalist does not think merely conscious beings are replaceable which means that unlike the preference utilitarian she does not think that some humans, e.g., the mentally enfeebled and infants, are replaceable.

5.2 Normative Sentimentalist Responses to Objections to Rights Theory

In this section, I show how normative sentimentalism is able to answer the objection that rights theory answers satisfactorily (the lifeboat objection) and those that it cannot answer satisfactorily (the unknown inherent value objection and the failure to aggregate objection). I will not address the supererogatory acts objection because the aspect of Regan's theory to which the objection is posed is specific to Regan's theory (i.e., that the worse-off principle seems to demand that people commit supererogatory acts). Because this is not a component of

normative sentimentalism, it is superfluous to try to create something comparable in it only to show how normative sentimentalism is able to counter it.

5.2.1 Normative Sentimentalist Responses to Answered Objection: Lifeboat Objection

According to the lifeboat objection, when faced with a situation in which one must choose whether to throw a dog or a human overboard, Regan's rights theory commands that we throw the dog overboard and this is speciesist. Regan's response is that it is not speciesist to throw the dog overboard because the harms the dog suffers as a result of its death are less than those a human suffers as a result of her death. Therefore, according to the worse-off principle, we ought to throw the dog overboard. However, it is not wrong for a human to offer to be thrown overboard if she wishes to do so; it is supererogatory for her to do so.

The normative sentimentalist position with respect to the lifeboat case is that it is not necessarily morally wrong to throw over either the dog or the human. As long as the interests of the dog and human are equally relevant and as long as due consideration is given to the interests of both, then those making the decision do nothing wrong by harming one or the other (although the action will be disliked). So, we can imagine a situation in which the moral agents choose to throw the dog over and this would not be morally wrong, viz., all the humans and the dog are healthy and the relevant interests of the humans are at the very least equivalent to those of the dog.

However, we can also imagine a situation in which the human is thrown over, e.g., the dog is a healthy guide dog but one of the humans is a 100-year-old severely mentally enfeebled invalid with no friends or family, and this is not morally wrong because the interests of the dog are at the very least equivalent to those of the 100-year-old. Thus, although the consequences are disliked, the motive is not disapproved of. Even in a case in which the relevant interests of the dog and the human are equivalent, it is not necessarily wrong to throw the human overboard. Again, when the relevant interests are equivalent and are given due consideration, one is not acting from selfishness by choosing one over the other, regardless of the reason.¹⁰⁹

5.2.2 Normative Sentimentalist Responses to Unanswered Objections

i. Unknown Inherent Value Objection

According to this objection, Regan's theory results in untoward consequences because it fails to thoroughly classify those animals with inherent value (and those without). This failure could result in an opportunity cost of the loss of any potential benefits that those who certainly have inherent value are not receiving because Regan thinks it is better safe than sorry with respect to those who are borderline cases, viz., research animals.

¹⁰⁹ This is because one acts from selfishness only when one fails to give due consideration to the relevant interests of the moral agents or patients who might be affected by the consequences that are a result of the motive (see section 1.2.1).

Normative sentimentalism is immune to this objection. It allows for research as long as the researchers are very certain that their research will have useful results, e.g., it results in new drugs to save human lives.¹¹⁰ So, because the interests of the humans the research can help are at the very least equivalent to the interests of the animals that would be used in the research and the researchers are giving both due consideration, the motives will not be disapproved of (although some of the consequences will be disliked) and so the actions of those performing the research will not be morally wrong.

At this point it might be argued that normative sentimentalism still results in an unacceptable opportunity cost when it comes to using animals for research. In other words, a critic might argue that if the certainty of a scientist with respect to the usefulness of the research is just shy of what is acceptable, but the experiment will in fact help humans in significant ways, then by forbidding the research we miss out on the benefits that would have been gained by permitting it. There are two things to be said here. The first is that although this is entirely possible, it is not probable. That is, with recent scientific advancements it is unlikely that imposing such a standard will cause a significant loss in benefits to humans because there are other research methods that can be employed and because there are good reasons to believe that most research using animals as subjects is not as beneficial to humans as previously believed (see section

¹¹⁰ This was defended in section 3.2.2.

3.2.2).¹¹¹ Secondly, if there is a loss suffered because of the standard, it will be less than what would be suffered if scientists were to abide by Regan's rights theory mandate against all uses of animals as research subjects. Thus, normative sentimentalism is still on better ground than Regan's theory in this regard.

Additionally, normative sentimentalism does not suffer from the difficulties in classifying beings in the way that Regan's rights theory does. Of course, the normative sentimentalist still must classify beings into two categories – those that can be harmed and those that cannot be harmed. However, making determinations of this kind are much easier than determining whether or not a being possesses inherent value if it is not in fact a subject of a life. This is in part because Regan does not give us any criteria for being a possessor of inherent value if one is not a subject of a life. This is also due to the fact that it is much easier to determine whether or not a being can be harmed than it is to determine whether a being has inherent value (even if it is a subject of a life). As Singer noted, we can be sure at this time that mammals, birds, fish, reptiles and crustacea all feel pain and thus suffer regardless of their age; and if a being can feel pain and suffer, then it can be harmed. Contrary to what is the case for Regan's rights theory, the only animals whose status is up for debate in the normative sentimentalist taxonomy are animals like insects, worms, clams, sponges, and echinoderms (e.g., starfish).

¹¹¹ Of course, Regan could also use this as a defense.

ii. Prohibition Against Aggregating Harms Objection

According to Regan, unless the harms to be suffered by the individuals involved are *prima facie* comparable, in other words equal, we are not to take into consideration the number of individuals that will be affected. So, if the harm that a single individual will suffer is greater than the harm any member of a large group will suffer, we ought to harm the group, even if the total amount of harm will be greater than if we choose to harm the individual. The problem is that even if the harms each member of the group will suffer are only slightly less than the harm the individual will suffer, we are still to harm the members of the group.

Normative sentimentalism avoids this problem insofar as it does not demand that we subject the group to harm, although it does not demand that we subject the individual to harm either. That is, if the moral agent who must make the decision is acting from a motive that is not disapproved of (she is not acting from selfishness), then regardless of whether she chooses to save the one or the group, she will not be doing anything morally wrong (although the consequence of her action will be disliked). In an example above we imagined a situation in which we had to choose between harming a single individual -125 or harming each member of a group of a thousand -124 each. According to Regan's worse-off principle, we are obligated to harm the thousand. (Singer's preference utilitarianism would probably demand we harm the individual.) According to normative sentimentalism, we do nothing wrong if we choose to harm the one (or

the few) or if we choose to harm the thousand (or the many) as the harms those involved will suffer are for all intents and purposes equivalent. Therefore, whereas Regan's conclusion that we are obligated to harm the thousand is disconcerting and counterintuitive to many, the normative sentimentalist's conclusion that we do nothing morally wrong by saving either the individual or the group accommodates those who want to aggregate the amount of harm suffered while also accommodating those who think we ought not aggregate.

5.3 Normative Sentimentalist Responses to Possible Objections

In this section, I address three objections a critic might have to the normative sentimentalist ethic itself. I first consider the fact that some might think that taking the life of another in order to preserve one's own life is actually selfish, contrary to what I have stated above. I then discuss any worries that might arise regarding the fact that normative sentimentalism does not require individuals to aggregate the consequences of actions in order to determine which action is the morally correct choice. Finally, I further defend the idea that there are times animals can be used for food and research.

5.3.1 Self Preservation

One aspect of the theory that some might call into question is the fact that acting to preserve oneself is not selfish in any situation. That is, there might be those who think that when individuals find themselves in a situation in which

their lives are at stake, they are morally obligated to refrain from taking the life of another even if it means their own death. Although I have not distinguished between those actions that are morally acceptable and that we have positive reasons to perform and those that are morally acceptable but that we do not have positive reasons to perform and those that are supererogatory according to normative sentimentalism, I cannot think of a single good reason to hold that an individual ought to be required to sacrifice her own life in any situation. For example, normative sentimentalism sees no morally relevant difference between the lifeboat case and the transplant case. That is, imagine a situation in which two people are in a lifeboat but the lifeboat will only hold one and the individuals and their lives are similar. Most, including the normative sentimentalist, would agree that all things being equal it is not morally wrong for one individual to throw the other overboard to save her own life.¹¹² For the normative sentimentalist, this is because although a consequence of her action will be disliked as her action results in the death (harm) of the other, her motive will not be disapproved of because she was not motivated by selfishness (again, because she is acting from self-preservation). Now, imagine a situation in which one person needs a heart transplant or she will die. Imagine that she knows of an otherwise innocent bystander who is a perfect match and whose life is very similar to her own. According to normative sentimentalism, it is not morally wrong for the sick

¹¹² The exception would be the Kantian who, given the constraints of her theory, would struggle to give us a useful directive in this situation.

person to take the life of the healthy person. In contrast to the lifeboat case, many reject this conclusion. This might be because in the lifeboat case, if one of the two people is not killed, both will die, whereas in the transplant case only one individual stands to lose her life (at least in the immediate future as far as we know). Or, it might be because in the lifeboat case one is not using the other as a means to an end whereas in the transplant case the sick person is using the healthy person as a means to her end.¹¹³

Although the cases are different in these ways, I do not think the differences are morally relevant differences. With respect to the first difference, I fail to share the utilitarian intuition that *the reason* it is morally acceptable for one of the members of the lifeboat to kill the other is so fewer people will lose their lives. As I have made clear throughout this dissertation, it is not just the consequences that need to be taken into account when making moral decisions and judgments. In particular, it is not just the maximization of good consequences that ought to be the sole determining factor in moral decision-making and judging.

With respect to the second difference, I do not share the rights theorist's intuition that individuals with inherent value deserve a certain kind of respect.

Similarly, I do not share the Kantian's intuition that the autonomy of certain

¹¹³ That is, in the lifeboat case neither individual needs the other. Each would be contented if the other had never existed or disappeared. This is not the case with the sick person in the transplant case. She would not be contented if the healthy person had never existed or disappeared because she needs her for her own survival.

individuals, namely persons, ought never be disregarded. I have shown throughout this dissertation that a moral agent's motive is morally relevant. However, an individual can treat another as a means to an end, according to normative sentimentalism, as long as due consideration has been given to the relevant interests of all those involved. If one individual's interests are more significant than another's and satisfying those interests involves treating the other as a means, then this is morally acceptable. If the interests of each are equally significant, then one can base her decision on some other factor even if it results in one of the individuals being treated as a means.

That it is morally acceptable to treat others as means is especially true in the case of self-preservation. As I have noted throughout this dissertation, to act from self-preservation is to never act from a selfish motive, even if doing so causes an individual to treat another as a means to her own end. Furthermore, there is nothing morally wrong with treating another as a means if none of the consequences is disliked. This is not to say that we want to encourage individuals to treat others as merely means in these types of situations. There may be other good reasons that we want to discourage this, e.g., it does not foster the type of attitudes that are good for society. The point is just that an action is not morally wrong merely in virtue of the fact that an individual has been treated as a means to another's end.

This is also not to say that we want to encourage the killing of innocent healthy people to save sick people. In fact, it might be the case that we actually want to discourage it as we do with other types of actions that are not inherently morally wrong, e.g., speeding, recreational drug use, etc.¹¹⁴ Failure to discourage the killing of the healthy to save the sick could cause healthy people to live in a state of fear and this is something that would take away from the quality of people's lives. Or, allowing such actions could result in a very unstable society. However, I reiterate that committing such an action is not morally wrong. Again, according to normative sentimentalism, acting from self-preservation is never selfish, although it might result in a consequence that is disliked. Likewise, helping to save a person's life is not morally wrong even if in doing so one has to cause, contribute to, or allow the death of another. Again, if the interests of all involved are equally relevant, then choosing one over the other for some other reason is not selfish.

It might now be argued that self-preservation ought to be moderated, as the passions ought to be when they are too strong. Although I did say in chapter 1, and have reiterated above, that the purpose of the impartial spectator is to make sure that moral judgments are not based on passions that are too high (or too low), I do not think that self-preservation can be or ought to be moderated. Every living

¹¹⁴ I say they are not inherently morally wrong because it might be argued that these actions are wrong insofar as one is breaking the law when engaging in them and this might be morally wrong. However, independently of breaking the law, there is nothing morally wrong with these actions.

thing strives toward life. It is contrary to nature at its most basic level to think that living things ought to be required to sacrifice their lives for the sake of other living things. Again, this is not to say that an individual does anything morally wrong by sacrificing her own life for the sake of another, but failing to do so is not morally wrong.

5.3.2 Aggregating Consequences

Another concern with normative sentimentalism might be with the fact that it does not require the aggregating of consequences. However, what is attractive about normative sentimentalism is that not only does it not require an individual to aggregate the consequences before making a moral decision, it does not forbid her from doing so either. Recall that when it comes to consequences, what matters to the normative sentimentalist is whether an action results in *any* harmful consequences. So, in an example discussed in chapter 3, if one must choose between a single individual losing her life and a hundred cows losing theirs, it is not wrong for the agent to save her own life by killing the cows. The individual is harmed in one scenario and all the cows are harmed in the other, but the individual is not acting from selfishness when she kills the cows to save her own life; she is acting from self-preservation.

According to normative sentimentalism, even in a situation in which an individual must choose between saving herself by killing and eating a hundred

other humans or allowing herself to perish to save the other hundred human lives neither choice the individual makes is morally wrong. Again, although the consequences of such actions will be disliked by the impartial spectator, the moral agent's action is not morally wrong because her motive will not be disapproved of by the impartial spectator (because she is acting from self-preservation and not selfishness). (The motive of a moral agent who contributes to or allows such a thing is not disapproved of by the impartial spectator either.)

I anticipate a critic saying something like the following: does the normative sentimentalist really want to say that in a situation in which the options are for you to be killed or a nuclear bomb will be dropped on a highly populated area neither choice is morally wrong, assuming all interests are equally relevant and that the decision-maker is not acting from selfishness? Clearly, a preference utilitarian and Regan rights theorist will say it is morally wrong to choose to save yourself and allow so many others to die. As in the other examples noted above, the normative sentimentalist response denies that it is *morally wrong* to choose to save yourself rather than the others, although you are not required to do so. Again, this is because the motive is not disapproved of by the impartial spectator, although the consequences are disliked. However, as I have stated several times, this is not to say that we would want to encourage such actions.¹¹⁵

¹¹⁵ That is, although I have made clear which actions are morally wrong in a number of examples, I have not explained which actions are morally right and are also those that we have positive reasons to perform and those that are morally right but that we do not have positive

It is understood that some will have a problem with this conclusion, viz., utilitarians, but it is not at all clear to me that we should be forced to aggregate when it comes to something as significant as our own lives. It is not at all clear to me why I am or ought to be morally required to give up my life in a situation in which my choices are to die or to kill a hundred people to live. This is not to say that I cannot choose to die and allow the hundred to live, but I do nothing morally wrong by failing to do so. Given the strength of the instinct of or desire for self-preservation, acting from it is not selfish.

Even in situations in which individuals are not acting from self-preservation, they are not morally required to aggregate. For example, imagine a situation in which an individual has to choose between feeding herself or feeding a hundred hungry children. There is nothing selfish about her choosing to feed herself and not the children. Again, the interests of the individuals involved are equally relevant and significant to those of the children. Thus, the individual does not act from selfishness when she chooses to satisfy her own interests; neither does someone who in some way contributes to or allows her to do so.

reasons to perform. As I stated above (1.2), my intuition is that those actions that are morally acceptable and that we have positive reasons to perform are those that are committed by moral agents whose motives are approved of by an impartial spectator and the consequences of which are liked by an impartial spectator. Those actions that are morally permissible but we do not have positive reasons to perform are those committed by a moral agent and either her motives are not disapproved of by an impartial spectator or the consequences of the action are not disliked by an impartial spectator.

I want to make it clear that it is only in the cases in which the interests of those affected are equivalent that normative sentimentalism permits aggregating or not. So, as noted above, if the choice is between saving one life and that of a hundred others or feeding one hungry person and feeding a hundred others, one is permitted to choose either the one or the many in either case. If the choice must be made between saving a single life and feeding a hundred hungry people, the interest of the one to live is more significant than the interests of the many in not being hungry and so it is morally impermissible to feed the many rather than save the life of the one. Normative sentimentalism does not accept that the less significant interests or the trivial interests of the many can outweigh the significant interest of the one when the less significant or trivial interests are aggregated. Again, in order for there to be no moral difference between saving the one or the many, the interests of each of those involved must be equally relevant. For example, if the choice must be made between killing one and subjecting an infinite number of others to having a tooth pulled without anesthetic, one must choose to subject the infinite number to having the tooth pulled. Although there will be a lot of pain and suffering because of this choice, not having one's tooth pulled in this manner is a less significant interest than the interest one has in living, even if we aggregate the amount of pain and suffering *ad infinitum*.

A critic might argue that normative sentimentalism is too permissive with respect to the fact that it does not dictate or give specific directives for what to do in many cases. For example, in a case mentioned above, we imagined a situation in which an individual must die in order for five others to be saved by using her organs. Generally speaking, utilitarians will say that it is morally required that the one be killed to save the many. Generally speaking, the rights theorist will say that it is morally wrong to kill the one to save the many (because treating the individual in this way is to fail to respect her inherent value).¹¹⁶ Because normative sentimentalism will judge as morally acceptable either killing the one or allowing the five to die (assuming their relevant interests are equal), it may be thought that normative sentimentalism is weak. In other words, it might be argued that the class of morally acceptable actions in a given situation is too large according to normative sentimentalism.

Not only do I disagree with the critic, but I think the fact that normative sentimentalism allows for more than one morally acceptable action in many situations is an advantage of the theory. I think that to say that only one action is morally permissible in most situations is to look at things from a very limited perspective – the perspective that in most situations there is one moral feature that overrides all others, e.g., a utilitarian consideration, rights, duty, autonomy, contractualist considerations, etc. Theories that force individuals to make

¹¹⁶ Similarly, Kantians, on the face of it, will also judge such an action as morally wrong.

decisions based solely on consequences, and in particular on the aggregation of consequences, or on rights, duties, considerations of autonomy or contractualist considerations fail to give due respect and consideration to all aspects of human psychology.

This is not to say that individuals who hold that in most situations there is only one morally right choice are utilitarians, rights theories, deontologists, or contractualists. They may also, for example, be particularists. My point is just that according to normative sentimentalism, it is not necessarily the case that in most situations there is one sole overriding moral consideration that ought to be the basis for our moral decisions or moral judgments. Again, I think it is an advantage of normative sentimentalism that it allows for more than one action to be morally acceptable because in doing so it recognizes the complexity of human psychology and, as stated above, we ought to “make sure when constructing a moral theory or projecting a moral ideal that the character, decision processing, and behavior prescribed are possible ... for creatures like us” (Flanagan, 32 and section 2.1.1). Permitting individuals to decide, within some constraints, which feature of the situation is the most morally considerable does just this. To hold that individuals will or ought to agree on which consideration is the morally relevant one in every situation is to hold us to an impossible standard. This is obvious from the fact that there are utilitarians, deontologists, contractualists, virtue ethicists, and particularists.

Of course, as has been stated throughout this dissertation and as I noted just above, not all human psychological responses should be approved of, viz., extreme emotional responses, but moral theories that fail to recognize the complexity of the human intellect and sentiments, and their interaction with each other, are inadequate. Normative sentimentalism takes human psychology into account in a way no other moral theory does, without sanctioning any and all reactions (and thus behaviors).

5.3.3 Using Animals for Food and Research

It might also be argued that the normative sentimentalist stance on using animals for food and research is too weak. That is, as noted in chapter 3, consuming animals or using them for research is not morally wrong as long as it is either necessary or it is truly believed that doing so will save the lives of others. This is not a speciesist claim as the normative sentimentalist will allow for humans to be used in these ways as well. Again, if the animals or human subjects are being used to save the lives of others, than those committing, contributing to, or allowing these actions are not acting from selfishness and thus their actions are not morally wrong (even though the actions have harmful consequences). The same thing can be said in cases in which the animals (or humans) being used as research subjects are subjected to pain and suffering in order to relieve the pain and suffering of others. Again, if the scientists are sure that the research will

serve the intended purpose, using the animals (or humans) in this way is merely giving the interests of the human beneficiaries greater consideration than the equally relevant interests of the animals (or other humans). When a choice has to be made, if all the interests are equally relevant, it is not selfish to choose based on some other criterion, whether it be a theoretical commitment or a commitment to a loved one.

Now, as has been explained above, that there might not be anything morally wrong with some actions is not to say that we want to encourage or permit them. It might be the case that treating animals and humans as tools or means to ends will cause problems in society that we would rather avoid, e.g., that it will impact our treatment of others in every day life. If this is the case, then we can and perhaps should by all means discourage it. But, I reiterate, this is not to say that it is morally wrong.

Furthermore, I think that it is an advantage of this theory that although it condemns most uses of animals for food and research, it will allow them in situations in which the interests of all those affected are equally relevant and in life and death situations. In this way, it is better than preference utilitarianism because preference utilitarianism is too permissive in the use of animals in these ways and it is better than Regan's rights theory which is too strict with its forbidding such uses.

5.4 Conclusion

The purpose of this dissertation was to introduce a normative sentimentalist ethic. The moral principle that was defended is: An act, or a failure to act, is morally wrong if and only if it is committed by, contributed to by, or allowed by a moral agent, and both the motive is disapproved of by the impartial spectator and the act results in any consequences that are disliked by the impartial spectator. It was explained that the class of motives that will be disapproved of includes, but is not necessarily limited to, selfishness. One is selfish when one fails to give due consideration to the relevant interests of the others who will be affected by the action. I also explained that consequences that are disliked are those that cause harm to a moral agent or moral patient. In addition, it was established that the impartial spectator, although fictional, is the final judge of motives, consequences and thus actions. She represents the viewpoint of the ordinary person when she is in the position of a non-involved spectator. So, although she does not possess those traits specific to the person (people) principally involved, she does possess all the normal feelings characteristic of human nature - she possesses enough human characteristics to make her a good heuristic device, yet she is also an impartial bystander and so is able to properly evaluate actions.

Part of the defense of this principle was to show how it handles two important moral issues, the treatment of CAFO and research animals. According

to normative sentimentalism, factory farming animals and using them for research are on the whole morally wrong because the motives of the moral agents involved in the practice are generally disapproved of by the impartial spectator and the consequences of their actions are disliked by the impartial spectator. This is because those involved are giving greater consideration to their own less significant interests than they are to the more significant interests of the animals all the while harming them. Additionally, many of those causing, contributing to or allowing such practices are negligently ignorant and so are acting from a selfish motive. However, if it is the case that the interests of both the potential human beneficiaries and the potential sacrificial animals are equally significant, then it is not selfish to give greater consideration to the humans and their interests. Yet, it was also established that it is not necessary for most humans to consume animals to survive and live a healthy life and that most uses of animals for research are far less valuable than is often claimed.

After explaining Peter Singer's preference utilitarianism and Tom Regan's rights theory, it was shown that, although they were able to satisfactorily respond to several objections, they did not have satisfactory responses to some key objections. The objection for which Singer does not have a satisfactory response is the "moral standing objection". According to this objection, Singer's preference utilitarianism has a number of problems concerning the moral standing of sentient beings. In particular, even though Singer claims sentient beings have

moral standing superior to that of non-sentient beings, his preference utilitarianism does not go far enough in protecting them against certain types of actions, viz., it does not offer them enough protection against killing.

Regan leaves two significant objections unanswered. The first is the “unknown inherent value objection” according to which a problem with Regan’s rights theory, because of the opportunity cost, is that we do not know how far down the line is drawn with respect to which animals possess inherent value and which do not. The second is the “prohibition against aggregating harms objection” according to which a failure of the rights theory is its requiring the harming of a group of individuals (the many) rather than a single individual (or the few) if the harms each individual in the group will face are less than that which the individual will face even though the overall amount of harm will be greater.

I showed in section 5.1 that normative sentimentalism can respond satisfactorily to all three of these objections. With respect to the “moral standing objection”, normative sentimentalism does not suffer from the problem of preference utilitarianism in *requiring* an agent to take the lives of the few in order to save the lives of the many. That is, normative sentimentalism allows for the killing of the few to save the many if and only if all relevant interests are given due consideration. In a situation in which the relevant interests of those involved are equivalent, the moral agent does nothing wrong by causing, contributing to, or

allowing the death of the few or the many to save the lives of the many or the few. In addition, unlike preference utilitarianism, normative sentimentalism does not, at the very least, view beings that can be harmed as merely replaceable beings.

I also explained that normative sentimentalism has a satisfactory response to the “unknown inherent value objection”. Firstly, it does not classify beings in the way Regan’s rights theory does thus avoiding the problems associated with his taxonomy (or lack thereof). Secondly, because the normative sentimentalist position regarding the use of animals for research is not an absolutist position like that of Regan’s rights theory, the risk of a high opportunity cost is much lower than that associated with Regan’s theory. Again, normative sentimentalism will allow for the use of animals to save lives if we are convinced or as scientifically certain as we can be about their usefulness (because the relevant interests of the affected individuals are equivalent and therefore it is morally acceptable to choose one over the other, regardless of the species of the individuals that are involved). In addition, it was shown that normative sentimentalism does not have to worry about the “prohibition against aggregating harms objection” because in many cases there is no prohibition against aggregating harms in normative sentimentalism. As noted above, if the relevant interests of those affected are equivalent, then the agent does nothing morally wrong by choosing the one or the many if she is forced to make such a decision.

Finally, I have shown that some possible objections to normative sentimentalism are easily answered. I gave further support to the idea that acting from self-preservation is never a selfish motive thereby establishing that taking the lives of others to save ourselves is not morally wrong according to normative sentimentalism. In addition, I showed that one of the advantages of normative sentimentalism is that, unlike Singer's preference utilitarianism, it does not require an agent to aggregate the consequences of her action when making a moral decisions, but nor does it forbid it, as Regan's rights theory does.

Arguably, there are questions that still need to be answered with respect to this theory: which actions belong in the class of those that are morally acceptable but that we do not have positive reasons to perform and which actions belong in the class of those which are morally acceptable but that we also have positive reasons to perform; which acts are supererogatory; and what does normative sentimentalism have to say about other important contemporary moral issues such as abortion, euthanasia, capital punishment and environmental ethics. To answer these questions, other questions need to be answered, e.g., what constitutes a harm and, thus, what kinds of beings can be harmed. In particular, I think it is important to establish whether exploitation is a harm. Furthermore, a clear ranking of interests needs to be determined as does a more detailed understanding of selfishness. My intuition is that "selfishness" will in fact turn out to be a broader concept than I have recognized here. In addition, I think it is important to

get clear on the metaethical aspect of this theory and to determine what is actually occurring when the impartial spectator disapproves of a motive and when she dislikes a consequence. That is, I want to ascertain whether it is a cognitivist or a non-cognitivist story to be told here and subsequently what kind of cognitivist or non-cognitivist story it is.

Ultimately, however, I believe this dissertation not only demonstrates that normative sentimentalism is a viable normative moral theory, but that it gives some compelling reasons, e.g., moral wrongness depends on both motives and consequences as well as the moral agency of the agent and normative sentimentalist conclusions regarding the morality of factory farming and using animals for research are in accord with our considered judgments, that normative sentimentalism is better than other ethical theories.

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